



Queensland

# Sanctuary Cove Resort Act 1985

**Reprinted as in force on 29 November 2004  
(includes commenced amendments up to 2004 Act No. 53)**

**Reprint No. 4A**

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This Act is reprinted as at 29 November 2004. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints**

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# Sanctuary Cove Resort Act 1985

[as amended by all amendments that commenced on or before 29 November 2004]

## An Act relating to the development of ‘Sanctuary Cove Resort’ at Hope Island in the State of Queensland

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Sanctuary Cove Resort Act 1985*.

#### 2 Commencement

- (1) This section and section 1 shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.
- (2) Except as provided by subsection (1), this Act shall commence on a day appointed by proclamation.

#### 3A Sanctuary Cove Resort

For the purposes of this Act, Sanctuary Cove Resort comprises the site and the adjacent site.

#### 4 Interpretation

In this Act—

*Albert Shire Council* means the Council of the Shire of Albert, a local government duly constituted under the *Local Government Act 1993*.

*building unit lot* means a lot shown on a building units plan.

***building units plan*** means a building units plan within the meaning of the *Building Units and Group Titles Act 1980*.

***company*** means Discovery Bay Developments Pty Ltd being a company duly incorporated in Queensland and having its registered office at c/- Messrs Robert Lehn & Co, First Floor, 3290 Gold Coast Highway, Surfers Paradise and includes its successors and assigns.

***development control by-laws*** means the development control by-laws in force for the time being pursuant to section 95.

***group title lot*** means a lot shown on a group titles plan.

***group titles plan*** means a group titles plan within the meaning of the *Building Units and Group Titles Act 1980*.

***initial lot*** means a lot shown on the initial plan of survey or initial plan of survey of the adjacent site other than a lot that comprises the whole or part of the primary thoroughfare.

***initial plan of survey***, except where followed by the words 'of the adjacent site', means the plan of survey for the time being registered by the registrar of titles in accordance with section 10.

***initial plan of survey of the adjacent site*** means the plan of survey for the time being registered by the registrar of titles in accordance with section 12F.

***Minister*** means the Minister of the Crown for the time being administering this Act and includes any Minister of the Crown who is temporarily performing the duties of the Minister.

***plan of survey***, used with reference to any land, includes a number of plans of survey each relating to a different part of the land and together relating to all of the land.

***primary thoroughfare*** means the lot or lots that comprises or together comprise the primary thoroughfare as shown at the material time on the initial plan of survey and on the initial plan of survey of the adjacent site.

***primary thoroughfare body corporate*** means the Sanctuary Cove Primary Thoroughfare Body Corporate incorporated by the registration of the initial plan of survey.

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***primary thoroughfare by-laws*** means the primary thoroughfare by-laws for the time being in force pursuant to section 71.

***principal body corporate*** means Sanctuary Cove Principal Body Corporate incorporated by the registration of the initial plan of survey.

***proposed use plan***, except where followed by the words ‘of the adjacent site’, means the plan of survey of the site for the time being approved by the Albert Shire Council pursuant to section 8.

***proposed use plan of the adjacent site*** means the plan of survey of the adjacent site for the time being approved by the Albert Shire Council pursuant to section 12D.

***residential zone*** means a zone set forth in schedule C or schedule E as Floating Dwelling House Zone, Harbour, River and Waterfront Residential Zone or General Residential Zone.

***road*** means any way constituted to facilitate the traffic of vehicles usually passing on public roads.

***secondary lot*** means a lot (other than a lot constituting a secondary thoroughfare) shown on a plan of subdivision of an initial lot or of subdivision of a secondary lot but does not include a building unit lot or a group title lot.

***secondary thoroughfare*** means the lots within the residential zones that comprise the secondary thoroughfare as shown on—

- (a) the plans of survey subdividing or resubdividing initial lots; and
- (b) any group titles plans subdividing or resubdividing a secondary lot; and
- (c) any group titles plans resubdividing a lot or common property or a lot and common property shown on a group titles plan.

***secondary thoroughfare by-laws*** means the secondary thoroughfare by-laws for the time being in force pursuant to section 28.

**zone** means a part of the site specified as being a zone in the sketch of the site set forth in schedule C or in the sketch of the adjacent site set forth in schedule E, as the case may be.

## **Part 2                      The site and subdivision of the site**

### **Division 1                The site**

#### **5                      The site**

- (1) For the purposes of this Act—

**the site** means that area of land situate in the county of Ward, parish of Coomera set forth in the plan of survey reproduced in schedule B and containing an area of 232 ha more or less.

- (2) Notwithstanding any other Act or law, the site includes land within the boundaries of the site that is or may be or becomes inundated by water or subject to tidal influence and any estate or interest held in that land before the land becomes inundated or became subject to tidal influence is not affected by the inundation or being subject to tidal influence.
- (3) Notwithstanding the provisions of the *Local Government Act 1936* or of any proclamation made under that Act, the site forms part of the area of the shire of Albert constituted under that Act.

#### **6                      Grant of Crown land to the company**

The power conferred by the *Land Act 1962* on the Governor in Council to grant in fee simple any Crown land within Queensland includes power, upon payment of such amount as the Governor in Council determines, to grant Crown land within the site to the company in fee simple in priority to and to the exclusion of all other persons, notwithstanding the provisions of the *Land Act 1962*.

## **Division 2                      Zones**

### **7                      Site divided into zones**

For the purposes of this Act, the site is divided into zones more or less as shown on the sketch of the site set forth in schedule C and each zone shall be a zone of the description of zone set forth in the sketch in respect of that zone.

### **8                      Proposed use plan**

- (1) The company shall lodge with the Albert Shire Council a plan of survey defining the boundaries of the zones within the site as more or less set forth in schedule C for approval.
- (2) If the Albert Shire Council considers that it is appropriate that a zone boundary be at variance to the boundary set forth in schedule C for that zone it may require the plan of survey to be altered to define the boundary accordingly.
- (3) The plan of survey shall have endorsed thereon a schedule specifying—
  - (a) with respect to each of the residential zones the maximum number of group title lots or building unit lots into which that zone may be subdivided for residential purposes; and
  - (b) the total of the maximum number of group title lots and building unit lots into which all of the residential zones within the site may be subdivided for residential purposes, such number not to exceed 900.
- (4) Upon being satisfied that the plan of survey sufficiently defines the boundaries of all zones within the site and that the number of building unit lots and group title lots specified in accordance with subsection (3) is appropriate to the nature of the proposed development of the site and does not exceed the maximum number prescribed in subsection (3), the Albert Shire Council shall approve the plan of survey.
- (5) The Albert Shire Council shall retain the proposed use plan and a copy of the proposed use plan shall be forwarded to each of them the registrar of titles and the Director of Local Government.

- (6) In determining the number of group title lots or building unit lots into which a particular zone may be subdivided for residential purposes, a group title lot that is subdivided into lots resulting in no area of the group title lot (other than common property) remaining shall be ignored but the group title lots or building unit lots thereby created for residential purposes shall be counted.
- (7) The company may from time to time lodge with the Albert Shire Council a plan of survey varying the boundaries of the zones as shown on the proposed use plan and if in respect of that plan of survey the council—
- (a) is satisfied of the matters referred to in subsection (4); and
  - (b) is satisfied that the variation of the boundaries is of a minor nature and does not substantially prejudice the rights of any person;
- it may approve the plan.
- (8) Upon a plan of survey being approved pursuant to subsection (7), the proposed use plan as amended by the plan of survey shall become the proposed use plan and the Albert Shire Council shall retain the plan and a copy shall be forwarded to each of them the registrar of titles and the Director of Local Government.

## **9 Town planning provisions**

- (1) Notwithstanding that the site or any part of the site may at any time be within a zone under any town planning scheme in force in the shire of Albert, the site or that part shall be deemed not to be within any such zone and the town planning scheme (and any by-laws in force pursuant to section 34 of the *Local Government Act 1936*) shall not apply to the site.
- (2) The provisions of section 33 of the *Local Government Act 1936* shall not apply in respect of the site.
- (2A) However, any agreement entered into by the Albert Shire Council prior to the commencement of this section shall continue to have force and effect.
- (3) Within a zone within the site—

- (a) a building or other structure may be erected or used;
  - (b) land may be used;
- without the consent of the Albert Shire Council for any of the purposes set forth in schedule A in respect of that zone.
- (4) Within a zone within the site, a person shall not—
- (a) erect or use a building or other structure; or
  - (b) use any land;
- otherwise than for a purpose set forth in schedule A in respect of that zone.
- Maximum penalty—20 penalty units.
- (5) For the purposes of this section, the expression *erect* and the expression *use* have the meanings respectively assigned to them in section 33 of the *Local Government Act 1936*.

