

**TOWN PLANNING AND  
DEVELOPMENT.**

10° Elizabeth II., No. LXIV.

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No. 64 of 1961.

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**AN ACT to amend the Town Planning and  
Development Act, 1928-1959.**

[Assented to 28th November, 1961.]

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title  
and citation

1. (1) This Act may be cited as the *Town Planning and Development Act Amendment Act, 1961.*

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Reprinted  
Acts.  
Approved  
for reprint  
15th May,  
1957,  
as amended  
by Acts Nos.  
68 of 1957,  
79 of 1957,  
61 of 1958  
and 49 of  
1959

(2) In this Act the Town Planning and Development Act, 1928-1959, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Town Planning and Development Act, 1928-1961.

2. This Act shall come into operation on a day to be fixed by proclamation. Commence-  
ment.

3. Section two of the principal Act is amended— S. 2  
amended.

(a) by adding before the interpretation, "Board" the following interpretation—

"Authority" means The Metropolitan Region Planning Authority constituted under the Metropolitan Region Town Planning Scheme Act, 1959; ;

(b) by substituting for the interpretation "building line" the following interpretation—

"building line" means the line between which and any public place or public reserve a building may not be erected, fixed by a local authority or the Authority, as the case may be, and shown on or described in a plan for a town planning scheme approved by the Minister or the Metropolitan Region Scheme made by the Authority and includes a building line or a new building line prescribed by a by-law of any Local Authority; ;

(c) by deleting the passage, ", or a road district" in lines one and two of the interpretation, "District";

(d) by deleting the passage, ", or the Board of a Road District" in lines two and three of the interpretation, "Local authority".

4. Section seven A of the principal Act is amended— S. 7A  
amended.

(a) by substituting for the word, "Board" wherever it appears in the section, the word, "Authority";

- (b) by substituting for the passage, "sixty-one" in lines five and six of paragraph (a) of subsection (3), the passage, "sixty-two";
- (c) by substituting for the passage, "Board's" in line four of paragraph (a) and again in line one of paragraph (b) of subsection (5), the passage, "Authority's";
- (d) by substituting for the passage, "Municipal Corporations Act, 1906, or the Road Districts Act, 1919, as amended by section thirty of this Act" in lines nine, ten and eleven of paragraph (d) of subsection (5), the passage, "Local Government Act, 1960, or any Act for which that Act is in substitution";
- (e) by substituting for the passage, "Municipal Corporations Act, 1906, or the Road Districts Act, 1919, as amended by section thirty of this Act" in lines four, five and six of subsection (11), the passage, "Local Government Act, 1960, or any Act for which that Act is in substitution"; and
- (f) by substituting for the word, "Crown" in line nine of paragraph (b) of subsection (12), the word, "Authority".

S. 16  
amended

5. Section sixteen of the principal Act is amended—

- (a) by substituting for the passage, "Part XXIV of the Municipal Corporations Act, 1906-1947, or under Part VII of the Road Districts Act, 1919-1947", in lines three, four and five of subsection (1), the passage "Part XXVI of the Local Government Act, 1960";
- (b) by substituting for the passage, "Municipal Corporations Act, 1906-1947, or the Road Districts Act, 1919-1947" in lines one and two of subsection (2), the passage, "Local Government Act, 1960";

- (c) by substituting for the passage, "owners of rateable land under the Municipal Corporations Act, 1906-1947, or of resident owners under the Road Districts Act, 1919-1947, as the case may be" in lines six, seven, eight and nine of subsection (2), the passage, "ratepayers under the Local Government Act, 1960";
- (d) by substituting for the words, "by a majority of the votes recorded at" in line eleven of subsection (2), the words, "by the result of";
- (e) by substituting for the words, "owners or resident owners of rateable land" in line thirteen of subsection (2), the word, "ratepayers"; and
- (f) by deleting the passage, "or road district, as the case may be" in the last two lines of subsection (2).

6. The principal Act is amended by adding after section twenty-eight a section as follows—

S. 28A  
added.

28A. (1) Where a person (in this section called "the subdivider") subdivides land into a lot or lots and the lot or lots or some of those lots front or abut a road that—

Subdivider  
of land  
to pay his  
proportion  
of cost of  
road on  
to which  
subdivided  
road  
fronts.

- (a) has been constructed and surfaced at the cost of a person who has subdivided land that fronts or abuts the road (in this section called "the original subdivider"); or
- (b) has been constructed and surfaced jointly at the cost of the municipality and the original subdivider, or is required to be so jointly constructed and surfaced,

the subdivider shall pay to the municipality in accordance with this section half of the cost of constructing and surfacing that portion of the road on to which the lot or lots front or abut.

(2) The subdivider shall pay to the municipality—

- (a) where the portion of the road remains to be either constructed or surfaced or both after the date of the subdivision referred to in subsection (1) of this section by the subdivider, half of the actual cost thereof as estimated by the council of the municipality; or
- (b) where the portion of the road has been constructed and surfaced at the date of that subdivision, half of the cost thereof as assessed by the council of the municipality as at that date.

(3) The subdivider shall within fourteen days of a written demand being made on him by the council of the municipality in that behalf, pay to the municipality the half of the cost of the portion of the road as determined under subsection (2) of this section.

