



ANNO VICESIMO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1973

No. 50 of 1973

An Act to establish a Commission for the Development of the City of Monarto in the State and for other purposes.

[Assented to 15th November, 1973]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PART I

PRELIMINARY

1. This Act may be cited as the "Monarto Development Commission Act, 1973". Short title.

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

3. This Act is divided as follows:—

Division of Act.

PART I—PRELIMINARY

PART II—ADMINISTRATION

DIVISION I—THE COMMISSION

DIVISION II—FINANCIAL

PART III—PLANNING AND DEVELOPMENT ACT, ETC.

PART IV—LOCAL GOVERNMENT

PART V—MISCELLANEOUS

PART I**Interpretation.****4. In this Act, unless the contrary intention appears—**

“Acting Commissioner” means a person appointed as Acting Commissioner under section 9 of this Act:

“Commissioner” means a Commissioner appointed under subsection (2) of section 5 of this Act and includes a Commissioner appointed as chairman of the Commission and Acting Commissioner while acting as such:

“financial year” means a period of twelve months ending on the thirtieth day of June:

“the Commission” means the Monarto Development Commission established by subsection (1) of section 5 of this Act:

“the designated site” means the area of land defined in the schedule to a proclamation made under the Murray New Town (Land Acquisition) Act, 1972, on the seventh day of December, 1972, and published in the *Gazette* of the same day at page 2535.

PART II**PART II****ADMINISTRATION****DIVISION I****DIVISION I—THE COMMISSION****The Commission.**

5. (1) For the purposes of this Act there is established a Monarto Development Commission.

(2) The Governor may appoint three Commissioners for the purposes of this Act and the Commission shall be constituted of the Commissioners so appointed.

(3) The Governor may appoint a Commissioner appointed under subsection (2) of this section to be chairman of the Commission.

(4) The Commission—

(a) shall be a body corporate, with the name “Monarto Development Commission”, with perpetual succession and a common seal;

(b) subject to this Act, shall be capable of acquiring, taking or letting out on lease, holding, selling and otherwise disposing of real and personal property;

(c) may in its corporate name and capacity sue and be sued;

and

(d) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act or any other Act.

(5) The common seal of the Commission shall not be affixed to any document except in accordance with a resolution of the Commission.

(6) Where a document purporting to bear the common seal of the Commission is produced before any court or person acting judicially that court or that person, as the case may be, shall, unless the contrary is proved, presume—

(a) that the document purporting to bear the common seal of the Commission bears the common seal of the Commission;

and

(b) that the common seal was duly affixed.

6. Each Commissioner may be appointed for such period not exceeding six years as the Governor specifies in the instrument of appointment but is eligible for re-appointment. Period of appointment of Commissioners.

7. (1) The chairman of the Commission and each Commissioner shall be paid such remuneration and allowances at such respective rates as the Governor from time to time determines. Remuneration etc., of Commissioner

(2) The Minister may grant leave of absence to the Commissioners on such terms and conditions as the Minister determines.

(3) A Commissioner shall not, as such, be subject to the Public Service Act, 1967-1972, but this subsection does not affect the rights, duties and obligations under that Act of any Commissioner who is otherwise an officer of the public service of the State.

8. (1) The Governor may, by notice in writing served on a Commissioner, remove the Commissioner from office on the grounds of misconduct or incapacity to perform his duties and functions as a Commissioner and upon such removal the office of the Commissioner shall become vacant. Vacation of office by a Commissioner.

(2) The office of a Commissioner shall become vacant if—

(a) he dies;

(b) he resigns by written notice given to the Minister;

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- (c) he is removed from office by the Governor pursuant to subsection (1) of this section;
- (d) he is absent from his office without leave of the Minister for a period or periods in the aggregate exceeding one month in any one year;
- (e) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors for less than one hundred cents in the dollar;
- (f) he, in any way, otherwise than as a member and in common with other members, of a body corporate consisting of not less than twenty-five persons—
 - (i) becomes concerned or interested in a contract entered into by or on behalf of the Commission;
 - or
 - (ii) participates or claims to participate in the profit of any such contract or in any benefit or emolument arising from any such contract;
- (g) he is convicted of any indictable offence;
- or
- (h) he is convicted of any other offence and receives notice from the Minister discharging him from office on the ground of that conviction.

**Acting
Commissioner.**

9. (1) In the event of any illness or absence of a Commissioner the Governor may appoint a person to be an Acting Commissioner.

