

South Australia

ASER (Restructure) (Facilitation of Riverbank Development) Amendment Act 2016

An Act to amend the *ASER (Restructure) Act 1997*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *ASER (Restructure) (Facilitation of Riverbank Development) Amendment Act 2016*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of ASER (Restructure) Act 1997

4—Amendment of section 1—Short title

Section 1—delete "ASER (Restructure)" and insert:

Riverbank

5—Amendment of section 6—Enlargement of Site

Section 6—after subsection (2) insert:

- (3) The Site is also enlarged, by force of this subsection, to include the expansion area under section 7 (if or when a declaration is made by the Governor under section 7(1b)).

6—Amendment of section 7—The casino site

- (1) Section 7(1)—delete "The casino site" and substitute:

Subject to subsection (1a), the casino site

- (2) Section 7—after subsection (1) insert:

- (1a) The casino site also includes the *expansion area*.
- (1b) The expansion area is an area declared by the Governor, by notice in the Gazette, to constitute the expansion area under this section.
- (1c) An indication of what is intended to constitute the expansion area is set out in the plan deposited in the General Registry Office at Adelaide and numbered GP 15/2015.

- (3) Section 7—after subsection (3) insert:

- (4) The Governor may, by regulation, make consequential variations to any regulation defining any boundary under this Act to take into account the constitution of the expansion area under this section (and any such regulation will have effect in accordance with its terms and without the need to obtain any agreement that would otherwise be required under this Act).

7—Insertion of Schedule 1

After section 31 insert:

Schedule 1—Special provisions to facilitate development

1—Interpretation

- (1) In this Schedule—
designated area means—
 - (a) the whole of the Site; and

- (b) those areas adjacent to the Site marked as Adjacent Area A and Adjacent Area B in the plans deposited in the General Registry Office at Adelaide and numbered GP 14/2015;

designated project—see subclause (2).

- (2) For the purposes of this Schedule, a *designated project* is any project, scheme, undertaking or works (to be undertaken within any part of the designated area) declared by the Governor, by notice in the Gazette, to constitute a designated project.
- (3) The Governor may, by subsequent notice in the Gazette, vary or revoke a notice under subclause (2).

2—Suspension of existing rights and interests

- (1) The Governor may, on the recommendation of the Minister, by notice in the Gazette, suspend or modify any of the following rights or interests existing in, or in relation to, any part of the designated area:
 - (a) a right to develop any part of the designated area;
 - (b) a right of support, including such a right that exists by force of another provision of this Act;
 - (c) a right to exercise any right in respect of the common area or the shared facilities that is envisaged by section 15;
 - (d) a right to expect the common area to be maintained in good condition;
 - (e) a right to the provision of basic services under Part 4 Division 4;
 - (f) a right to the provision and maintenance of shared facilities under Part 4 Division 4;
 - (g) any easement or other rights for or in connection with the provision of services (including water, sewerage, electricity, gas or telecommunications services);
 - (h) any rights relating to the use of a road or loading or unloading bay, or to the parking of vehicles;
 - (i) any rights to the use of stairs, passages or other similar places;
 - (j) any rights of access or egress;
 - (k) any rights or interests prescribed by the regulations for the purposes of this clause;
 - (l) any right or interest that is ancillary or related to a right or interest referred to in a preceding paragraph.
- (2) The Minister may only make a recommendation for the purposes of subclause (1) if the Minister is satisfied that action under subclause (1) is reasonably necessary in order to facilitate or support the undertaking of a designated project.

