

No. 79 of 1958.

AN ACT to amend the *Electoral Act* 1907.

[9 January 1959.]

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 *Electoral Act* 1958. Short title and citation.
- (2) The *Electoral Act* 1907, as subsequently amended, is in this Act referred to as the Principal Act.
- 2** Section four of the Principal Act is amended by omitting therefrom the definition of “Electoral Commission”. Interpretation.
- 3** Section twelve of the Principal Act is repealed. Electoral Commission.
- 4**—(1) Section one hundred and thirty-two A of the Principal Act is amended by omitting subsection (10) thereof. By-elections.
- (2) This section shall commence on the date on which the Assembly summoned and chosen in the year 1956 expires, or the date on which it is dissolved, whichever is the earlier date.
- 5** Section one hundred and eighty-three of the Principal Act is repealed. Duties, &c., of Electoral Commission.

SPRINGFIELD IMPROVEMENT.

No. 80 of 1958.

AN ACT to authorize the making of a loan to the council of the municipality of Glenorchy for the purpose of assisting the council to defray the cost of the construction of unmade streets, and of works for the provision of a stormwater drainage system, in the Springfield Garden Estate Sub-division, and to provide for other matters connected therewith or incidental thereto.

[9 January 1959.]

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 *Springfield Improvement Act* 1958. Short title.

Interpreta-  
tion.

**2** In this Act, unless the contrary intention appears—

- “construct”, used in relation to a street, has the same meaning as it has in section fourteen A of the *Towns Act 1934*;
- “council” means the council of the municipality of Glenorchy;
- “defined area” means the portion of the municipality of Glenorchy that is comprised within the boundaries of the Springfield Garden Estate, as shown in the subdivision plan;
- “drainage works” means the works mentioned in paragraph (b) of subsection (1) of section five;
- “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 six of the *Public Account Act 1957*;
- “street works” means the works mentioned in paragraph (a) of subsection (1) of section five;
- “subdivision plan” means the plan of subdivision of the area therein described as the Springfield Garden Estate, deposited in the office of the Recorder of Titles, pursuant to the *Real Property Act 1862*, on the seventeenth day of January 1928 by Southern Cross Assurance Company Limited, and having the registered number 991.

Exclusion of  
certain  
statutory  
provisions.

**3**—(1) The provisions of—

- (a) sections one hundred and ninety and one hundred and ninety-three of the *Local Government Act 1906*;
- (b) the *Local Bodies Loans Act 1881*; and
- (c) the *State Loans to Local Bodies Act 1929*,

do not apply to or in relation to the lending of money to, or the borrowing of money by, the council pursuant to this Act.

(2) The provisions of the *Towns Act 1934* do not apply to or in relation to the construction of streets by the council pursuant to this Act.

This Act to  
prevail over  
other Acts.

**4** If, in respect of any matter to which this Act relates, there is any inconsistency between the provisions of this Act and the provisions of any other Act passed before the commencement of this Act, the provisions of this Act, to the extent of the inconsistency, prevail over the provisions of that other Act in their application to any such matter.

Agreement  
for loan.

**5**—(1) For the purpose of assisting the council to defray the costs of—

- (a) works for the construction of unmade streets; and

- (b) works for the provision of a stormwater drainage scheme,

within the defined area, the Minister may, on behalf of the State, enter into an agreement with the council to lend to the council such sums of money, not exceeding four hundred thousand pounds, as may be specified in the agreement.

(2) Except as provided in subsection (3) of this section, the moneys to be lent to the council pursuant to the agreement entered into under this section shall be paid to the council by way of progress payments according to the progress of the works in respect of which they are lent.

(3) The Minister may, at any time after the execution of the agreement, lend to the council, by way of working advance, any sums of money not exceeding twenty thousand pounds, and any sums so lent shall be deemed to form part of the aggregate sum to be lent to the council, as mentioned in subsection (1) of this section.

