

TASMANIA

**NATURAL RESOURCE MANAGEMENT BILL
(No. 2) 2002**

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NATURAL RESOURCE MANAGEMENT BILL

(No. 2) 2002

(Brought in by the Minister for Primary Industries, Water and Environment, the Honourable Bryan Alexander Green)

A BILL FOR

An Act to establish the Tasmanian Natural Resource Management Council and regional committees for natural resource management and to provide for the development of regional strategies for natural resource management

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:

PART 1 – PRELIMINARY

Short title

1. This Act may be cited as the *Natural Resource Management Act 2002*.

Commencement

2. This Act commences on a day to be proclaimed.

Interpretation

3. In this Act –

“accreditation criteria” means criteria relating to regional strategies as approved by the Minister under section 15;

“Council” means the Tasmanian Natural Resource Management Council established under section 5;

“draft regional strategy” means a draft regional strategy prepared under section 12;

“managing body” means –

- (a) in the case of an incorporated association, the committee of that association; or
- (b) in the case of a body corporate, the board of management or the board of directors of that body corporate;

“Ministerial Council” means the Ministerial Council established by the Council of Australian Governments with respect to natural resource management;

“natural resource management” means management of any activity that uses, develops or conserves –

- (a) air, water, land, plants, animals and micro-organisms; and
- (b) the systems they form;

“natural resource management principles” means the principles of natural resource management as determined by the Minister under section 17;

“objectives” means the objectives of the resource management and planning system of Tasmania as specified in Schedule 1;

“priorities for natural resource management” means the priorities as determined by the Minister under section 18;

“public land manager” means –

- (a) the Hydro-Electric Corporation as continued under the *Hydro-Electric Corporation Act 1995*; and
- (b) the Forestry corporation established under the *Forestry Act 1920*;

“region” means –

- (a) the northern area and any adjacent State waters; and
- (b) the north-western area and any adjacent State waters; and
- (c) the southern area and any adjacent State waters;

“regional committee” means a regional committee for natural resource management –

- (a) as declared under section 9(2); or
- (b) established by the Minister under section 9(5);

“regional strategy” means a draft regional strategy accredited by the Minister under section 14;

“State waters” means State waters within the meaning of the *Living Marine Resources Management Act 1995*.

Interaction with other Acts

4. (1) This Act is in addition to, and does not limit, or derogate from, any other Act.

(2) A person who performs a function or exercises a power under this Act must do so in a manner that furthers the objectives.

PART 2 – TASMANIAN NATURAL RESOURCE MANAGEMENT COUNCIL

Establishment of Council

5. There is established the Tasmanian Natural Resource Management Council.

Membership of Council

6. (1) The Council consists of not more than 16 persons appointed by the Minister of whom –

- (a) one is the Secretary of the responsible Department; and
- (b) one is a person nominated by the regional committee of the northern area; and
- (c) one is a person nominated by the regional committee of the north-western area; and
- (d) one is a person nominated by the regional committee of the southern area; and
- (e) the remainder are persons with experience, skills and knowledge in natural resource management selected from nominations as the Minister may determine.

(2) The membership of the Council –

- (a) is to provide a balance of natural resource management interests in the State; and
- (b) is to comprise equal numbers of males and females as may be practicable.

(3) The Minister is to appoint one of the members of the Council as the chairperson.

(4) Schedule 2 has effect in respect of the membership and meetings of the Council.

General functions and powers of Council

7. (1) The functions of the Council are to advise the Minister on the following:

- (a) the priorities for natural resource management for the State;
- (b) the priorities for funding relating to natural resource management;
- (c) the implementation and administration of national and State programs relating to natural resource management;
- (d) the accreditation criteria;
- (e) the effective means of ensuring consistency and coordination in natural resource management throughout the State;
- (f) the effective means of increasing community capacity to undertake natural resource management;
- (g) the effectiveness and efficiency of activities carried out under regional strategies;
- (h) any other matter referred to it by the Minister.

