



ANALYSIS

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1963, No. 19—*Local*

An Act to constitute a body corporate to be called the Auckland Regional Planning Authority, and to make provision for the finances and administration of the Authority

[25 October 1963]

WHEREAS the Auckland Regional Planning Authority is constituted under the Town and Country Planning Act 1953 as a Regional Planning Authority, but is not a corporate body and has no power to acquire lands as regional reserves: And whereas it is desirable that the Auckland Regional Planning Authority should be a body corporate, and that it should have

power to acquire lands for regional reserves in the greater Auckland area, and that proper provision should be made for the bearing of the costs of acquiring and administering such lands:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Auckland Regional Planning Authority Act 1963.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Authority” means the Auckland Regional Planning Authority as constituted by this Act:

“Contributing authority” means any local authority which is required for the time being to contribute under this Act towards the loan charges, administration, or operation expenses of the Authority:

“Designated regional reserve” means any land designated in an operative regional planning scheme as land to be acquired by the Authority as a regional reserve or as part of a regional reserve:

“Local authority” means the Council of a city, borough, town district, or county, or the Board of a road district, within the regional district, and, where necessary, means the Corporation of the district governed by any such local authority:

“Local district” means the district of a city, borough, county, town district, or road district, within the regional district:

“Minister” means the Minister of Works:

“Planning Authority” means the Auckland Regional Planning Authority constituted under the 1953 Act:

“Public body” means a local authority and any person or body however designated that is authorised to undertake the construction or establishment of any public work under the provisions of the Public Works Act 1928, or that is declared by or under any enactment to be a local authority for the purposes of the said Act:

“Region” and “regional district” mean the region of the Planning Authority for the purposes of the 1953 Act

and the region of the Authority for the purposes of this Act:

“Regional planning scheme” means a regional planning scheme within the meaning of the 1953 Act; and includes a section of such a scheme:

“Regional reserve” means land the reservation of which for a public park or a reserve or for recreational facilities would, in the opinion of the Authority, be of benefit to the inhabitants of two or more local districts within the region; and includes two or more non-contiguous areas of land which in the aggregate constitute a regional reserve:

“The 1953 Act” means the Town and Country Planning Act 1953.

(2) Where for the purposes of this Act it is necessary to ascertain or calculate the rateable capital value or population of any area, that value or population, as the case may be, shall, upon receipt of a written request from the Authority, be ascertained or calculated by the Valuer-General, or the Government Statistician, as the case may be, as at a date or dates as near as reasonably practicable to the date of the receipt of the request.

3. Auckland Regional Planning Authority—(1) There is hereby established an Authority to be called the Auckland Regional Planning Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal, and shall be capable of holding and disposing of real and personal property and of doing and suffering all that bodies corporate may do and suffer.

(3) The Authority is hereby declared to be a local authority for the purposes of the Bylaws Act 1910, the Public Works Act 1928, the Rating Act 1925, the Valuation of Land Act 1951, the Local Authorities (Members' Contracts) Act 1954, the Local Authorities Loans Act 1956, and the Public Bodies Contracts Act 1959, and to be a Regional Planning Authority for the purposes of the 1953 Act; and, subject to the provisions of this Act, the provisions of the said Acts shall extend and apply to the Authority.

4. First and subsequent members of the Authority—(1) The first members of the Authority shall be the members at the date of the commencement of this Act of the Planning Authority.

(2) The provisions of the 1953 Act relating to the appointment of members of a regional planning authority under that Act and the conditions on and subject to which they shall hold office as members of a Regional Planning Authority aforesaid, shall apply and continue to apply as the conditions on which members of the Authority shall after the date of the commencement of this Act, be appointed and hold office as members of the Authority.

5. Meeting of the Authority—(1) The Chairman and Deputy Chairman of the Planning Authority shall be the first Chairman and the first Deputy Chairman respectively of the Authority.

(2) At any meeting of the Authority a majority of members shall form a quorum, and in the absence of the Chairman the Deputy Chairman shall be entitled to preside and exercise all the rights and privileges of the Chairman.

(3) All questions before the Authority shall be decided by a majority of the valid votes recorded thereon.

(4) At any meeting of the Authority the Chairman of the meeting shall have a deliberative vote and, in case of equality of votes, shall also have a casting vote.

(5) Subject to the provisions of this Act the Authority shall regulate its own proceedings.