## **Division 3                      Initial subdivision**

### **10            Initial subdivision within the site**

- (1) Upon the company becoming the proprietor of all land within the site, there shall be lodged with the registrar of titles a plan of survey of the site subdividing the site into—
  - (a) a lot or lots which comprise or together comprise the primary thoroughfare; and
  - (b) lots which together comprise the balance of the land in the site each of which lots shall be wholly within a zone.
- (2) The registrar of titles shall not register the plan of survey lodged with the registrar pursuant to subsection (1) unless the plan has endorsed thereon the approval of the Albert Shire Council.
- (3) When the plan of survey is submitted to the Albert Shire Council for its approval, it shall be accompanied by a schedule setting out in respect of each lot within each residential zone the maximum number of group title lots or building unit lots into which that lot may be subdivided for residential purposes.

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- (4) The Albert Shire Council shall not approve the plan of survey unless it is satisfied that the plan fulfils the requirements of subsection (1) and that the maximum number of group title lots or building unit lots into which a zone may be subdivided does not exceed and is not less than 90% of the number specified for that zone in the proposed use plan.
- (5) The schedule that in accordance with subsection (3) accompanied the plan of survey shall be retained by the Albert Shire Council.
- (6) A copy of the plan of survey and of the schedule referred to in subsection (3) shall be forwarded to the Director of Local Government.
- (7) Notwithstanding any other Act, for the purposes of subsection (2), a lot shall be taken to have access to a dedicated road if—
  - (a) in the case of a lot that comprises or forms part of the primary thoroughfare—the primary thoroughfare adjoins a dedicated road;
  - (b) in the case of any other lot—that lot adjoins a lot that comprises wholly or partly the primary thoroughfare.
- (8) A plan of survey may from time to time be lodged with the registrar of titles—
  - (a) to enable part of the land comprising the primary thoroughfare to cease to be part of the primary thoroughfare and other land to become part of the primary thoroughfare; or
  - (b) to amend the initial plan of survey in accordance with any variation (approved under section 8(7)) to the boundaries of the zones shown on the proposed use plan.
- (9) The registrar of titles shall not register a plan of survey lodged with the registrar pursuant to subsection (8) unless the plan has endorsed thereon the approval of the Albert Shire Council.
- (9A) The Albert Shire Council shall not approve the plan of survey unless it is satisfied that access to any land within the site or

the adjacent site will not be restricted or if access is restricted the proprietor of that land consents to that restriction.

- (9B) A copy of the plan of survey shall be forwarded to the Director of Local Government.
- (10) Upon registration of a plan of survey lodged with the registrar of titles pursuant to subsection (8), the initial plan of survey as amended by the firstmentioned plan shall become the initial plan of survey.

## **11 Effect of registration of initial plan of survey**

Upon registration by the registrar of titles of the initial plan of survey, then but not otherwise the following sections of this Act (other than of part 2A) shall take effect.

## **12 Transfer of primary thoroughfare to primary thoroughfare body corporate**

- (1) The company shall as soon as practicable lodge with the registrar of titles all documents necessary to transfer the lot or lots shown on the initial plan of survey that comprise the primary thoroughfare within the site to the primary thoroughfare body corporate.
- (1A) The primary thoroughfare body corporate shall not be required to make any payment or provide any consideration for such transfer.
- (2) Nothing in this section shall operate to relieve the company of its obligation to effect at its expense the initial construction of the primary thoroughfare to the standard prescribed pursuant to section 51.

## **Part 2A                      The adjacent site and subdivision of the adjacent site**

### **Division 1                      The adjacent site**

#### **12A    The adjacent site**

- (1) For the purposes of this Act—

*the adjacent site* means the area of land situate in the county of Ward, parish of Coomera set forth in the plan of survey reproduced in schedule D (and containing an area of 241.87 ha more or less) other than any part of that area of which the company is not the registered proprietor at the time it first lodges with the Albert Shire Council a plan of survey for the purposes of section 12D.

- (2) Notwithstanding any other Act or law the adjacent site includes land within the boundaries of the adjacent site that is or may be or becomes inundated by water or subject to tidal influence and any estate or interest held in that land before the land becomes inundated or became subject to tidal influence is not affected by the inundation or being subject to tidal influence.
- (3) Notwithstanding the provisions of the *Local Government Act 1936* or any proclamation made under that Act, the adjacent site forms part of the area of the shire of Albert constituted under that Act.
- (4) Subject to subsection (5) but notwithstanding any other provision of this Act, land within the site (as defined in section 5) may, for the purposes of this Act, be treated as being within a zone of the adjacent site if—
- (a) it abuts land within the adjacent site; and
  - (b) it is zoned for residential use; and
  - (c) its zoning corresponds with that of the land it abuts within the adjacent site; and
  - (d) the land is not already included in a subdivision or resubdivision of the site by means of a building units plan or group titles plan.

- (5) Where pursuant to subsection (4) land within the site is included in a plan of survey subdividing or resubdividing a secondary lot within the adjacent site by means of a building units plan or group titles plan, the plan shall not be approved if—
- (a) the aggregate of the areas of the land within the site and included in the plan and of all other land within the site previously treated under subsection (4) as being within the adjacent site exceeds 5 ha; or
  - (b) the total number of building unit lots and group title lots permitted within the adjacent site would be exceeded if the plan were to be approved; or
  - (c) the total number of building unit lots and group title lots approved for the relevant zone of the adjacent site would be exceeded if the plan were to be approved.

## **12B Grant of Crown land to the company**

The power conferred by the *Land Act 1962* on the Governor in Council to grant in fee simple and Crown land within Queensland includes power, upon payment of such amount as the Governor in Council determines, to grant Crown land within the adjacent site to the company in fee simple and priority to and to the exclusion of all other persons, notwithstanding the provisions of the *Land Act 1962*.

## **Division 2 Zones in the adjacent site**

### **12C Adjacent site divided into zones**

For the purposes of this Act, the adjacent site is divided into zones more or less as shown on the sketch of the adjacent site set forth in schedule E and each zone shall be a zone of the description of zone set forth in the sketch in respect of that zone.

**12D Proposed use plan of the adjacent site**

- (1) The company shall lodge with the Albert Shire Council a plan of survey defining the boundaries of the zones within the adjacent site as more or less set forth in schedule E for approval.
- (2) If the Albert Shire Council considers that it is appropriate that a zone boundary be at variance to the boundary set forth in schedule E for that zone it may require the plan of survey to be altered to define the boundary accordingly.
- (3) The plan of survey shall have endorsed thereon a schedule specifying—
  - (a) with respect to each of the residential zones shown on the plan—the maximum number of group title lots or building unit lots into which that zone may be subdivided for residential purposes; and
  - (b) the total of the maximum number of group title lots and building unit lots into which all of the residential zones within the adjacent site may be subdivided for residential purposes, such number not to exceed 1 100.
- (4) Upon being satisfied that the plan of survey sufficiently defines the boundaries of all zones within the adjacent site and that the number of building unit lots and group title lots specified in accordance with subsection (3) is appropriate to the nature of the proposed development of the adjacent site and does not exceed the maximum number prescribed in subsection (3), the Albert Shire Council shall approve the plan of survey.
- (5) The Albert Shire Council shall retain the proposed use plan of the adjacent site and a copy of the proposed use plan of the adjacent site shall be forwarded to each of them the registrar of titles and the Director of Local Government.
- (6) In determining the number of group title lots or building unit lots into which a particular zone may be subdivided for residential purposes, a group title lot that is subdivided into lots resulting in no area of the group title lot (other than common property) remaining shall be ignored but the group title lots or building unit lots thereby created for residential purposes shall be counted.

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- (7) The company may from time to time lodge with the Albert Shire Council a plan of survey varying the boundaries of the zones as shown on the proposed use plan of the adjacent site and if in respect of that plan of survey the council—
- (a) is satisfied of the matters referred to in subsection (4); and
  - (b) is satisfied that the variation of the boundaries is of a minor nature and does not substantially prejudice the rights of any person;
- it may approve the plan.
- (8) Upon a plan of survey being approved pursuant to subsection (7), the proposed use plan of the adjacent site as amended by the plan of survey shall become the proposed use plan of the adjacent site and the Albert Shire Council shall retain the plan of survey and a copy shall be forwarded to each of them the registrar of titles and the Director of Local Government.

