

Latrobe Regional Commission Bill

EXPLANATORY MEMORANDUM

The purpose of this Bill is to provide for—
the planning and development of the Latrobe Region; and the establishment of the Latrobe Regional Commission; and other purposes.

NOTES ON CLAUSES

PART I.—PRELIMINARY

Title—Operative Date—Parts—Schedules

Clause 1 contains provisions relating to the short title, the date of commencement of the Act and the division of the Act into Parts and Schedules.

Definitions

Clause 2 sets out interpretations of certain terms used in the Act, including the “Latrobe Region” which is defined in Schedule 1 as consisting of—

- (a) the municipal districts of—
 - the Shire of Alberton
 - the Shire of Mirboo
 - the City of Moe
 - the Shire of Morwell
 - the Shire of Narracan
 - the Shire of Rosedale
 - the City of Sale
 - the Shire of South Gippsland
 - the City of Traralgon; and
 - the Shire of Traralgon; and
- (b) the Yallourn Works Area

PART II.—LATROBE REGIONAL COMMISSION

Establishment of Commission

Clause 3 establishes the Latrobe Regional Commission as a body corporate.

Constitution

Clause 4 provides for a Commission of eighteen members.

Specifies (Schedule 2) that all members shall be appointed by the Governor-in-Council for terms not exceeding three years as follows—

- one person from each municipality in the region from a panel of two names of persons resident in the region submitted by each municipal council (total 10 municipal councils);

- one person, who is a resident of the region, from nominations submitted by employer, industrial and commercial organisations within the region;

- one person, who is a resident of the region, from nominations submitted by trade union organisations within the region;

- two persons who are residents of the region from nominations submitted by community groups and welfare organisations within the region and by residents of the region;

- one person from the Latrobe Valley Water and Sewerage Board from a panel of two names of persons resident in the region;

- three persons nominated by the Minister.

Clause 4 also establishes the procedure for calling nominations for members; and applies the provisions of—

Schedule 2—Appointment of members; election of Deputy Chairman; remuneration; appointment of acting members; removal and resignation of members; and

Schedule 4—Pecuniary interests and register of interests of members.

Chairman

Clause 5 provides for the Governor-in-Council to appoint one of the members of the Commission to be the Chairman.

Objects

Clause 6 states that the Objects of the Commission shall be—

to co-ordinate the planning of the economic, physical, environmental and social development of the Latrobe Region;

to improve the co-ordination of and to facilitate the development of major projects in the region;

to assist the implementation of State policies in relation to the region;

to involve the regional community in decision-making in relation to the region;

to assist in the economic development of the region.

In carrying out its objects under this Act the Commission is directed to give effect to statements of Government policy.

Functions

Clause 7 states that the Commission, subject to the direction and control of the Minister shall:—

carry out investigations and prepare and implement regional strategy plans for the region;

carry out investigations and prepare infrastructure co-ordination plans for prescribed developments;

prepare and report on co-ordinated plans of works for the region;

promote, co-ordinate and assist in the economic development of the region and the development of the physical and social resources of the region, and improve the region generally and to conserve, restore and enhance sites, areas, structures, works and objects in the region of special significance to the region;

promote public involvement in the planning and development of the region; and

carry out such other functions as are conferred by this Act.

Clause 7 also specifies that in carrying out its functions the Commission shall—

have regard to any statements of government policy;

consult with all public authorities carrying out statutory functions in the region, each municipal council, any person or body as directed by the Minister; and such other person, body or organization as the Commission considers necessary; and

advise and report to the Minister on relevant matters;

keep the public informed of investigations and consider submissions from persons or bodies; and

ensure that persons and bodies who may be expected to make submissions to the Commission on any matter are made aware that they may do so and are given an adequate opportunity of making such submissions.

Chief Executive Officer

Clause 8: provides for the Governor-in-Council to appoint a chief executive officer of the Commission and prescribes that he/she shall not be a member of the Commission; applies the provisions of Schedule 3—Chief Executive Officer and Schedule 4—Pecuniary interests and register of interests to the Chief Executive Officer.

Officers and Employees

Clause 9 provides for the appointment of staff of the Commission under the *Public Service Act* 1974 and for the appointment of seconded officers.

