

LOCAL GOVERNMENT (BORROWING) AMENDMENT BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Local Government Act 1919 with respect to the power of a council to borrow money—

- (a) to remove the requirement that the Governor's approval be obtained before a loan is raised; and
- (b) to enable the Minister for Local Government to supervise borrowing by a council by setting the council's borrowing limit, by specifying the terms and conditions to which any borrowing by the council is to be subject and by approving additional forms of borrowing; and
- (c) to remove the requirement that a council keep a separate bank account for each loan; and
- (d) to provide that securities for all loans raised by a council are to rank *pari passu* (that is, equally); and
- (e) by way of statute law revision.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a day or days to be appointed by proclamation.

Clause 3 gives effect to Schedules 1 and 2.

Clause 4 enacts certain savings provisions.

SCHEDULE 1—PRINCIPAL AMENDMENTS

Removal of requirement for Governor's approval to borrowing

Schedule 1 (1), (3), (4) (a), (5), (6), (7) (b), (8) and (9) amend the Principal Act so as to remove the requirement that the Governor's approval be obtained before a loan is raised.

Local Government (Borrowing) Amendment 1989

Supervision of borrowing by Minister for Local Government

Schedule 1 (1) omits section 173 of the Principal Act and replaces it with proposed sections 173–173C.

Proposed section 173 provides that, subject to other statutory exceptions, a council may borrow only in accordance with Division 4 of Part 7 of the Principal Act.

Proposed section 173A enables the Minister to supervise a council's borrowing by determining borrowing limits and by imposing terms and conditions of borrowings.

Proposed section 173B specifies the methods by which a council may borrow which include any means approved by the Minister and notified in writing to the council.

Proposed section 173C enables the Minister to delegate the Minister's functions under the Division to any person employed in the Department of Local Government.

Schedule 1 (2) enables a council to borrow any amount by way of renewal loan if the council has first notified the Secretary of the Department of Local Government in writing of the amount to be borrowed.

Removal of requirement for separate bank account for each loan

Schedule 1 (7) (a) and (10) remove the requirement that all money borrowed by way of renewal or ordinary loan be lodged to the credit of a separate bank account.

Ranking of securities

Schedule 1 (11) replaces the provision that securities issued by a council to secure the repayment of principal and interest in respect of money borrowed under the Principal Act have priority as between the respective holders of the securities according to their dates of execution with a provision that all such securities are to rank *pari passu*.

Other matters

Schedule 1 (4) (b) amends section 178A (Advances by ratepayers and occupiers) of the Principal Act to require a council to report on advances not exceeding \$10,000 from ratepayers and occupiers of land within the council's area to the Secretary of the Department of Local Government rather than to the Minister.

Schedule 1 (12) enables the making of ordinances with respect to borrowing by councils.

SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW REVISION

Schedule 2 makes amendments by way of statute law revision.
