

SOUTH BANK CORPORATION AND OTHER ACTS AMENDMENT BILL 2003

EXPLANATORY NOTES

Title of the Bill

South Bank Corporation and Other Acts Amendment Bill 2003.

Policy Objectives of the Bill

The objective of the Bill is to provide for the continued effective development and management of the South Bank corporation area.

The Bill will amend the Corporation's Objects to provide reference to the Corporation's contemporary role as property manager, responsible for managing a significant public open space and providing a range of recreational and other activities for both residents and visitors to Brisbane.

It removes reference to the repealed *Local Government (Planning and Environment) Act 1990* and amends the Act's planning and development outcomes and processes to promote consistency with the *Integrated Planning Act 1997*.

Reasons for the Policy Objectives and how they will be achieved

The *South Bank Corporation Act 1989* established the Corporation in 1989 to promote, facilitate, carry out and control the development, disposal and management of land and other property within the former site of Expo '88.

At this time, the Corporation as constituted under the Act is an appropriate vehicle to finalise development of the corporation area. However, maintaining a focus in the Act on development activities fails to address the additional responsibilities of the Corporation now that the area has developed as a principal location of community activity and celebration for Brisbane and Queensland.

The Act does not sufficiently provide for managing the parklands, and the associated activities which have now become a core activity of the Corporation. The Objects of the Act have been expanded to address this.

The administration of the Act also relies on legislation that has since been repealed, giving rise to concerns that many of the processes and requirements contained in the Act are no longer applicable or relevant. The Bill substantially amends parts 4 and 5 of the Act to replicate planning and development provisions in the *Integrated Planning Act 1997* and promote consistency with that Act, to provide clarity for users and to facilitate the eventual integration of the corporation area into the Brisbane City Plan when development is complete.

The Bill also addresses inconsistencies in the Act that have resulted from successive amendments and removes the ambiguity surrounding the role of the Brisbane City Council in approving development by clearly providing that development is exempt from the Brisbane City Plan until the development completion date.

Administrative Cost

There is no administrative cost associated with implementing amendments to the Act.

Consistency with Fundamental Legislative Principles

The Bill is consistent with fundamental legislative principles.

Consultation

The South Bank Corporation; the Departments of Local Government and Planning, Natural Resources and Mines, Families and State Development; Queensland Transport, Brisbane City Council, Residential Tenancies Authority and Crown Law have been consulted on the amendments.

NOTES ON CLAUSES

PART 1—PRELIMINARY

Clause 1 sets out the short title of the Act.

Clause 2 states that, except for ss19 (3) and (4) and 44 which commence on assent under s 51A of the *Acts Interpretation Act 1954*, the Act commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF SOUTH BANK CORPORATION ACT 1989

Clause 3 – states that this part and schedule to the Bill amend the Act.

Clause 4 - amends the title of the Act to remove reference to activities of no further relevance to the Corporation and to include the role of the Corporation in the management of the South Bank corporation area.

Clause 5 - states that notes in the text of the Act are part of the Act.

Clause 6 (1) omits a number of current definitions in s 4 of the Act and lists a number of new definitions.

Clause 7 inserts a new s 4AA clarifying development that is excluded from the definition of assessable development.

Clause 8 amends the heading of part 2 of the Act to include the words “AND BOARD” as part 2 of the Act contains provisions in relation to the board.

Clause 9 amends s 6 by inserting a new section to provide for a corporation board.

Clause 10 (1) amends the heading of s 7 to reflect that the section now deals with the Board, rather than the Corporation. This is a consequential amendment required by the insertion of s 6A. Clause 10 (2) renumbers ss 7(2) to (4) to allow for insertion of a new s 7(2).

*South Bank Corporation and Other Acts Amendment
Bill 2003*

Clause 10 (3) amends s 7(1) to clarify an amendment made under the *Statute Law (Miscellaneous Provisions) Act 1999*.

Clause 10(3) also inserts a new s 7(2) outlining qualifications the Government should consider when appointing members to the Board.

Clause 10 (4) 4 amends the renumbered s 7(4) to now refer to a “public service officer”, rather than an “officer of the public service” and refer to the procedures of the Board, rather than the Corporation.

Clause 11 inserts a new s 7A, providing for criminal history reports on proposed nominees to the Board to be made available to the responsible Minister, should these be requested.

Clause 12 amends s 12 (4)(b) to remove reference to the complementary development area, as this is no longer relevant to the management and development needs of the Corporation area.

Clause 13 amends s16 by the inclusion of additional objects of the corporation. The additional objects address the Corporation’s contemporary role as property manager and provider of recreational, entertainment and cultural activities.

