

SMITHTON HARBOUR TRUST DISSOLUTION.

No. 21 of 1972.

AN ACT to provide for the dissolution of the
Smithton Harbour Trust and to amend the *Marine
Act 1921.* [9 November 1972.]

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.

Short title,
citation, and
commence-
ment.

1—(1) This Act may be cited as the *Smithton Harbour Trust Dissolution Act 1972.*

(2) The *Marine Act 1921*, as subsequently amended, is in this Act referred to as the Principal Act.

(3) This Act shall commence on a day to be fixed by proclamation.

Interpreta-
tion.

2 In Part II of this Act, unless the contrary intention appears—

“appointed day” means the day on which this Act commences;

“Board” means the Marine Board of Circular Head;

“Trust” means the Smithton Harbour Trust.

PART II.

PROVISIONS RELATING TO THE DISSOLUTION OF THE TRUST.

Dissolution
of the Trust.

3—(1) On the appointed day—

(a) the Trust shall cease to exist, and all property, rights, powers, functions, obligations, and liabilities of the Trust shall be transferred to, and shall vest in, the Board; and

(b) the burden and benefit of all contracts and arrangements entered into by the Trust before that day, so far as those contracts and arrangements are in existence on that day, shall be transferred to the Board and may be enforced by and against the Board accordingly as if the Board were specifically named therein as a party thereto in lieu of the Trust.

(2) If legal proceedings are commenced by or against the Trust before the appointed day, those proceedings may be continued by or against the Board and any damages or costs (or both) that, but for

the dissolution of the Trust, could have been awarded in favour of or against the Trust may be awarded in favour of or against the Board, and are recoverable accordingly.

4 Notwithstanding the dissolution of the Trust, any by-laws made by the Trust that are in force immediately before the appointed day— Continuation, &c., of certain by-laws.

- (a) are, by force of this section, continued in force and have effect in and in relation to the part of the State that, immediately before that day, was comprised within the jurisdiction of the Trust; and
- (b) may be rescinded or amended by the Board as if they were by-laws lawfully made by the Board under the Principal Act.

5—(1) Notwithstanding anything in the Principal Act (as amended by this Act)— Transitory provisions.

- (a) during the transitional period, the Board shall consist of nine wardens, of whom—
 - (i) five shall be the wardens who are in office immediately before the appointed day; and
 - (ii) four shall be persons appointed by the Governor, being—
 - (A) two persons who are electors for the Mowbray ward of the municipality of Circular Head;
 - (B) one person who is an elector for the Horton ward of the municipality; and
 - (C) one person who is an elector for the Emmett ward of the municipality; and
- (b) no annual election of wardens of the Board shall be held in the year 1973, and the wardens referred to in paragraph (a) of this subsection are, subject to the Principal Act, entitled to continue in office until the date of the election of wardens to be held in the year 1974.

(2) If a casual vacancy occurs during the transitional period in the office of any warden referred to in paragraph (a) of subsection (1) of this section, the vacancy shall, notwithstanding anything in the Principal Act, be filled by a warden appointed by the Governor (being a warden who is an elector for the same ward as the first-mentioned warden).

(3) In this section, “the transitional period” means the period beginning on the appointed day and ending on the date of the election of wardens to be held, in accordance with section thirty-nine of the Principal Act, in the year 1974.

PART III.

AMENDMENTS OF THE PRINCIPAL ACT.

6 Section thirty-one of the Principal Act is repealed and the following section is substituted therefor:—

Circular
Head:
Number of
wardens, &c.

“31—(1) The Marine Board of Circular Head shall consist of seven wardens elected for a term of three years.

“(2) Of the wardens—

- (a) two shall be elected by electors for the Mowbray ward of the municipality of Circular Head;
- (b) two shall be elected by electors for the Stanley ward of the municipality;
- (c) one shall be elected by electors for the Horton ward of the municipality;
- (d) one shall be elected by electors for the Emmett ward of the municipality; and
- (e) one shall be elected by electors for the Marrawah ward of the municipality.

“(3) Notwithstanding subsection (1) of this section, for the purpose of securing the rotational retirement of the wardens, the following provisions have effect, namely:—

- (a) All wardens holding office immediately before the date of the election of wardens to be held in the year 1974 shall retire from office on that date; and
- (b) Of the wardens elected at that election—
 - (i) the warden elected by electors for the Marrawah ward, together with—
 - (A) the second warden elected by electors for the Mowbray ward; and
 - (B) the second warden elected by electors for the Stanley ward,

shall retire on the date of the election of wardens to be held in the year 1975;

- (ii) the warden elected by electors for the Emmett ward, and the first warden elected by electors for the Mowbray ward, shall each retire on the date of the election of wardens to be held in the year 1976; and
- (iii) the warden elected by electors for the Horton ward, and the first warden elected by electors for the Stanley ward, shall each retire from office on the date of the election of wardens to be held in the year 1977.

