

Melbourne and Metropolitan Board of Works (Administration) Bill 1982

NOTES ON CLAUSES

This Bill is to effect a number of amendments to the *Melbourne and Metropolitan Board of Works Act 1958* and consequential amendments to the *Town and Country Planning Act 1961* and the *Water Resources Act 1975*.

The Bill contains amendments of a procedural nature consequent upon the creation of the position of General Manager and effects changes in the titles and duties of various offices of the Board recommended to the Board by a firm of management consultants who undertook an investigation into the organizational structure of the Board. The titles of Secretary, Engineer-in-Chief, Treasurer and Planner-in-Chief are to be Director of Administration, Director of Engineering, Director of Finance and Director of Planning respectively.

The Bill also clarifies certain powers of the Board and incorporates certain new provisions into the Board's Act to facilitate efficiency in the Board's operations.

Amongst the amendments are provisions to assist the Board in providing for the recreation and better enjoyment of the public of the Board's metropolitan parks.

Brief notes on each of the Bills provisions are set out hereunder.

Clause 1 is the usual citation clause and provides for commencement on the date fixed by proclamation.

Clause 2 amends section 3 inserting a new definition namely "proper officer", to facilitate the change in some of the functions of various offices of the Board.

Clause 3 amends section 4A by replacing "secretary" with "director" thereby dealing with the change in title of the secretary and expanding those officers of the Board with whom the Minister may communicate in the administration of the Act.

Clause 4 amends section 5 to increase the term of office of area commissioners from the current one year to three years. Experience has shown that a term of office of one year is insufficient to gain an appreciation of the role and responsibilities of an area commissioner and of the functions of the Board. This change was unanimously recommended by the quintennial conference of councils (held pursuant to section 7 of the Act in the late 1981) to consider, and make recommendations about, the representation on the Board of area commissions comprised of municipal representatives.

Clause 5 amends section 6 to enable a municipality which has the whole or any part of its municipal district added to the metropolis to be represented on an Area Commission. Presently only municipalities added to the Metropolitan Area within the meaning of the *Town and Country Planning Act 1961* have this entitlement.

Clause 6 amends section 25A to enable the General Manager to carry out the executive functions of the Chairman where there is a vacancy in the office of Chairman. Currently the General Manager can only so act during the absence or illness of the Chairman.

Clauses 7 and 8 are procedural type amendments consequent upon the creation of the position of General Manager and the change in the title of the secretary.

Clause 9 amends section 32 to clarify the Board's powers to make regulations concerning various conditions of employment of Board officers, particularly those relating to leave, thereby ensuring that the Board can provide its staff with appropriate benefits in a form enforceable by them.

Clause 10 amends section 37A by raising the amount at which the consent of the Minister is required before the Board can enter a contract from \$100 000 to \$250 000. The current amount of \$100 000 was established in 1974 and \$250 000 is an appropriate modern equivalent. Further, this will place the Board in the same position as the Melbourne Underground Railway Loop Authority.

Clause 11 amends section 39—

- (a) to update the minimum amount of a contract for which advertising is required from the 1974 amount of \$20 000 to the modern appropriate equivalent of \$50 000.
- (b) to permit contracts between \$50 000 and \$70 000 to be more appropriately advertised in a trade journal than in two daily newspapers as at present.
- (c) to enable the Minister to determine that any contract or class of contracts will not have to meet the advertising and tendering requirements of the section. Already exempt from such requirement are contracts with other public statutory corporations (including municipalities) and contracts for the provision of professional services. This further exemption is to cover cases such as the construction of works additional to those in an existing contract where retention of the same contractors results in continuity and substantial cost savings, and for contracts in specialised or limited fields such as underwriting contracts.

Clause 12 re-enacts section 41 to consolidate the section which was substantially amended by the *Melbourne and Metropolitan (Offices) Act 1982* and to provide for the change in the titles of Secretary and Treasurer.

Clause 13 amends section 41A to include the General Manager and to provide for the change in the titles of Secretary and Treasurer.

Clause 14 amends section 43 to include the General Manager thereby making him subject to the prohibitions against accepting fees or rewards, other than from the Board, for performing tasks and duties under the Act or from being involved in certain contracts.