Clause 14 amends s 17(1)(h) to omit the requirement for the Corporation to establish, maintain, develop and operate transport facilities between places in the corporation area and replaces with a provision to provide for the management of open space. Transport facilities are provided by the Brisbane City Council and Queensland Rail.

Clause 15 inserts new Part 5 and division 1 headings.

Clause 16 omits s 22(2) to (7) relating to implementation of the approved development plan as these requirements are no longer applicable.

Clause 17 omits s 22A, relating to variation of development approval, as these requirements are now addressed in the amendments to Part 5 of the Act.

Clause 18 omits s 22B(4)(b) as reference to the “town plan” and the process of zoning can no longer be applied.

Clause 19 (1) omits ss 23(2) and (3) as these provisions can no longer be applied.

Clause 19 (2) expands on s 23(4) to allow the Corporation, on the Minister’s consent, to transfer land in fee simple for the purpose of making a minor boundary adjustment in recognition that development may at times require minor adjustments to boundaries to enable the Corporation to

manage its land effectively. The current provision prohibits any such adjustments.

Clause 19 (3) omits s 23(4B), which states that a perpetual lease granted under s 23(4A) of the Act may be assigned or sublet only with the prior consent of the Minister, which must not be unreasonably withheld. The requirement for the Minister's consent to the assignment or sublease of a perpetual lease is redundant. A tenant cannot assign or sublet a lease for any other use than a use consistent with that permitted under the lease and the Approved Development Plan, and a tenant cannot carry out development unless the Corporation has approved it to be in accordance with the Approved Development Plan. The omission removes a significant administrative burden in the administration of the Act.

The new ss 23(4B), 23(4C) and 23 (4) now define the processes that apply if a minor boundary adjustment is required.

Clause 19 (4) inserts a new definition of "commercial precinct", with the boundaries now defined by reference to Schedule 18, instead of reference to streets, as is currently the case. The revised definition provides for all development sites in the corporation area to be included in the "commercial precinct".

Clause 20 relocates and renumbers sections to promote clarity for users of the Act.

Clause 21 inserts a new heading, ROADS, RECONFIGURATION AND STRATUM LOTS, before s 24.

Clause 22 details a number of amendments to s 25, which deals with the subdivision and amalgamation of land, and the opening of roads, in the corporation area. The amendments include:

- Subclauses 4, 5 and 6 amend the wording in ss 25(2) and (3) to now refer to "reconfiguration", rather than subdivision and amalgamation;
- Subclause 7 amends s 25(4) to clarify that the registered owner may submit a plan to the titles office and removes reference to a repealed act – the *Local Government (Planning and Environment) Act 1990*;
- Subclause 8 amends s 25 (5) to require that the plan must be endorsed by the appropriate authority;
- Subclause 9 amends s 25(5)(d) to state that ss 50(g) and (h) of the *Land Title Act 1994* do not apply;

*South Bank Corporation and Other Acts Amendment
Bill 2003*

- Subclause 11 omits ss 25 (16) to (19) to remove reference to a repealed Act, the *Local Government (Planning and Environment) Act 1990*.

Clause 23 amends s 25A to specify in 1(a) that development approval is required prior to any subdivision or dealing with stratum lots can be undertaken.

Clause 24 omits s 28, relating to the provision of service infrastructure in the corporation area, and s29, referring to a plan for traffic, as these requirements are no longer necessary.

Clause 25 omits Part 5 Town Planning, other than ss 34A and 37, and replaces the part with a new part and revised provisions which update the Act's planning and development requirements and provide clarity for users. The effect of clause 25 is to amend the planning and development requirements in the Act to replicate development and approval processes established by the *Integrated Planning Act 1997*. The amendments remove reference to the repealed *Local Government (Planning and Environment) Act 1990* and provide for a development and use approval regime that is consistent with the *Integrated Planning Act*. By so doing, this will facilitate the integration of the area into the Brisbane City Plan when development is complete. The provisions detail the development approval process, the granting of approvals, and requirements associated with such approvals.

Clause 26 clarifies that the Corporation will enter into an agreement with the Brisbane City Council for the payment of monies for rates on land owned by the Corporation and relocates the amended section to Part 6 Financial Provisions as s37L.

Clause 27 omits s37E (7) to ensure that the provisions of the *Juvenile Justice Act 1992* apply in relation to the making and carrying out of the exclusion orders in the Act, in relation to a child as defined in the *Juvenile Justice Act 1992*.

Clause 28 omits s 37I (2)(c) as the reference is redundant and (d) as it limits a child's right to representation as established under the principles of the *Juvenile Justice Act 1992*.

