

# **TOWNSVILLE ZINC REFINERY BILL 1996**

## **EXPLANATORY NOTES**

### **Title of the Bill**

*Townsville Zinc Refinery Bill*

### **Objectives of the Legislation**

The objectives of the legislation are to enable the establishment of a zinc refinery, to protect land of cultural heritage significance and enable land dealings to achieve these objectives.

### **Achieving the Objectives of the Legislation**

The proposed legislation achieves these objectives by:

- enabling the zoning of an area of land for the purposes of a zinc refinery and that the zoned land is part of the Townsville City Council planning scheme and subject to the provisions of the *Local Government (Planning and Environment) Act*;
- enabling the purchase of freehold land by the State to protect land of cultural heritage significance and for the excision of that land from the proposed refinery site;
- enabling road closures within and surrounding the refinery site, the freeholding of such land to the owner of the site and for associated land dealings;
- providing that certain parts of the Act expire upon completion of administrative actions necessary to give effect to the zoning of the land, purchase of freehold land for cultural heritage purposes and land dealings.

### **Administrative Cost**

The administrative costs to Government will be those normally undertaken by local government in the preparation of a zoning amendment map and by the Government with respect to the registration of plans associated with the recording of interests in land.

### **Fundamental Legislative Principles**

The Bill is consistent with the fundamental legislative principles. A rezoning decision given by a local government pursuant to the *Local Government (Planning and Environment) Act* attracts appeal rights to the Planning and Environment Court, however this Act does not provide for these rights.

### **Consultation**

Consultation has occurred with the Departments of Environment, Natural Resources, Local Government and Planning, Townsville City Council, the Queensland Conservation Council, the Central Queensland Aboriginal Land Council and with the company.

## **NOTES ON CLAUSES**

*Clause 1* sets out the short title of the proposed Act.

*Clause 2* provides for the commencement of the Act on a date to be fixed by proclamation. Clauses 1 and 2 will commence on the date of Royal Assent, clauses 3-14 will commence on the date of proclamation.

*Clause 3* provides for three objects of the Act:

- (a) to zone land to enable the establishment of a zinc refinery;
- (b) to provide for land dealings; and
- (c) to provide for the protection of land of cultural heritage significance.

*Clause 12* implements object (a), Clauses 5,6,8,9 and 10 implement object (b) and *Clause 7* implements object (c).

*Clause 4* provides an explanation of the meaning of the terms used in the Act. The land to be zoned for zinc refinery purposes is explained in the definition of 'site'.

*Clause 5* is a land dealing whereby three lots are surrendered to the State. Compensation is not payable as the land will be granted to the owner in fee simple pursuant to *Clause 8*.

*Clause 6* is a land dealing which provides for the closure of a road within lot 132, the closure of a road adjoining lot 25 and lot 3 and for the revocation of a road reservation on the title to lot 132.

*Clause 7* is a land dealing which provides for the excision of freehold land from lot 132, and for the purchase of such excised land by the State by way of an agreement between the State and the owner of the land to be excised. This Clause also provides that the excised land is vested in the State for the preservation of Landscapes Queensland pursuant to the *Cultural Record (Landscapes Queensland and Queensland Estate) Act 1987*. The purpose of this Clause is to protect land of cultural heritage significance to Aboriginal people.

*Clause 8* provides for the amalgamation of lot 132, lot 25 and lot 3 and the closed roads. The Clause further provides for the grant of the amalgamated land to the company in fee simple and that the company must lodge in the land registry plans and documents necessary to give effect to create and register a new title over the amalgamated area. The grant of land to the company in fee simple does not include the land of cultural heritage significance to Aboriginal people excised and vested in the State pursuant to *Clause 7*.

*Clause 9* recognises and provides for the continuation of a lease and an easement which existed over lot 132 prior to the surrender of this lot pursuant to *Clause 5*.

*Clause 10* authorises the recording by the registrar of titles of land dealing particulars necessary to identify interests in land the subject of this Act.

*Clause 11* provides that the company is not required to pay any application fees, charges or duty as a result of the land dealings and rezoning approval provided for in this Act.

*Clause 12* enables lot 132 to be included in the particular development zone as a permitted development for the purposes of a zinc refinery and ancillary uses. The Clause also provides that the production of non-ferrous metals and ancillary uses will not be permitted without the consent of Council pursuant to the planning scheme. Lot 25 and lot 3 are not included in the particular development zone and retain their existing rural zoning.

*Clause 13, Sub-clause (1)* provides that this Clause is a declaratory clause. *Sub-clause (2)* provides that the enabling provisions in Clause 12 have the same effect as if they were an amendment to a planning scheme pursuant to section 4.5 of the *Local Government (Planning and Environment) Act*. *Sub-clause (3)* provides that this Act is an enabling Act and does not prevent or override future actions initiated pursuant to the provisions of the *Local Government (Planning and Environment) Act*. *Sub-clause (4)* declares that despite the effect of any action undertaken pursuant to the *Local Government (Planning and Environment) Act*, the uses permitted and the uses requiring the consent of Council by virtue of Clause 12, remain lawful. *Sub-clause (5)* provides that the Townsville City Council, the departments responsible for giving effect to this Act, for example, the Department of Local Government and Planning, the Department of Natural Resources and the Department of Environment may undertake the necessary administrative actions to implement this Act.

*Clause 14* provides that the provisions relating to land dealings, the recording of interests in land and exemption from fees and charges expire 12 months after the proclamation of the Act. The enabling provisions in Clause 12 which zone the land, provide for permitted uses, provide for uses requiring the consent of Council and the declaratory provisions in Clause 13 do not expire. The effect of the non-expiry provisions is that an amendment Act would be required to alter any of the purposes permitted or requiring the consent of Council as provided for in Schedule 3 and that the declaratory provisions are available for clarificatory purposes.

*Schedule 1* provides for a pictorial representation of the roads to be closed.

*Schedule 2* provides for a pictorial representation of the plan of survey of the land of cultural heritage significance to Aboriginal people to be excised from lot 132.

*Schedule 3* provides for the uses which are permitted within the particular development zone (Column 1) and for the uses which require the consent of the Townsville City Council pursuant to the planning scheme (Column 3).