

PLACE NAMES BILL 1994

EXPLANATORY NOTES

GENERAL OUTLINE

Objective of the Legislation

The main objective of the legislation is to replace the existing *Queensland Place Names Act 1988* by an improved measure which will establish the critical issues in place naming, provide greater opportunities for community input to the place naming process, simplify decision making and vest principal responsibility for place naming in the Minister for Lands.

Reasons for the Bill

The need for this legislation is:

- to state clearly the issues which affect place naming
- to implement a 1991 recommendation of the Public Sector Management Commission to alter the level of place names decision making from Governor in Council to Minister
- to provide enhanced opportunity for community input to the place naming process and to extend the time available for public comment
- to confine the power to name geographical places to the Minister for Lands, while protecting the interests of all Government agencies which have a legitimate interest in such naming.

Estimated Cost for Government Implementation

The passage of the Bill will have no significant financial impact. The provision for press advertising of final decisions made by the Minister will result in an increase in costs estimated at not more than \$2500 per financial year.

Consultation

A Discussion Paper was prepared in April 1993 and distributed to government, community and industry organisations. Responses received were in general supportive, and some constructive critical feedback was received. This led to modification of the place naming issues, and also of the administrative mechanisms, e.g. the approach to resolving racially discriminatory place names in Queensland.

NOTES ON PROVISIONS

The Bill provides a pivotal set of issues which are considered relevant for consideration in all place naming proposals. These issues include:

- community views
- cultural and historical significance of places and names
- Aboriginal tradition and Island custom
- the need for multiple names in certain circumstances
- common and long usage, and topography
- international and national conventions affecting place naming
- avoidance of confusion about names or locations of places.

The Bill also defines terms such as “approved name” and “place”, deals with repeal of the 1988 Act and with the removal by repeal of parallel naming powers currently existing in other Acts. It also provides an extended minimum period during which the community may not only raise objections but also comment positively on proposals.

Details of specific clauses are as follows:

Clause 1 provides the citation of the Act.

Clause 2 enables the necessary administrative arrangements to be put in place before the Act commences.

Clause 3 clarifies the Bill’s application by defining a number of particular terms used in the Bill.

Clause 4 provides a detailed definition of the term “place”, a definition which excludes:

- roads and streets, because in general their naming is a local government responsibility
- canals in residential or commercial developments because they are considered to be equivalent to streets or roads and therefore can be named by a local government
- buildings, which term can include monuments, beacons, lighthouses and other man-made structures
- dam retaining walls, since it is the body of impounded water which is considered to be a geographical feature, rather than the restraining man-made structure
- local government areas, the naming of which is the responsibility of the Commissioner for Local Government
- electoral districts, which are named by the Electoral Commissioner
- any place which may be prescribed by regulation.

Clause 5 provides that the Act is binding on the Crown, requiring that all government agencies comply with its provisions.

Clause 6 indicates the place naming issues (referred to above) which are considered relevant to the place naming process. These issues arise from:

- recognition of the multi-cultural basis of Queensland society, for example in the provision for more than one name for a place, dependent on its cultural background, with particular reference to Aboriginal tradition and Island custom, a situation often apparent on Cape York Peninsula and in the Torres Strait area.
- recognition of the importance of community involvement in the whole process of place naming and the community need for clear, unambiguous place naming, for reasons of public economy and safety.
- recognition of the need to consider place name proposals in the totality of local historical experience, the length of time a name has been used, and the degree of community acceptance or recognition of a name.
- recognition of the relationship between appropriate place naming

and topography, exemplified by the need to avoid generic terms such as “Heights” when the subject area is not significantly different in altitude from its environs.

- recognition of Queensland’s responsibilities in the context of internationally accepted conventions in place naming, expressed by such bodies as the United Nations Group of Experts on Geographical Names (a constituent body of the United Nations Educational Scientific and Cultural Organisation, in whose regional deliberations Queensland is entitled to participate), and nationally by the Committee for Geographical Names in Australia (of which Queensland is a member).

Clause 7 lists the powers vested in the Minister for Lands by the Act to name a new place, to change a place name already approved or to discontinue the use of a place name. This clause also subjects the exercise of the Minister’s powers to the following:—

- development of a proposal for a place name (as set out in *Clause 8*);
- publication of a notice of the proposal for community comment (as set out in *Clause 9*), unless the Minister decides that publication of the proposal is not justified (as set out in *Clause 10*);
- Ministerial consideration of appropriate issues and any community comment and the publication of a decision by the Minister (as set out in *Clause 11*).

Clause 8 ensures that any Ministerial decision on place naming is preceded by the development of a proposal, taking into account salient issues (such as those set out in *Clause 6*), together with any other issues the Minister considers relevant.