(4) Subject to this Act, the agreement entered into under this section may—

- (a) specify the streets or parts of streets within the defined area that are to be constructed by the council;
- (b) make provision for the apportionment of the moneys lent to the council between street works and drainage works;
- (c) require the council to submit to the Minister for approval such designs, plans, specifications, and estimates as may be specified in the agreement, and require the council, if directed by the Minister so to do, to alter, revise, or remodel any such designs, plans, specifications, and estimates;
- (d) provide that any payments to be made to the council pursuant to this Act shall be dependent upon the observance by the council of specified conditions and requirements;
- (e) require the council to acquire such of the pieces of land to which section nine applies as are specified in that behalf in the agreement;
- (f) provide for and regulate the payment to the council, out of moneys available to the Minister, or appropriated by Parliament, for that purpose, of subsidies to assist the council to defray the costs and expenses involved in borrowing moneys, in pursuance of the agreement, for the purpose of the street works to which the agreement relates;
- (g) subject to the *Water Act 1957*, make provision for facilitating the submission of an application for a subsidy under Division III of Part III of that Act in relation to the drainage works;

- (h) provide for the payment by the Minister to the council, out of moneys appropriated by Parliament for that purpose, of a grant of such amount as may be specified in the agreement in consideration of benefits accruing to lands of the Crown within, or contiguous or adjacent to, the defined area by reason of the construction of the works to which the agreement relates; and
  - (i) contain such supplemental and incidental provisions as may be agreed upon between the Minister and the council.
- (5) Any moneys lent to the council pursuant to this Act—
- (a) shall not be taken into account in determining the borrowing limits of the council for the purposes of section five of the *Local Bodies Loans Act 1881*; and
  - (b) are a first charge, in priority to all other liabilities of the council, upon all rates levied by the council upon, and all moneys paid or payable to the council under section eight in respect of, lands within the defined area.

Provisions  
as to repay-  
ment of loan  
and payment  
of interest  
thereon.

6—(1) During the progress of works undertaken by the council for the purposes of this Act, the council shall pay to the Minister quarterly on the last days of September, December, March, and June in each financial year interest calculated at the rate of five and one-half per cent per annum on the total amount of the moneys from time to time lent to the council by the Minister pursuant to the agreement under section five, and the first of those payments of interest shall be made on the thirtieth day of September 1959.

(2) In the case of any moneys lent to the council by the Minister on or before the thirtieth day of June 1959, the interest payable thereon pursuant to subsection (1) of this section shall be calculated only from the first day of July 1959.

(3) Subject to this section, the total amount of the principal moneys lent, or to be lent, to the council by the Minister pursuant to the agreement under section five shall be repaid to the Minister by the council by one hundred quarterly instalments, together with interest thereon, or on the balance thereof for the time being remaining unpaid, calculated at the rate of five and one-half per cent per annum.

(4) The first instalment in repayment of the principal moneys required to be made by subsection (3) of this section shall be made on the thirtieth day of September 1959.

(5) Notwithstanding anything in the foregoing provisions of this section, the council may at any time pay to the Minister, in reduction of the principal moneys, any sums received by it from the owners of lands by virtue of the operation of the provisions of subsection (8) of section eight, and thereupon

the amount to be paid by the council to the Minister by way of repayment of the principal moneys and the payment of interest shall be abated accordingly.

**7**—(1) If the council makes default in payment of any principal moneys or interest payable by the council to the Minister under this Act, the Minister shall give notice in writing to the council demanding the payment thereof, and if after the expiration of ten days after the giving of that notice the council is still in default the Governor may appoint a receiver of the rates payable to the council in respect of lands within the defined area and of the moneys payable to the council under section eight in respect of those lands.

Procedure on  
default by  
council.

(2) A receiver appointed under this section may—

- (a) receive all rates payable to the council in respect of lands within the defined area and other moneys payable to it under section eight in respect of those lands; and
- (b) make, levy, demand, and collect those rates and other moneys,

and for those purposes may exercise all the powers of the council and of every executive officer or servant thereof and, to such extent as may be necessary for those purposes, shall be deemed to be the council.

(3) A receiver appointed under this section shall exercise such of the powers and duties of the council as the Minister may direct.

(4) For the purposes of this section, an order signed by a receiver appointed under this section has the same force and effect as if it were a resolution of the council.

(5) A receiver appointed under this section shall be paid such remuneration as the Governor may approve.

(6) Before entering on the discharge of the duties of his office, a receiver appointed under this section shall give such security for the faithful discharge of those duties as the Governor may direct.

(7) The accounts of a receiver appointed under this section are subject to audit under the provisions of the *Audit Act 1918* as if the receiver were a local authority.

(8) The moneys received by a receiver appointed under this section shall be applied by him—

- (a) firstly, in payment of all costs, charges, and expenses incurred in relation to the discharge of his duties, including his own remuneration;
- (b) secondly, in payment of all moneys due and payable by the council to the Minister under this Act; and
- (c) thirdly, in payment to the council of the balance then remaining of the moneys received by the receiver.

