



Townsville City Council (Douglas Land Development) Act 1993

Current as at 1 July 2010—revised version

Reprint note

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Queensland

Townsville City Council (Douglas Land Development) Act 1993

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Townsville City Council (Douglas Land Development) Act 1993

An Act for the development of land at Douglas, Townsville, and related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Townsville City Council (Douglas Land Development) Act 1993*.

2 Object of Act

The object of this Act is to provide for the development of land, owned by the Townsville City Council at Douglas, Townsville, in a way consistent with appropriate planning and development practices in order to achieve a well planned community.

3 How object is to be achieved

The object of this Act is to be achieved by—

- (a) authorising the Townsville City Council to prepare a concept plan that sets out the Council's planning intentions for the land at Douglas, Townsville; and
- (b) allowing public submissions on the proposed concept plan; and
- (c) enabling the Governor in Council to approve the concept plan; and

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- (d) authorising the Townsville City Council to call for expressions of interest for the purchase, development and subdivision of the land in stages over a period of time in accordance with the concept plan; and
- (e) authorising the Townsville City Council to enter into agreements in relation to the purchase and development of the land and, for that purpose, taking mortgages by way of security for part or all of the purchase price; and
- (f) authorising the Townsville City Council to prepare master plans for any part of the land in relation to which expressions of interest have been called; and
- (g) enabling the Governor in Council to approve master plans that—
 - (i) regulate the orderly development of the land; and
 - (ii) control the use of the developed land; and
- (h) excluding the planning scheme that applies to any land the subject of a master plan on the approval of the plan by the Governor in Council; and
- (i) having the planning scheme again apply to the land or any part of the land after its development in accordance with the master plan.

4 Definitions

In this Act—

chief executive means the chief executive of the department.

clerk means the Town Clerk of the Council.

concept plan means the plan mentioned in Part 2.

Council means the Council of the City of Townsville.

master plan means a plan mentioned in Part 4.

premises includes land, buildings and other structures, and any part of land, building and other structures.

site means the land owned by the Council at Douglas, Townsville, that is specified in the Schedule.

stage means a part of the site in relation to which expressions of interest are called for its purchase, development and subdivision under this Act.

Townsville IPA planning scheme means the IPA planning scheme, under the *Integrated Planning Act 1997*, for the City of Townsville continued in force under the *Sustainable Planning Act 2009*.

Townsville planning scheme means—

- (a) until 31 December 2004—the planning scheme for the City of Townsville in force under the *Local Government (Planning and Environment) Act 1990* and continued in force under the *Integrated Planning Act 1997*, including any by-laws that had effect as if they were part of the planning scheme; and
- (b) on and from 1 January 2005—the Townsville IPA planning scheme.

working day means a day when the office of the Council is open for transaction of public business.

Part 2 Concept plan

5 Concept plan

- (1) The Council must prepare a proposed concept plan for the site as soon as practicable after the commencement of this Act.
- (2) The proposed concept plan must—
 - (a) generally indicate the Council’s planning intentions in relation to the site; and
 - (b) consist of—

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- (i) a map or series of maps depicting the location of the preferred land uses within the site; and
- (ii) supporting documents in relation to the type, scale and density generally of development within the site.

6 Adoption of proposed concept plan

The proposed concept plan must be adopted by the Council by resolution.

7 Public notice of proposed concept plan

- (1) After adoption of the proposed concept plan and before application to the Minister under section 10, the Council must give public notice of the proposed concept plan.
- (2) The notice must—
 - (a) specify that the Council has adopted a proposed concept plan for the site; and
 - (b) be published in a newspaper circulating in the City of Townsville; and
 - (c) specify that the proposed concept plan may be inspected, and copies purchased, at the office of the Council between the times specified in the notice; and
 - (d) specify the cost of a copy of the proposed concept plan; and
 - (e) invite submissions from any interested persons or groups; and
 - (f) specify a day (not earlier than 20 working days from publication of the notice) by which submissions may be made to the Council in relation to the proposed concept plan.

8 Submissions on proposed concept plan

- (1) A person or group may, on or before the last day for the making of submissions, make a submission to the Council in relation to the proposed concept plan.
- (2) A submission must—
 - (a) be in writing and signed by each person or on behalf of each group making the submission; and
 - (b) be addressed to and lodged with the clerk; and
 - (c) state—
 - (i) the name and address of each person or group making the submission; and
 - (ii) the grounds of the submission and the facts and circumstances relied on in support of the grounds.