“(4) For the purposes of subsection (3) of this section, where two wardens are elected by the electors for a particular ward—

- (a) a reference to the first warden elected by those electors is a reference to the warden who, at the relevant election, received more primary votes than the other warden elected by those electors; and
- (b) a reference to the second warden elected by those electors is a reference to the warden who, at the relevant election, received less primary votes than the other warden elected by those electors.”

7—(1) The several sections of the Principal Act that are specified in Part I of the first schedule to this Act are repealed. Consequential amendments of the Principal Act.

(2) The several provisions of the Principal Act that are specified in Part II of the first schedule to this Act are amended by omitting from each of those provisions the words “and trust” (wherever occurring).

(3) The several provisions of the Principal Act that are specified in Part III of the first schedule to this Act are amended by omitting from each of those provisions the words “or trust” and the words “or trusts” (wherever occurring).

(4) The provisions of the Principal Act that are specified in the first column of the second schedule are amended as respectively specified in the second column of that schedule.

THE FIRST SCHEDULE.

(Section 7.)

Part I—Sections of the Principal Act that are repealed—
Sections 7, 35, 36, 50, 63, 65, and 86.

Part II—Provisions of the Principal Act that are amended by omitting the words “and trust” (wherever occurring)—
Sections 9, 39, 43, 80, 82, 153, and 168.

Part III—Provisions of the Principal Act that are amended by omitting the words “or trust” and the words “or trusts” (wherever occurring)—

- (a) The definitions of “collector”, “detaining officer”, “voting district”, “wharf”, and “work” in subsection (1) of section 5.
 - (b) The two definitions of “owner” in subsection (1) of section 5.
 - (c) Subsection (2) of section 5.
 - (d) Sections 3, 5C, 5D, 5E, 7A, 8, 9, 12, 13, 14, 39, 40, 42, 44, 49, 61, 65A, 65B, 66, 67, 68, 70, 71, 73, 74, 75, 78, 78A, 79, 80, 81, 83, 84, 85A, 91, 92, 120, 121, 122, 150, 153, 156B, 156C, 157, 158, 159, 162, 165, 166, 167, 167A, 168, 169, 170.
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THE SECOND SCHEDULE.

(Section 7.)

Miscellaneous amendments of the Principal Act.

FIRST COLUMN Provision amended.	SECOND COLUMN How amended.
Long title	Omit " <i>and harbour trusts</i> ".
Section 5	(a) From subsection (1) omit the definitions of "chairman" and "trust". (b) From the definition of "voting district" in subsection (1) omit "or trustees".
Heading to Part II	Omit "AND TRUSTS".
Section 6	Omit subsection (3).
Section 8	Omit "and the special authority of each trust".
Heading to Part III	Omit "AND TRUSTS".
Section 33	Omit "Boards of Circular Head and" and substitute "Board of".
Section 37	(a) From subsection (1) omit "or trustee". (b) From subsection (2) omit "and trustee".
Section 38	From subsection (1) omit "and for each trust".
Section 39	From subsection (8) omit "or trustees".
Section 44	(a) From subsections (1), (1A), and (2) omit "or trustee" (wherever occurring). (b) From paragraph (d) of subsection (1) omit "or chairman".
Section 45	From subsection (1) omit "or trustee".
Section 47	Omit "; and in like manner every trust shall appoint a chairman and may appoint an acting-chairman".
Section 48	Omit subsection (2).
Section 49	(a) Omit subsection (3). (b) From subsection (4) omit "and trustees" (wherever occurring).
Section 67	Omit "in the case of a board, or four hundred dollars in the case of a trust".
Section 71	From paragraph (f) omit "in the case of a board,".
Section 75	From paragraph (e) of subsection (1) omit "and trusts" and omit "; trusts, one hundred and fifty dollars".
Section 79	From subsection (3) omit "and trusts".
Section 94	From sub-paragraph (i) of paragraph (c) omit "the" (first occurring).
Section 118	Omit subsection (3).

FIRST COLUMN Provision amended.	SECOND COLUMN How amended.
Section 122	From subsections (3), (4), and (5) omit "board, or trust" (wherever occurring) and substitute "or board" (in each case).
Section 153	From subsection (1) omit "and trust".
Section 159	From paragraph (d) omit ", or trustee,".
Section 166	(a) Omit "or trustee". (b) Omit ", chairman,".
Second schedule	(a) Omit the heading "JURISDICTION OF THE SMITHTON HARBOUR TRUST". (b) Omit " <i>Smithton</i> .—One mile on each of the entrances to Duck Bay, measured along the coast from the eastern and western bank respectively of such entrances.".
Third schedule	(a) From the description of the Circular Head voting district omit ", excluding the Smithton Harbour Trust Voting District as hereinafter defined". (b) Omit " <i>Smithton Harbour Trust</i> .—So much of the Municipality of Circular Head as is shown in diagram C in the Appendix, and therein surrounded by black boundary-lines.".
Sixth schedule	From the form omit "or Trust".
Appendix	Omit the Appendix.

COSGROVE PARK.

No. 22 of 1972.

AN ACT to amend the *Cosgrove Park Act 1962*.
[9 November 1972.]

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 *Cosgrove Park Act 1972*.

Short title and citation.

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