(4) The council of the municipality shall—

- (a) if the portion of the road has been constructed and surfaced at the cost of the original subdivider, pay such sum into its Trust Fund; or
- (b) if the portion of the road has been so constructed and surfaced at the cost of the municipality and at the cost of the original subdivider, or is required to be so constructed and surfaced, pay half of such sum into its Municipal Fund and half into its Trust Fund.

(5) (a) Any payment made into the Trust Fund of the municipality pursuant to subsection (4) of this section in respect of a portion of a road on which a lot fronts or abuts shall be paid as soon as practicable by the council of the municipality, on written demand being made in that behalf, to any person who satisfies the council that at the time of the demand he is the owner of the lot, being a lot contained in a subdivision by the original subdivider, that fronts or abuts the portion and that no payment from the Trust Fund has been made to any person in respect of the portion of the road on account of the construction and surfacing thereof.

(b) The amount of the payment to the owner shall be such proportion of the amount paid into the Trust Fund as the length of the frontage of his lot or lots fronting or abutting on that portion of the road bears to the length of the portion of the road in respect of which the payment into the Trust Fund was made.

(6) (a) A person on whom a demand has been made by a municipality under subsection (3) of this section who is aggrieved by the demand, may within fourteen days after its receipt by him appeal to the Minister against the demand by serving on the Minister and the municipality written notice of appeal stating the general grounds of the appeal.

(b) The Minister shall hear the appeal, in such manner as he may determine, as soon as practicable after the service on him of the notice of appeal and may either dismiss the appeal or cancel or vary the demand and give the municipality such directions as he thinks fit as respects the demand.

(c) The decision of the Minister on the appeal is final and effect shall be given to the decision according to its tenor.

(7) Any amount required to be paid by a municipality or a person pursuant to this section may be recovered in a court of competent jurisdiction by the municipality or the person to whom the amount is payable as a debt due to it or him, as the case may be.

(8) Where a subdivider is liable under this section to pay to a council of a municipality the amount of half the cost of constructing and surfacing that portion of a road on to which a lot fronts or abuts, the amount as determined under this section is, by force of this section, a charge on the land comprising the lot.

(9) The charge referred to in subsection (8) of this section shall be entered by the council of the municipality in the register of orders kept by it in accordance with the provisions of section six hundred and ninety-four of the Local Government Act, 1960, and when so entered is subject to that section.

(10) A council of a municipality may, pursuant to section six hundred and ninety-three of the Local Government Act, 1960, lodge and withdraw a caveat in respect of the charge referred to in subsection (8) of this section.

(11) Where any money that is paid into a Trust Fund of a municipality pursuant to subsection (4) of this section, is not paid out to any person within a period of six years from the date on which it was paid into that Fund, the municipality shall, within fourteen days thereafter, pay the money to the Treasurer to be placed to the credit of the Unclaimed Moneys Fund established under the Unclaimed Moneys Act, 1912, and thereupon the provisions of that Act, to the extent to which they are capable of being applied, apply to the money. .

(12) This section shall not apply to any road that has been constructed or surfaced or both at the cost of a municipality.

7. Section thirty of the principal Act is repealed. S. 30  
repealed.

8. Section thirty-one of the principal Act is amended— S. 31  
amended.

(a) by substituting for the passage commencing with the word, "subsection" in line twelve of subsection (1) and ending with the figures, "1947" in line sixteen, the passage, "section two hundred and forty-eight of the Local Government Act, 1960";

(b) by substituting for the passage commencing with the word, "subsection" in line one of subsection (2) and ending with the figures, "1947" in line five, the passage, "section two hundred and forty-eight of the Local Government Act, 1960";

(c) by substituting for the passage commencing with the word, "subsection" in line three of subsection (3) and ending with the figures, "1947" in line seven, the passage, "section two hundred and forty-eight of the Local Government Act, 1960"; and

(d) by adding after the word, "eleven" in line eight of subsection (3), the words, "or twelve".

9. Clause 8 of the Second Schedule to the principal Act is amended by adding after the word, "right-of-way", being the last word in the clause, the passage, "; and the making, fixing and altering building lines generally and providing that buildings generally or a building of any specified class shall not be built nearer to a building line or an ocean or waterway than is prescribed in a town planning by-law". Second  
Schedule  
amended.

Third  
Schedule  
repealed and  
re-enacted.

10. The Third Schedule to the principal Act is repealed and re-enacted as follows—

THE THIRD SCHEDULE.

METROPOLITAN REGION.

Section 2.  
"Metropoli-  
tan Region."

*Local Authorities Included in the Region.*

CITIES:

Fremantle  
Nedlands  
Perth  
South Perth  
Subiaco

TOWNS:

Claremont  
Cottesloe  
East Fremantle  
Midland  
North Fremantle

SHIRES:

Armadale-Kelmscott  
Bassendean  
Bayswater  
Belmont  
Canning  
Cockburn  
Gosnells  
Kalamunda  
Kwinana  
Melville  
Mosman Park  
Mundaring  
Peppermint Grove  
Perth  
Rockingham  
Serpentine-Jarrahdale  
Swan-Guildford  
Wanneroo.

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