9 Modification of proposed concept plan

- (1) The Council must consider all submissions properly made to it and may modify the proposed concept plan after considering the submissions.
- (2) The proposed concept plan, with or without modification, becomes the concept plan once it is adopted by the Council by resolution after consideration of the submissions.

10 Approval of concept plan by Governor in Council

- (1) The Council must apply to the Minister for approval of the concept plan by the Governor in Council.
- (2) The Governor in Council may—
 - (a) approve the concept plan; or
 - (b) approve the concept plan with modifications; or
 - (c) refuse to approve the concept plan.
- (3) The concept plan must be approved by regulation.

11 Concept plan to be open for inspection

- (1) The Council must keep a copy of the concept plan available for inspection at the office of the Council at all times during which the Council's office is open for transaction of public business.
- (2) The Council must, on payment by a person of the fee decided by the Council, give a copy of the concept plan to the person.
- (3) The chief executive must keep a copy of the concept plan available for inspection at the office of the chief executive at Townsville at all times during which the chief executive's office is open for transaction of public business.
- (4) The chief executive must, on payment by a person of the fee decided by the chief executive, give a copy of the concept plan to the person.

12 Amendment of concept plan

- (1) The Council may, at any time, propose an amendment of the concept plan in relation to any part of the site that is not the subject of a master plan under Part 4.
- (2) The proposed amendment must be adopted by the Council by resolution.

13 Public notice of proposed amendment of concept plan

- (1) After adoption of the proposed amendment of the concept plan and before application to the Minister under section 16, the Council must give public notice of the proposed amendment of the concept plan.
- (2) The notice must—
 - (a) specify that the Council has adopted a proposed amendment of the concept plan for the site; and
 - (b) set out the nature of the proposed amendment of the concept plan; and

- (c) be published in a newspaper circulating in the City of Townsville; and
- (d) specify that the proposed amendment of the concept plan may be inspected, and copies purchased, at the office of the Council between the times specified in the notice; and
- (e) specify the cost of a copy of the proposed amendment of the concept plan; and
- (f) invite submissions from any interested persons or groups; and
- (g) specify a day (not earlier than 10 working days from publication of the notice) by which submissions may be made to the Council in relation to the proposed amendment of the concept plan.

14 Submissions on proposed amendment of concept plan

- (1) A person or group may, on or before the last day for the making of submissions, make a submission to the Council in relation to the proposed amendment of the concept plan.
- (2) A submission must—
 - (a) be in writing and signed by each person or on behalf of each group making the submission; and
 - (b) be addressed to and lodged with the clerk; and
 - (c) state—
 - (i) the name and address of each person or group making the submission; and
 - (ii) the grounds of the submission and the facts and circumstances relied on in support of the grounds.

15 Modification of proposed amendment of concept plan

- (1) The Council must consider all submissions properly made to it and may modify the proposed amendment of the concept plan after considering the submissions.

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- (2) The proposed amendment of the concept plan, with or without modification, becomes an amendment of the concept plan once it is adopted by the Council by resolution after consideration of the submissions.

16 Approval of amendment of concept plan by Governor in Council

- (1) The Council must apply to the Minister for approval of an amendment of the concept plan by the Governor in Council.
- (2) The Governor in Council may—
 - (a) approve the amendment; or
 - (b) approve the amendment with modifications; or
 - (c) refuse to approve the amendment.
- (3) The amendment of the concept plan must be approved by regulation.
- (4) The concept plan as amended becomes the concept plan.

Part 3 Expressions of interest and related agreements

17 Council to call for expressions of interest

- (1) After the concept plan is approved by the Governor in Council and before master plans apply to every stage of the site, the Council must invite expressions of interest in—
 - (a) purchasing from the Council any stage that is not the subject of an agreement under section 19; and
 - (b) developing and subdividing the stage generally in accordance with the concept plan.
- (2) Expressions of interest must be invited by advertisement published in a newspaper circulating in the City of Townsville

and in any other newspaper that the Council considers appropriate.