Advisory Committees

Clause 10 provides for the appointment of advisory committees by the Commission and requires at least one member of the Commission to be a member of each advisory committee.

Delegation

Clause 11 authorizes the Commission to delegate by resolution any of its functions or powers to the Chairman, a committee consisting of members of the Commission or to the Chief Executive Officer or any officer or employee of the commission;

specifies functions or powers which the Commission may not delegate.

Improper Use of Information

Clause 12 prohibits the improper use of information by a member of the Commission, an officer, employee or member of an advisory committee, and prescribes penalties.

PART III.—POWERS OF THE COMMISSION

General Powers of the Commission

Clause 13 grants the Commission all such powers as are necessary or convenient for carrying out its functions under the Act and in particular to:

carry out investigations;

establish mechanisms for the involvement of the residents of the region, regional organisations and other bodies in the carrying out of the functions of the Commission and for the co-operation of those persons and organisations;

with the consent of the Minister, provide facilities and resources to residents of the region, regional organisations and other bodies to enable them to assist the Commission in the carrying out of its functions under this Act.

with the consent of the Minister purchase lease sell or exchange land; and

sub-divide, re-subdivide or develop land for industrial, commercial, business or residential use.

Clause 13 provides other powers for the Commission relating to land, leases, easements, carrying out of works and improvements, maintenance and management of land, buildings, works and structures; and acceptance of gifts.

Clause 13 further empowers the Governor-in-Council to grant any Crown land purchased or acquired by the Commission on such terms and conditions as the Governor-in-Council thinks fit except where land is permanently reserved.

Compulsory Acquisition of Land

Clause 14 empowers the Minister, after considering a recommendation from the Commission, to authorize the Commission to compulsorily acquire land.

Clause 14 specifies details to be provided in the report to the Minister.

Clause 14 also incorporates with this Act—

the *Lands Compensation Act* 1958; and

the *Valuation of Land Act* 1960.

Certain Provisions of Housing Act to Apply

Clause 15 extends certain provisions of the *Housing Act 1958* to the Commission for carrying out its functions in relation to the subdivision or re-subdivision and development of land. The Commission may close a street or road and extinguish easements or restrictive covenants.

Terms and Conditions of Sale of Land by Commission

Clause 16 gives the Commission power to sell land subject to terms and conditions which will best attain the objects of the Commission;

contains detailed provisions relating to covenants.

Commission May Enter Into Agreements or Arrangements

Clause 17 empowers the Commission to enter into agreements or arrangements with any public authority or municipal council.

Empowers any public authority or municipal council to enter into agreements, for the purposes of this Act, with the Commission.

Commission to Pay Rates Under the Local Government Act

Clause 18 requires the Commission to pay rates under the *Local Government Act 1958* on land purchased or acquired other than for public purposes. In estimating the value of the land for rating purposes it shall be deemed to be used for and only to be available for use for the purposes for which it was being used immediately before it was purchased by the Commission and it shall be assumed that the improvements on the land (if any) made after the purchase had not been made.

PART IV.—REGIONAL STRATEGY PLANS

Interpretation

Clause 19 defines the Minister for the time being administering the *Town and Country Planning Act 1961* as the Minister responsible for regional strategy plans.

Regional Strategy Plans

Clause 20 empowers the Commission to prepare a regional strategy plan for the region or with the consent of the Minister for a part of the region.

Authorizes the Minister to give directions as to the extent to which and the detail in which and specify the period within which the plan is to be completed.

Objectives of the Regional Strategy Plan

Clause 21 explains that the regional strategy plan shall have as its objectives—

- the co-ordination and integration of the use and conservation of the economic, environmental, physical and social resources of the region;
- the balanced economic and social development of the region; and
- the increase of employment opportunities in the region.

Contents of Plan

Clause 22 specifies the contents of the regional strategy plan—

- the implementation of any statement of Government policy;
- the development of the physical resources of the region including the use, the development and re-development of land for industrial, commercial, farming, forestry, residential and other purposes;
- the development of the social resources of the region including housing, community services and facilities; and regional parks, sporting and cultural facilities and other recreational services and facilities;
- the economic development of the region;
- the enhancement of the quality of the environment of the region;

the provision and improvement of services in the region including transport, drainage, water supply, sewerage and power; and
any other matter to ensure that the planning of the region proceeds in the best interests of the residents of the region and the community generally.