(2) An Acting Commissioner appointed in the event of the illness or absence of a Commissioner shall hold office during the period of that illness or absence but his appointment may at any time be terminated by the Governor.

(3) An Acting Commissioner while acting as such shall have all the powers and may perform all the functions of a Commissioner.

(4) No appointment of an Acting Commissioner and no act done by him shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

(5) An Acting Commissioner shall be paid such remuneration and allowances at such rate (if any) as the Governor from time to time determines.

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10. Notwithstanding any other Act or law, a person shall not be disqualified by appointment as a Commissioner from holding office as a Commissioner and also any other office or place or from accepting or retaining any fees or other remuneration provided for by or under this Act, or otherwise, in respect of his service as such a Commissioner.

Acceptance of office as a Commissioner not to be a bar to the holding of any other office.

11. (1) The procedure for the calling of meetings of the Commission and for the conduct of business at such meetings shall, subject to this Act, be as determined by the Commission.

Meetings, quorum, etc., of the Commission.

(2) Any two Commissioners shall constitute a quorum at any meeting of the Commission and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Commission and shall have and may discharge all the powers, duties and functions of the Commission.

(3) The chairman of the Commission shall preside at all meetings of the Commission at which he is present and in addition to a deliberative vote, shall, in the event of an equality of votes, have a second or casting vote.

(4) In the absence of the chairman of the Commission from any meeting of the Commission the Commissioners present shall, from amongst their own number, elect a Commissioner to preside at that meeting and at the meeting the Commissioner so elected shall have and may exercise the powers and functions conferred on the chairman by this section.

(5) A decision carried by the majority of the votes cast by the Commissioners present at a meeting of the Commission shall be the decision of the Commission.

(6) The Commission shall cause accurate minutes to be kept of its proceedings at meetings.

12. No act, proceeding or determination of the Commission shall be invalid on the ground only of any vacancy in the office of any Commissioner or of any defect in the appointment of any Commissioner.

Validity of acts, etc., of Commission.

13. (1) The functions of the Commission are to undertake and carry out the social and physical planning, development and construction of the city of Monarto.

Functions of the Commission.

(2) Without limiting the generality of subsection (1) of this section, for the purpose of carrying out its functions—

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- (a) the Commission may provide, or arrange for the provision of, within the designated site, buildings, roads, bridges, works for the supply of water, gas or electricity, sewerage or drainage works, amenities and other matters and things whether or not of the same kind as the foregoing for, or incidental to, that purpose;
- (b) the Commission shall have regard to all matters that in its opinion are necessary to be considered in order to ensure that the physical, social and economic development of the city of Monarto proceeds in the best interests of the people of the city;

and

- (c) the Commission shall, by all means reasonably available to it ensure so far as is practicable that the people of the city of Monarto are kept informed of the reasons for and the background to the decisions of the Commission and, to the greatest extent possible, are afforded an opportunity to participate in the formulation of the policy on which those decisions are based.

(3) The Commission has power to do all things necessary to be done for or in connection with or incidental to the performance of its functions or the exercise of its powers.

(4) Any person who is a resident of the city of Monarto and who is or may be affected by any act or decision of the Commission under this Act, may make such representations in relation to that act or decision to the Minister as are appropriate.

(5) The Minister shall consider any representation made to him pursuant to subsection (4) of this section and shall advise the person who made those representations of the result of that consideration but nothing in this subsection or in subsection (4) of this section shall affect the validity or efficacy of the act or decision of the Commission to which the representation relates.

Authority
subject to
general control
and direction
of the Minister.

14. In the exercise and discharge of its powers, duties, functions and authorities the Commission shall, except where it makes or is required to make a recommendation to the Minister, be subject to the general control and direction of the Minister.

Appointment
of committees.

15. (1) The Commission may appoint committees to investigate and advise the Commission on any aspect of its powers or functions.

(2) Each committee appointed under this section shall report to the Commission on its activities at such times as the Commission directs.

16. (1) The Commission may, either generally or in relation to a matter or any matter of a class, by writing under its seal delegate to any person or body of persons any of its powers or functions under this Act (except this power of delegation).

(2) A power or function so delegated shall be exercised or performed by the delegate or delegates in accordance with the instrument of delegation.

(3) A delegation under this section is revocable at will and no delegation prevents the exercise or performance of any power or function by the Commission.