(2) In performing its functions, the Council is to take account of the natural resource management principles.

(3) The Council may do anything necessary or convenient to perform any of its functions.

Annual report

8. (1) The Council, on or before 31 October in each year, is to forward to the Minister a report on its activities for the year ending on the preceding 30 June.

(2) The Minister is to table a copy of the report before each House of Parliament within 10 sitting days after receiving the report.

PART 3 – REGIONAL COMMITTEES***Division 1 – Establishment*****Regional committees**

9. (1) A body of persons in each region may establish an incorporated association or a body corporate for natural resource management.

(2) The Minister, by order and subject to any terms and conditions the Minister determines, may declare any of the following to be a regional committee:

- (a) the managing body of an incorporated association or a body corporate established under subsection (1);
- (b) a committee established by an incorporated association or a body corporate for the purpose of this Act.

(3) The Minister is not to declare a managing body or a committee referred to in subsection (2) to be a regional committee unless satisfied that it –

- (a) consists of not more than 15 persons with experience, skills and knowledge in natural resource management; and
- (b) includes representation from the following:
 - (i) Aboriginal community interests;
 - (ii) State and local governments;
 - (iii) one or more public land managers;
 - (iv) community interests;
 - (v) conservation interests;

- (vi) industries in the region; and
- (c) provides a balance of geographical areas and of natural resource management interests in the region; and
- (d) comprises equal numbers of males and females as far as practicable.

(4) The Minister, by order, may revoke a declaration made under subsection (2) if satisfied that –

- (a) the managing body or committee referred to in that subsection no longer complies with subsection (3); or
- (b) it is appropriate to do so.

(5) If a regional committee is not declared under this section in respect of any region, the Minister is to establish a regional committee in that region.

(6) The Minister is to appoint a member of each regional committee as chairperson of that regional committee.

General functions and powers of regional committees

10. (1) The functions of a regional committee are as follows:

- (a) to identify the priorities for natural resource management for the region;
- (b) to prepare a draft regional strategy for the region;
- (c) to facilitate the implementation of the regional strategy;

- (d) to promote the natural resource management principles;
- (e) to facilitate the integration of natural resource management and planning activities for the region;
- (f) to seek, manage and allocate funds according to the regional strategy;
- (g) to coordinate the region's participation in national and State programs relating to natural resource management;
- (h) to monitor and evaluate the implementation of the regional strategy;
- (i) to develop and implement processes to ensure appropriate education and training in natural resource management.

(2) A regional committee may do anything necessary or convenient to perform any of its functions.

Annual report

11. (1) A regional committee is to prepare an annual report for each financial year.

(2) The annual report is to include the following information and documents:

- (a) the financial statements of the regional committee for the financial year;
- (b) a report on the operations of the regional committee during that financial year;
- (c) a report on the implementation of the regional strategy;

- (d) any further information the Minister may require;
- (e) any other information the regional committee considers is appropriate or necessary.

(3) A regional committee is to provide the annual report to the Minister and the Council on or before 30 September in each year.

(4) The Minister is to table a copy of the report before each House of Parliament at the same time as the report under section 8(2) is tabled.

PART 4 – REGIONAL STRATEGIES

Preparation of draft regional strategy

12. (1) A regional committee is to prepare a draft regional strategy for its region within 12 months after the commencement of this Act.

(2) In preparing a draft regional strategy, a regional committee is to consult with –

- (a) the Council; and
- (b) the community in the region; and
- (c) State and local governments; and
- (d) the public land managers; and
- (e) the industries in the region; and
- (f) any other relevant association or body.

Draft regional strategy

13. (1) A draft regional strategy is to include the following:

- (a) the aims of the draft regional strategy;
- (b) the priorities for natural resource management for the region;
- (c) processes for encouraging participation by the community in natural resource management in the region.

(2) A draft regional strategy is to –

- (a) take account of –
 - (i) the priorities for natural resource management for the State; and
 - (ii) existing policies, plans and strategies relevant to natural resource management in the region; and
 - (iii) the social, economic and environmental circumstances of the region; and
- (b) be in accordance with the accreditation criteria.

