



LOCAL GOVERNMENT (PLANNING) (No. 2)

—
 No. 120 of 1977
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ANALYSIS

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AN ACT to amend the Local Government Act 1962.

[14 December 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:—

1—(1) This Act may be cited as the *Local Government (Planning) Act (No. 2) 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 75 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, 37, and 72 of 1977.

Ancillary provisions relating to master planning authorities.

2 Section 740 of the Principal Act is amended by adding at the end thereof the following subsection:—

“(4) The Governor may make regulations regulating the procedure of a master planning authority.”.

3 After section 740 of the Principal Act the following section is inserted:—

Southern Metropolitan Planning Authority.

“740A—(1) For the purposes of this section, the following are the southern metropolitan municipalities:—

- The city of Hobart;
- The city of Glenorchy;
- The municipality of Brighton;
- The municipality of Clarence;
- The municipality of Kingborough.

“(2) The Governor may, by proclamation, establish a master planning authority, with the name of the Southern Metropolitan Planning Authority, for the districts of the southern metropolitan municipalities, and those municipalities and the Marine Board of Hobart shall be the constituent authorities of that master planning authority.

“(3) The Southern Metropolitan Planning Authority established under this section shall consist of one representative of each of its constituent authorities and one government representative.

“(4) A person is qualified to be a representative of such a constituent authority as is referred to in subsection (3) only if—

- (a) in the case of a representative of a municipality, he is a member of the council of that municipality; and
- (b) in the case of a representative of the Marine Board of Hobart, he is a warden of that board,

and, accordingly, no person shall be appointed such a representative unless he is qualified to be that representative and any representative who ceases to be so qualified ceases to be a member of the authority.

“(5) Subject to subsection (4), the representative of the Marine Board of Hobart on the Southern Metropolitan Planning Authority shall be appointed by the Board, and holds office until his appointment is revoked.

“(6) The government representative referred to in subsection (3) shall be appointed by the Governor and shall hold office on such terms as may be specified in the instrument of his appointment.

“(7) No person shall hold office as a government representative under this section if he holds any other office or position to which he was appointed by the Governor.

“(8) The Minister shall pay to the government representative referred to in subsection (3) such remuneration as the Governor approves.

“(9) A constituent authority may elect to withdraw from the Southern Metropolitan Planning Authority, but any such withdrawal may take effect only at the end of the period of 3 years immediately following the establishment of the Authority or at the end of any subsequent year.

“(10) An election by a constituent authority under subsection (9) shall be by a notice of withdrawal served on the Minister and each other constituent authority specifying the date on which the withdrawal is to take effect, and the notice shall be so served not later than 3 months before that date, or if that authority has already received notice of withdrawal from some other constituent authority specifying the same date, not later than 2 months before that date.

“(11) Section 748 has effect in respect of the withdrawal of a constituent authority under this section as if that withdrawal had been effected by a proclamation under that section.

“(12) Subject to this section and except as otherwise provided in this Division, the provisions of this Act apply in respect of the Southern Metropolitan Planning Authority in like manner as if it were established under section 740.”

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

“(2B) Subsections (2) and (2A) do not apply to the Southern Metropolitan Planning Authority, and notwithstanding anything in the foregoing provisions of this section, but subject to subsection (2C), the moneys required to be obtained by the Southern Metropolitan Planning Authority from its constituent authorities in respect of its expenditure during the 3 years immediately following its

Expenses of
Southern
Metropolitan
Planning
Authority.

establishment shall be borne by those authorities in the following proportions:—

The corporation of the city of Hobart	30 per cent
The corporation of the city of Glenorchy	20 per cent
The corporation of the municipality of Clarence	20 per cent
The corporation of the municipality of Brighton	10 per cent
The corporation of the municipality of King- borough	10 per cent
The Marine Board of Hobart	10 per cent,

and the Authority may make demand for payment accordingly.

“(2C) Notwithstanding anything in subsection (2B) the Governor may reduce by not more than \$1 000 the sum otherwise required to be paid by the corporation of the municipality of Brighton under that subsection in respect of the expenditure incurred by the Southern Metropolitan Planning Authority during the first year of its establishment.

“(2D) Before the expiration of the period of 2 years and 6 months immediately following its establishment the Southern Metropolitan Planning Authority shall submit to the Minister and its constituent authorities proposals for the determination of the proportion in which moneys required to be obtained by the Authority from its constituent authorities are to be borne; and if those proposals are approved by the Minister and agreed to by at least four of the constituent authorities those moneys shall be obtained in accordance with those proposals.

“(2E) The aggregate of the amounts demanded by the Southern Metropolitan Planning Authority from its constituent authorities under this section in respect of any financial year shall not exceed \$40 000.”

5 After section 743 of the Principal Act the following sections are inserted:—

General duties
of master
planning
authorities.

“743A—(1) A master planning authority is charged with the duty of determining the policies that should be adopted with respect to the use and development of the land within the districts of its constituent municipalities, particularly having regard to the desirability of the promotion of the region as an entity in economic, administrative, and social terms.

“(2) In carrying out its duties under subsection (1), a master planning authority shall have particular regard to matters affecting two or more of its constituent municipalities and—

- (a) shall, where it considers any such municipality should or will be required to take action in relation to any such matter, give, or arrange for the giving of, information, advice, and assistance to that municipality as it considers appropriate; and
- (b) shall take such steps as appear to it practicable to co-ordinate the activities of the authorities and persons concerned with any such matter.

“(3) To such an extent and on such terms as may be agreed with the council of a municipality that is not one of its constituent municipalities, a master planning authority may exercise the powers conferred on it by this section as if that municipality were one of its constituent municipalities.

“743B—(1) Where a master planning authority is satisfied that it is necessary so to do for the implementation of such a policy as is referred to in section 743A it may give a recommendation to any of its constituent municipalities with respect to the manner in which the powers of the municipality should be exercised in relation to the matter to which the recommendation relates.

Formal
recommendations
to
constituent
authorities.

“(2) Where a recommendation is given to a municipality under this section it shall not, without the approval of the Commissioner, exercise its powers contrary to the recommendation.

“(3) A master planning authority may rescind a recommendation made under this section, and it shall rescind such a recommendation if it is required so to do by a direction of the Commissioner given on the application of the municipality to whom the recommendation was given.

“(4) The Commissioner shall not give his approval or direction under this section without prior consultation with the master planning authority by which it was given.”.

6 Section 744 of the Principal Act is amended by omitting subsection (1) and substituting therefor the following subsection:—

Duties in
respect of
master plans.

“(1) A master planning authority may prepare master plans for the whole of the area of its constituent municipalities or an area extending into two or more of those municipalities or wholly or partly within the jurisdiction of a marine board.”.

Interim orders
in areas not
affected by
master plan.

7 Section 746 of the Principal Act is amended—

- (a) by omitting from subsection (1) the words “ At any time before a master plan takes effect the master planning authority making it ” and substituting therefor the words “ A master planning authority ”; and
- (b) by adding at the end of that subsection the words “ in respect of which there is no master plan in effect ”.