17. (1) The Commission may with the approval of the Minister employ such persons as it thinks necessary for its purposes.

Employment of persons.

(2) The terms and conditions of employment including remuneration of persons or persons of a class employed under subsection (1) of this section shall, subject to this Act, be as determined by the Commission and approved of by the Minister.

(3) Without limiting the generality of subsection (2) of this section, the Commission may, with the approval of the Minister determine that, for the purposes of the accrual of, or the payment of a lump sum in lieu of the grant of, long service leave or for the purposes of the accrual of leave on account of illness, previous service of an employee of the Commission with an employer other than the Commission for the purposes and to the extent approved by the Minister shall be regarded as service as an employee of the Commission.

(4) For the purposes of this section the Commission may enter into an arrangement or supplementary arrangement of a kind contemplated by section 6 of the Superannuation Act, 1969-1972, with the South Australian Superannuation Board.

(5) An employee of the Commission shall not, as such, be subject to the Public Service Act, 1967-1972, but this subsection does not affect the rights, duties and obligations under that Act of any such employee who is otherwise an officer of the public service of the State.

18. (1) The Commission may, with the approval of the Minister and the consent of the Minister controlling any department of the public service of the State and on such terms as may be mutually arranged make use of the services of any of the officers or employees of that department.

Commission may make use of services of employees of public service.

(2) The Commission may, with the approval of a statutory authority, on such terms as may be mutually arranged, make use of the services of any officers or employees of that statutory authority.

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(3) In subsection (2) of this section "statutory authority" means a body, whether corporate or unincorporate, created by an Act, where the Governor or a Minister of the Crown has the right to appoint the person or some or all of the persons of whom that body is constituted.

Annual report.

19. (1) As soon as practicable after the end of each financial year the Commission shall present a report to the Minister on its activities during that year.

(2) The Minister shall cause every report of the Commission made in accordance with subsection (1) of this section to be laid before each House of Parliament within fourteen days of his receipt thereof if Parliament is then in session or if Parliament is not then in session within fourteen days of the commencement of the next session of Parliament.

DIVISION IICommission to
keep proper
accounts.**DIVISION II—FINANCIAL**

20. (1) The Commission shall keep proper accounts showing accurately and in detail all its financial transactions, assets and liabilities.

(2) The Auditor-General, may at any time examine the accounts of the Commission and shall, as soon as practicable after the end of each financial year make a report to the Minister on the state of the affairs of the Commission as at the end of that financial year.

(3) The Minister shall cause every report of the Auditor-General made in accordance with subsection (2) of this section to be laid before each House of Parliament within fourteen days of his receipt thereof if Parliament is then in session or if Parliament is not then in session within fourteen days of the commencement of the next session of Parliament.

(4) The provisions of section 41 of the Audit Act, 1921-1972, shall apply and have effect as if the Commission were a public corporation referred to in that section.

Power to
borrow.

21. (1) The Commission may, for the purposes of exercising or performing its powers and functions under this Act or any other Act, borrow money at interest—

(a) from the Treasurer;

or

(b) with the consent of the Treasurer, from any person,

upon such security (if any) by way of mortgage or charge over any of the assets of the Commission, as the Commission may think fit to grant.

(2) The Treasurer may upon such terms and conditions as he thinks fit guarantee the repayment on any moneys (together with interest thereon) borrowed by the Commission from a person other than the Treasurer under this section.

(3) Any moneys required to be paid in satisfaction of a guarantee given pursuant to subsection (2) of this section may be paid out of the general revenue of the State which is hereby to the necessary extent appropriated accordingly.

22. (1) The moneys required and which may, subject to this Act, be expended by the Commission for the purposes of the exercise and performance of its powers and functions under this Act shall be—

Funds of the Commission.

- (a) all moneys received by the Commission in or for the exercise or performance of its powers or functions;
- (b) all moneys borrowed by the Commission pursuant to section 21 of this Act;
- (c) all moneys paid by the Commission by way of grants by the Treasurer out of moneys to be provided by Parliament for the purpose;

and

- (d) all moneys made available to the Commission by the government of the Commonwealth.

(2) Such of the moneys of the Commission as are not immediately required by the Commission may be lodged on deposit with the Treasurer or in any bank approved of by the Treasurer or invested in any other manner approved of by the Treasurer.