Accreditation of regional strategy

14. (1) A regional committee is to submit its draft regional strategy to the Council as soon as practicable after it has prepared it.

(2) The Council is to recommend to the Minister that –

- (a) a draft regional strategy be accredited if satisfied that it conforms to the accreditation criteria; or
- (b) a draft regional strategy not be accredited if not so satisfied.

(3) The Minister may –

- (a) accredit a draft regional strategy; or
- (b) refuse to accredit a draft regional strategy.

(4) If the Minister refuses to accredit a draft regional strategy –

- (a) the Minister is to –

- (i) return it to the regional committee; and
 - (ii) give reasons in writing for not accrediting it; and
- (b) the regional committee is to resubmit it to the Council taking into account any reasons given under paragraph (a)(ii).

Accreditation criteria

15. (1) In advising the Minister as to the accreditation criteria, the Council is to take account of national accreditation criteria as determined by the Ministerial Council.

(2) The Minister may –

- (a) approve any accreditation criteria after considering advice from the Council; and
- (b) make any changes to any accreditation criterion as the Minister determines.

Review

16. A regional committee is to review its regional strategy –

- (a) at least once every 5 years; or
- (b) sooner if required to do so by the Minister.

PART 5 – MISCELLANEOUS

Natural resource management principles

17. (1) The Minister is to –

- (a) determine the principles of natural resource management; and
- (b) advise the Council and regional committees accordingly.

(2) The Minister may amend any principle of natural resource management.

(3) Before amending any principle of natural resource management, the Minister is to consult with the Council.

Priorities for natural resource management

18. The Minister, after seeking advice from the Council, is to –

- (a) determine the priorities for natural resource management for the State; and
- (b) advise the Council and regional committees accordingly.

Disclosure of interest

19. (1) A member of the Council or a regional committee who has a direct or indirect interest in a matter under consideration by the Council or regional committee, as appropriate –

- (a) must disclose full and accurate details of the interest; and
- (b) must not vote in relation to the matter; and
- (c) must be absent while voting in relation to the matter is taking place.

(2) Subsection (1) does not apply with respect to an interest in a matter that is held in common with other persons within the State.

(3) The quorum requirements specified in Schedule 2 do not apply if a quorum has been lost because of the operation of subsection (1).

(4) A disclosure under subsection (1) is to be recorded in the minutes.

(5) A member has an interest in a matter if the member or a close associate of the member would, if the matter were decided in a particular manner, receive, have an expectation of receiving or be likely to receive a pecuniary benefit or pecuniary detriment.

(6) A person is a close associate of a member if that person is –

- (a) a proprietary company in which the member is a shareholder; or
- (b) a public company in which the member is directly or indirectly a substantial shareholder; or
- (c) a beneficiary under a trust or an object of a discretionary trust of which the member is a trustee; or
- (d) a partner of the member; or
- (e) the employer or an employee of the member; or

- (f) a person from whom the member has received, or might reasonably be expected to receive, a fee, commission or other reward for providing professional or other services in relation to a matter being dealt with or to be dealt with by the Council or regional committee; or
- (g) the spouse or de facto spouse of the member or of the member's son or daughter; or
- (h) the son, daughter, brother, sister, mother or father of the member or their spouse or de facto spouse.

Review of Act

20. Not later than 5 years after the commencement of this Act and every 5 years after that, the Minister is to review this Act to –

- (a) determine the effectiveness of regional strategies; and
- (b) evaluate the effectiveness of the accreditation criteria; and
- (c) determine whether the functions of the Council and the regional committees continue to be appropriate for the purpose of this Act.

Regulations

21. The Governor may make regulations for the purpose of this Act.

Administration of Act

22. Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Primary Industries, Water and Environment; and
- (b) the department responsible to the Minister for Primary Industries, Water and Environment in relation to the administration of this Act is the Department of Primary Industries, Water and Environment.