6. Committees—(1) In addition to its powers under the 1953 Act, the Authority may from time to time appoint committees and from time to time discharge, alter, continue, or reconstitute any committee, or discharge any member of a committee, and (if it thinks fit) appoint another member in his stead.

(2) Each committee shall have such powers and authorities as may be delegated to or conferred upon it by the Authority, except the powers to borrow money, levy a contribution, make a bylaw, enter into a contract, otherwise than in accordance with the Public Bodies Contracts Act 1959, or institute an action.

7. Powers of the Authority—(1) As from the date of the commencement of this Act the Planning Authority shall become the Authority, and the Authority shall for all the purposes of the 1953 Act and the Auckland Regional Authority Act 1963 be deemed to be the Regional Planning Authority for the region of the Planning Authority, and shall have all

the powers and authorities of the Planning Authority, and all other powers and authorities of a Regional Planning Authority constituted under the 1953 Act.

(2) In addition to the powers conferred on the Authority by subsection (1) of this section, the Authority may at any time:

- (a) Take under the Public Works Act 1928 or purchase or otherwise acquire for a regional reserve any designated regional reserve:
- (b) Maintain in good order any regional reserve vested in the Authority and grant to any person or body of persons (including the Crown or a local authority) an exclusive or any lesser right to occupy or to use any portion of any such regional reserve for such period and on such terms as the Authority may determine:
- (c) In respect of any designated regional reserve, exercise the powers of the Minister and of a local authority under subsections (6), (7), and (8) of section 21 and section 21A of the 1953 Act in respect of public works for which the Crown or the local authority has financial responsibility and for which the Crown or local authority requires provision to be made in a regional or a district scheme under the 1953 Act.

8. Borrowing powers—(1) The Authority may from time to time borrow by way of special loan such sums as are necessary for carrying out the purposes of this Act, but no special loan shall be raised that would bring the total amount of principal for the time being borrowed and not repaid to more than one million pounds.

(2) Special loans may be raised by the Authority under the Local Authorities Loans Act 1956, but no special rate shall be made and levied by the Authority as security for any special loan.

(3) A copy of the special order of the Authority authorising the raising of a special loan, purporting to be sealed with the seal of the Authority and signed by the Chairman and two members, shall be published in the *Gazette* and shall be conclusive evidence that all proceedings and things under this Act in relation thereto and in the making of the special order have been lawfully taken and done.

(4) All debentures and stock issued in respect of the whole or any portion of any loan which may be raised by the Authority under the authority of this or any other Act shall, for the purposes of section 4 of the Trustee Act 1956, be securities authorised for the investment of money subject to a trust, whether the trust was created before or after the commencement of this Act.

9. Security for loans—Every special loan raised by the Authority shall be a general charge against the revenues of the Authority.

10. Annual estimate of the Authority's proposed expenditure on regional reserves—(1) The Authority shall as soon as practicable after the first day of April in each year cause an estimate to be prepared of the proposed expenditure by the Authority for the ensuing year in relation to regional reserves acquired or to be acquired by the Authority showing:

- (a) The permanent appropriations for payment of interest and the creation of a sinking fund or for periodical repayments on account of loans:
- (b) The sum or sums that may be required for carrying out or maintaining in good order any property or works owned or controlled by the Authority, and the payment of rates thereon:
- (c) Any sums available for such purposes:
- (d) The additional sum required.

(2) Any surplus or deficiency at the end of any year shall be carried forward as an asset or liability as the case may be into, and calculated or allowed for in making and assessing, the next year's requirements.

(3) During any year the Authority may prepare such additional estimates in respect of the foregoing matters as it may consider necessary or expedient and the provisions of sections 11 to 18 of this Act shall apply in respect of such additional estimates.

11. Contributing authorities' annual assessments in respect of regional reserves—As soon as practicable after the first day of April in each year the Authority shall assess the contributions payable for the current year commencing on the first day of April by the contributing authorities to provide the sums shown by the said estimate to be required, and written notice

shall forthwith be given to each contributing authority showing the amount at which every contributing authority is assessed, together with a copy of the estimate of expenditure for the year.

12. How assessments in respect of regional reserves are to be calculated—(1) The assessments referred to in section 11 of this Act shall be calculated and arrived at as provided in this section.

(2) The Authority shall keep a special account showing the amounts payable in respect of regional reserves acquired or to be acquired by the Authority.

