

LOCAL GOVERNMENT (PALM BEACH LAND) BILL 1992

EXPLANATORY NOTES

Clause 1 sets out the short title of the Act.

Clause 2 sets out the object of the Act which is to provide for the settlement of claims in relation to damage to certain houses at Palm Beach in the City of Gold Coast, attributed to land subsidence.

Clause 3 sets out in general terms, how the object of the Act is to be achieved.

Clause 4 defines various terms used in the Act.

Clause 5 provides for the establishment of the “Palm Beach Land Settlement of Claims Fund” by the Public Trustee and for the Public Trustee to administer the fund in accordance with the Act.

Interest earned on moneys in the fund is to become a part of the fund.

Clause 6 allows the Gold Coast City Council to contribute up to \$1.5 million to the fund.

Clause 7 acknowledges that Suncorp Insurance and Finance and NZI Insurance Australia Limited are contributing to the fund.

Clause 8 prescribes the criteria to be applied to determine who is eligible to receive payment from the fund.

Clause 9 The chief executive may engage the services of others to undertake specific tasks required by the Act, on behalf of the chief executive.

Clause 10 requires that the extent and the value of damage to each house be assessed by suitably qualified persons and for each owner to be advised of the results of the assessment.

An owner who disagrees with the assessment may apply to have the damage re-assessed. The cost of carrying out a re-assessment will be deducted from any moneys payable to an owner from the fund unless the re-assessment results in an increase being made to the original assessment.

An owner who receives a notice of assessment is required to advise the

chief executive of the owner's acceptance of the assessment or to request a re-assessment within 28 days of receipt of the notice or such longer period as may be allowed.

Clause 11 provides that the fund may only be distributed if at least 90 per centum of the number of owners participate in the scheme and the value of the damage to the houses of the participants is at least 90 per centum of the value of the estimated total damage.

If less than 90 per centum of the eligible owners participate or the value of damage is less than 90 per centum of the total value of the damage sustained, the fund cannot be distributed. If this happens, the Public Trustee is required to return the moneys to the contributors.

Clause 12 requires that a claim settlement “rate in the dollar” be determined having regard to the amount in the fund and the total value of assessed damage to participant’s houses.

The chief executive is required to notify each claimant of the amount offered as a full and final settlement of the claim.

Clause 13 requires each claimant to advise the chief executive of his or her acceptance of the offer made or otherwise, within 28 days of receipt of the offer or such longer period as may be allowed.

Clause 14 provides for the Public Trustee to make payments from the fund to eligible claimants upon receipt of written directions from the chief executive to make such payments.

Clause 15 recognises that some claimants may not accept the offer of settlement made by the chief executive. This would result in some moneys being left in the fund. These moneys are required to be refunded to the contributors in the same proportion that they made their original contributions.

The Act prevents a new “rate in the dollar” being established.

Clause 16 provides for the fund to be closed by the Public Trustee when all moneys have been paid from the fund or refunded to the contributors.

The Public Trustee is required to notify the chief executive that the fund has been closed.

Clause 17 allows recipients of payments from the fund to use such moneys as they see fit.

Clause 18 provides for the repeal of the Act on a date fixed by proclamation provided that such a date is after the fund has been closed by the Public Trustee.