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GOVERNMENT GAZETTE

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[1958

LOCAL GOVERNMENT ACTS.

*At the Executive Council Chamber, Melbourne, the  
eighteenth day of March, 1958.*

PRESENT:

His Excellency the Governor of Victoria.	
Mr. Chandler	Mr. Cameron
Mr. Mibus	Mr. McArthur.

REGULATIONS PRESCRIBING FORMS OF NOTICES RELATING  
TO CONSTRUCTION OF PRIVATE STREETS AND DRAINAGE  
OF HOUSES, BUILDINGS OR LANDS.

**P**URSUANT to the powers conferred by section 870 of the *Local Government Act 1946*, His Excellency the Governor of the State of Victoria, by and with the advice of the Executive Council thereof, doth hereby make the following Regulations:—

1. The Regulations prescribing forms of notices relating to construction of private streets and drainage of houses, buildings or lands made by the Governor in Council on the 5th April, 1955, and published in the *Victoria Government Gazette* of the 6th April, 1955, are hereby repealed.
2. The notice to be served pursuant to section 577 of the *Local Government Act 1946* shall be in or to the like effect of the form contained in the First Schedule to these Regulations.
3. The notice to be served pursuant to section 578 of the *Local Government Act 1946* shall be in or to the like effect of the form contained in the Second Schedule to these Regulations.
4. The notice to be served pursuant to section 580 of the *Local Government Act 1946* shall be in or to the like effect of the form contained in the Third Schedule to these Regulations.
5. The notice to be served pursuant to sections 612 and 577 of the *Local Government Act 1946* shall be in or to the like effect of the form contained in the Fourth Schedule to these Regulations.

6. The notice to be served pursuant to sections 612 and 578 of the *Local Government Act 1946* shall be in or to the like effect of the form contained in the Fifth Schedule to these Regulations.

7. The notice to be served pursuant to sections 612 and 580 of the *Local Government Act 1946* shall be in or to the like effect of the form contained in the Sixth Schedule to these Regulations.

FIRST SCHEDULE.

Local Government Acts.

(Here insert name of municipality.)

NOTICE UNDER THE PROVISIONS OF SECTION 577 OF THE  
LOCAL GOVERNMENT ACT 1946.

To  
of  
as owner of premises

Whereas the Council of the (here insert name of municipality) (hereinafter referred to as "the Council"), in accordance with the provisions of Division 10 of Part XIX. of the *Local Government Act 1946*, has prepared a scheme for the construction of the private street known as : Now therefore, the Council, in pursuance of sub-section (1) (b) of section 577 of the said Act, hereby gives you notice—

- (i) That a scheme for the construction of the said private street has been prepared by the Council and may be inspected at the office of the Council situate at
- (ii) That the estimated amount which is to be recovered from you as an owner, as your share of the cost of the scheme is £
- (iii) That within fourteen days after the service of this notice you may, in writing delivered to the Council, object to the said scheme or any part thereof.
- (iv) That the grounds on which any such objection may be made are—
  - (a) that the street proposed to be constructed is not a private street or is not a street which may be constructed pursuant to the said Division 10 of Part XIX. of the *Local Government Act 1946*;
  - (b) that there has been some material informality, defect or error in respect of the scheme or the preparation thereof, or that for any reason the scheme is invalid;
  - (c) that the amount of liability apportioned to you is erroneous;
  - (d) that any owner intended to be made liable under the scheme should not be so liable or that any owner not intended to be made liable under the scheme should be so liable;
  - (e) that it is intended to make owners or any owners liable under the scheme for any costs or expenses for which they should not be so liable;
  - (f) that the proposed works or any of them are unnecessary, insufficient, too costly, or unreasonable having regard to the locality and the probable use of the street to be constructed;
  - (g) that the portion of the cost of the execution of the scheme which is to be recovered from owners is excessive or unreasonable;
  - (h) that the apportionment of liability among owners is unfair or that in the circumstances an excessive share of the cost of the scheme is to be recovered from any owner.

Dated at this day of 19

Municipal Clerk.

NOTES.

1. You may elect to pay the amount finally payable by you by forty (or if the Council so directs sixty or eighty) quarterly instalments bearing interest on the balance owing from time to time.

2. If an objection is made, it may be withdrawn, by notice in writing to the Council, and thereupon the objection will be deemed never to have been made.

SECOND SCHEDULE.

Local Government Acts.

(Here insert name of municipality.)

NOTICE UNDER THE PROVISIONS OF SECTION 578 OF THE  
LOCAL GOVERNMENT ACT 1946.