(3) The Franklin County Council, the Rodney County Council, and the Waiheke Road Board shall respectively be liable to contribute only in respect of any regional reserve or regional reserves vested or to be vested in the Authority and situated within its local district, and the Borough Councils of Helensville, Pukekohe, Waiuku, and Tuakau, and the Warkworth Town Council shall respectively be liable to contribute only in respect of any regional reserve or regional reserves vested or to be vested in the Authority and situated within its local district or within any county adjoining its local district.

(4) The amounts payable under subsection (2) of this section shall be charged and assessed to the local authorities of the regional district (but subject to the provisions of subsection (3) of this section) in proportion to the mean percentage of the rateable capital value and population of their respective local districts.

13. Appeal—If any contributing authority is dissatisfied with such estimate or assessment on the ground that the same has not been made in accordance with the foregoing provisions of this Act, that contributing authority may, within twenty-eight days after notice of the assessment has been given to it, appeal to a Judge of the Supreme Court at Auckland against the assessment. The appeal shall be commenced by notice of appeal being given to the Registrar of the said Court, who shall fix a day for the hearing thereof; and the contributing authority appealing shall give notice in writing to the Authority and to each of the other contributing authorities stating the date when the same is to be heard and the grounds of the appeal, and thereupon the whole of the estimate and assessment shall be deemed to be set aside and the estimate of the contribution to be paid by every contributing authority shall

be settled by the Judge whose decision shall be final and binding upon the Authority and all the contributing authorities.

14. Jurisdiction of a Magistrate's Court—The Authority may, notwithstanding that the amount sought to be recovered is in excess of the jurisdiction of any Magistrate's Court, sue for and recover the amount of any such contribution in any such Court as a debt.

15. Production of documents to be prima facie evidence—The production in any Court of documents purporting to be:

- (a) A copy of the said estimate of expenditure; and
- (b) A copy of the said notice to each contributing authority purporting to be under the seal of the Authority—

shall be prima facie evidence of the liability of each local authority therein and thereby shown to be assessed as its contribution to the Authority for the purposes of this Act.

16. When contributing authorities to pay their shares—The local authority of each local district which is comprised within the regional district shall pay to the Authority the amount of the assessment as set out in the notice received by it pursuant to the provisions of section 11 of this Act in four equal instalments, one of which shall be payable on each of the last days of August, October, December, and February following receipt of the notice of assessment. In case any instalment is not paid, the local authority shall be liable to and shall pay interest on any and every amount so remaining unpaid until payment thereof at the rate for the time being charged by the bankers of the Authority for moneys owing to them by the Authority or that would be chargeable if the moneys were owing, as the case may be:

Provided that, if an appeal against any assessment has been lodged under section 13 of this Act, then the amount fixed by the Court shall be substituted for the amount of the assessment, and payment of any instalment which shall then have become due shall be made within thirty days from the date of the Court's decision; but interest on any such instalment shall be payable at the rate aforesaid as from the date upon which the same would normally have become payable.

17. Power of contributing authorities in regard to payment—Every contributing authority shall, for the purpose of enabling it to pay to the Authority the amount at which its contribution is assessed under section 11 of this Act or fixed by the Court under section 13 of this Act, have the following powers:

- (a) It shall be entitled to pay the amount out of its ordinary revenue or funds:
- (b) If it does not pay the amount out of its ordinary funds it shall be entitled to make and levy a rate for such an amount in the pound on the value of all rateable property within its district as shall be sufficient to pay the amount of such assessment and interest thereon (if any) and the costs of and incidental to the making and collection thereof, and shall be entitled to make and levy such rate in addition to all rates which it is entitled to make and levy under any other Act and notwithstanding any provision in any Act limiting or in any way affecting the rating power of such local authority.

18. Power of Authority to recover from contributing authorities in case of default—(1) If any such local authority, after notice of the said assessment is delivered to it or in case of appeal after the decision of the said Court, fails to pay any instalment thereof or any part of any such instalment for the period of thirty days after the day on which it should be paid or the interest thereon, it shall be lawful for the Authority, in addition to any other powers or remedies hereby given, to make, levy, and collect such rate and to pay or retain the amount of such assessment or contribution and interest and all costs and charges it has been put to in consequence of such default or neglect.