**12E Town planning provisions**

- (1) Notwithstanding that the adjacent site or any part of the adjacent site may at any time be within a zone under any town planning scheme in force in the shire of Albert, the adjacent site or that part shall be deemed not to be within any such zone and the town planning scheme (and any by-laws in force pursuant to section 34 of the *Local Government Act 1936*) shall not apply to the adjacent site.
- (2) The provisions of section 33 of the *Local Government Act 1936* shall not apply in respect of the adjacent site.
- (2A) However, any agreement entered into by the Albert Shire Council prior to the commencement of this section shall continue to have force and effect.
- (3) Within a zone within the adjacent site—
- (a) a building or other structure may be erected or used;
  - (b) land may be used;
- without the consent of the Albert Shire Council for any of the purposes set forth in schedule A in respect of that zone.

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- (4) Within a zone within the adjacent site, a person shall not—
- (a) erect or use a building or other structure; or
  - (b) use any other land;
- other than for a purpose set forth in schedule A in respect of that zone.
- Maximum penalty—20 penalty units.
- (4A) Notwithstanding subsection (4), any building or other structure that, immediately before the commencement of section 19 of the *Sanctuary Cove Resort Act Amendment Act 1989*, was within the administration zone may, on and from that commencement, be used for any purpose for which buildings or structures within the administration zone are permitted to be used until 31 December 1996 or such later date as is declared by order in council made before 31 December 1996.
- (5) For the purposes of this section, the expression *erect* and the expression *use* have the meanings respectively assigned to them in section 33 of the *Local Government Act 1936*.

### **Division 3                    Initial subdivision of adjacent site**

#### **12F    Initial subdivision within the adjacent site**

- (1) Upon the company becoming the proprietor of all land within the adjacent site, there shall be lodged with the registrar of titles a plan of survey of the adjacent site subdividing the adjacent site into—
- (a) a lot or lots which comprises or together comprise the primary thoroughfare; and
  - (b) lots which together comprise the balance of the land in the adjacent site each of which lots shall be wholly within a zone.
- (2) The registrar of titles shall not register the plan of survey lodged with him pursuant to subsection (1) unless the plan has endorsed thereon the approval of the Albert Shire Council.

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- (3) When the plan of survey is submitted to the Albert Shire Council for its approval, it shall be accompanied by a schedule setting out in respect of each lot within each residential zone the maximum number of group title lots or building unit lots into which that lot may be subdivided for residential purposes.
- (4) The Albert Shire Council shall not approve the plan of survey unless it is satisfied that the plan fulfils the requirements of subsection (1) and that the maximum number of group title lots or building unit lots into which a zone may be subdivided does not exceed and is not less than 90% of the number specified for that zone in the proposed use plan of the adjacent site.
- (5) The schedule that in accordance with subsection (3) accompanied the plan of survey shall be retained by the Albert Shire Council.
- (6) A copy of the plan of survey and of the schedule referred to in subsection (3) shall be forwarded to the Director of Local Government.
- (7) Notwithstanding any other Act, for the purposes of subsection (2), a lot shall be taken to have access to a dedicated road if—
  - (a) in the case of a lot that comprises or forms part of the primary thoroughfare—the primary thoroughfare adjoins a dedicated road;
  - (b) in the case of any other lot—that lot adjoins a lot that comprises wholly or partly the primary thoroughfare.
- (8) A plan of survey may from time to time be lodged with the registrar of titles—
  - (a) to enable part of the land comprising the primary thoroughfare to cease to be part of the primary thoroughfare and other land to become part of the primary thoroughfare; or
  - (b) to amend the initial plan of survey of the adjacent site in accordance with any variation (approved under section 12D(7)) to the boundaries of the zones shown on the proposed use plan of the adjacent site.

- (9) The registrar of titles shall not register a plan of survey lodged with the registrar pursuant to subsection (8) unless the plan has endorsed thereon the approval of the Albert Shire Council.
- (9A) The Albert Shire Council shall not approve the plan of survey unless it is satisfied that access to any land within the site or the adjacent site will not be restricted or if access is restricted the proprietor of that land consents to that restriction.
- (9B) A copy of the plan of survey shall be forwarded to the Director of Local Government.
- (10) Upon registration of a plan of survey lodged with the registrar of titles pursuant to subsection (8), the initial plan of survey of the adjacent site as amended by the firstmentioned plan shall become the initial plan of survey of the adjacent site.

**12G Effect of registration of initial plan of survey of the adjacent site**

Upon registration by the registrar of titles of the initial plan of survey of the adjacent site, then but not otherwise the following sections of this Act shall take effect in respect of the adjacent site.

**12H Transfer of primary thoroughfare to primary thoroughfare body corporate**

- (1) The company shall as soon as practicable lodge with the registrar of titles all documents necessary to transfer the lots or lots shown in the initial plan of survey of the adjacent site that comprise the primary thoroughfare within the adjacent site to the primary thoroughfare body corporate.
- (1A) The primary thoroughfare body corporate shall not be required to make any payment or provide any consideration for such transfer.
- (2) Nothing in this section shall operate to relieve the company of its obligations to effect at its expense the initial construction of the primary thoroughfare to the standard prescribed pursuant to section 51.

## **Part 2B                      Dealing with land in zones**

### **Division 1                      Dealing with land in residential zones**

#### **13                      Subdivision etc. of land within certain residential zones**

- (1) An initial lot within a residential zone may only be subdivided in the manner and to the extent prescribed by this section.
- (2) In a plan of survey subdividing an initial lot, each secondary lot must have access to the primary thoroughfare whether directly or through a lot or lots shown on the plan as constituting a secondary thoroughfare.
- (2A) For the purposes of determining whether to approve a plan of survey subdividing an initial lot, the Albert Shire Council shall deem any area shown in the plan of survey or the initial plan of survey as being secondary thoroughfare or primary thoroughfare to be dedicated road.
- (2B) When a plan of survey is submitted to the Albert Shire Council for its approval, it shall be accompanied by a schedule setting out in respect of each secondary lot the maximum number of group title lots or, as the case may be, building unit lots into which that lot may be subdivided for residential purposes.
- (2C) The Albert Shire Council shall not approve the plan of survey unless it is satisfied that the plan complies with this section and that the total number of lots specified in the schedule accompanying the plan in respect of all secondary lots into which an initial lot is subdivided does not exceed the maximum number of lots specified in respect of that initial lot in the schedule that accompanied the initial plan of survey or, as the case may be, the initial plan of survey of the adjacent site whereby that initial lot was created.
- (3) The provisions of subsection (2) shall apply in respect of the amalgamation of secondary lots as if the amalgamation were a subdivision of an initial lot comprising the secondary lots being amalgamated and the maximum number of lots into which that lot would have been subdivided was the sum of the

maximum number of lots into which each of the lots being amalgamated could have been subdivided.

- (4) A plan of survey may from time to time be lodged with the registrar of titles to enable part of the land comprising a secondary thoroughfare to cease to be part of the secondary thoroughfare and other land to become part of the secondary thoroughfare.
- (5) The registrar of titles shall not register a plan of survey lodged with the registrar pursuant to subsection (4) unless the plan has endorsed thereon the approval of the Albert Shire Council.
- (5A) The Albert Shire Council shall not approve the plan of survey unless it is satisfied that access to any land within the site or the adjacent site will not be restricted or if access is restricted the proprietor of that land consents to that restriction.
- (5B) A copy of the plan of survey shall be forwarded to the Director of Local Government.
- (6) Upon registration of a plan of survey lodged with the registrar of titles pursuant to subsection (4), any plan of survey or group titles plan to which the firstmentioned plan of survey relates is deemed to be amended to the extent shown on the firstmentioned plan of survey.

#### **14 Transfer of lots comprising secondary thoroughfares to principal body corporate**

- (1) Immediately upon registration of a plan of survey subdividing an initial lot or part of an initial lot, the registered proprietor of any lot shown on the plan as a secondary thoroughfare shall lodge with the registrar of titles all documents necessary to transfer that lot to the principal body corporate.
- (1AA) The principal body corporate shall not be required to make any payment or provide any consideration for such transfer.
- (1A) Immediately upon registration of a group titles plan subdividing or resubdividing a secondary lot or resubdividing a lot shown on a group titles plan—
  - (a) the registered proprietor of any lot shown on the plan as secondary thoroughfare;

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(b) where common property is shown on the plan as secondary thoroughfare, the body corporate;

shall lodge with the registrar of titles all documents necessary to transfer that lot or, as the case may be, common property to the principal body corporate.