23. (1) As soon as practicable after the commencement of this Act the Commission shall present to the Minister a programme showing its estimates of receipts and payments over the balance of the financial year within which the programme is presented and thereafter the Commission shall before the commencement of each succeeding financial year present to the Minister a programme showing its estimates of its receipts and payments for that succeeding financial year.

Programme.

(2) The Minister may approve of any programme presented to him pursuant to subsection (1) of this section or may direct or allow the Commission to amend a programme before so approving of the programme.

(3) The Commission shall not, without the consent of the Minister, incur any expenditure that is not authorized by an approved programme.

(4) In this section—

“approved programme” means a programme that has been approved of by the Minister or a programme that, having been amended, has been approved of by the Minister.

PART III**PART III****PLANNING AND DEVELOPMENT ACT, ETC.**The applied
Acts.**24. In this Part—**

“the applied Acts”—

(a) means the Planning and Development Act, 1966-1972;

(b) where the Building Act, 1970-1971, has not come into operation on or before the appointed day, means the Building Act, 1923-1965, and upon the coming into operation of the Building Act, 1970-1971, means that Act;

and

(c) where the Building Act, 1970-1971, has come into operation on or before the appointed day means that Act:

“the appointed day” means the day appointed under section 25 of this Act.

Appointed day.

25. For the purposes of this Part, the Governor may, by proclamation, fix a day to be the appointed day.Application of
the applied Acts.**26.** Subject to this Part, on and after the appointed day, the applied Acts shall apply to and in relation to the Commission and to the designated site as if—

(a) the Commission were a municipal council;

(b) the designated site were the municipality or area of that municipal council;

and

(c) the designated site were not part of the area or district of the District Council of Mobilong.

Matters pending
under the
applied Acts.**27.** The Governor may, in relation to any matter or thing pending under any of the applied Acts that has not been finally disposed of before the appointed day, by proclamation give directions as to the manner by which that matter or thing shall be disposed of and notwithstanding anything in section 26 of this Act or in the applied Acts those directions shall apply and have effect as if they were enacted in this Act.

PART IIIModification
of the applied
Acts.

28. (1) The Governor may from time to time by proclamation direct that the provisions of any of the applied Acts or the provisions of the regulations made under any of the applied Acts specified in the proclamation shall not apply to or in relation to the Commission or to or in relation to the designated site and specify what provisions, if any, shall apply to or in relation to the Commission or to the designated site, in lieu of those provisions and that proclamation shall, notwithstanding anything contained in section 26 of this Act or in the applied Acts, apply and have effect as if it were enacted in this Act.

(2) The Governor may from time to time by proclamation revoke or vary any proclamation made under subsection (1) of this section and, notwithstanding anything contained in section 26 of this Act or in the applied Acts, that revocation or variation shall have effect as if it were enacted in this Act.

(3) The Minister shall cause a copy of every proclamation made under this section to be laid before each House of Parliament within fourteen days of its making if Parliament is then in session or if Parliament is not then in session within fourteen days of the commencement of the next session of Parliament.

PART IV**PART IV****LOCAL GOVERNMENT**

29. Nothing in this Part shall be held or construed as to limit or restrict the application of Part III of this Act to or in relation to the Commission or the designated site.

Application of
Part of this Act.

30. For the purposes of this Part, the Governor may, by proclamation fix a day (in this Part referred to as "the appointed day") to be the appointed day.

Appointed day.

31. On and from the appointed day—

- (a)** the area comprised in the designated site shall for all purposes cease to form part of the district of the District Council of Mobilong;

Acts to apply
to Commission
as if corporation
and council of
municipality.

and

PART IV

(b) the area comprised in the designated site shall for all purposes be deemed to be a municipality under the Local Government Act, 1934-1972, and the Commission shall be deemed to be the corporation and council of that municipality, and with respect to the designated site shall have and may discharge all the rights, powers, authorities, duties, liabilities, obligations and functions which by or under that Act or by or under any other Act are conferred or imposed upon the corporation or the council or, so far as they are applicable the Mayor or the Town Clerk of a municipality.

Transfer of
assets, etc., from
District Council
of Mobilong.

32. (1) On and after the appointed day the Commission shall take such steps as are necessary to secure between it and the District Council of Mobilong an agreement on—

(a) the transfer from the District Council of Mobilong to the Commission of such real and personal property and other assets and such rights, liabilities and obligations of the District Council as were, immediately before the appointed day, in or related to that part of the district of the District Council that on the appointed day ceased to form part of the district of that District Council and are necessary for the successful development of the city of Monarto;

and

(b) the settlement of accounts between the Commission and the District Council in respect of all matters secured in the agreement.