**SCHEDULE 1 – OBJECTIVES OF THE RESOURCE
MANAGEMENT AND PLANNING SYSTEM OF
TASMANIA**

Section 3

1. The objectives of the resource management and planning system of Tasmania are –

- (a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and
- (b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
- (c) to encourage public involvement in resource management and planning; and
- (d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and
- (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in Tasmania.

2. In clause 1(a), “**sustainable development**” means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while –

- (a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and

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		(b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and	
		(c) avoiding, remedying or mitigating any adverse effects of activities on the environment.	

**SCHEDULE 2 – MEMBERSHIP AND MEETINGS OF
COUNCIL**

Section 6(4)

Interpretation

1. In this Schedule, “**member**” means a member of the Council, other than the member referred to in section 6(1)(a).

Term of office

2. (1) A member is to be appointed for the period, not exceeding 3 years, specified in the instrument of appointment.

(2) A member is eligible to be reappointed for one further term of office only.

Conditions of appointment

3. (1) A member is entitled to be paid any remuneration and allowances the Minister determines.

(2) A member holds office on any conditions specified in the instrument of appointment.

Holding other office

4. The holder of an office who is required under any Act to devote the whole time to the duties of that office is not disqualified from –

- (a) holding that office in conjunction with the office of a member; or

- (b) accepting any remuneration payable to a member.

Resignation

5. A member may resign by signed notice given to the Minister.

Removal of member

6. The Minister may remove a member from office –

- (a) if the member is convicted of an indictable offence or an offence elsewhere which, if committed in Tasmania, would be an indictable offence; or
- (b) if the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration or estate for their benefit; or
- (c) if the Minister considers that the member is unable to perform adequately or competently the functions of the member's office; or
- (d) if the member has been absent for 3 consecutive meetings of the Council without the permission of the Council; or
- (e) for any other just cause or excuse.

Filling of vacancies

7. (1) A member vacates office if the member –

- (a) dies; or
- (b) resigns; or
- (c) is removed from office under clause 6.

(2) If the office of a member becomes vacant, the Minister may appoint a suitable person to the vacant office for the remainder of that member's term of office.

Defect not to invalidate appointment

8. An appointment of a person as a member is not invalid merely because of a defect or irregularity in relation to the appointment.

Presumptions

9. In any proceedings by or against the Council, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the Council; or
- (b) any resolution of the Council; or
- (c) the appointment of any member; or
- (d) the presence of a quorum at any meeting of the Council.

Convening of meetings

10. A meeting of the Council is to be convened –

- (a) by the chairperson of the Council; or
- (b) by any 3 members by notice in writing to all other members.

Presiding at meetings

11. (1) The chairperson of the Council presides at all meetings of the Council at which he or she is present.

(2) If the chairperson of the Council is not present at a meeting of the Council, a member chosen by the members present at the meeting is to preside.

Quorum and voting at meetings

12. (1) A quorum at any duly convened meeting of the Council is a simple majority of the members.

(2) At a meeting of the Council –

- (a) the member presiding has a deliberative vote only; and
- (b) a question is decided –
 - (i) by a majority of votes of the members present and voting; or
 - (ii) in the negative if there is an equality of votes of the members present and voting.

Minutes

13. The Council is to –

- (a) cause full and accurate minutes to be kept of its proceedings at meetings; and
- (b) submit to the Minister a copy of the minutes of each meeting within 14 days after the date on which the meeting is held.

Conduct of meetings

14. Subject to this Act, the Council may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.

Validity of proceedings

15. (1) Any act or proceeding of the Council or of a person acting under the direction of the Council is not invalid by reason only that, at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the membership of the Council.

(2) Any act or proceeding of the Council or of a person acting under the direction of the Council is valid even if –

- (a) the appointment of a member of the Council was defective; or
- (b) a person appointed as a member of the Council was disqualified from acting as, or incapable of being, such a member.

Immunity of members

16. A member incurs no liability for an honest act or omission in the performance or exercise or purported performance or exercise of functions or powers under this Act.