To  
of  
as owner of premises

Whereas the Council of the (here insert name of municipality) (hereinafter referred to as "the Council"), in accordance with the provisions of Division 10 of Part XIX. of the *Local Government Act 1946*, has adopted the scheme for the construction of the private street known

as : Now therefore, the Council, in pursuance of sub-section (1) (b) of section 578 of the said Act, hereby gives you notice—

- (i) That the scheme for the construction of the said private street has been adopted by the Council and may be inspected at the office of the Council situate at
- (ii) That the estimated amount which is to be recovered from you as an owner as your share of the cost of the scheme is £
- (iii) That within fourteen days after the service of this notice you may, in writing delivered to the Council, object to the said scheme as adopted.
- (iv) That the grounds on which any such objection may be made are—
  - (a) that the street proposed to be constructed is not a private street or is not a street which may be constructed pursuant to the said Division 10 of Part XIX. of the *Local Government Act 1946*;
  - (b) that there has been some material informality, defect or error in respect of the scheme or the preparation thereof, or that for any reason the scheme is invalid;
  - (c) that the amount of liability apportioned to you is erroneous;
  - (d) that any owner intended to be made liable under the scheme should not be so liable or that any owner not intended to be made liable under the scheme should be so liable;
  - (e) that it is intended to make owners or any owners liable under the scheme for any costs or expenses for which they should not be so liable; or
  - (f) that there has been some material informality, defect or error in respect of the adoption of the scheme.

Dated at the day of 19  
Municipal Clerk.

#### NOTES.

1. You may elect to pay the amount finally payable by you by forty (or if the Council so directs sixty or eighty) quarterly instalments bearing interest on the balance owing from time to time.
2. Any objection submitted after receipt of this notice will be referred to a Court of Petty Sessions consisting of a stipendiary magistrate sitting alone.
3. If an objection is made, it may be withdrawn, by notice in writing to the Council, and thereupon the objection will be deemed never to have been made. If, however, the objection is not so withdrawn at least seven days before the day set down for the hearing of the objection by the Court of Petty Sessions, you may become liable for the costs of the hearing.

#### THIRD SCHEDULE.

##### Local Government Acts.

(Here insert name of municipality.)

#### NOTICE UNDER THE PROVISIONS OF SECTION 580 OF THE LOCAL GOVERNMENT ACT 1946.

To  
of  
as owner of premises  
Whereas the scheme for the construction of the private street known as has been finally settled within the meaning of the provisions of Division 10 of Part XIX. of the *Local Government Act 1946*, the Council of the (here insert name of municipality) (hereinafter referred to as "the Council"), in pursuance of sub-section (1) of section 580 of the said Act, hereby gives you notice that it requires payment from you within one month after the date of commencement of the works *in situ*, of the sum of £ for which you, as an owner, are liable under the said scheme as finally settled, and in pursuance of the said provisions, the Council gives you further notice—

- (i) That the amount which by such scheme is to be recovered from you as an owner as your share of the cost of the scheme is £
- \* (ii) That the amount of additional costs and expenses charged to you as such owner under the scheme with your consent, in writing, as provided by the said Act is £
- (iii) That the following is a copy of section 581 of the *Local Government Act 1946*:—

"581. (1) The Council shall, if so requested, accept payment of the sum for which any person is liable under the scheme by forty or, if the Council so directs, sixty or eighty quarterly instalments bearing interest (as from one month after the date of the commencement of the works *in situ*) on such portion as from time to time remains unpaid at such rate (not being more than one per centum higher than the rate at which the Council obtained the advance or borrowed the money) as the Council determines, and, so far as relates to rate of interest, the Council may from time to time amend its determination and vary the rate, but so as not at any time to exceed by more than one per centum the rate of interest being paid for the time being by the Council in respect of the advance or loan".

" (2) Such request shall—

(a) be made in writing and signed by the person liable for the said sum; and

(b) be lodged with the Council before the expiration of one month after the serving on such person of the notice requiring payment of the sum for which he is liable under the scheme.

(3) The first quarterly instalment shall be payable immediately on the expiration of one month after the date of the commencement of the works *in situ* and notwithstanding anything in this section the person liable may at any time pay to the Council such portion of the said amount as then remains unpaid together with interest thereon at the appropriate rate referred to in sub-section (1) of this section to the date of payment.

