

LOCAL GOVERNMENT (ROBINA CENTRAL PLANNING AGREEMENT) AMENDMENT BILL 2003

EXPLANATORY NOTES

GENERAL OUTLINE

Objective of the Legislation

The two objectives of the legislation are:

- To include a series of changes to the planning intentions for the Robina central planning area in the Robina Central Planning Agreement (RCPA), that have been proposed by the Gold Coast City Council, the Robina Land Corporation and Robina Properties (the parties); and
- To replace the RCPA amendment process in the *Local Government (Robina Central Planning Agreement) Act 1992* (LGRCPA Act) with the *Integrated Planning Act 1997* (IPA) Schedule 1 process for making or amending planning schemes.

Reasons for the Bill

The main reason for the legislation is to facilitate changes to the RCPA agreed to by the Gold Coast City Council, Robina Land Corporation and Robina Properties (the parties) after public notification and consultation with State agencies.

The LGRCPA Act provides the legal framework for the operation of the RCPA. The RCPA is an agreement made in 1992 between the parties to enable development of the Robina central planning area, at a time when the legislative framework did not accommodate complex infrastructure and master planning (i.e. prior to the introduction of the IPA). The RCPA provides a substitute development assessment framework for the Robina central planning area and is the principal document for planning and development including the provision of infrastructure and other project

commitments. The planning intentions for the Robina central planning area require amendment from time to time to reflect contemporary planning principles and respond to market forces.

The RCPA is a schedule to the LGRCPA Act and forms part of the Act. Accordingly the RCPA can only be amended by amending the LGRCPA Act.

The Bill also replaces the current RCPA amendment process in the LGRCPA Act with the Schedule 1 process for making or amending planning schemes under the IPA and removes a Henry VIII clause, which purported to allow amendment of the RCPA, which is included in primary legislation, by regulation (i.e. subordinate legislation).

Ways in which the objectives are to be achieved

The objectives of the Bill are to be achieved by amending the LGRCPA Act to facilitate ongoing development at Robina.

Administrative cost to government

There are no additional administrative costs to Government of implementing the Bill apart from those normally associated with the actual amendment process. The costs associated with implementing the consequential changes to the planning agreement will be borne by the parties.

Consistency with fundamental legislative principles

The provisions of the Bill are consistent with the fundamental legislative principles provided for in the *Legislative Standards Act 1992*.

Consultation

The following State agencies were consulted:

- Department of Premier and Cabinet
- Department of State Development
- Department of Innovation and Information Economy, Sport and Recreation Queensland

- Department of Main Roads
- Queensland Transport
- Department of Primary Industries
- Environmental Protection Agency
- Office of Rural Communities
- Department of Employment and Training
- Treasury Department

Other key stakeholder groups consulted included the following:

- Robina Land Corporation Pty Ltd
- Robina Properties Pty Ltd
- Gold Coast City Council
- Queensland Investment Corporation

Explanation of purpose and intended operation of each clause

Short title

Clause 1 describes the short title of the Act as being the *Local Government (Robina Central Planning Agreement) Amendment Act 2003*.

Act Amended

Clause 2 provides that the Act will amend the *Local Government (Robina Central Planning Agreement) Act 1992*.

Amendment of s 2 (Definitions)

Clause 3 provides for a number of new or amended definitions:

“first amending Act” replaces the definition “amending Act” to mean the Act as “first” amended in 1996. The Act was amended in 1996 and the 1996 amendments to the RCPA are contained in schedule 2.

“further agreement” is amended to exclude both the first and second amending agreements and therefore refers only to any subsequent agreement made between the parties. The definition is also amended to remove a Henry VIII clause and clarifies the proposed form of a further

agreement may only be approved under an Act of Parliament and not by regulation.

“second amending Act” is included to mean this amendment Act.

“second amending agreement” is included to mean the amending agreement set out in schedule 3 and made by the parties named in the agreement. The first amending agreement was enacted in 1996 and is contained in schedule 2.

“site” is amended to include additional land identified by reference to the land described in the planning agreement after the making of the second amending agreement. The definition is also amended to clarify the extent of the “site” prior to the second amending agreement, by reference to the land described in the planning agreement after the making of the first amending agreement and before the making of the second amending agreement.

“1995 planning scheme” is amended to replace reference to the “amending Act” with the new definition “first amending Act”.

“planning agreement” is amended to include the “second amending agreement”.

Insertion of new s 3AA (Rezoning of land for second amending agreement)

Clause 4 provides for a new section 3AA, which rezones land within the site and land to be included in the site as specified in the second amending agreement. This section has effect from the date on which the second amending agreement is made.

Amendment of s 4A (Notice of making amending agreements)

Clause 5 amends section 4A to provide that the Council must also give public notification in the gazette of the date on which the second amending agreement is made. Notification in the gazette is required as the Act only approves the form of the agreement. The parties must then make the agreement.

Amendment of s 5 (Status of planning agreement)

Clause 6 amends section 5(2) to delete reference to the *Local Government (Planning and Environment) Act 1990* (P&E Act) and the planning scheme for the Shire of Albert, as these references are not necessary.

Clause 6 also amends section 5(3)(b) by replacing reference to ‘the amending Act’ with ‘this Act’ to clarify this provision applies to all Local Laws regardless of when they are made.

Clause 6 also amends section 5(3)(c) and (d) to delete ‘as in force at the commencement of this Act’ to clarify this provision also applies to amendments made to the P&E Act and the *Building Act 1975* after the LGRCPA Act commenced.

Replacement of s 6 (Amendment of planning agreement)

Clause 7 replaces section 6 and the current P&E Act process for making amendments to the RCPA by providing that the IPA process in Schedule 1 (Process for making or amending planning schemes), up to but not including the adoption stage, must be complied with before a further agreement may be made.

Clause 7 also removes a Henry VIII clause in section 6. This provision purported to allow amendment of the RCPA, which is included in primary legislation, by regulation (i.e. subordinate legislation). Section 6 now clarifies the proposed form of a further agreement must be approved under an Act of Parliament.

Amendment of s 10 (Savings and transitionals for use rights and approvals)

Clause 8 amends the heading of section 10 to clarify the transitional provisions in section 10 only apply to the first amending agreement.

Clause 8 also amends section 10(3) as it is the modified planning scheme and not the planning agreement that more specifically applies to the granting of a final development approval.

Insertion of a new s 11

Clause 9 inserts a new section 11 (Savings and transitional provisions for second amending agreement) that will have effect from the date on which the second amending agreement is made. Section 11 protects the existing lawful use of premises and approvals granted prior to the making of the second amending agreement.

Insertion of new sch 3

Clause 10 inserts a new schedule 3 comprising the form of the second amending agreement. The second amending agreement reflects a series of amendments to the RCPA that have been proposed by the parties. The proposed amendments to the RCPA are intended to achieve the following planning outcomes:

- ensure a total of 95ha of land in Robina Central is preserved for commercial development to maintain and facilitate the Key Regional Centre status of Robina in accordance with the *South East Queensland Regional Framework for Growth Management 2000*;
- zone the land adjacent to the railway station to 'Special Business' to make it consistent with the adjoining land in the RCPA;
- ensure the flood plain will no longer be developed for a golf course but will be used in part for playing fields and public open space to be transferred to Council and part for an eco-tourist resort;
- establish commercial and higher density residential development closer to the Railway Station in a mixed use form;
- amend the planning and development intents for each precinct to more accurately reflect current planning and market demands for land in Robina; and
- make various amendments to different clauses to remove anomalies and zone land not zoned due to road closure.