

INTEGRATED RESORT DEVELOPMENT AMENDMENT BILL 2002

EXPLANATORY NOTES

GENERAL OUTLINE

Objectives of the legislation

To amend the *Integrated Resort Development Act 1987* (IRDA) to provide for-

- changes to schedules of lot entitlements for initial and secondary lots, consistent with the relevant scheme of integrated resort development;
- subdivision of secondary lots under a scheme of integrated resort development to create additional ‘primary thoroughfare’; and
- clarification of the IRDA’s application to the balance area of land, left over in any one allotment, following subdivision by Building Unit or Group Title plan.

Reasons for the Bill

The *Integrated Resort Development Act 1987* (IRDA) regulates development and management of integrated resorts. It was introduced to meet a need for planning, development and management mechanisms for large-scale resort developments similar to Sanctuary Cove, which has its own Act. Five resorts have been developed using the IRDA.

Recent experience has highlighted the need to amend the IRDA to allow greater flexibility in the way future development of resorts under the IRDA can occur. In particular, there is no current mechanism within the IRDA which allows lot entitlement schedules on plans already registered in the Titles Office to be amended or primary thoroughfare (includes main roads and canals) identified in accordance with the approved scheme for the resort to be created at the secondary lot stage.

The proposed amendment involves allowing increased flexibility in the allocation of lot entitlements across residential precincts within approved

schemes and the ability to create additional ‘primary thoroughfare’ from a ‘secondary lot’. The amendment also clarifies matters relating to “balance lots” (these being the residual area of land, left over in any one allotment, after a Building Unit or Group Title subdivision is approved).

This increased flexibility recognises the fact that resort developments under the IRDA can be very large and developed over a long period of time involving a number of parties and therefore need some flexibility to respond to changing market conditions and circumstances over their development program.

Ways in which the objectives are to be achieved

The objectives of the Bill are to be achieved by amending the *Integrated Resort Development Act 1987* (IRDA) by:

- amending s 2 (Interpretation) to insert a reference to a ‘replacement schedule’;
- amending s 59 to insert new sub-sections (3A), (3B), (3C), and (3D) to clarify issues relating to the subdivision of secondary lots under a scheme in order to create additional primary thoroughfare; and
- amending s 79 to insert new sections 79A, 79B, 79C, and 79D, establishing a process for approval of replacement schedules.

Why this way of achieving the objectives is reasonable and appropriate

The proposed amendments are generic and are necessary to address a specific issue which has been identified within at least one resort under the IRDA. Amendment to the IRDA is the only means for addressing this difficulty. The proposed amendments also create additional flexibility in the way in which development under the IRDA can occur, recognising the long-term approach to development in IRDA resorts.

Alternatives to the Bill

There are no alternatives available to address the current issues other than by legislation. However, another approach may be to propose special purpose legislation for a particular resort to address specific local issues. The proposed generic approach is preferred as it addresses the issue at its source (the original legislation), avoids a plethora of piece-meal legislative

responses to specific issues that may arise over time and allows greater flexibility under the IRDA for all resorts in the future.

Administrative cost to government of implementing the Bill

There are no administrative costs of implementing the Bill apart from those normally associated with the actual amendment process.

Consistency with fundamental legislative principles

The amendments are consistent with fundamental legislative principles.

Consultation

The following State agencies were consulted during the preparation of the Bill:

- Department of the Premier and Cabinet
- Office of Parliamentary Counsel
- Department of Natural Resources and Mines
- Crown Law.

Explanation of purpose and intended operation of each clause

Short Title

Clause 1 provides that the short title of the proposed Act is the *Integrated Resort Development Amendment Act 2002*.

Commencement

The proposed amendments will come into effect on the date of Royal Assent.

Act amended

Clause 2 provides that the proposed Act amends the *Integrated Resort Development Act 1987*

Amendment of Section 2 (Interpretation)

Clause 3 provides that section 2 (Interpretation) is to be amended to insert a new reference to ‘replacement schedule’. The definition of, and purpose for, a ‘replacement schedule’ is given in section 79B.

The ‘replacement schedule’ is the new schedule that changes the number of lots into which the initial lot or secondary lot can be subdivided. It replaces the schedule lodged with a previous plan of survey identifying the number of lots into which the initial lot or secondary lot was proposed to be subdivided.

Amendment of Section 59 (Subdivision of secondary lots within the residential precincts)

Clause 4 provides that s 59(1) and (2) are to be amended to clarify the purpose of subdividing a secondary lot, which is by way of a building units plan or group titles plan. There is often a residual area of land left after such subdivision, for further subdivision at a later date. The amendment removes the uncertainty in how the balance area should be described, by clarifying that it is considered to be a further secondary lot. The provision to subdivide a secondary lot into secondary thoroughfare is unchanged.

Clause 4 also provides for insertion of new sub-sections (3A), (3B), (3C), and (3D) to clarify issues relating to the subdivision of secondary lots under a scheme in order to create additional primary thoroughfare. Without this amendment, primary thoroughfare can only be created through subdivision of initial lots. Operational experience has highlighted there are instances where primary thoroughfare is needed at the secondary lot stage, particularly as some secondary lots are quite large in area providing opportunity for development that requires extension of existing primary thoroughfare. Subsections (3A) – (3D) set the ‘rules’ for subdivision of primary thoroughfare at the secondary lot stage.

Insertion of new part 5, division 4

Clause 5 provides for a new part 5, division 4, titled ‘*Subdivision E – Replacement schedules accompanying particular plans of subdivision*’ to be inserted as part of s79.

The new part comprises new sections 79A – 79D and establishes a process for providing replacement schedules that set out the maximum number of lots into which an initial or secondary lot can be subdivided. The IRDA requires that a schedule, setting out the maximum number of

lots for subdivision, accompany a plan of survey, for an initial or secondary lot, when it is lodged with the Registrar of Titles. Each subsequent plan of survey (and subdivision) must not exceed the number of lots specified on the previous schedule. The IRDA does not currently provide a mechanism to amend or replace a previous schedule, resulting in a lack of flexibility and, in some instances, constraint to future development.

Section 79B introduces the provision for a ‘replacement schedule’, which will change the number of lots into which an initial lot or secondary lot can be subdivided.

Section 79C(1) provides the framework for the local government to approve the replacement schedule, including the need for the written consent of each proprietor and mortgagee of a lot subject to the proposed change in maximum lot numbers; and the requirement that the aggregate number of residential lots does not exceed that specified in an approved scheme for the residential precinct. Section 79C(1)(c) requires that an amendment to the approved scheme be approved by the Governor in Council to provide the framework for application of this section. A complimentary amendment to the approved scheme for the specific resort development would ensure that appropriate ‘rules’, including the spatial distribution of lot entitlements, are in place prior to any replacement schedule being lodged with the Registrar of Titles. Section 79C(1)(d) then provides that the replacement schedule must be consistent with the amended scheme.

Section 79D provides the framework for registration of the replacement schedule with the Registrar of Titles. The Registrar of Titles does not have to review matters contained in 79C, but in respect to that section, may rely solely on the local government’s approval of the replacement schedule.