Notice of Preparation of Plan

Clause 23 requires the Commission to give notice in writing of the preparation of a regional strategy plan to certain public authorities, municipal councils, and social or community organisations or bodies.

Investigations

Clause 24 authorizes the Commission to conduct an investigation of the region for the purpose of preparing a regional strategy plan;

requires a public authority or government department, at the request of the Commission, to provide certain information;

authorizes the public authority or government department to give the Commission the details, information and assistance requested within a reasonable time;

requires the Commission to report progress and complete its investigations within the period or extension of the period approved by the Minister.

Matters Which Commission is to take into Account in the Preparation of the Plan

Clause 25 specifies the matters which the Commission shall take into account in preparing a regional strategy plan—

any statement of Government policy;

the existing land use and development within the region;

the provisions of any existing planning schemes and interim development orders in force in the region;

any submission received from any body or person in relation to the plan; and

any details of proposals to be carried out by or on behalf of an authority or department within the region;

and further specifies that the Commission shall comply with any directions of the Minister given under this Act as to the extent to which and the detail in which the Commission should plan.

Adoption of Plan by Commission

Clause 26 empowers the Commission to adopt the plan on its completion.

Notice of Adoption of Plan

Clause 27 requires the Commission to furnish copies of the plan and/or give notice of the adoption of the plan to municipal councils, public authorities or other bodies and members of both Houses of Parliament within the region;

to have the plan on exhibition for at least three months;

to receive written submissions on the plan from any persons.

Hearing of Submissions

Clause 28 requires the Minister to appoint a panel of three persons of which one is a member of the Commission, and one an independent chairman, to consider the submissions and report to the Commission on any alterations to the regional strategy plan which it believes should be made. Alternatively a panel of one person may be appointed. (Schedule 5).

Submission of Plan to Minister

Clause 29 requires the Commission to submit the plan to the Minister together with a report of the panel, the report of the Commission's investigations and a statement of action recommended by the Commission.

Minister to Consider Plan

Clause 30 requires the Minister to obtain a report from the Secretary for Planning and Environment and certain other departmental heads on every regional strategy plan submitted to him;

requires the Minister to proceed with the plan without alteration, to modify the plan or to return the plan to the Commission for reconsideration.

Approval of Strategy Plan

Clause 31 outlines the procedure to be followed where the Minister decides to proceed with the plan without alteration or as modified and submits the plan to the Governor-in-Council who may declare the plan to be an approved regional strategy plan.

Referral of Strategy Plan to Commission for Consideration of Other Matters

Clause 32 outlines the procedure to be followed where the Minister decides to refer the plan back to the Commission for reconsideration.

Plan not to be Invalidated by Certain Irregularities

Clause 33 declares that the plan is not to be invalidated by certain irregularities.

Copy of Strategy Plan to be Furnished to Certain Authorities

Clause 34 requires a copy of the approved regional strategy plan to be furnished to the Secretary for Planning, municipal councils and responsible authorities.

Copy of Approved Plan to be Laid Before Parliament

Clause 35 requires a copy of every approved regional strategy plan to be laid before each House of Parliament; each House of Parliament may revoke the plan within a specified period.

Governor in Council May Revoke, Amend or Vary Plan

Clause 36 empowers the Governor-in-Council, on the recommendation of the Minister, to revoke, amend or alter the plan.

Re-investigations and Amending Regional Strategy Plans

Clause 37 empowers the Commission to re-investigate and amend the regional strategy plan or a part of it from time to time;

requires the Commission to re-investigate the plan every four to six years and submit to the Minister an amending plan or a report on the investigation if an amending plan is not considered necessary.

Minister to carry out Investigation or Prepare Plan where Commission Fails to do so

Clause 38 empowers the Minister to carry out an investigation or re-investigation and prepare a regional strategy plan or amending plan where the Commission fails to do so, the costs to be paid by the Commission.

Preparation of Planning Schemes

Clause 39 prescribes the procedure for the preparation and amendment of planning schemes and interim development orders to implement the regional strategy plan.

Requires the responsible authority to amend or vary an existing planning scheme, if necessary, or to revoke the planning scheme and prepare a new one to conform with and implement the regional strategy plan.

