

LANG PARK TRUST BILL 1994

EXPLANATORY NOTE

GENERAL OUTLINE

Objective of the Legislation

The objective of the legislation is to replace the existing Lang Park Trust Act. The existing Act does not allow the Trust to operate to the full commercial potential. The legislation alters the composition of the Lang Park Trust to reflect the requirements of a modern accountable body and resolves a potential conflict of interest.

Reasons for the Bill

The Bill reflects the change in the way bodies such as the Lang Park Trust are expected to operate. The government now requires these bodies to operate in a commercial manner. The existing Act does not enable the Trust to operate in such a manner and does not state the expectations of the Government with regard to the operations of the Trust. The Bill gives the Trust clear direction as to functions, powers, and responsibilities. With the completion of the redevelopment of Lang Park, it is essential that the Trust operate in an appropriate and accountable manner.

The Bill was necessary to alter the composition of the Trust to avoid the appearance of a conflict of interest. The existing Trust has a member nominated by Queensland Rugby League, a major tenant of Lang Park, and a member from the Brisbane City Council which is a major competitor of Lang Park.

Estimated Cost for Government Implementation

There will be no cost for Government.

Consultation

The Department of Lands, Treasury Department, the Police Service and Office of the Cabinet have been consulted.

NOTES ON PROVISIONS

Clause 1 set out the short title of the Bill.

Clause 2 provides for the commencement of the Bill to be on a day to be fixed by proclamation.

Clause 3 provides for definitions of "Board" and "Trust".

Clause 4 continues the Lang Park Trust established under the *Lang Park Trust Act 1962*.

Clause 5 provides that the Trust is a body corporate. This Clause further provides that the Trust is a statutory body within the meaning of the *Financial Administration and Audit Act 1977* and the *Statutory Bodies Financial Arrangements Act 1982*.

Clause 6 provides that the Trust does not represent the State. This means that the Trust does not attract any of the immunities or privileges which the Crown enjoys.

Clause 7 provides that the Trust is effectively not subject to the Corporations Law.

Clause 8 sets out the Trust's functions to ensure that the facility is maintained at a high standard for international and interstate competition.

Clause 9 establishes the responsibilities of the Trust. The Trust must manage Lang Park in a commercial manner that allows the facility to be steadily enhanced. The Trust must produce an annual cash surplus over operating costs and committed debt repayment. In carrying out this responsibility the needs of the tenants of Lang Park must be considered and also the improvement of the sports played at Lang Park. This Clause means that the Trust must have regard not only to the needs of existing tenants of Lang Park, but also to the needs of potential future tenants.

Clause 10 sets out the powers of the Trust. The Trust is to have all the powers of an individual and some specific examples are given. Generally, this Clause allows the Trust to do all things necessary to be done for the performance of its function.

Clause 11 provides for a Board of Trustees of the Trust.

Clause 12 states the role of the Board of Trustees.

Clause 13 provides for the composition of the Board to be four trustees.

Clause 14 provides that the trustees are to be appointed by the Governor in Council.

Clause 15 provides that a trustee is to be appointed for a term of three years or less.

Clause 16 provides that a trustee holds office on the conditions decided by the Governor in Council.

Clause 17 allows the Minister to nominate one of the trustees as Chairperson. Section 33 of the *Acts Interpretation Act 1954* provides that "minister" means the Minister for the time being responsible for the administration of the Act.

Clause 18 provides for the termination of the appointment of a trustee. Specific circumstances are outlined in which a trustee's appointment may be terminated and the clause further provides that the appointment may be terminated of all or any trustees for any reason or none.

Clause 19 allows the Board to conduct its business in the way it considers appropriate.

Clause 20 requires a trustee who has either a direct or indirect financial interest in a matter before the Board to disclose that interest. It is not necessary that the interest actually conflict with the proper performance of the trustee's duties but rather that it could conflict with the performance of those duties. A trustee with such a conflict of interest is required to disclose the nature of the interest at a meeting of the Board as soon as practicable after he or she becomes aware of the possible conflict of interest.

The trustee must not be present when the Board considers the particular issue or take part in any decision made regarding that issue.

Subclause 4 provides that a person does not have a conflict of interest merely because the issue involves a tenant of which the person is a member, associate or employee.

Clause 21 allows the Minister to nominate an officer of the Department of Tourism, Sport and Racing to attend Board Meetings. The Board must give notice to this officer of each meeting. The officer may participate in meetings but does not have any right to vote on any issue before the Board.

Clause 22 makes provision for the use and custody of the Trust's seal and for judicial recognition of the seal where it appears on a document.

Clause 23 provides for judicial notice to be taken of the official signature of the Chairperson or former Chairperson and of the fact that the person holds or has held that office.

Clause 24 provides for the legal recognition of documents prepared by the Trust if signed by a duly authorised person.

Clause 25 makes provision for the Trust property and provides that the property is held on trust for sporting and recreation purposes. The Minister may give written approval for the land to be used for another purpose.

The Trust land is a public place for the purposes of another Act that confers or imposes powers or duties on police officers regarding public places.

This clause further provides that no part of the Trust property is distributable among the tenants.

Clause 26 provides that despite Section 10 which gives the Trust its broad powers, the Trust may not sell an estate in fee simple in Trust land without prior approval of the Governor in Council. The Governor in Council may impose conditions on such a sale.

If approval to sell an estate in fee simple is given and the land is sold, the clause provides that the land is no longer subject to the trusts imposed under the Act and that the Registrar of Titles must make an appropriate record.

Clause 27 provides for the Register of Trustees and the manner in which it must be kept.

Clause 28 provides that the Governor in Council may make regulations under the Act.

Clause 29 is a transitional provision ensuring that the repeal of the previous legislation and the enactment of this Act does not affect the appointment of the Secretary of the Trust. The Secretary continues to hold office on the same conditions as existed under the previous legislation. No rights or entitlements that the Secretary may have had are affected by the passing of this Act.

Clause 30 provides that all the assets and liabilities of the Trust immediately before this Act commenced continue to be the assets and liabilities of the Trust.

The clause provides that the Act does not affect any membership rights that a person had to Lang Park or any interest that a person had in the property of the Trust.

The clause is a law to which Section 20A of the *Acts Interpretation Act 1954* applies. This means that the effect of clause 30 does not end merely because it expires on the day it commences.

Clause 31 provides for the redevelopment of the site. This clause in effect repeats the provisions of Section 9A of the existing Act, removing the necessity for a consent application for redevelopment of the site or the need to seek development approval from the Brisbane City Council.

The Trust is stated to be a statutory body within the meaning of the *Building Act 1975* which removes the necessity to seek building approval from the Brisbane City Council. The Trust must still comply with the standard Building By-laws.

Subparagraph (4) clarifies that an absence of an approval from the Brisbane City Council does not make the carrying out of the redevelopment work illegal.

This Clause expires on 1.7.95.

Clause 32 repeals a number of previous Acts dealing with Lang Park.

Schedule. The Schedule to the Act sets out the land held by the Trust.