Clause 9 requires the Minister to publish specified notice of a proposal (except as provided for in *Clause 10*), and is intended to give the Minister the widest possible options when informing the community of a place names proposal. The clause specifies that community input must be expressed in writing, to avoid any misunderstandings or misinterpretations of community intent which might follow the acceptance of oral submissions. A period of two months for the receipt of community input has been deliberately chosen to ensure that remote communities (e.g. in western Queensland, on Cape York Peninsula or in the Torres Strait area)

will not be disadvantaged by communication delays in receiving notice of a proposal or in submitting comment upon it.

Clause 10 allows the Minister discretion to proceed directly from the proposal stage for a place name to the decision stage, depending upon the kind of proposal and the level of community interest expected. There are situations where it is necessary to seek Ministerial approval for minor boundary changes (e.g. for suburbs and districts following developmental works in the area) or for technical correction (e.g. where an honest error has been made in the execution of a previous decision). There are also situations where names relate to remote or isolated features, and the publication of such proposals could not be justified in terms of cost and delay. The *Clause* includes specific mention of the importance of the interests of a particular community, e.g. an Aboriginal or Torres Strait Islander community.

Clause 11 ensures that the Minister may consider all matters relevant to a place names proposal before making a decision. These matters could include reliable and useful information which can come to the attention of the Minister after the formal community input phase of a proposal has been completed. In addition, the Minister is required to advertise the final decision on a proposal, by appropriate means which must include the *Gazette* and a local newspaper. Such publication of the decision will inform community members who have provided input to a proposal of the final result.

Clause 12 provides for the need of a clear, accessible record of approved place names in the State in the form of a Gazetteer, an alphabetical listing of place names with details of their geographical locations. Modern technology provides the most cost-effective method of keeping this information and this *Clause* enables computers to be used.

Clause 13 provides for public access to place names information and for copies of that information, both obtainable at reasonable cost.

Clause 14 stipulates the chief executive's responsibility to keep the Gazetteer updated by promptly incorporating in it the results of Ministerial decisions on place names. It also allows the inclusion of other details in the Gazetteer, for example details of the origin of a place name or its meaning.

Clause 15 establishes when the publication of place names in the promotion of trade or commercial activity constitutes an offence. This provision is directed against the blatant misrepresentation of development

names (e.g. estate and resort names) as approved place names in Queensland. The use in promotion and advertising of unapproved names is not disallowed, as long as it is made clear that they are not the approved place names. The printer or publisher of a newspaper which carries offending material is exempted from liability.

Clause 16 defines the terms which are used in the examination of conduct which may be deemed to contravene the provisions of the new Act and establishes clear responsibility for an alleged offence in terms of persons acting for a corporation or for another individual.

Clause 17 pays particular attention to the responsibilities of an executive officer of a corporation, who is deemed to be jointly responsible for an offence. An executive officer will have the defence of being genuinely unaware of the offending action or of having taken previous action to ensure that the corporation complies with the Act. Together with *Clause 16*, these provisions bring the corresponding requirements of the repealed act up to date.

Clause 18 sets out the requirements for evidentiary material tendered in any action relating to an alleged offence, requiring that a properly certified extract from the Gazetteer is sufficient to establish the existence of an approved name. In addition, the *Clause* provides for the evidentiary use of an extract from the Gazetteer or a plan showing the approved boundaries associated with a place name.

Clause 19 establishes the liability of the State in the event of an official attracting civil liability for a legitimate act or omission done honestly and without negligence.

Clause 20 enables powers under the Act held by the chief executive (including powers delegated by the Minister under s19(2) of the *Land Act 1962*) to be delegated to another officer of the public service. This provision has been included to allow other Departments (e.g. Department of Environment and Heritage) to carry out the development of place name proposals, their advertisement for public comment, analysis of that comment and the preparation of a recommendation to the Minister for Lands on the place naming proposal.

Clause 21 allows regulations to be made under the Act. No regulations are envisaged at this stage, though *Clause 4* allows places to be prescribed by regulation as being outside the scope of this act.

Clause 22 defines the repealed act as the *Queensland Place Names Act 1988*.

Clause 23 introduces the transition arrangements in the Bill, necessary to allow actions begun and not completed under the repealed act to be finalised.

Clause 24 covers the administrative actions necessary when the Governor in Council makes a decision on an action commenced under the repealed act. It necessitates the publication of the decision under the requirements of the new Act, i.e. in the *Gazette* and in a local newspaper (whereas the repealed act required *Gazette* advertisement and local public display).

Clause 25 is intended to ensure that any name properly approved before Assent of the new Act, but not entered in the Gazetteer, can be so entered after Assent.

Clause 26 establishes the continuity and validity of the Place Names Gazetteer under the new Act.

Clause 27 provides for the repeal of the *Queensland Place Names Act 1988*.

Clause 28 provides for the amendment and repeal of those legislative provisions set out in the Schedule, which would otherwise conflict with the intention of the Bill to vest all place naming powers in the Minister for Lands.

Clause 29 allows a period of one year for completion of actions initiated under the repealed act.

The *Schedule* lists the amendments to legislative provisions which relate to the naming of Marine Parks and Protected Areas.