Determines that the Commission may require a responsible authority to make an Interim Development Order or an amendment to one.

Provides that the Commission may enter into an agreement with the responsible authority to provide assistance in the preparation, enforcement or carrying out of an interim development order or planning scheme.

Also provides that no action shall be taken on a proposal for a planning scheme, interim development order or an amendment which relates to a prescribed development unless and until an infrastructure co-ordination plan is approved for that development.

Commission to be Responsible Authority for Purpose of Preparing Planning Scheme or Interim Development Order at the Direction of the Minister

Clause 40 empowers the Minister to direct the Commission to prepare and submit for approval a planning scheme whether or not a scheme has been or is being prepared by any other responsible authority.

Clause 40 also specifies that for the purpose of this Act the Commission shall be a responsible authority in respect of the preparation and submission for approval of any planning scheme or the making of an interim development order in respect of the area to be covered by the scheme, which the Commission is directed by the Minister under this section to prepare and submit or make.

Certain Applications for Permits to be Referred to Commission

Clause 41 requires the Commission as soon as possible after its establishment to notify all responsible authorities within the region of the types of use or development which it considers to be of regional significance.

Requires all responsible authorities to refer certain applications for permits under the *Town and Country Planning Act 1961* to the Commission and establishes procedures for dealing with those applications.

Works to be in Conformity with Approved Strategy Plan

Clause 42 declares that no works or undertakings shall be carried out in the region by or on behalf of any government department, public authority or municipal council unless they conform with the approved regional strategy plan.

Section 42 also requires that where there is no approved regional strategy plan, any government department, public authority or municipal council shall notify the Commission of a proposal for works or undertakings unless the Commission has specified in writing to that body that such works or undertakings are not of a type considered to be of regional significance.

The clause provides for the Governor in Council, in the event of a dispute, to determine the issue by prohibiting, restricting or regulating the carrying out of the works or undertakings.

PART V.—PRESCRIBED DEVELOPMENTS

Prescribed Developments

Clause 43 empowers the Minister to recommend to the Governor-in-Council that certain proposals be declared “Prescribed Developments” provided that he has consulted the Minister or other person responsible for implementing the proposal and is satisfied that—

- the expansion, use, development or operation will be of major economic significance to the State; or
- the provision of services and facilities would place a significant financial burden on the resources of the State or on regional or local authorities or on the residents of the region or part of the region; or would significantly affect the requirements for services and facilities in the region.

Clause 43 also prescribes procedures for the declaration of a prescribed development by the Governor-in-Council.

Infrastructure Co-ordination Plan

Clause 44 requires the Commission to prepare an “Infrastructure Co-ordination Plan” in respect of each prescribed development and establishes the procedures to be followed including submission of the plan to the Minister who shall consult with the Treasurer before presenting the plan to the Governor-in-Council for approval.

Upon the approval of an Infrastructure Co-ordination Plan by the Governor-in-Council every Minister, public authority and municipal council specified in the approved plan is directed to comply with its requirements.

NOTE: Infrastructure, in relation to a prescribed development, is defined in Clause 2 as:

Water supply systems, sewerage, drainage, roads, railways, transport, airfields, port facilities, electricity supply systems, schools, hospitals, community facilities, recreational and cultural facilities, training facilities, housing and other facilities, services, utilities and works required by or in association with the prescribed development.

PART VI.—CO-ORDINATED PLANS OF WORKS

Co-ordinated Plan of Works

Clause 45 requires the Commission to prepare annually a Co-ordinated Plan of Works in relation to major capital works in the region which the Minister directs to be included and to provide details of—

- works completed or to be completed during the financial year;
- works proposed to be undertaken in each of the three financial years following;
- and
- the location, estimated times for completion, employment opportunities created by and estimated cost of each of the works.

Directs each government department, public authority and municipal council to give the Commission such information as it reasonably requires.

Requires the Commission to forward the completed Co-ordinated Plan of Works to the Minister with such comments as it considers necessary.

PART VII.—FINANCIAL

Power of Commission to Borrow Money

Clause 46 empowers the Commission, with the consent of the Treasurer to borrow or re-borrow money and sets out the conditions.