- (1B) Upon registration of the principal body corporate as a proprietor of the lot or common property referred to in subsection (1A), that lot or, as the case may be, that common property shall, for the purposes of the *Building Units and Group Titles Act 1980*, cease to be part of the parcel shown on the group titles plan.
- (1C) The principal body corporate shall not be required to make any payment or provide any consideration for a transfer pursuant to this subsection.
- (2) Nothing in this section shall operate to relieve the company of its obligation to effect at its expense the initial construction of the secondary thoroughfare to the standard prescribed pursuant to section 51.

## 15 Subdivision of secondary lots

- (1) A secondary lot within the Floating Dwelling House Zone may only be subdivided by way of registration of a group titles plan.
- (2) A secondary lot within the Harbour, River and Waterfront Residential Zone or the General Residential Zone may only be subdivided or resubdivided—
- (a) for the purpose of the registration of a group titles plan or a building units plan over a lot thereby created—by way of registration of a plan of survey; or
- (b) by way of registration of a building units plan or a group titles plan.
- (2AA) The provisions of sections 13(2) and 14 apply in respect of a subdivision or resubdivision of a secondary lot pursuant to subsection (1) as if the secondary lot were an initial lot and each lot, other than a lot constituting a secondary thoroughfare, so created shall become a secondary lot.

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- (2A) A lot shown on a registered group titles plan referred to in subsection (2) may, subject to compliance with this section, be resubdivided by way of registration of a building units plan or a group titles plan.
- (2B) Notwithstanding the provisions of the *Building Units and Group Titles Act 1980*, a group titles plan subdividing a secondary lot referred to in subsection (2) or resubdividing a lot shown on a registered group titles plan referred to in subsection (2) or (2A) may create a lot or common property shown as secondary thoroughfare.
- (2C) In a group titles plan resubdividing a lot shown on a registered group titles plan referred to in subsection (2) or (2A) each lot thereby created must have access to the primary thoroughfare whether directly or indirectly through a lot or lots shown as secondary thoroughfare or through common property.
- (2D) Notwithstanding the provisions of section 19 and of section 19 of the *Building Units and Group Titles Act 1980*, the lot entitlement of a lot on a group titles plan shown as secondary thoroughfare shall be zero and the proprietor of that lot shall not be a member of the body corporate constituted in respect of that plan.
- (3) If, when a group titles plan subdividing a secondary lot within the Harbour, River and Waterfront Residential Zone or the General Residential Zone is submitted to the Albert Shire Council for approval, the plan is accompanied by a statement by or on behalf of the proprietor of the secondary lot that it is proposed to subdivide the group title lots to be created by the registration of that plan by the registration of building units plans—
- (a) such a building units plan may be approved by the Albert Shire Council and may be registered by the registrar of titles and for that purpose the *Building Units and Group Titles Act 1980*, section 10(1A),<sup>1</sup> does not apply;
- (b) the Albert Shire Council shall not approve a group titles plan subdividing such a group titles lot unless, when the plan is submitted to the Albert Shire Council for

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1 *Building Units and Group Titles Act 1980*, section 10 (Resubdivision)

approval it is accompanied by statement to the like effect.

- (4) The registration of a building units plan of subdivision pursuant to subsection (3) shall, notwithstanding the provisions of the *Building Units and Group Titles Act 1980* take effect as if it were a resubdivision of the original group titles plan.
- (5) Notwithstanding the provisions of section 27 of the *Building Units and Group Titles Act 1980*, where a secondary lot that, pursuant to subsection (2), is subdivided by the registration of a group titles plan and a lot in the group titles plan is subdivided by a building units plan pursuant to subsection (3), the body corporate created by the registration of the group titles plan shall be deemed, for the purpose of applying the provisions of that Act, to be a body corporate created by the registration of a building units plan as if the group titles plan were a building units plan.
- (6) The *Building Units and Group Titles Act 1980*, section 10(1B) and (6)(b),<sup>2</sup> does not apply to a subdivision under this section.
- (7) For the purposes of section 9(7) of the *Building Units and Group Titles Act 1980*, a plan of subdivision shall be taken to have complied with the requirements of the *Local Government Act 1936* as modified by the *Building Units and Group Titles Act 1980* in regard to the subdivision if the plan has complied with those requirements as modified by this Act.
- (8) The provisions of section 9(6) of the *Building Units and Group Titles Act 1980* do not apply to any group titles plan in respect of any land within the residential zones.
- (9) However, the maximum number of group title lots or building unit lots prescribed by this Act into which a parcel of land may be subdivided is not thereby exceeded in respect of that parcel.

## **15A Plan of survey where variation of boundary approved**

- (1) Where any variation of the boundaries of the zones has been approved under section 8(7) or 12D(7), a plan of survey may

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<sup>2</sup> *Building Units and Group Titles Act 1980*, section 10 (Resubdivision)

be lodged with the registrar of titles for the purpose of amending, in accordance with the variation approved, any plan of survey or group titles plan for the subdivision or resubdivision of a secondary lot or any group titles plan for the resubdivision of a lot shown on a group titles plan.

- (2) The registrar of titles shall not register a plan lodged pursuant to subsection (1) unless it is endorsed with the approval of the Albert Shire Council.
- (3) Upon the registrar of titles approving a plan of survey lodged pursuant to subsection (1), any plan of survey or group titles plan to which the firstmentioned plan of survey relates is deemed to be amended to the extent shown on the firstmentioned plan of survey and a copy of that plan of survey shall be forwarded to the director of local government.

## **16 Services**

In respect of each initial lot and each secondary lot there shall be implied—

- (a) in favour of the proprietor of the lot and as appurtenant thereto, easements for the passage or provision of services (including water, sewerage, drainage, gas, electricity, garbage and telephone) through or by means of any pipes, poles, wires, cables or ducts to be laid down or erected or which are for the time being existing in or over the primary thoroughfare and the secondary thoroughfare to the extent to which those services are capable of being used in connection with the enjoyment of the lot;
- (b) as against the principal body corporate and to which the lots comprising the secondary thoroughfare shall be subject, easements for the passage or provision of services (including water, sewerage, drainage, gas, electricity, garbage and telephone) through or by means of any pipes, poles, wires, cables or ducts to be laid down or erected or which are for the time being existing within any of those lots as appurtenant to the initial lots and secondary lots;
- (c) as against the primary thoroughfare body corporate and to which the lot or lots comprising the primary

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thoroughfare shall be subject, easements for the passage or provision of services (including water, sewerage, drainage, gas, electricity, garbage and telephone) through or by means of any pipes, poles, wires, cables or ducts to be laid down or erected or which are for the time being existing within any of those lots as appurtenant to the initial lots and secondary lots;

but the easements conferred by this section shall not be exercised by any proprietor in such a manner as unreasonably to prevent any other proprietor from enjoying the use and occupation of the proprietor's lot or the use of the primary thoroughfare or the secondary thoroughfare.

**16A Creation of easements over group title lots**

- (1) Where a multiple dwelling is situated on 2 or more group title lots (whether built before or after the commencement of section 11 of the *Sanctuary Cove Resort Act Amendment Act 1989*), the proprietor of a lot on which is situated part of the multiple dwelling (which part is intended for separate occupation) shall, in respect of any roofs, eaves, gutters, downpipes or foundations situated wholly or in part on any adjoining lot, be entitled to any shelter, drainage or support capable of being afforded thereby in respect of the proprietor's lot.
- (2) The rights created by subsection (1) are easements to which are subject the relevant parts of the multiple dwelling and the lot on which those parts are situated.
- (3) An easement created by this section shall entitle the proprietor of the dominant tenement to enter the servient tenement and maintain, replace, renew or restore any of the parts of the multiple dwelling that are subject to the easement.
- (4) An easement created by this section shall not be exercised by the proprietor of a lot in such a manner as unreasonably to prevent any other proprietor from enjoying the use or occupation of the proprietor's lot.

**17 Ancillary rights**

All ancillary rights and obligations reasonably necessary to make easements effective shall apply in respect of easements implied or created by this part.

**18 Creation of easements**

The principal body corporate may by special resolution within the meaning of section 22—

- (a) execute a grant of easement;
- (b) accept a grant of easement;
- (c) surrender a grant of easement;
- (d) accept the surrender of a grant of easement.

**19 Determination of lot entitlements**

- (1) Notwithstanding the provisions of section 19 of the *Building Units and Group Titles Act 1980*, where a secondary lot is subdivided or resubdivided by way of a group titles plan or a building units plan, the aggregate lot entitlement of the lots thereby created for residential purposes shall not exceed, and shall be not less than 90% of, the maximum number of lots specified in respect of that secondary lot in the schedule that accompanied the plan of survey whereby that secondary lot was created.
- (2) The provisions of section 19(2) and (3) of the *Building Units and Group Titles Act 1980* do not apply to any subdivision under this division.

