

MIXED USE DEVELOPMENT AMENDMENT BILL 1993

EXPLANATORY NOTE

GENERAL OUTLINE

Objectives of the Legislation

The objectives of this Bill are to allow a longstanding redevelopment project known as the Bretts Wharf Hamilton Redevelopment to be lawfully implemented in accordance with an agreement made on 16 June 1991 between the State Government, the Port of Brisbane Authority and Bretts Wharves & Stevedoring Co. (Pty) Limited ACN 009 660 833.

The agreement made was conditional upon the company obtaining planning approval from the Brisbane City Council.

This has now been done and the necessary securities have been lodged with the Council.

The expiration date of the agreement had to be extended twice because of litigation concerning the obtaining of planning approval from the Council. The current expiry date for the agreement is 31 December, 1993. It is the intention of the Government that the matters and things required by the agreement be in place before its expiration date.

The proposed development comprises a mix of residential accommodation types (town houses and apartments). These are to be provided in three high rise towers and three low rise complexes constructed on a landscaped podium which overlies underground car parking and community facilities.

As part of the work of development, the company is required to demolish the now unused wharves and to construct and maintain a public boardwalk along the entire river frontage of the site.

For financial reasons, it is intended that the development be implemented in four separate stages which, upon final completion, will be operated and maintained as one cohesive unit.

The only legislative vehicle available which meets the requirements of the developer for proper staging of the implementation of the construction program and which provides for the introduction of a proper hierarchical management structure is the Mixed Use Development Act. It will be proclaimed into force by mid-November after the regulations required to support the Act have been promulgated. This Act was not intended to be applied to a single use development but the provisions, with necessary modifications, can be used to facilitate the implementation of this project.

The amendments contained in the Bill are required to allow the particular development to proceed.

Certain of the amendments proposed will also be of benefit to users of the provisions of the Mixed Use Development Act generally.

In addition, the opportunity has been taken to correct typographical errors in the Mixed Use Development Act as well as the Integrated Resort Development Act which is in need of consolidation and reprinting.

Reasons for the Bill

The amendments will —

allow the Bretts Wharf Hamilton redevelopment to be implemented as proposed;

facilitate the conduct of meetings of member bodies corporate;
and

correct typographical errors in the Mixed Use Development Act and the Integrated Resort Development Act.

Estimated Cost for Government Implementation.

There will be no cost for government.

Consultation

The following Departments/Agencies have been consulted concerning the provisions contained in the Bill:—

Office of Cabinet;
Office of the Co-ordinator General;
Department of Lands; and
Parliamentary Counsel.

The proposals contained in the Bill are supported by the Departments consulted.

NOTES ON PROVISIONS

Clause 1 sets out the short title of the Act.

Clause 2 states that the Act commences on a date to be fixed by proclamation.

Clause 3 states that the Mixed Use Development Act 1993 is amended as set out in this Act.

Clause 4 inserts a new definition of the term “road”.

Clause 5 corrects an error in cross reference in section 112(5).

Clause 6 inserts in section 115 additional implied easement provisions for support and shelter where structures are erected over other structures.

Clause 7 corrects an error in cross reference in section 123(2).

Clause 8 corrects an error in cross reference in section 124(4).

Clause 9 inserts after section 172 a new section 172A.

Section 172A provides that a body corporate may make application to the Minister to change the date of its annual general meeting provided such action is supported by a resolution of the body corporate.

Allows the Minister to approve or refuse to approve the application and requires that the body corporate be notified in writing of the Minister's decision.

Clause 10 amends section 177 by extending a body corporate's duties as they relate to control, management, administration and maintenance of

common property to also include any roads, wharves or other land which may be leased to the body corporate for the benefit of its members.

Clause 11 inserts after section 206 a new section 206A.

Section 206A provides for a community body corporate to make community property bylaws which restrict the use of any part of the community property to particular persons or groups of persons subject to certain requirements being met.

Requires the community body corporate to submit a property bylaw to the Minister for approval within 3 months of receipt by it from the person who allocated the restricted community property.

Clause 12 inserts after section 212 a new section 212A.

Section 212A provides for a precinct body corporate to make precinct property bylaws which restrict the use of any part of the precinct property to particular persons or groups of persons subject to certain requirements being met.

Requires the precinct body corporate to submit a property bylaw to the Minister for approval within 3 months of receipt by it from the person who allocated the restricted precinct property.

Clause 13 inserts after Part 11 a new Part 12 comprising sections 219 to 223 inclusive.

Section 219 defines the meaning of the terms used in Part 12.

Section 220 declares a development proposed for Bretts Wharf is deemed to be a mixed use development whether or not it consists of two or more different classes of uses.

Section 221 allows a body corporate created by the registration of a building units plan or a group titles plan under the Building Units and Group Titles Act to make a restricted property by-law which grants exclusive use rights to the community body corporate of any part of the common property established by the registration of the plan.

A restricted property bylaw does not have effect until it is approved by the Minister and the Registrar of Titles has recorded a notification on the registered plan under section 30(3) of the Building Units and Group Titles Act.

The purpose of these provisions is to allow the community body corporate to occupy, maintain and operate community facilities within buildings being constructed in stages as part of the development, for the benefit of all unit owners when the project is completed.

Section 222 provides that for the purposes of a redevelopment of Bretts Wharf the Building Units and Group Titles Act applies subject to the provisions of Part 12.

Section 223 provides that this Part 12 expires 5 years after commencement or at a later date if prescribed by regulation.

Clause 14 corrects two minor typographical errors contained in the Integrated Resort Development Act.