18 Consideration of expressions of interest

- (1) The Council must consider the expressions of interest received by it and must prepare a short list from the persons who have submitted expressions of interest.
- (2) The Council may enter into discussions and negotiations with the persons on the short list in relation to the purchase, development and subdivision of the stage.

19 Agreements in relation to purchase, development and subdivision

- (1) The Council may resolve to make and perform agreements with any person on the relevant short list under section 18 in relation to the purchase, development and subdivision of a stage for which expressions of interest have been called under this Part.
- (2) The Council may enter into agreements under subsection (1)—
 - (a) with more than 1 person; and
 - (b) in relation to a stage or any part of a stage.
- (3) An agreement entered into under this section may provide—
 - (a) for the purchase price, or part of the purchase price, to be paid after the transfer of an estate in fee simple in a stage, or a part of a stage, to a person; and
 - (b) that the purchaser must not sell the stage or the part of the stage—
 - (i) without the prior approval of the Council; or
 - (ii) unless the Council acknowledges, in writing, that the conditions specified in the agreement have been fulfilled.

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- (4) The Council may require the purchaser to give and may take from the purchaser the security the Council considers sufficient to ensure compliance with the terms and conditions of the agreement.
- (5) The security mentioned in subsection (4) may take the form of a mortgage given by the purchaser in favour of the Council over the land sold.
- (6) The Council may apply amounts for the purpose of agreements made under this section.
- (7) If an agreement is made before the master plan for the stage is approved, an agreement under this section must be conditional on a master plan (that is not inconsistent with the agreement) being approved by the Governor in Council.
- (8) In deciding the most appropriate person to purchase, develop and subdivide a stage or part of a stage, the Council must have regard not only to financial considerations, but also to the planning and social objectives of the Council contained in the concept plan.
- (9) In resolving under subsection (1) to make and perform agreements with any person on a short list, the Council must specify its reasons for the decision.

20 Things done under agreements functions of local government

Anything done by the Council under this Act is a function of local government of the Council.

21 Tenders not required for agreements

- (1) Despite the provisions of any other Act, the Council is not required to give notice of intention to invite tenders or to give an opportunity for the making of quotations in relation to agreements to be made under this Part.
- (2) Sections 19(4) to (10) and 19A and Part 11A of the *Local Government Act 1936* do not apply to agreements made under this Part.

Part 4 Master plans

22 Council to prepare master plans

- (1) After considering the expressions of interest and entering into the discussions and negotiations it considers necessary under section 18, the Council must prepare a master plan for the stage in relation to which expressions of interest have been called.
- (2) The master plan—
 - (a) must be generally in accordance with the concept plan; and
 - (b) must—
 - (i) provide for the orderly development of land within the stage; and
 - (ii) regulate the use of premises, the erection of buildings and other structures and the subdivision of land within the stage; and
 - (c) must consist of—
 - (i) a map or series of maps that accurately depict the location of the land uses within the stage; and
 - (ii) supporting documents that include the matters mentioned in subsection (3) for the regulation, implementation and administration of the master plan.
- (3) The matters to be included in the supporting documents mentioned in subsection (2) are requirements for—
 - (a) the use of premises; and
 - (b) the erection of buildings and other structures; and
 - (c) the subdivision of land; and
 - (d) the keeping of records; and
 - (e) matters relating to offences.

23 Approval of master plan by Governor in Council

- (1) The Council must apply to the Minister for approval of a master plan by the Governor in Council.
- (2) The Governor in Council may—
 - (a) approve the master plan; or
 - (b) approve the master plan with modifications; or
 - (c) refuse to approve the master plan.
- (3) A master plan must be approved by regulation.

24 Master plan replaces concept plan and Townsville planning scheme

A master plan replaces—

- (a) the concept plan; and
- (b) the Townsville planning scheme; and
- (c) the Council's by-laws dealing with group title development;

in relation to the stage to which it applies from the date of notification in the Gazette of the regulation approving the master plan.

25 Master plan to be open for inspection

- (1) The Council must keep a copy of the master plan available for inspection at the office of the Council at all times during which the Council's office is open for transaction of public business.
- (2) The Council must, on payment by a person of the fee decided by the Council, give a copy of the master plan to the person.
- (3) The chief executive must keep a copy of the master plan available for inspection at the office of the chief executive at Townsville at all times during which the chief executive's office is open for transaction of public business.

- (4) The chief executive must, on payment by a person of the fee decided by the chief executive, give a copy of the master plan to the person.

26 Amendment of master plan

- (1) A master plan may be amended with the agreement of the Council.
- (2) The amendment may be done at any time before the registration of a plan of subdivision of land within a stage.

27 Approval of amendment of master plan by Governor in Council

- (1) The Council must apply to the Minister for approval of an amendment of the master plan by the Governor in Council.
- (2) The Governor in Council may—
 - (a) approve the amendment; or
 - (b) approve the amendment with modifications; or
 - (c) refuse to approve the amendment.
- (3) The amendment must be approved by regulation.
- (4) The master plan as amended becomes the master plan.

28 Council to administer master plan

The Council must implement, administer and enforce a master plan approved by the Governor in Council and is bound by it.

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- (4) If a person has an interest in premises within the site or a stage and the interest is injuriously affected when the site or stage is included in the Townsville planning scheme by—
- (a) the coming into force of any provisions contained in the Townsville planning scheme; or
 - (b) any prohibition or restriction imposed by the Townsville planning scheme;

the person has the same right to claim compensation under the *Local Government (Planning and Environment) Act 1990* as a person that has an interest in premises within a planning scheme area that is injuriously affected in the way mentioned in section 3.5(1)(a)(i) or (ii) of the *Local Government (Planning and Environment) Act 1990*.

30A Procedure for inclusion in Townsville IPA planning scheme on and after 1 January 2005

- (1) To include a stage in the Townsville IPA planning scheme, the process for amending a planning scheme stated in the guideline prescribed under the *Sustainable Planning Act 2009*, section 117(1) must be followed.
- (2) In acting under subsection (1), the council must have regard to all matters contained in the master plan or plans and any agreements under part 3.
- (3) Subsection (4) applies if a person has an interest in land and the value of the interest is reduced when a stage is included in the Townsville IPA planning scheme.
- (4) The person has the right to claim compensation for the reduction under the *Local Government (Planning and Environment) Act 1990* (repealed), as if that Act had not been repealed.

30B Validation

- (1) The amendments are taken to have been validly made.
- (2) In this section—

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- (2) The types of planning certificates are—
 - (a) a limited planning certificate; and
 - (b) a standard planning certificate; and
 - (c) a full planning certificate.
 - (3) The details to be included in each type of planning certificate are the details prescribed by regulation.
 - (4) The fee payable for each type of planning certificate is that decided by the Council.

34 Proceedings for offences

- (1) A person must not use premises in contravention of a condition, requirement or restriction imposed by a master plan or by an agreement under Part 3.
Maximum penalty—33 penalty units.
- (2) A person may bring a proceeding on a complaint to prosecute another person for an offence mentioned in subsection (1), whether or not any right of the complainant has been or may be infringed by, or as a consequence of, the offence.
- (3) A proceeding under this section may be brought by a person on the person's own behalf or on behalf of the person and—
 - (a) another person, with the person's consent; or
 - (b) an incorporated or unincorporated body (with the consent of its committee or other controlling or governing body);that has like or common interests in the proceeding.
- (4) A person on whose behalf a proceeding is brought is entitled to contribute to, or provide for the payment of, the legal costs and expenses incurred by the person bringing the proceeding.
- (5) A person who after conviction for an offence against subsection (1) (the *previous conviction*) continues to fail to comply with the condition, requirement or restriction in relation to which the person incurred the previous conviction commits an offence against this Act.

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Maximum penalty—5 penalty units for each day on which the person continued to fail to comply with the condition, requirement or restriction from the last previous conviction to the person's conviction for the offence against this subsection.

- (6) Any right or remedy that a person has in respect of an act or omission of another person is not affected because the act or omission constitutes an offence against this section for which no person has been prosecuted.
- (7) On the hearing of a complaint for an offence under subsection (1), a Magistrates Court may make an order against the defendant in addition to or in substitution for any penalty it is authorised to impose.
- (8) An order made under subsection (7) may—
 - (a) order the defendant to cease using premises in contravention of a condition, requirement or restriction imposed by a master plan or by an agreement under Part 3; or
 - (b) order the defendant to do anything required to comply with, or to cease a contravention of, a condition, requirement or restriction mentioned in paragraph (a); or
 - (c) specify that the failure to comply constitutes a public nuisance.
- (9) The order may be in terms that the court considers appropriate to secure compliance with a condition, requirement or restriction mentioned in subsection (8)(a).
- (10) If the court makes an order under subsection (7), it must specify in the order a time within which the order is to be complied with.
- (11) A person who fails to comply with an order under subsection (7) commits an offence.

Maximum penalty—

- (a) in the case of an individual—33 penalty units; or
- (b) in the case of a corporation—165 penalty units.

- (12) If—
- (a) a person fails to comply with an order made by the court under subsection (7); and
 - (b) the order specifies that the failure to comply constitutes a public nuisance;
- the Council may undertake the work necessary to remove the nuisance.
- (13) All expenses incurred by the Council in removing the nuisance may be recovered from the person by the Council as a debt due to the Council.

35 Conditions, requirements and restrictions attach to the land

- (1) Conditions, requirements and restrictions in relation to the use of premises imposed by an agreement under Part 3, that have not been amended, complied with or dispensed with attach to the land and are binding on successors in title.
- (2) The conditions, requirements and restrictions continue to attach to the land after its inclusion in the Townsville planning scheme.
- (3) The conditions, requirements and restrictions are then taken to be conditions that attach to the land under the *Local Government (Planning and Environment) Act 1990* or the *Sustainable Planning Act 2009*.

36 Regulations

The Governor in Council may make regulations for the purposes of this Act.

Schedule Metes and bounds description

section 4 (definition *site*)

Starting at a point on the south-eastern bank of Ross River at its intersection with the extended south-western boundary of Lot 141 on R.P. 728211 on a bearing of 331°30'

- then south-easterly on a bearing of 151°30' to the north-west corner of Lot 141 on R.P. 728211
- then south-easterly along the south-western boundaries of Lots 141 to 151 on R.P. 728211 on bearings of 151°30' for a distance of 44.87m, on a bearing of 137°08'10" for a distance of 36.57m, on a bearing of 155° for a distance of 145.0m respectively to the south-western corner of Lot 151 on R.P. 728211
- then easterly on a bearing of 89°15'20" for a distance of 38.835m along the southern boundary of Lots 151 and 152 on R.P. 728211 to the intersection of the north-western corner of Lot 164 on R.P. 728210
- then southerly on a bearing of 179°15'18" for a distance of 16.531m and south-easterly on a bearing of 123°30'30" for a distance of 30.0m along the western and south-western boundaries of Lot 164 on R.P. 728210 to its intersection with the north-western alignment of Verhoeven Drive
- then southerly on a bearing of 159°15'45" for a distance of 30.805m to the south-eastern alignment of Verhoeven Drive and its intersection with the western corner of Lot 165 on R.P. 728210
- then south-easterly and north-easterly along the south-western and south-eastern boundaries of Lot 165 on R.P. 728210 on bearings of 123°30'30" for a distance of 30.0m and a bearing of 33°30'30" for a distance of 20.0m respectively to the western corner of Lot 173 on R.P. 728210
- then south-easterly along the south-western boundaries of Lots 173 and 174 on R.P. 728210 on a bearing of 116°58'20"

for a distance of 70.46m then continuing on that bearing of 116°58'20" to the south-eastern alignment of Angus Smith Drive and a point on the north-western boundary of Lot 33 on R.P. 737878

- then south-westerly, north-westerly, northerly, westerly and south-westerly along the south-eastern, western, southern and south-eastern boundary of Angus Smith Drive to the intersection of that alignment and the southern boundary of Lot 197 on E.P. 1220 the above alignment of Angus Smith Drive also being the boundaries of Lot 33 on R.P. 737878, Lot 6 on R.P. 723278, Lots 1 and 2 on R.P. 731591 and the southern and south-eastern boundaries of the road dividing Lot 106 on E.P. 1150, and Lots 148 and 197 on E.P. 1220
- then westerly along the southern boundary of Lot 197 on E.P. 1220 to the bank of Ross River
- then by that bank downstream in the directions of northerly, north-easterly, easterly, south-easterly and north-easterly respectively to the point of commencement enclosing an area of about 245ha.

Map of the site