**20 Subdivision of land where wholly or partly submerged**

- (1) Notwithstanding that the whole or part of land within an initial lot comprised within the Floating Dwelling House Zone or the Harbour, River and Waterfront Residential Zone is submerged or subject to inundation or tidal influence, that land may be subdivided by way of a group titles plan of subdivision.

- (2) However, permanent, above water access is provided from each lot on the group titles plan to the primary thoroughfare or to a secondary thoroughfare, either directly or through common property.

## **Division 2                      Dealing with land in zones other than residential zones**

### **21            Primary thoroughfare deemed to be dedicated road**

For the purpose of the subdivision of or other dealing with land within a zone other than a residential zone, the primary thoroughfare shall be deemed to be dedicated road.

### **21A        Subdivision of land outside residential zones**

- (1) Subject to this section, land within the site or the adjacent site and not within a residential zone may be subdivided in the same manner as land that is neither within the site nor within the adjacent site.
- (2) The Albert Shire Council shall not approve a plan of subdivision unless satisfied that the plan is consistent with the initial plan of survey of the site or, as the case may be, the initial plan of survey of the adjacent site.
- (3) Where the Albert Shire Council approves a plan of subdivision it shall forward a copy of the plan to the director of local government.
- (4) The registrar of titles shall not register a plan of subdivision unless it contains or is accompanied by a notation under the seal of the Albert Shire Council that the council is satisfied as required by subsection (2).

## Part 3 Principal body corporate

### Division 1 Principal body corporate

#### 22 Interpretation

In this part—

*executive committee* means the executive committee of the principal body corporate constituted under division 2.

*initial lot* means an initial lot within a residential zone.

*initial lot entitlement*, in relation to an initial lot, means the maximum number (specified in the schedule that accompanied the proposed use plan) of group title lots or building unit lots into which that lot may be subdivided.

*principal body corporate roll* means the roll referred to in section 34 to be maintained by the principal body corporate.

*proprietor* means—

- (a) for an initial lot or secondary lot—the person registered, or entitled to be registered, under the *Land Title Act 1994* as the proprietor of the lot; or
- (b) for a secondary lot subdivided under a group titles plan or building units plan—the body corporate incorporated under the *Building Units and Group Titles Act 1994*.

*secondary lot entitlement*, in relation to a secondary lot, means the maximum number (specified in the schedule that accompanied the plan of survey subdividing the relevant initial lot) of group title lots or building unit lots into which the secondary lot may be subdivided.

*special resolution* means a resolution which is passed at a duly convened general meeting of the principal body corporate by the members whose lots (whether initial lots, secondary lots, group title lots or building unit lots) have an aggregate lot entitlement of not less than 75% of the aggregate of all lot entitlements recorded in the principal body corporate roll.

**23 Principal body corporate**

- (1) Upon registration of the initial plan of survey, the proprietor or proprietors of all the initial lots within the residential zones of the site shall by virtue of this Act be a body corporate under the name 'Sanctuary Cove Principal Body Corporate'.
- (1A) Upon registration of the initial plan of survey of the adjacent site, the proprietor or proprietors of all the initial lots within the residential zones of the adjacent site shall be members of the principal body corporate.
- (2) When an initial lot is subdivided into secondary lots (whether or not lots for secondary thoroughfares are thereby created), the proprietor of the initial lot shall cease to be a member of the principal body corporate and the proprietor or proprietors of the secondary lots shall become a member or, as the case may be, members of the principal body corporate.
- (3) When a secondary lot is subdivided by way of a group titles plan or a building units plan, the proprietor of the secondary lot—
  - (a) shall give notice in writing to the principal body corporate of the name and address or service of notices of the body corporate incorporated by the registration of that plan; and
  - (b) shall cease to be a member of the principal body corporate, and the body corporate created by the registration of that plan shall become a member of the principal body corporate.
- (4) Subdivision or resubdivision of a lot or a lot and common property on a group titles plan by way of a building units plan or a group titles plan does not affect the membership of the principal body corporate.
- (5) The Corporations Act does not apply to or in respect of the principal body corporate.
- (6) Subject to this Act, the principal body corporate shall have the powers, authorities, duties and functions conferred or imposed on it by or under this Act, the development control by-laws or the residential zone activities by-laws and shall do all things reasonably necessary for the enforcement of the development

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control by-laws and the control, management and administration of the secondary thoroughfares.

- (7) The principal body corporate shall have perpetual succession and a common seal and shall be capable of suing and being sued in its corporate name and shall be regulated in accordance with the principal body corporate by-laws for the time being in force.
- (8) The principal body corporate may—
  - (a) sue and be sued on any contract made by it;
  - (b) sue for and in respect of any damage or injury to the secondary thoroughfares caused by any person;
  - (c) be sued in respect of any matter connected with the secondary thoroughfares for which as proprietor it is so liable;
  - (d) take such legal action as may be necessary to enforce the development control by-laws and the secondary thoroughfare by-laws.
- (9) In any case in which work is carried out for the purpose of constructing or preparing a secondary thoroughfare, upon registration of the initial plan of survey or, as the case may be, the initial plan of survey of the adjacent site, the principal body corporate shall be deemed to have been a party to an enforceable contract for the carrying out of such work, and may sue in respect of that contract.
- (10) Nothing in subsection (9) shall relieve the company from its obligation to pay for the initial construction of secondary thoroughfares to the standard prescribed pursuant to section 51.

**24 Member's nominee**

- (1) A member of the principal body corporate—
  - (a) being a body corporate created by the registration of a building units plan or a group titles plan, shall at its annual general meeting and may from time to time thereafter;
  - (b) in any other case, may from time to time;

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appoint a person to represent the member and to vote on behalf of the member at meetings of the principal body corporate.

- (2) The appointment of a person pursuant to subsection (1) shall not be effective until notification in writing signed by the member or, in a case referred to in subsection (1)(a), by the chairperson and secretary of the body corporate is received by the secretary of the principal body corporate.
- (3) The appointment of a person to represent a member of the principal body corporate at meetings of the principal body corporate shall continue until—
  - (a) notice of the appointment of another person to represent that member; or
  - (b) notice of the cancellation of the person's appointment; is received by the secretary of the principal body corporate.

**25 Seal of principal body corporate**

- (1) The common seal of the principal body corporate shall be kept—
  - (a) where the principal body corporate is constituted by the company alone—by the company;
  - (b) where the principal body corporate is constituted by 2 or more members—by such member of the principal body corporate or member of the executive committee as the principal body corporate determines or, in the absence of any such determination, by the secretary of the executive committee.
- (2) The common seal of the principal body corporate shall only be affixed to an instrument or document in the presence of—
  - (a) where the principal body corporate is constituted by 1 or 2 members—that member or those members, as the case may be; or
  - (b) where the principal body corporate is constituted by more than 2 members—such 2 persons, being members of the principal body corporate or members of the executive committee, as the principal body corporate

determines or, in the absence of any such determination, the secretary and any other member of the executive committee;

who shall attest the fact and date of the affixing of the seal by their signatures.

- (3) However, where a member is a body corporate, the common seal affixed in the presence of a person nominated in writing by the body corporate for that purpose and attested by that person as provided in this subsection shall be deemed to have been duly affixed in the presence of that body corporate.

## **26 Address of principal body corporate**

The address for service of notices on the principal body corporate shall upon its incorporation pursuant to section 23 be the address for service of notices of the company.

## **27 Meetings of principal body corporate**

- (1) Within 3 months after the registration of the initial plan of survey, the company shall, in the prescribed manner, convene a meeting of the principal body corporate to be held within that period.

Maximum penalty—20 penalty units.