- (3) A suspension or modification under subclause (1)—
 - (a) may be limited in a manner specified by the Governor; and
 - (b) may be on terms or conditions determined by the Governor.
- (4) A notice under subclause (1) should, insofar as is reasonably practicable, endeavour to grant, on terms or conditions determined by the Governor, a new right or interest in substitution for a right or interest that has been suspended, unless the Minister considers that to do so—
 - (a) would have an adverse impact on any aspect of a designated project; or
 - (b) is unnecessary due to action taken under subclause (3).
- (5) The right to make an application to the Supreme Court under this Act in relation to a right or interest that has been suspended is, in turn, suspended by force of this subclause during the period of suspension of the right or interest under this clause.
- (6) The Minister may, by subsequent notice in the Gazette, vary or revoke a notice under subclause (1).
- (7) The Minister must, when satisfied that a suspension or modification is no longer reasonably necessary in connection with a designated project, revoke the suspension or modification by notice in the Gazette under subclause (6).
- (8) Subclause (7) does not apply—
 - (a) in relation to a right or interest that the Minister considers should be permanently suspended or modified on account of a designated project; or
 - (b) without limiting paragraph (a), in relation to a right or interest that the Minister considers is inconsistent with a right or interest under clause 4 (or that the Minister intends to create or grant under clause 4).
- (9) No right to compensation or other right of action against the Governor or Minister arises on account of any action taken by the Governor or Minister under this clause.
- (10) This clause extends to (but is not limited to)—
 - (a) a right or interest created by a lease, licence or agreement between 2 parties (including parties that are not agencies or instrumentalities of the Crown); and
 - (b) a right or interest registered or noted on a certificate of title or other instrument relating to land; and
 - (c) a right or interest that arises by long-use or under a formal or informal arrangement.
- (11) A notice under this clause will have effect according to its terms and without any need to register or note any other instrument or document to give effect to the notice.

3—Authorisation to undertake works and occupy land

- (1) The Minister, or a person authorised by the Minister, may for the purposes of, or in connection with, a designated project—
 - (a) enter and remain on any part of the designated area; or
 - (b) take vehicles, machinery or equipment on to any part of the designated area; or
 - (c) undertake works on any part of the designated area, including by the construction of permanent or temporary structures, including fences; or
 - (d) occupy any part of the designated area; or
 - (e) permanently or temporarily modify, remove or relocate any services, infrastructure, equipment, items or facilities, including basic services and shared facilities under Part 4 Division 4.
- (2) Without limiting subclause (1), the Minister, or a person authorised by the Minister, may for the purposes of, or in connection with, a designated project, modify or remove any building, structure or other built form (or any part thereof) within any part of the designated area.
- (3) A person must not, without reasonable excuse, hinder or obstruct a person exercising a power under this clause.
Maximum penalty: \$5 000.
- (4) A person exercising a power under this clause must, insofar as is reasonably practicable—
 - (a) minimise the extent of damage to any building, structure or other built form; and
 - (b) minimise disturbance to any other person who is lawfully occupying any part of the designated area.
- (5) No right to compensation or other right of action against the Minister or a person authorised to act under this clause arises on account of any action taken under this clause.
- (6) This clause does not limit or derogate from the powers of a person under another Act or law.

4—Creation of new rights and interests

- (1) The Minister may, for any purpose associated with a designated project, by instrument in a form determined to be appropriate by the Minister, create or grant 1 or more of the following rights or interests in relation to any part of the designated area (on terms or conditions determined by the Minister):
 - (a) a right of support;
 - (b) a right to the provision of services (including water, sewerage, electricity, gas or telecommunications services);

- (c) a right of way;
 - (d) a right relating to the use of a road or loading or unloading bay, or to the parking or movement of vehicles;
 - (e) a right to the use of stairs, passages or other similar places;
 - (f) a right of access or egress;
 - (g) a right or interest prescribed by the regulations for the purposes of this clause;
 - (h) a right or interest that is ancillary or related to a right or interest referred to in a preceding paragraph.
- (2) To avoid doubt, a right under subclause (1) may include a right in the nature of an easement or any other right that relates to land.
- (3) The Minister may—
- (a) as part of an instrument under subclause (1); or
 - (b) by separate instrument,
- permanently modify a right or interest of a kind referred to in clause 2(1).
- (4) Without limiting subclause (3) (or clause 2(8)), in the case of an inconsistency between a right or interest created or granted under subclause (1) and any other right or interest that exists in, or in relation to, any part of the designated area, the right or interest created or granted under subclause (1) prevails to the extent of the inconsistency.
- (5) The Minister must take reasonable steps to ensure, in creating a right or interest under this clause, that the Minister does not adversely affect to a material degree the viability of any business conducted on the designated area by a person lawfully occupying any part of the designated area at the time that the Minister takes action under this clause.
- (6) No right to compensation or other right of action against the Minister arises on account of any action taken by the Minister under this clause.
- (7) The Registrar-General must, on the application of the Minister or another person acting under the authority of the Minister, register or note any instrument (or any right or interest) under this clause on any relevant certificate of title, or against any land, that relates to, or forms part of, the designated area (without the need to obtain any consent or approval).