Authorizes the Treasurer to execute a guarantee in favour of any institution, lending body or person lending money to the Commission and sets the conditions for such guarantees.

Contributions by Municipalities

Clause 47 requires that the municipalities in the region shall together be liable to contribute in each financial year an amount equal to one-third of the estimates of expenditure approved by the Treasurer in relation to the carrying out of the Commission's administrative functions.

Alternative methods of calculating the contribution of each municipality are provided.

General Fund

Clause 48 requires the Commission to establish a General Fund and prescribes—

- the preparation of annual estimates in the context of a longer period to be determined by the Minister;
- that moneys shall not be expended by the Commission from the General Fund otherwise than in accordance with this Act or the estimates of expenditure approved by the Treasurer on the recommendation of the Minister; and
- banking procedures.

Accounting Procedures

Clause 49 requires the Commission to keep accounting records which will explain the transactions and financial position of the Commission and make provisions and establish reserves as required to ensure the efficiency and financial stability of the Commission.

Requires the Auditor-General to audit the accounts and records of the Commission.

Requires the Commission to submit to the Minister and to each municipality in the region no later than 30 September each year the audited statement of accounts.

PART VIII.—GENERAL

Annual Report

Clause 50 provides for the Commission's Annual Report to be presented to the Minister by 31 October and to include—

- a statement as to the extent to which the Commission has achieved its objects in that year;
- a list of major capital works being carried out or to be carried out in the next financial year; and
- the audited accounts.

The Minister is required to lay the report before each House of Parliament.

Regulations

Clause 51 empowers the Governor-in-Council to make regulations necessary or convenient for carrying out the purposes of the Act.

SCHEDULES

Schedule 1 defines the Latrobe Region—details of which are set out in of this memorandum in relation to *Clause 2*.

Schedule 2 provides procedures for—

- the appointment of members (detailed in this memorandum in relation to *Clause 6*);
- the election of a Deputy Chairman by the members;
- the remuneration of members;
- the appointment, by the Minister, for a maximum of 12 months, of a person to act as a member in the case of illness, absence or vacancy; acting members to have all the powers and duties of the member for whom he is acting and to be paid remuneration;
- removal and resignation of members due to—
 - absence without permission of Minister;
 - bankruptcy;
 - conviction for an indictable offence;
 - incapacity to perform duties;
 - removal or resignation from office;
 - death;

meetings—

- who should preside; acting chairman;
- quorum;
- additional or casting vote of person presiding;
- an act or decision of a meeting not invalid in certain circumstances;
- shall be open to the public; exceptions where meeting is not open to the public.

Subject to the provisions of this Act and the regulations the Commission may regulate its own proceedings.

Schedule 3 makes provisions applicable to the Chief Executive Officer—

- terms of full-time appointment by Governor in Council;
- removal from office;

appointment of Acting Chief Executive Officer by Minister;

Saving of rights to superannuation and reappointment to public service.

Schedule 4 defines—

Direct and indirect pecuniary interests of members and procedures to be followed upon declaration of a pecuniary interest.

In the case of married persons living together the interests of one spouse shall if known to the other, be deemed to be also an interest of the other spouse.

Schedule 4 prescribes procedures and penalties where pecuniary interests are not disclosed.

Schedule 4 also establishes procedures for a register of interests of—

members;

the chief executive officer under sub-clause 8 (3);

nominated officers and employers under sub-clause 9 (3).

Substantial interests whether of a pecuniary nature or not of a member of the persons family of which he is aware and which he considers might appear to raise a material conflict between his private interest and his public duty shall be disclosed in his ordinary return.

Schedule 5 provides procedures for the appointment of panels of three persons for the hearing of submissions on the Regional Strategy Plan or amendments thereto—

One member of the panel shall be a member of the Commission appointed after consultation with the Commission;

The Minister shall appoint the other two including the chairman of the panel;

Where the Minister considers it appropriate he may appoint a panel of one person;

Remuneration;

Procedures of panel.

All hearings of the panel shall be held in public unless any person making a submission objects and the panel is satisfied that the submission is of a confidential nature.

Schedule 6 establishes a formula for the calculation of contributions by municipal councils where the Commission requests the Valuer-General to determine a valuation equalization factor for each municipality to eliminate the distortions in valuations undertaken at different dates.