(2) If a dispute arises between the Commission and the District Council of Mobilong in relation to any matter referred to in subsection (1) of this section the matter in dispute shall be referred to an arbitrator—

(a) agreed on between the parties;

or

(b) in default of such agreement, appointed by the Governor, and that arbitrator shall hear and determine that dispute and the decision thereon of the arbitrator shall be final and binding on the Commission, the District Council and every person or body affected thereby and shall not be liable to be called in question in any court on any ground whatsoever.

Contracts with
council.

33. The Commission may contract with any council as defined for the purposes of the Local Government Act, 1934-1972, for the exercise or performance of any power or function conferred or imposed on the Commission by or under this Act and notwithstanding any Act or law to the contrary that council shall have power to carry out any such contract.

PART IV

Constitution of
designated site
as municipality.

34. (1) As soon as there are not less than sixty thousand people resident within the designated site the Governor may, by proclamation, constitute the designated site or any part of the designated site a municipality under the Local Government Act, 1934-1972, or may add that area to a municipality constituted or continued under that Act so as to form part thereof.

(2) The municipality so constituted or to which the area is so added pursuant to subsection (1) of this section is in this section and in sections 35 and 36 of this Act referred to as "the local government district".

(3) Upon the making of a proclamation referred to in subsection (1) of this section all the rights, powers, authorities, duties, liabilities, obligations and functions of the Commission—

(a) in the capacity of a municipal corporation shall be transferred to, vested in, and imposed upon and shall be exercised and discharged by the municipal corporation of the local government district;

and

(b) in the capacity of the council of a municipality, shall be transferred to, vested in, and imposed upon and shall be exercised and discharged by, the municipal council of the local government district.

35. (1) The Governor may in the proclamation under subsection (1) of section 34 of this Act or in a subsequent proclamation declare that any or all of the powers, duties and functions of the Commission in its capacity as such whether in relation to the whole of the area comprised in the designated site or any part or parts thereof, shall be exercised and discharged by the council of the local government district.

Discharge of
Commission's
functions by
council.

(2) Upon a proclamation under subsection (1) of section 34 of this Act, or as the case may be, a proclamation under subsection (1) of this section, being made—

(a) the rights, powers, authorities, liabilities, obligations and functions of the Commission shall cease;

(b) the body corporate created by subsection (4) of section 5 of this Act shall be constituted of the council of the local government district;

(c) the rights, powers, authorities, liabilities, obligations and functions of the Commission shall be exercised and discharged by the council of the local government district,

according to the tenor of the proclamation or proclamations.

PART IVResolution of
disputes.

36. If, after the making of a proclamation under section 34 or section 35 of this Act, any dispute arises between the Commission and the council of the local government district as to—

(a) the construction, interpretation or the carrying out of this Act or any provision thereof or any matter or thing under or arising out of this Act;

or

(b) the respective rights, powers, authorities, duties, liabilities, obligations and functions of the council of the local government district and the Commission,

the Governor shall determine that dispute in such manner as he thinks fit and the decision of the Governor shall be final and binding on the council of the local government district and the Commission and any other person or body affected thereby and shall not be liable to be called in question in any court on any ground whatsoever.

PART V**PART V****MISCELLANEOUS**Application of
Act.

37. This Act shall apply to land the subject of the Real Property Act, 1886-1972, notwithstanding the provisions of that Act.

Power of
Governor to
dispense with
compliance with
Act or by-law,
etc.

38. (1) The Governor may, upon consideration of any special circumstances, by regulation dispense with, suspend or vary, so far as is necessary, for the successful development of the city of Monarto within the designated site, any provision of any Act, by-law, rule or regulation or other provision having the force of law (under whatever authority made) which is in force within the designated site and which in the opinion of the Governor prevents or impedes or would prevent or impede such successful development and any such regulation shall apply and have effect as if it were enacted in this Act.

(2) The Governor may from time to time by regulation revoke or vary any regulation made under subsection (1) of this section and that revocation or variation shall have effect as if it were enacted in this Act.

39. Proceedings for offences against this Act shall be disposed of summarily. Summary proceedings.

40. The Governor may, on the recommendation of the Commission make such regulations as are necessary or expedient for the purposes of giving effect to the provisions or objects of this Act. Regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor