

Subdivision (Further Amendment) Bill

EXPLANATORY MEMORANDUM

Clause 1 states the purpose of the Bill.

Clause 2 provides for the coming into operation of the Act.

Clause 3 amends section 18 (1) to provide for a contribution of up to 5 per cent of the land or up to 5 per cent of the site value of the land for public open space. It also provides that where a combination of cash and land is being provided, the total of the two percentages does not exceed 5 per cent of the site value of the land.

Section 18 (2) is amended to clarify that a staged subdivision refers to one using the procedures under section 37. This is a consequential change resulting from Clause 7.

Clause 4 amends sections 21 (2) and (4) to clarify that the staged subdivision means a staged subdivision within the meaning or using the procedure under section 37. These are consequential changes resulting from Clause 7.

Clause 5 amends section 22 (1) and is a consequential change resulting from Clause 7 to clarify that the staged subdivision referred to is one using the procedure under section 37.

Clause 6 amends sections 36 (1) and 36 (1AA) relating to the powers of an owner to acquire or remove easements by including as assessment of amenity as an additional consideration. It will allow an assessment by the Council of the effect of the removal or acquisition on the amenity of the area and allow objections to the Administrative Appeals Tribunal on amenity grounds.

Clause 7 amends sections 37 (1) and 37 (3) to give a developer the option to subdivide by a series of sequential subdivisions or by a staged subdivision using the procedure under section 37. This amendment recognises current practice in the development industry and removes confusion about how a staged subdivision may be effected.

Clause 8 amends section 38 to allow the Court to order the doing of any of the things which a subdivision or body corporate may do under sections 32 (1) or 33 of the Act rather than just alteration of the plan. Alteration of the plan is only one of the many procedural steps that need to be undertaken in order to effect a redevelopment of a body corporate project. If orders can only be made for the alteration of the plan, then very little could be achieved in physical terms to give effect to the alteration, for example, disposal of common property which is to be excised consequent on the alteration of the plan.

Clause 9 is a transitional provision relating to section 37.

Clause 10 is a transitional provision relating to section 36.

