



MIDWAY POINT IMPROVEMENT

No. 86 of 1975

ANALYSIS

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AN ACT to authorize the making of a loan to the corporation of the Municipality of Sorell for the purpose of assisting the corporation to defray the cost of the construction, reconstruction, and improvement of streets and of works for the provision of a storm-water drainage system at Midway Point and to provide for other matters connected therewith or incidental thereto.

[22 December 1975]

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 This Act may be cited as the *Midway Point Improvement Act* Short title. 1975.

Interpretation.

2 In this Act, unless the contrary intention appears—

- “corporation” means the corporation of the Municipality of Sorell;
- “defined area” means the portion of the Municipality of Sorell that is known as Midway Point and described in the Schedule;
- “drainage works” means the works referred to in section 3 (1) (b);
- “Financial Agreement” means the agreement made between the Commonwealth and the States and ratified by the *Financial Agreement Act 1927*, and includes that agreement as varied from time to time and any agreement made in substitution therefor;
- “Loan Fund” means the Loan Fund established under section 6 of the *Public Account Act 1957*;
- “quarter days” means the 1st days of July, October, January, and April in any financial year;
- “street works” means the works referred to in section 3 (1) (a).

Agreement for loan.

3—(1) The Treasurer may, in accordance with an agreement entered into under this section, lend money to the corporation for the purposes of meeting the cost of—

- (a) the construction, reconstruction, or improvement of any of the streets within the defined area; and
- (b) the provision for any of the land in the defined area of a proper stormwater drainage system within the meaning of section 8 of the *Sewers and Drains Act 1954*.

(2) For the purposes of this section the Treasurer and the corporation may enter into agreement with respect to the lending of money under this section, specifying, subject to this Act, the terms on which any such money is so lent and, without prejudice to the generality of the foregoing provisions of this subsection, any such terms may—

- (a) provide for the manner in which any moneys so lent will be paid to the corporation;
- (b) provide that any payments to be made to the corporation under this Act shall be dependent upon the observance by the corporation of specified conditions or requirements, including conditions or requirements with respect to the carrying out of any of the works, or the designs, plans, specifications, or estimates of costs relating thereto;

- (c) provide for the payment by the State of a subsidy in respect of one-half of the amount of interest due and payable by the corporation on any interest day in respect of any loan for road works;
 - (d) make provision for facilitating the submission of an application for a subsidy under Division III of Part III of the *Water Act 1957* in relation to the drainage works;
 - (e) provide for the making of any grant by the Treasurer in consideration of benefits accruing to lands of the Crown by reason of the construction of the works to which the agreement relates; and
 - (f) contain such supplemental and incidental provisions as may be agreed upon between the Minister and the corporation.
- (3) Any moneys lent to the corporation pursuant to this Act—
- (a) shall be deemed not to be moneys borrowed under Part XIII of the *Local Government Act 1962*;
 - (b) shall not affect the amount of moneys which the corporation may borrow under that Part; and
 - (c) are a first charge, in priority to all other liabilities of the corporation, upon all rates levied by the corporation upon, and all moneys paid or payable to it in respect of, lands within the defined area under this Act.
- (4) Any agreement entered into under this section shall specify—
- (a) the rate of interest payable in respect of loans made under the agreement;
 - (b) the manner in which the principal and any interest thereon shall be repaid;
 - (c) the procedure that shall be followed for the recovery of the principal and any interest thereon in the case of any default by the corporation in the repayment of the principal and interest; and
 - (d) any other matter which may seem to the parties to the agreement to be relevant.

4—(1) Subject to this section, all costs and expenses incurred by the corporation in and in connection with the construction of street works and drainage works within the defined area shall be paid to the corporation by the owners of lands within that area upon the completion of those works.

Costs of works
a charge on
lands.

(2) The amount to be paid to the corporation by each owner pursuant to this section is an amount that bears the same proportion to the total amount of costs and expenses referred to in subsection (1) as the number of allotments of land owned by him bears to the total number of allotments of land within the defined area.

(3) Where the corporation is of opinion that an allotment is capable of being subdivided, that allotment shall, for the purposes of subsection (2), be deemed to consist of the number of allotments into which the corporation may, with the approval of the Minister, determine that it may reasonably be subdivided.

(4) Any amount that is payable to the corporation by the owner of any land by virtue of this section, together with all interest payable thereon, until payment in full has been made to the corporation is a charge on that land and may be recovered by the corporation accordingly in accordance with the provisions of the *Local Government Act 1962*, and that Act applies to and in relation to the recovery thereof accordingly.

