



LOCAL GOVERNMENT (PLANNING)

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 No. 72 of 1977
 —————

AN ACT to amend the Local Government Act 1962.

[21 September 1977]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I

PRELIMINARY

1—(1) This Act may be cited as the *Local Government (Planning) Act 1977*. Short title and citation.

(2) The *Local Government Act 1962**, as subsequently amended, is in this Act referred to as the Principal Act.

* No. 62 of 1962. For this Act, as amended to 1968, see Part 2 of the Annual Volume of the Statutes for 1968. Subsequently amended by No. 60 of 1970, Nos. 22, 66, and 103 of 1971, Nos. 44 and 73 of 1972, Nos. 21, 35, 40, 56, and 96 of 1973, Nos. 84, 98, and 100 of 1974, Nos. 46 and 63 of 1975, Nos. 28, 100, 116, and 117 of 1976, and Nos. 10, 15, and 37 of 1977.

PART II

CONSEQUENTIAL AMENDMENTS RELATING TO PLANNING APPEALS

Procedure on
appeals.

2 Section 733D of the Principal Act is amended—

- (a) by omitting from subsections (1) and (6) the words “ clerk of petty sessions for the municipality ” (wherever occurring) and substituting therefor, in each case, the words “ clerk to the Commissioner ”; and
- (b) by omitting from subsection (5) the words “ clerk of petty sessions of the municipality ” and substituting therefor the words “ clerk to the Commissioner ”.

PART III

REPRESENTATION OF MARINE BOARDS ON MASTER PLANNING
AUTHORITIES

Representation
of marine
boards on
master
planning
authorities.

3 Section 740 of the Principal Act is amended—

- (a) by adding at the end of subsection (1) the words “ for an area comprising the districts of those municipalities ”;
- (b) by inserting after subsection (1) the following subsection:—
 - “(1A) On the petition of a marine board the Governor, if that marine board has jurisdiction within an area for which a master planning authority has been, or is to be, established, may, by proclamation, declare that that marine board is a constituent authority of that master planning authority.”;
- (c) by omitting from subsection (2) (a) the words “ the petitioning municipalities ” and substituting therefor the words “ its constituent authorities ”; and
- (d) by inserting in subsection (2) (a), after the word “ municipality ”, the words “ , and, if one or more marine boards are constituent authorities, two marine board representatives ”.

Marine board
members.

4 Section 741 of the Principal Act is amended—

- (a) by inserting in subsection (1), after the word “ authority ”, the words “ who are representatives of a municipality ”; and

(b) by inserting after that subsection the following subsection:—

“(1A) The members of a master planning authority who are marine board representatives shall be appointed or elected by the marine board or marine boards who are constituent authorities of the master planning authority, or by the members of that board or those boards; and any such representative holds office for such period, and vacates office in such circumstances, as may be prescribed.”.

5 Section 742 of the Principal Act is amended by inserting after subsection (2) the following subsection:—

Financial contributions by marine boards.

“(2A) Where a marine board is a constituent authority of a master planning authority it shall, in respect of each financial year, pay to the master planning authority such contribution as that authority may demand, but the amount of contribution so demanded shall not exceed the average of the amounts demanded of the municipalities under subsection (1) in respect of that financial year.”.

6 Section 744 of the Principal Act is amended—

Master plans.

- (a) by omitting from subsection (4) the word “ municipalities ” and substituting therefor the word “ authorities ”; and
 (b) by omitting from subsection (6) the word “ municipality ” and substituting therefor the word “ authority ”.

7 Section 748 of the Principal Act is amended—

Withdrawal of marine boards from master planning authorities.

- (a) by inserting after subsection (2) the following subsection:—
 “(2A) On the petition of a marine board that is a constituent authority of a master planning authority the Governor may, by proclamation, vary the constitution of that master planning authority by withdrawing that marine board from the authority; but a marine board shall not petition to withdraw from a master planning authority until it has been a constituent authority thereof for at least 3 years.”;
 (b) by omitting from subsection (4) the word “ municipalities ” (second occurring) and substituting therefor the word “ authorities ”;
 (c) by omitting from that subsection the word “ municipality ” and substituting therefor the word “ authority ”; and
 (d) by omitting from subsection (5) the word “ municipality ” and substituting therefor the word “ authority ”.

PART IV

APPROVAL OF BUILDING ESTATES AND SUBDIVISIONS

Commencement
of Part IV.

8—(1) This Part commences on a date to be fixed by proclamation.