(2) The local authority so in default shall, on request, hand over and supply to the Secretary of the Authority correct lists of rateable properties, rate books, assessment rolls, and all other documents and books of any and every kind necessary or considered so by the Authority or its officers for the purpose of enabling the Authority to make, levy, and collect such rate as aforesaid.

(3) The said local authority and its officers and servants shall give every assistance to the Authority and its officers to make, levy, and collect such rate as aforesaid.

(4) For the purposes of enabling the Authority to collect and recover the amount of any such contribution or assessment, interest, and costs, any Judge of the Supreme Court shall, on application by or on behalf of the Authority, have the same power, *mutatis mutandis*, with reference to the contributing authority, as he would have under the Local Authorities Loans Act 1956 if default had been made by that authority in payment of any principal or interest due on any debenture issued by it, and also full power to order, authorise, and empower the Authority and its officers to make, levy, and collect such rate in the same way and to the same extent as the local authority so in default would be entitled to do.

19. Annual estimate of the Authority's proposed other expenditure—The Authority shall in each year cause estimates to be prepared of its proposed expenditure for the ensuing year in relation to the other matters coming within its functions and powers under this Act and under the 1953 Act; and shall, in accordance with the provisions of the 1953 Act, apportion the expenditure among the contributing authorities and be entitled to recover the same from such contributing authorities respectively.

20. Bylaws—The Authority may from time to time by special order make such bylaws as it thinks fit for all or any of the following purposes:

- (a) The more effectual carrying out of any of the objects of this Act:
- (b) Regulating or controlling any of the subject matters of this Act:
- (c) Protecting from damage, injury, or misappropriation, any property, whether real or personal, belonging to the Authority or controlled by it, and whether situate within or beyond the regional district:
- (d) Any purpose for which the Authority is, by virtue of the provisions of any Act, authorised to make bylaws.

21. Contracts of Authority—Notwithstanding anything contained in subsection (2) of section 14 of the 1953 Act the Authority may enter into any contract for any of the purposes of this Act.

22. Special orders—Every special order made hereunder may be made and proved in the same way, *mutatis mutandis*, as a special order of a Borough Council is required to be made, and may be proved under the Municipal Corporations Act 1954.

23. Costs of promotion of Act—The costs incurred by the Planning Authority in the promotion and preparation of this Act and in assisting its passage through Parliament may be paid out of the funds of the Authority.

24. Remission of rates—A local authority may remit, either wholly or in part, any rates payable in respect of a regional reserve vested in the Authority.

25. Dissolution of Authority—(1) On a date to be agreed upon in that behalf between the Authority and the Auckland Regional Authority constituted under the provisions of the Auckland Regional Authority Act 1963 the Authority shall cease to exist, and thereafter all references in this Act to the Authority shall, unless the context otherwise requires, be read as references to the Auckland Regional Authority.

(2) All real and personal property of every description vested as at the said date in the Authority is thereupon hereby vested without conveyance or assignment in the said Auckland Regional Authority subject to all charges, encumbrances, estates, and interests affecting the same; and all liabilities of the Authority shall on and after the said date be deemed to be liabilities of the said Auckland Regional Authority.

(3) In any case where land vests in the said Auckland Regional Authority under the foregoing provisions of this section the District Land Registrar for the land registration district in which the land is situated, on the deposit of such plans and documents as he may require, shall make such entries in the register and do all such other things as he deems necessary to give effect to the provisions of this section.

(4) As from the said date all rights, liabilities, contracts and engagements of the Auckland Regional Planning Authority shall become rights, liabilities, contracts, and engagements of the Auckland Regional Authority.

26. Saving—(1) Nothing in this Act shall affect any Order in Council, order, rule, regulation, registration, appointment, agreement made, resolution passed, direction given, proceeding taken, instrument issued, or thing done under the 1953

Act by or in relation to the Planning Authority; but any such Order in Council, order, rule, regulation, registration, appointment, agreement made, resolution passed, direction given, proceeding taken, instrument issued, or thing done shall, if in force at the date of the commencement of this Act, continue in force, and so far as it could have been made, passed, given, taken, issued, or done under this Act shall have effect and may be continued as if made, passed, given, taken, issued, or done under this Act.

(2) The provisions of this Act are additional to such of the provisions of the 1953 Act as are applicable to the Authority as a Regional Planning Authority under that Act:

Provided that where any provision of this Act is inconsistent with a provision of the 1953 Act the provision contained in this Act shall prevail.