Clause 15 amends section 75A (Water Supply Schemes) to provide that the proper officer certify the cost of such schemes and so standardizes the requirements with those of section 142A (Sewerage Schemes) as set out in Clause 18 of the Bill.

Clause 16 amends section 102 to replace the redundant title of secretary with the General Manager and the director of administration.

Clause 17 amends section 110 to clarify the Board's power to regulate activities on and to provide for the care, protection and preservation of its water supply reserves.

Clause 18 amends section 111 to clarify the Board's powers to make regulations fixing a scale of charges in relation to unmetered fire service pipes.

Clause 19 amends section 142A (Sewerage Schemes) to replace the Engineer-in-Chief as the certifying officer of such schemes with the "proper officer". This standardizes the requirements of sections 75A and 142A. (See Clause 14.)

Clause 20 amends section 143 to increase the protection of the Board's sewerage system and (as the section by incorporation applies to main drains) main drains by—

- (a) making a consent grant by the Board to build over a sewer or a main drain run with the land thereby binding subsequent owners. Currently, whilst the Board is able to grant consents subject to conditions, such consents are personal and the terms thereof not binding upon subsequent owners;
- (b) expanding the current prohibitions on the erection of structures over sewers or main drains of the Board to include embankments, filling, material and machinery. In the past sewers and main drains have been substantially damaged by the placing of such encroachments over them.

Clause 21 amends section 160 by replacing the Engineer-in-Chief as the certifying officer with the proper officer.

Clause 22 amends section 169 to clarify the Board's power to strike and vary the rate of interest presently provided for in the section. Such rate cannot exceed 1 per cent above the maximum ten-year public loan interest rate.

Clause 23 amends section 170 by replacing the Engineer-in-Chief as the certifying officer with the proper officer.

Clause 24 is a procedural type amendment of section 179 consequent upon the creation of the position of General Manager and the change in the title of secretary.

Clause 25 amends section 213 to ensure that the Board is empowered to undertake, carry out or provide, or enfranchise others to undertake, carry out or provide, activities and facilities of a commercial nature in its metropolitan parks to ensure the better utilization enjoyment or education of the public in the parks.

The activities and facilities may be provided and operated by the Board or provided by the Board but operated by others or provided and operated by others under agreement with or licence from the Board. Such activities include matters like the hiring of cycles or boats or the running of orchards or show farms.

Clause 26 amends section 214. The amendment, which is consequential upon the amendment of section 213 (see *Clause 24*) gives the Board the necessary by-law making powers to fix and charge fees and the like for the usage of such facilities.

Clause 27 is a procedural type amendment to sections 239F and 239G consequent upon the creation of the position of General Manager.

Clause 28 inserts a new section to establish the Board's power to provide a service to the public whereby a person may apply for and obtain a special reading of a water meter on a particular property. Special readings are sought by the purchasers of properties and the number of requests has increased markedly over recent years. The amendments set up a system, similar to that for encumbrance advices, whereby applications can be made, readings taken and advice provided to the applicant.

Clause 29 provides procedural type amendments consequent upon the creation of the position of General Manager and the change in title of various offices of the Board.

Clause 30 amends section 258c to enable the Board with the approval of the Minister to be a member of a body or fund which undertakes or is engaged in scientific research training or development.

Clause 31 amends section 294 to ensure that the Board has power to properly control craft jetties and the like floating on the Maribyrnong and Yarra Rivers in situations where they may be anchored or moored in a particular spot for a long period of time.

The amendment relates to the development and use of both Rivers for the recreation and enjoyment of the public.

Clauses 32 and 33 are procedural type amendments to Schedules of the Act consequent upon the creation of the position of General Manager and the change in title of various offices of the Board.

Clause 34 converts monetary penalties for breaches of the Act to appropriate penalty unit penalties.

Clause 35 is a procedural type amendment to the *Town and Country Planning Act 1961* consequential upon the changes in the title of secretary.

Clause 36 is a procedural type amendment to the *Water Resources Act 1975* consequent upon—

- (a) the enactment of Part XI of the Act.
- (b) the creation of the position of General Manager and the change in title of the Engineer-in-Chief.

Clause 37 provides for transitional provisions consequent upon the change the title of various offices of the Board.