(2) The amendments of the Principal Act made by this Part do not apply to a proposal plan that has been submitted by a corporation to the Commissioner before the commencement of this Act.

9 Section 757 of the Principal Act is repealed and the following section substituted therefor:—

Provisions
relating to
approval and
rejection of
proposal plans.

“757—(1) Except as provided by this section, and notwithstanding anything in Division II of Part XVI, the corporation shall refer to the Commissioner each proposal plan submitted for its approval under that Division.

“(2) A reference of a proposal plan for the purposes of subsection (1) shall be made by forwarding two copies of the plan to the Commissioner.

“(3) A corporation may exercise its powers to reject a proposal plan without referring the plan to the Commissioner, and, in particular, shall so reject the plan if it does not comply with section 464 (1) or section 469 (2), as the case may be, or, if by virtue of a provision of Division II of Part XVI it cannot give its approval to the plan.

“(4) The Commissioner may authorize a corporation to give its approval to a proposal plan without referring it to him as required by subsection (1), and any such authority may be given subject to such conditions or restrictions, or for exercise in such circumstances, as the Commissioner may specify.

“(5) An authority given under subsection (4) may be given generally or in relation to a particular proposal plan or to proposal plans of any particular class or description.

“(6) The Commissioner may, either generally or in relation to a particular matter, vary or revoke an authority given under subsection (4); and where such an authority no longer applies in respect of a proposal plan, that plan shall be dealt with as required by subsection (1).

“(7) Where a proposal plan is referred to the Commissioner under this section, he may—

(a) consent to the corporation’s giving its approval to the plan, either without amendment or on its being amended in such manner as he specifies; or

(b) refuse to give that consent,

and he shall return to the corporation one copy of the plan with his decision written on it or annexed to it.

“(8) Without prejudice to the operation of subsection (9), the Commissioner shall exercise his powers under subsection (7) in such manner as he considers the principles of town planning require, but, without prejudice to the generality of the foregoing provisions of this subsection, the amendments to a proposal plan that he specifies under that subsection may be, or include, amendments that the corporation might require.

“(9) The Commissioner shall use his powers under subsection (7) to require a littoral or riparian reserve as provided in section 473A, except where the Minister for the time being administering the *Crown Lands Act 1976* has, either generally or in the particular case, recommended that such a reserve should not be required.

“(10) A corporation shall not approve a proposal plan unless it is authorized to do so by the Commissioner under subsection (4) or the approval is in accordance with a consent of the Commissioner given under subsection (7).

“(11) Before the corporation causes its seal to be affixed to a final plan that purports to be in conformity with its approval of a proposal plan—

(a) it shall forward a copy of the final plan to the Commissioner; and

(b) it shall have been informed by the Commissioner that the final plan is in order for approval.

“(12) Where the corporation is authorized under subsection (4) to approve a proposal plan without referring it to the Commissioner, the corporation shall, within one month of sealing the final plan, forward to him a copy of the final plan.”.

10 Section 758 of the Principal Act is amended—

(a) by omitting paragraphs (a) and (b) of subsection (3);

Procedure on
appeals in
cases of delay
in approvals.

(b) by omitting paragraph (c) of that subsection and substituting therefor the following paragraph:—

“(c) in subsection (12) for the words ‘ Planning Appeal Board ’ were substituted the word ‘ Commissioner ’;”;

(c) by omitting paragraph (e) of that subsection and substituting therefor the following paragraph:—

“(e) in subsection (15) for the words ‘ Planning Appeal Board’s ’ were substituted the word ‘ Commissioner’s ’, and for the word ‘ its ’ were substituted the word ‘ his ’.”.

11 After section 758 of the Principal Act the following section is inserted:—

Delegation of functions of Commissioner to master planning authorities.

“ 758AA—(1) The Commissioner may, in respect of land within the district of a constituent municipality of a master planning authority, delegate to that authority, with or without restrictions, any of his functions under section 757 with respect to proposal plans under Division II of Part XVI.

“(2) The Commissioner may, either generally or in relation to a particular matter, vary or revoke a delegation made by him under this section.

“(3) A function delegated to a master planning authority under this section shall be performed on behalf of the Commissioner.

“(4) In relation to a function delegated to a master planning authority under this section a reference in section 757 to the Commissioner shall, subject to the terms of the delegation and, so far as the context does not otherwise require, be construed as a reference to that master planning authority.

“(5) Where, pursuant to the delegation of a function under this section, a master planning authority receives a copy of a final plan from a corporation under section 757 (12), the authority shall forthwith forward a copy of the plan to the Commissioner.”.