(4) In the event of any of the instalments or interest not being paid within fourteen days after the due date thereof the whole amount then unpaid shall, if the Council so determines, become forthwith due, payable and recoverable with interest at the appropriate rate referred to in sub-section (1) of this section calculated from the date of the default in payment to the date of payment".

\* Strike out words underlined if inapplicable.

Dated at this day of 19

Municipal Clerk.

NOTE.

If the actual cost of the scheme is less than the estimated cost, owners will be charged only the actual cost, but if the actual cost exceeds the estimated cost, the excess (up to 20 per cent. of the estimated cost) may be charged to owners.

FOURTH SCHEDULE.

Local Government Acts.

(Here insert name of municipality.)

NOTICE UNDER THE PROVISIONS OF SECTIONS 612 AND 577 OF THE LOCAL GOVERNMENT ACT 1946.

To  
of

Whereas the Council of the (here insert name of municipality) (hereinafter referred to as "the Council"), in accordance with the provisions of the Local Government Acts, has prepared a scheme for the making or construction of a drain on the land described as for the proper drainage of any land or premises which front or adjoin or abut upon the land hereinbefore described, or which, being adjacent to such land hereinbefore described, are benefited by the making of such drain: Now therefore, the Council, in pursuance of the provisions of the said Act, hereby gives you notice—

- (i) That a scheme for the making or construction of a drain on the land hereinbefore described has been prepared by the Council for the proper drainage of the land or premises which front, adjoin or abut upon the land hereinbefore described, or which, being adjacent to such land hereinbefore described, are benefited by the making of such drain, and the said scheme may be inspected at the office of the Council situate at
- (ii) That the estimated amount which is to be recovered from you as an owner as your share of the cost of the scheme is £
- (iii) That within fourteen days after the service of this notice you may, in writing delivered to the Council, object to the said scheme or any part thereof.
- (iv) That the grounds on which any such objection may be made are—
  - (a) that the drain proposed to be made or constructed is not a drain which may be made or constructed pursuant to section 612 of the *Local Government Act 1946*;
  - (b) that there has been some material informality, defect or error in respect of the scheme or the preparation thereof, or that for any reason the scheme is invalid;
  - (c) that the amount of liability apportioned to you is erroneous;
  - (d) that any owner intended to be made liable under the scheme should not be so liable or that any owner not intended to be made liable under the scheme should be so liable;
  - (e) that it is intended to make owners or any owners liable under the scheme for any costs or expenses for which they should not be so liable;
  - (f) that the proposed works or any of them are unnecessary, insufficient, too costly, or unreasonable having regard to the locality and the probable use of the drain to be constructed;

- (g) that the portion of the cost of the execution of the scheme which is to be recovered from owners is excessive or unreasonable;
- (h) that the apportionment of liability among owners is unfair or that in the circumstances an excessive share of the cost of the scheme is to be recovered from any owner.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_  
Municipal Clerk.

## NOTES.

1. You may elect to pay the amount finally payable by you by forty (or if the Council so directs sixty or eighty) quarterly instalments bearing interest on the balance owing from time to time.
2. If an objection is made, it may be withdrawn, by notice in writing to the Council, and thereupon the objection will be deemed never to have been made.

## FIFTH SCHEDULE.

## Local Government Acts.

(Here insert name of municipality.)

## NOTICE UNDER THE PROVISIONS OF SECTIONS 612 AND 578 OF THE LOCAL GOVERNMENT ACT 1946.

To \_\_\_\_\_  
of \_\_\_\_\_

Whereas the Council of the (here insert name of municipality) (hereinafter referred to as "the Council"), in pursuance of and in accordance with the provisions of the Local Government Acts, has adopted the scheme for the making or construction of a drain on the land described as \_\_\_\_\_ for the proper drainage of the land or premises which front or adjoin or abut upon the land hereinbefore described or which, being adjacent to such land hereinbefore described, are benefited by the making of such drain: Now therefore, the Council, in pursuance of the provisions of the said Act, hereby gives you notice—

- (i) That the scheme for the making or construction of a drain on the land described as \_\_\_\_\_ for the drainage of the land or premises which front, adjoin or abut upon the land hereinbefore described or which, being adjacent to such land hereinbefore described, are benefited by the making of such drain, has been adopted by the Council, and such scheme may be inspected at the office of the Council situate at \_\_\_\_\_
- (ii) That the estimated amount which is to be recovered from you as an owner as your share of the cost of the scheme is £ \_\_\_\_\_
- (iii) That within fourteen days after the service of this notice you may, in writing delivered to the Council, object to the said scheme as adopted.
- (iv) That the grounds on which any such objection may be made are—
  - (a) that the drain proposed to be made or constructed is not a drain which may be made or constructed pursuant to section 612 of the *Local Government Act 1946*;
  - (b) that there has been some material informality, defect or error in respect of the scheme or the preparation thereof, or that for any reason the scheme is invalid;
  - (c) that the amount of liability apportioned to you is erroneous;
  - (d) that any owner intended to be made liable under the scheme should not be so liable or that any owner not intended to be made liable under the scheme should be so liable;
  - (e) that it is intended to make owners or any owners liable under the scheme for any costs or expenses for which they should not be so liable; or
  - (f) that there has been some material informality, defect or error in respect of the adoption of the scheme.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_  
Municipal Clerk.

## NOTES.

1. You may elect to pay the amount finally payable by you by forty (or if the Council so directs sixty or eighty) quarterly instalments bearing interest on the balance owing from time to time.
2. Any objection submitted after receipt of this notice will be referred to a Court of Petty Sessions consisting of a Stipendiary Magistrate sitting alone.
3. If an objection is made, it may be withdrawn, by notice in writing to the Council, and thereupon the objection will be deemed never to have been made. If, however, the objection is not so withdrawn at least seven days before the day set down for the hearing of the objection by the Court of Petty Sessions, you may become liable for the costs of the hearing.

SIXTH SCHEDULE.  
Local Government Acts.

(Here insert name of municipality.)

NOTICE UNDER THE PROVISIONS OF SECTIONS 612 AND 580 OF  
THE LOCAL GOVERNMENT ACT 1946.

To  
of  
Whereas the scheme for the making or construction of a drain on the land described as \_\_\_\_\_ for the proper drainage of any land or premises which front or adjoin or abut upon the land hereinbefore described or which, being adjacent to such land hereinbefore described, are benefited by the making of such drain has been finally settled within the meaning of the Local Government Acts, the Council of the (here insert name of municipality) (hereinafter referred to as "the Council") hereby gives you notice that it requires payment from you within one month after the date of commencement of the works *in situ* of the sum of £ \_\_\_\_\_ for which you as an owner are liable under the said scheme as finally settled, and in pursuance of the said Act the Council gives you further notice—

(i) That the amount which by such scheme is to be recovered from you as an owner as your share of the cost of the scheme is £ \_\_\_\_\_

\*(ii) That the amount of additional costs and expenses charged to you as an owner under the scheme with your consent, in writing, as provided by the said Act is £ \_\_\_\_\_

(iii) That the following is a copy of section 581 of the *Local Government Act 1946*:—

"581. (1) The Council shall if so requested accept payment of the sum for which any person is liable under the scheme by forty, or, if the Council so directs, sixty or eighty quarterly instalments bearing interest (as from one month after the date of the commencement of the works *in situ*) on such portion as from time to time remains unpaid at such rate (not being more than one per centum higher than the rate at which the Council obtained the advance or borrowed the money) as the Council determines, and, so far as relates to rate of interest, the Council may from time to time amend its determination and vary the rate, but so as not at any time to exceed by more than one per centum the rate of interest being paid for the time being by the Council in respect of the advance or loan.

(2) Such request shall—

(a) be made in writing and signed by the person liable for the said sum; and

(b) be lodged with the Council before the expiration of one month after the serving on such person of the notice requiring payment of the sum for which he is liable under the scheme.

(3) The first quarterly instalment shall be payable immediately on the expiration of one month after the date of the commencement of the works *in situ* and notwithstanding anything in this section the person liable may at any time pay to the Council such portion of the said amount as then remains unpaid together with interest thereon at the appropriate rate referred to in sub-section (1) of this section to the date of payment.

(4) In the event of any of the instalments or interest not being paid within fourteen days after the due date thereof the whole amount then unpaid shall if the Council so determines become forthwith due payable and recoverable with interest at the appropriate rate referred to in sub-section (1) of this section calculated from the date of the default in payment to the date of payment".

\* Strike out words underlined if inapplicable.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Municipal Clerk.

NOTE.

If the actual cost of the scheme is less than the estimated cost, owners will be charged only the actual cost, but if the actual cost exceeds the estimated cost, the excess (up to 20 per cent. of the estimated cost) may be charged to owners.

And the Honorable Sir Thomas Karran Maltby, Her Majesty's Commissioner of Public Works for the State of Victoria, shall give the necessary directions herein accordingly.

A. MAHLSTEDT,  
Clerk of the Executive Council.