- (2) The agenda for a meeting convened under subsection (1) shall consist of the following items—
- (a) to decide whether insurances effected by the principal body corporate should be confirmed, varied or extended;
  - (b) to decide whether any amounts determined under section 33(1)(h) or (2) should be confirmed or varied;
  - (c) where there are more than 3 members of the principal body corporate—to determine the number of members of the executive committee;
  - (d) to elect the chairperson, secretary and treasurer of the principal body corporate and other members of the executive committee;
  - (e) to decide whether to make by-laws regulating, controlling or prohibiting the passage through and

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conduct and activities of persons on or within all or part of the secondary thoroughfares;

- (f) to decide whether to make development control by-laws.
- (3) The meeting convened under subsection (1) shall be the first annual general meeting of the principal body corporate and at such meeting a chairperson, secretary and treasurer shall be elected.
- (3A) However, a person may be elected to 1 or more of those offices.
- (4) The company shall not fail or neglect to deliver to the principal body corporate at its first annual general meeting—
  - (a) all plans, specifications, drawings showing water pipes, electric cables and drainage, certificates (other than certificates of title for lots), diagrams and other documents (including policies of insurance) obtained or received by it and relating to the secondary thoroughfare;
  - (b) if they are in its possession or under its control, the principal body corporate roll, books of account and any notices or other records relating to the secondary thoroughfare;
  - (c) the budget showing the estimated expenditure of the principal body corporate in relation to the secondary thoroughfare on an annual basis;

other than documents which exclusively evidence rights or obligations of the company and which are not capable of being used for the benefit of the principal body corporate or any of the members of the principal body corporate, other than the company.

Maximum penalty—20 penalty units.

- (4A) The company shall not fail or neglect to deliver to the principal body corporate at or before its annual general meeting first held after the registration of the initial plan of survey of the adjacent site—
  - (a) all plans, specifications, drawings showing water pipes, electric cables and drainage, certificates (other than certificates of titles for lots), diagrams and other

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documents (including policies of insurance) obtained or received by it and relating to the secondary thoroughfare within the adjacent site;

- (b) if they are in its possession or under its control, any books of account and notices or other records relating to the secondary thoroughfare within the adjacent site;
- (c) the budget showing the estimated expenditure of the principal body corporate in relation to the secondary thoroughfare within the adjacent site on an annual basis;

other than documents which exclusively evidence rights or obligations of the company and which are not capable of being used for the benefit of the principal body corporate or any of the members of the principal body corporate, other than the company.

Maximum penalty—20 penalty units.

- (5) Schedule 2, part 1 of the *Building Units and Group Titles Act 1980* in force at the commencement of this Act applies to and in respect of the first annual general meeting of the principal body corporate and voting at that meeting and schedule 2, part 2 of that Act in force at the commencement of this Act applies to and in respect of meetings of the principal body corporate, other than the first annual general meeting, and voting at those meetings.
- (5A) However, the provisions in those schedules relating to the rights and obligations of mortgagees and mortgagors shall not apply.
- (5B) The provisions of the schedules referred to in subsection (5) shall, for the purposes of subsection (5), be read and construed as if—
  - (a) references therein to ‘aggregate lot entitlement’ were references to the total of the initial lot entitlements of the initial lots which have not been subdivided into secondary lots and the secondary lot entitlements of the secondary lots;
  - (b) references therein to ‘body corporate’ were references to principal body corporate;

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- (c) references therein to ‘by-laws’ were references to principal body corporate by-laws or development control by-laws;
  - (d) references therein to ‘council’ were references to executive committee;
  - (e) references therein to a ‘lot’ were references to an initial lot or a secondary lot;
  - (f) references therein to ‘lot entitlement’ were references—
    - (i) in the case where a ‘lot’ is an initial lot—to the initial lot entitlement of that lot;
    - (ii) in the case where a ‘lot’ is a secondary lot—to the secondary lot entitlement of that lot;
  - (g) references therein to the ‘original proprietor’ were references to the company;
  - (h) references therein to a ‘proprietor’ were references to a proprietor within the meaning of this part;
  - (i) references therein to the ‘roll’ were references to the principal body corporate roll;
  - (j) references to particular provisions of the *Building Units and Group Titles Act 1980* (other than the provisions in those schedules) were references to corresponding provisions of this Act.
- (5C) When an expression is substituted for an expression used in the *Building Units and Group Titles Act 1980* and referred to in subsection (5B), the substituted expression shall, for the purposes of subsection (5B), be read and construed in the same manner as the expression for which it is substituted is required to be read and construed.
- (6) If a meeting of the principal body corporate is not convened in accordance with subsection (1), the Minister for Justice and Attorney-General may, pursuant to an application by the principal body corporate or any member of the principal body corporate appoint by order a person to convene a meeting of the principal body corporate within such time as may be specified in the order and the meeting convened by that person shall, for the purposes of subsection (3), be deemed to be the meeting convened under subsection (1).

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- (7) At any time after the meeting convened under subsection (1) has been held, the Minister for Justice and Attorney-General may, pursuant to an application made to the Minister for Justice and Attorney-General by a member of the principal body corporate, appoint by order a person, nominated by the member, who has consented to that nomination, if there is not an executive committee, to convene a meeting of the principal body corporate within such time as may be specified in the order and a meeting so convened shall, for the purpose of the election of the chairperson, secretary and treasurer of the principal body corporate and the other members of the executive committee, be deemed to be a first annual general meeting of the principal body corporate.
- (8) An order made under subsection (6) or (7) may include such ancillary or consequential provisions as the Minister for Justice and Attorney-General thinks fit.
- (9) Notwithstanding subsection (5), where an order made under subsection (6) or (7) so provides—
- (a) the person appointed to convene a meeting of the principal body corporate by the order shall preside at the meeting and, while the person so presides, shall be deemed to be the chairperson of the principal body corporate; and
  - (b) notice of that meeting may be given in the manner specified in the order.
- (10) Notwithstanding that an order has been made under subsection (6) or that a meeting has been convened pursuant to any such order, the company remains liable to the penalty provided by subsection (1) for any failure to comply with that subsection.

**28 Secondary thoroughfare by-laws**

- (1) Subject to subsection (5), the principal body corporate, pursuant to a special resolution, for the purpose of the control, management, administration, use or enjoyment of the secondary thoroughfares, may from time to time make by-laws and may in like manner amend or repeal those by-laws.

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- (2) A secondary thoroughfare by-law has no force or effect until the Minister has approved the by-law and notification of the Minister's approval has been published in the gazette.
- (3) A lease of a lot or of any common property where access to the primary thoroughfare is through a secondary thoroughfare shall be deemed to contain an agreement by the lessee that the lessee will comply with the secondary thoroughfare by-laws for the time being in force.
- (4) Without limiting the operation of any other provision of this Act, the secondary thoroughfare by-laws for the time being in force bind the principal body corporate, each member of the principal body corporate and each registered proprietor and any mortgagee in possession (whether by himself or herself or any other person), lessee or occupier, of a lot within a residential zone to the same extent as if those by-laws had been signed and sealed by the principal body corporate, the members of the principal body corporate and each registered proprietor and each such mortgagee, lessee and occupier respectively and as if they contained mutual covenants to observe and perform all the provisions of those by-laws.
- (5) No amendment of or addition to a secondary thoroughfare by-law shall be capable of operating to prohibit, destroy or modify any easement, service right or service obligation implied or created by this Act.

**29 Levies by principal body corporate on members**

- (1) The principal body corporate may levy the contributions determined by it in accordance with section 33(1)(h) and the amount (if any) determined pursuant to section 33(2) in respect thereof by serving on its members notice in writing of the contributions payable by them.
- (2) Contributions levied by the principal body corporate shall be levied in respect of—
  - (a) each initial lot which has not been subdivided into secondary lots; and
  - (b) each secondary lot;and shall be payable, subject to this section, by the proprietors of those initial lots and secondary lots in shares proportional

to the initial lot entitlements or, as the case may be, secondary lot entitlements of their respective lots at the time when the contribution was levied.

- (3) In respect of a contribution levied under subsection (1), a proprietor of an initial lot or a secondary lot is liable, jointly and severally with any person who was liable to pay that contribution when that proprietor became the proprietor of that initial lot or, as the case may be, that secondary lot, to pay such part of that contribution as was unpaid when the proprietor became the proprietor of that lot.
- (4) A contribution levied in respect of an initial lot or a secondary lot under this section—
  - (a) becomes due and payable to the principal body corporate in accordance with the decision of the principal body corporate to make the levy; and
  - (b) if paid within 30 days after the date when it becomes due and payable shall be reduced by that part of the contribution attributable to the amount determined pursuant to section 33(2) (if any); and
  - (c) may be recovered, as a debt, by the principal body corporate in any court of competent jurisdiction.
- (5) Nothing in this section shall be construed to prevent the principal body corporate, in general meeting, either generally or in a particular case, determining that a contribution may be reduced as provided in subsection (4)(b) notwithstanding that the contribution is not paid as prescribed in that subsection.

### **30 Change of principal body corporate's address**

- (1) The principal body corporate may, in general meeting, decide that the address for the service of notices on the principal body corporate shall be changed.
- (2) Upon giving notice in writing to the Minister and to the Minister for Justice and Attorney-General and notification by the Minister in the gazette of the change of address, the address for service of notices on the principal body corporate shall, notwithstanding any other provision of this Act, be the address so notified.

**31 Power of entry**

- (1) For the purpose of carrying out—
- (a) any work required to be carried out by the principal body corporate by a notice served on it by a public or local government;
  - (b) any work referred to in section 33(1)(b);
- the principal body corporate may, by its agents, servants or contractors, enter upon any part of the secondary thoroughfare for the purpose of carrying out the work—
- (c) in the case of an emergency—at any time;
  - (d) in any other case—at any reasonable time on notice given to any occupier of a lot likely to be affected thereby.
- (1A) For the purposes of subsection (1)(d), a proprietor of a lot, being a lot on a group titles plan or a building units plan, shall be taken to have been given notice if the notice is duly given to the body corporate incorporated by the registration of that plan.
- (2) A person shall not obstruct or hinder the principal body corporate in the exercise of its power under subsection (1).
- Maximum penalty—4 penalty units.

**32 Miscellaneous powers of principal body corporate**

The principal body corporate may—

- (a) invest any moneys held by it in any manner permitted by law for the investment of trust funds or in any prescribed investment;
- (b) borrow moneys and secure the repayment thereof and of any interest in such manner as may be agreed upon by the principal body corporate and the lender;
- (c) enter into an agreement for the provision of amenities or services by it or any other person to any lot or to the proprietor or occupier thereof or to any parcel comprised in a building units plan or a group titles plan;

- (d) acquire and hold any personal property to facilitate the carrying out of its duties.

### **33 Duties of principal body corporate**

- (1) The principal body corporate shall—
  - (a) control, manage and administer the secondary thoroughfare for the benefit of its members; and
  - (b) properly maintain and keep in a state of good and serviceable repair—
    - (i) the secondary thoroughfare, including any improvements thereon;
    - (ii) any personal property vested in it; and
  - (c) effect insurance in accordance with section 37; and
  - (d) cause proper records to be kept of notices given to the principal body corporate under this or any other Act and of any orders made by a court and served on the principal body corporate; and
  - (e) cause to be kept and retained, for at least 10 years, minutes of its meetings, which shall include particulars of motions passed by it at those meetings, and proper books of account in respect of moneys received or expended by the principal body corporate showing the items in respect of which the moneys were received or expended; and
  - (f) cause to be prepared, from the books referred to in paragraph (e), a proper statement of accounts of the principal body corporate in respect of each period commencing on the date of its incorporation or the date up to which the last previous such statement was prepared and ending on a date not earlier than 2 months before each annual general meeting; and
  - (g) cause an annual general meeting to be held each year on or after the anniversary of the annual general meeting held in 1990 but not later than 2 months after that anniversary; and

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- (h) not later than 14 days after its incorporation and from time to time thereafter, determine the amounts necessary in its opinion to be raised by way of contributions for the purpose of meeting its actual or expected liabilities incurred or to be incurred under paragraph (b) or for the payment of insurance premiums, rates or any other liability of the principal body corporate, other than amounts referred to in paragraph (1); and
  - (i) upon first determining the amounts referred to in paragraph (h), establish a fund into which shall be paid all amounts received by it, including the proceeds of the sale or other disposal of any personal property of the principal body corporate and any fees received by it under section 36 and into which may be paid any amounts paid to the principal body corporate by way of discharge of insurance claims; and
  - (j) from time to time, levy, in accordance with section 29, on each person liable therefor a contribution to raise the amounts referred to in paragraph (h); and
  - (k) pay any moneys referred to in paragraph (i) that are received by it and are not otherwise invested in accordance with section 32(a) into an account established in a financial institution in the name of the principal body corporate; and
  - (l) if the principal body corporate—
    - (i) becomes liable to pay any moneys that it is unable to pay forthwith; and
    - (ii) is not required, under paragraph (j), to levy contributions to meet the liability;  
levy, in accordance with section 29, contributions to raise those moneys; and
  - (m) implement the decisions of the principal body corporate.
- (2) The principal body corporate from time to time may in respect of contributions determined in accordance with subsection (1)(h) or contributions referred to in subsection (1)(l) determine by special resolution, for the purposes of section 29, an amount being not greater than 10% of those contributions.

- (3) The principal body corporate shall not disburse any moneys from its fund, otherwise than for the purpose of carrying out its powers, authorities, duties and functions under this Act, the development control by-laws or secondary thoroughfare by-laws or meeting any liability referred to in subsection (1)(l).
- (4) A determination made by the principal body corporate under subsection (1)(h) may specify that the amounts to be raised shall be raised by such regular periodic contributions as may be specified in the determination.

### **34 Principal body corporate roll**

- (1) The principal body corporate shall prepare and maintain a roll in accordance with this section.
- (2) The principal body corporate shall record in the principal body corporate roll the following information—
  - (a) in respect of each initial lot which has not been subdivided into secondary lots—the initial lot entitlement;
  - (b) in respect of each secondary lot—the secondary lot entitlement;
  - (c) the total of the initial lot entitlements and secondary lot entitlements referred to in paragraphs (a) and (b);
  - (d) the name and address for service of notices on each member of the principal body corporate;
  - (e) the name and address of any person appointed (in writing addressed to the principal body corporate) by any member of the principal body corporate to represent that member at meetings of the principal body corporate.
- (3) The principal body corporate shall record and maintain in the principal body corporate roll—
  - (a) a copy of the development control by-laws for the time being in force; and
  - (b) a copy of the secondary thoroughfare by-laws for the time being in force.

**35 Notices to be given by proprietors**

- (1) The company and any person who, under this section, has given notice of an address for the service of notices on the company or person shall give notice in writing to the principal body corporate of an address or change of address for the service of notices on the company or person.
- (2) After delivery to a transferee of an initial lot or a secondary lot of an instrument or instruments of transfer in the name of the transferee duly executed and capable of immediate registration, the transferor shall give to the principal body corporate written notice which shall identify the lot and—
  - (a) specify the name of the transferee in full, the address for the service of notices on the transferee, the address for the service of notices on the transferor and the date upon which the instrument was or instruments were so delivered; and
  - (b) bear written confirmation by the transferee of the accuracy of the information contained in the notice.
- (2A) Where a transferor of an initial lot or a secondary lot fails to comply with subsection (2), the transferee of that lot may give to the principal body corporate written notice which shall identify the lot and specify the transferee's name in full, address for service of notices and the date upon which the instrument was or instruments were delivered to the transferee.
- (3) After a person becomes entitled, otherwise than as a transferee, to be registered under the *Land Title Act 1994* as the proprietor of an initial lot or a secondary lot, the person shall give to the principal body corporate written notice, in the form of a statutory declaration, which shall identify the lot and specify—
  - (a) by what right the person became entitled to the lot; and
  - (b) the person's name, in full, the address for the service of notices on the person and the date upon which the person became entitled to the lot.
- (4) Where—
  - (a) the principal body corporate believes that a person is required, under this section, to give a notice to it; and

- (b) the principal body corporate has not received that notice;

the principal body corporate may serve a notice on that person specifying the capacity in which it believes the person is required to give the notice and requiring the person—

- (c) to state, within 14 days, whether or not the person is required to give a notice in that capacity; and
- (d) if the person is so required, to give that notice.
- (5) Where the principal body corporate has served a notice under subsection (4) on a person whom it believes is required to give a notice to the principal body corporate under this section that person is not entitled to cast a vote at any meeting of the principal body corporate until the person gives the required notice.
- (6) A vote cast at a meeting of the principal body corporate by or on behalf of a body corporate has no effect unless the principal body corporate has been given notice in writing specifying the nominee of the body corporate.
- (7) A notice referred to in subsection (6) may be included in any other notice that the body corporate to which it relates or any other person is entitled under this section to give to the principal body corporate.