Costs of  
works a  
charge on  
lands.

**8**—(1) Subject to this section, all costs and expenses incurred by the council in or in connection with the construction of street works and drainage works within the defined area shall be paid to the council by the owners of lands within that area.

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

(3) Any amount that is payable to the council 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 council is a charge on that land and may be recovered by the council accordingly in accordance with the provisions of the *Rates and Charges Recovery Act 1936*, and that Act, as modified by subsection (4) of this section, applies to and in relation to the recovery thereof accordingly.

(4) In its application to the recovery of the costs and expenses to which this section relates, section ten of the *Rates and Charges Recovery Act 1936* has effect as if—

- (a) from paragraph I thereof the word “four” were omitted and the word “two” were substituted therefor; and
- (b) paragraph II thereof were omitted.

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

- (a) by one hundred equal quarterly instalments, commencing on the first day of July 1959, together with interest thereon or on the balance thereof for the time being remaining unpaid calculated at the rate for the time being fixed by the council pursuant to subsection (6) of this section; or
- (b) at the option of the owner, in a lump sum.

(6) For the purposes of paragraph (a) of subsection (5) of this section, the rate of interest payable by the owners of land shall be such rate (not exceeding five and one-half per cent per annum) as the council, having regard to the rate of interest payable by it to the Minister on any moneys lent to it by him under this Act and to any subsidy or grant paid or made to the council by or on behalf of the State in respect of any works to which this Act applies, may, by notice in the *Gazette* and in a newspaper, fix and declare.

(7) Different rates of interest may be fixed pursuant to subsection (6) of this section in relation to amounts payable to the council in respect of the street works and the drainage works respectively.

(8) A rate of interest fixed and declared pursuant to subsection (6) of this section continues in force until varied by the council by notice published in the *Gazette* and in a newspaper.

(9) Notwithstanding anything in subsection (5) of this section—

(a) an owner who has paid any instalment or instalments under paragraph (a) of that subsection may, at any time thereafter, pay to the council 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, while any part of the amount payable in respect of any land pursuant to this section remains unpaid, that land is sold, the whole of that amount, or the balance thereof remaining unpaid, together with all interest payable thereon up to the date of the completion of the sale, becomes payable to the council forthwith and shall be paid to the council by the vendor accordingly.

(10) Paragraph (b) of subsection (9) of this section does not apply to or in relation to any land that is sold or disposed of for a consideration other than cash.

(11) 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 council by virtue of paragraph (b) of subsection (9) of this section have been paid to it in accordance with that paragraph.

(12) Notwithstanding anything in the foregoing provisions of this section, no amount is payable, in respect of the costs of construction of street works within the defined area, by the owner of any of the allotments specified in the schedule, but the owner of each of those allotments is liable for the payment, calculated in accordance with subsection (2) of this section, of a proportionate part of the costs and expenses incurred by the council in the construction of drainage works within that area.

Acquisition  
of certain  
pieces of  
land.

**9—(1) The council—**

- (a) shall acquire such of the lands to which this section applies as are specified in that behalf in the agreement under section five; and
- (b) may acquire all or any part of those lands that are not so specified in that agreement.

(2) The lands acquired pursuant to this section shall be acquired in accordance with the provisions of the *Public Authorities' Land Acquisition Act 1949*, which Act is incorporated with this section.

(3) Any lands mentioned in paragraph (b) of subsection (1) of this section that are acquired by the council may be sold by the council to such persons and for such prices respectively as the council may determine.

(4) In subsection (1) of this section, "lands to which this section applies" means those pieces of land, each of which has a width of one and one-half links, that are specified in the subdivision plan as being reserved.

Appropriation  
of  
Loan Fund.

**10** 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 council pursuant to section five.

Power of  
Treasurer to  
borrow  
moneys.

**11** 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 four hundred thousand pounds.

Application  
of moneys  
paid to  
Minister.

**12** Moneys paid to the Minister by the council under this Act shall—

- (a) in the case of moneys paid by way of repayment of the principal moneys lent to the council 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.

(Section 8 (11).)

*Allotments to which subsection (11) of section 8 applies.*

The allotments to which subsection (11) of section 8 applies are the allotments shown on the subdivision plan as Lots 3, 4, 5, 6 & 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 25, 26, 30, 31, 33, 33A, 38, 39, 40, 41, 42, 43, 44, 45, 46, and 52A, respectively (being the allotments so numbered on that plan and having frontages on Fourth Avenue).