(5) The amount to be paid to the corporation pursuant to this section by the owner of any land within the defined area is payable—

(a) by one hundred quarterly instalments, together with interest thereon or on the balance thereof for the time being remaining unpaid at the rate determined in accordance with subsection (8); or

(b) at the option of the owner, in a lump sum.

(6) The first instalment payable under subsection (5) in respect of any land becomes due on the first quarter day after the service by the corporation of a notice on the owner of the land seeking payment thereof.

(7) The amount of any instalment payable under subsection (5) shall be such as is determined by the corporation and the corporation, in making determinations under this subsection, shall ensure that the instalments payable in respect of any one allotment are as far as is practicable equal to one another.

(8) For the purposes of subsection (5) (a), the rate of interest payable by the owners of land shall be the rate that is payable by the corporation to the Minister in respect of the moneys lent to it by the Treasurer under this Act having regard to any subsidy or grant paid or made to the corporation by or on behalf of the State in respect of any works under this Act.

(9) Different rates of interest may be fixed pursuant to subsection (8) in relation to amounts payable to the corporation in respect of the street works and the drainage works respectively.

(10) Notwithstanding anything in subsection (5)—

(a) an owner who has paid any instalment or instalments under paragraph (a) of that subsection may, at any time thereafter, pay to the corporation the balance then remaining unpaid of the amount payable by him pursuant to this section, together with all interest payable up to the date of payment of that balance; and

(b) if any land in the defined area is sold after the corporation has incurred any costs or expenses under this Act in respect of that area the whole of the amount payable in respect of that land under this section, less any part thereof that has already been paid, together with any interest payable on that amount or any part thereof up to the date of completion of the sale, becomes due to the corporation forthwith and shall be paid to it by the vendor accordingly.

(11) Where at the time any land to which subsection (10) (b) applies is sold the costs and expenses referred to in subsection (1) have not been finally determined, the amount payable in respect of that land under this section shall be determined by reference to a reasonable estimate made by the corporation of the amount of those costs and expenses.

(12) Where any land to which subsection (10) (b) applies comprises or contains only part of an allotment referred to in subsection (2) the amount payable under this section in respect of so much of that land as consists of that part of that allotment shall be deemed to be such proportion of the amount payable under this section in respect of the whole of that allotment as the corporation, with the approval of the Minister, may determine.

(13) Subsection (10) (b) does not apply to or in relation to any land that is sold or disposed of for a consideration other than cash.

(14) If any—

(a) memorial of a conveyance of any land within the defined area is lodged with the Registrar of Deeds for registration under the *Registration of Deeds Act 1935*; or

- (b) memorandum of transfer of any such land is lodged with the Recorder of Titles for registration under the *Real Property Act 1862*,

the Registrar or Recorder may, notwithstanding anything in either of those Acts, refuse to register the memorial or transfer unless it is accompanied by a certificate, signed by the council clerk, stating that all moneys payable to the corporation by virtue of subsection (10) (b) have been paid to it in accordance with that paragraph.

(15) The corporation may allow such rebates to the owners of land in the defined area as it may think fit with respect to dwelling houses completed and occupied before the commencement of this Act and may, in a case where it considers reasonable so to do, release, with the consent of the Minister, any person from any obligation or any part of the obligation arising under this section to pay any sum to the corporation.

Appropriation
of Loan Fund.

5 The Treasurer may issue and apply out of the Loan Fund (which, to the necessary extent, is appropriated accordingly) such sums of money as may be required by the Minister for the purpose of making payments to the corporation pursuant to section 3.

Power of
Treasurer to
borrow moneys.

6 For the purposes of this Act, the Treasurer may arrange for the borrowing on behalf of the State, in accordance with the Financial Agreement, of any sums of money not exceeding in the whole the sum of \$1 500 000.

Application of
moneys paid to
Minister.

7 Moneys paid to the Minister by the corporation under this Act shall—

- (a) in the case of moneys paid by way of repayment of the principal moneys lent to the corporation by the Minister be paid by him to the Treasurer to the credit of the Loan Fund; and
- (b) in the case of moneys paid by way of interest on those principal moneys, be paid by the Minister to the Treasurer to the credit of the Consolidated Revenue.

THE SCHEDULE

All that land bounded in red on Land District Plan No. 414 filed and registered in the office of the Director of Lands at Hobart.