Clause 29 omits s 37J (3) to ensure that the provisions of the *Juvenile Justice Act 1992* apply in relation to the making and carrying out of the exclusion orders in the Act, in relation to a child as defined in the *Juvenile Justice Act 1992*.

*South Bank Corporation and Other Acts Amendment
Bill 2003*

Clause 30 amends s 37K to expand the requirements of the Corporation to report in detail in its Annual Report on the carrying out of the powers under this part.

Clause 31 amends s 38 to confirm that the Corporation is a statutory body to which the *Financial Administration and Audit Act 1977* applies.

Clause 32 amends s 38AA to confirm that the Corporation is a statutory body to which the *Statutory Bodies Financial Arrangements Act 1982* applies.

Clause 33 omits s 38B – 38G, which list the requirements of the Corporation in preparing a business plan, as these provisions are provided for in the *Financial Administration and Audit Act 1977*.

Clause 34 amends s39A to remove reference to the *Fire Service Act 1990*, which has been repealed. However, the amendment does not alter the requirement stipulated in this section.

Clause 35 omits s39D, which provides that the *Residential Tenancies Act 1994* and the *Retail Shop Leases Act 1994* do not apply to the Corporation. Clauses 49 and 51 now outline the application of these Acts to the corporation area.

Clause 36 omits s39G as these provisions are addressed in the amendments to Part 5 of the Act.

Clause 37 inserts new ss 40 – 40 F addressing the appointment, powers and operation of security officers in the Corporation area. The provisions have been transferred from the South Bank By-Law in recognition that the provisions are more appropriately contained within the Act. The provisions have also been expanded to improve accountability in the exercise of the officer's functions.

Clause 38 omits s 41(2)(d) as these provisions are now contained in the amendments to Part 5. Clause 38 also inserts a new s 41 3A and s 41 3B, clarifying that a Corporation by-law applies in place of a stated local law, where the by-law states this.

Clause 39 renumbers the Act and includes some necessary transitional provision relating to various matters such as membership of the Board, development approval and security officers. The renumbering will ensure that references in the Statute book are correct and that activities undertaken by the Corporation prior to the implementation of the amended Act are valid.

Clause 40 amends Schedule 1 by the insertion of a new 3(1)(d) which clarifies that a public servant appointed by the Minister ceases to be a member of the Board when they cease to be a public servant. The amendment is a consequential amendment to s 7 of the Act.

Clause 41 replaces the current Schedule 4 with a map of the Corporation area current at the time of the Bill.

Clause 42 omits Schedule 5, which is a map of the complementary development area. Refer to clause 12 to explain the omission.

Clause 43 amends Schedule 7 to provide consequential amendments consistent with amendments to part 5 of the Act. The clause also now provides for resolution by dissent and referee provisions to reflect the current legislative practice of the *Body Corporate and Community Management Act 1997*, which allows for resolutions without dissent.

Clause 44 inserts a new Schedule 18 that delineates the commercial precinct in the corporation area.

PART 3—AMENDMENT OF INTEGRATED PLANNING ACT 1997

Clause 45 states that Part 3 amends the *Integrated Planning Act 1997*.

Clause 46 (1) amends Schedule 8, part 1, section 4 of the *Integrated Planning Act 1997* to provide that reconfiguration of a South Bank lot within the corporation area under the *South Bank Corporation Act 1989*

Clause 46 (2) amends Schedule 8, part 3 of the *Integrated Planning Act 1997* by inserting a provision to clarify that development within the meaning of the *South Bank Corporation Act 1989* is exempt development from the Brisbane City Plan, but only until the development completion date.

PART 4—AMENDMENT OF RESIDENTIAL TENANCIES ACT 1994

Clause 47 states that Part 4 amends the *Residential Tenancies Act 1994*.

Clause 48 amends s16(3) to provide that the *Residential Tenancies Act 1994* does not apply to long term leases entered into, or granted by, the Corporation, even if the lease is for the purpose of residential accommodation, but that the Act applies to subleases granted by a lessee for the purpose of residential use.

PART 5—AMENDMENT OF RETAIL SHOP LEASES ACT 1994

Clause 49 states that Part 5 amends the *Retail Shop Leases Act 1994*.

Clause 50 amends s5 of the *Retail Shop Lease Act 1994* to include a definition of the South Bank corporation area and provides that a retail shop lease does not apply to long term leases entered into, or granted by, the Corporation.

SCHEDULE

The schedule makes a number of minor amendments that are generally consequential on the amendments by the Bill.