### **36 Supply of information, certificates and copies by principal body corporate**

- (1) The principal body corporate shall, upon application made to it in writing by a member of the principal body corporate or by a member of a body corporate constituted by the registration of a group titles plan or building units plan (which lastmentioned body corporate is a member of the principal body corporate) or by a person authorised in writing by such member and on payment of such sum as the principal body corporate may fix by resolution but not exceeding the reasonable cost to the principal body corporate, do such 1 or more of the following things as are required of it in the application—
- (a) inform the applicant of the name and address of each person who is the chairperson, secretary or treasurer of

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- the principal body corporate or a member of the executive committee;
- (b) make available for inspection by the applicant or the applicant's agent—
- (i) the principal body corporate roll;
  - (ii) the notices and orders referred to in section 33(1)(d);
  - (iii) the plans, specifications, drawings showing water pipes, electric cables or drainage, certificates, diagrams and other documents held by it relating to any secondary thoroughfare;
  - (iv) the minutes of general meetings of the principal body corporate and of the executive committee;
  - (v) the books of account of the principal body corporate;
  - (vi) a copy of the statement of accounts of the principal body corporate last prepared by the principal body corporate in accordance with section 33(1)(f);
  - (vii) every current policy of insurance effected by the principal body corporate and the receipt for the premium last paid in respect of each such policy;
  - (viii) any other record or document in the custody or under the control of the principal body corporate;
  - (ix) the development control by-laws or the secondary thoroughfare by-laws for the time being in force;
- at such time and place as may be agreed upon by the applicant or the applicant's agent and the principal body corporate and, failing agreement, at the office of the principal body corporate at a time and on a date fixed by the principal body corporate under subsection (2);
- (c) certify, as at the date of the certificate, in respect of the initial lot or secondary lot in respect of which the application is made—
- (i) the amount of any regular periodic contributions determined by the principal body corporate under

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- section 33(1)(h) and (4) and the periods in respect of which those contributions are payable; and
- (ii) whether there is any amount unpaid of any contribution determined under section 33(1)(h) and, if so, the amount thereof; and
  - (iii) whether there is any amount unpaid of any contribution levied under section 33(1)(1) and, if so, the amount thereof and the date on which it was levied; and
  - (iv) whether there is any amount unpaid of any contribution levied under section 48 and, if so, the amount thereof and the date on which it was levied; and
  - (v) the amount (if any) determined under section 33(2) in respect of any unpaid contribution referred to in this paragraph;
- (d) furnish to the applicant or the applicant's agent a copy of the development control by-laws or the secondary thoroughfare by-laws for the time being in force or any part thereof within a period of 21 days commencing on the day next after the date on which the application is received by the principal body corporate.
- (2) Where an applicant and the principal body corporate fail to reach an agreement referred to in subsection (1)(b) within 3 days after the receipt of the application by the principal body corporate, the principal body corporate shall forthwith send by post to the applicant a notice fixing a time, specified in the notice, between 9 a.m. and 8 p.m. on a date so specified, being a date not later than 10 days after the receipt of the application by the principal body corporate for the making of the inspection referred to in subsection (1)(b).
- (3) The principal body corporate shall permit any person to whom the development control by-laws or the secondary thoroughfare by-laws are made available for inspection to make copies of or take extracts from those by-laws.

**37 Insurance by principal body corporate**

- (1) The principal body corporate shall effect insurance—

- (a) in respect of any occurrence against which it is required by law to insure, including any insurance required to be effected because of the *Workers' Compensation and Rehabilitation Act 2003*; and
  - (b) in respect of damage to property, death or bodily injury occurring upon the secondary thoroughfare or the consequences resulting therefrom; and
  - (c) against the possibility of the proprietors becoming jointly liable by reason of a claim arising in respect of any other occurrence against which the principal body corporate, pursuant to a special resolution, decides to insure.
- (2) Insurance effected pursuant to subsection (1)(b) shall be for a cover of the amount prescribed by order in council or, if not prescribed, \$10 000 000.
  - (3) The principal body corporate may insure any property in which it has an insurable interest.

### **38 Power for individuals to act for corporate proprietors**

- (1) A body corporate may authorise an individual to exercise or perform on its behalf any power, authority, duty or function conferred by or under this Act on the body corporate as proprietor of a lot and may revoke the authority of an individual so authorised.
- (2) Where an individual exercises or performs a power, authority, duty or function that the individual is, by a proprietor of a lot, authorised pursuant to subsection (1) to exercise or perform, the power, authority, duty or function shall be deemed to be exercised or performed by the proprietor of the lot.
- (3) Nothing in subsection (1) or (2) affects any liability or obligation imposed by or under this Act on a body corporate which is a proprietor of a lot.
- (4) A document under the seal of a body corporate purporting to be an authorisation under subsection (1) or to be a revocation of such an authorisation is admissible in evidence and shall, unless the contrary is proved, be deemed to be such an authorisation or revocation, as the case may be.

**39 Voting rights**

- (1) Any powers of voting conferred by or under this part may be exercised—
  - (a) in the case of a proprietor who is an infant—by the proprietor’s guardian;
  - (b) in the case of a proprietor who is for any reason unable to control the proprietor’s property—by the person who for the time being is authorised by law to control that property;
  - (c) in the case of a proprietor which is a body corporate—by the person nominated pursuant to section 38 by that body corporate.
- (2) Where the Supreme Court of Queensland upon the application of the principal body corporate or of any proprietor is satisfied that there is no person able to vote in respect of an initial lot or a secondary lot or that the person able to vote in respect of the lot cannot be found, the court in its discretion may appoint the public trustee or some other fit and proper person for the purpose of exercising such powers of voting under this part as the court shall determine.
- (3) The court may order service of notice of an application under subsection (2) on such persons as it thinks fit or may dispense with service of such notice.
- (4) On making an appointment under subsection (2) the court may make such order as it thinks necessary or expedient to give effect to the appointment including an order as to the payment of costs of the application, and may vary an order so made.
- (5) The powers of the court under this section may be exercised by the registrar in the first instance, who may refer the application to a judge and who shall so refer it at the request of the applicant or any respondent.
- (6) In this section and in section 40—

*registrar* means the registrar of the Supreme Court of Queensland at Brisbane, Rockhampton or Townsville, as the case may be, and includes a deputy registrar.

**40 Procedure upon application to Supreme Court**

- (1) Every application to the Supreme Court of Queensland under this part shall be by summons at chambers unless otherwise provided by rules of court made in relation thereto.
- (2) On an application, notice shall be served on such persons as the court thinks fit or the court may dispense with such notice.
- (3) The court may, if it thinks fit, adjourn an application into court and thereupon may give such directions as to all matters, including filing of pleadings as may appear necessary and proper for a final hearing of the application.
- (4) The court may delegate to the registrar all or any of its powers under this part.

**Division 2 Executive committee****41 Constitution of executive committee**

- (1) After the first annual general meeting of the principal body corporate, there shall be an executive committee consisting of a chairperson, secretary and treasurer and such other members as may be elected or appointed pursuant to this section.
- (2) The chairperson, secretary and treasurer of the principal body corporate shall be members of, and be also respectively the chairperson, secretary and treasurer of, the executive committee.
  - (2A) However, a person may be elected to 1 or more of those offices.
- (3) Where there are not more than 3 members of the principal body corporate, the executive committee shall consist of each member (if any) who is an individual or the member's nominee, together with the nominee of each member (if any) which is a body corporate.
  - (3A) Where there is 1 member only of the principal body corporate, the member may make any decision that a duly convened executive committee may make under this Act and such decision shall be deemed to be a decision of the executive committee.

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- (4) Where there are more than 3 members of the principal body corporate, the executive committee shall consist of such number of persons, being not less than 3 nor more than the number of members of the principal body corporate or 7, whichever is the less, as is determined by the principal body corporate.
- (5) The members of an executive committee referred to in subsection (4) (if any) and the chairperson, secretary and treasurer shall be elected at each annual general meeting of the principal body corporate or, if the number of members of the principal body corporate increases to more than 3, at an extraordinary general meeting convened for the purpose.
- (6) A person is not eligible for election as chairperson, secretary or treasurer of the principal body corporate or as a member of an executive committee unless the person is—
  - (a) an individual who is a member of the principal body corporate; or
  - (b) a nominee of a body corporate which is a member of the principal body corporate; or
  - (c) an individual who is not a member of the principal body corporate but who is nominated for election by such a member.
- (6A) Notwithstanding the provisions of this section, the principal body corporate may determine that the holder of the office of secretary or treasurer of the principal body corporate shall not be a member of the executive committee whereupon, upon election to that office a person shall be the secretary or, as the case may be, treasurer of the principal body corporate and of the executive committee but shall not be a member of the executive committee.
- (7) A member of the executive committee may, with the consent of the executive committee, appoint a member of the principal body corporate or nominee of a body corporate which is a member of the principal body corporate to act in the member's place as a member of the executive committee at any meeting of the executive committee and any member or nominee so appointed shall, when the member or nominee is so acting, be deemed to be a member of the executive committee.

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- (8) A member of the principal body corporate or a nominee of a body corporate may be appointed under subsection (7) whether or not the member is a member of the executive committee.
- (9) If a person appointed under subsection (7) is a member of the executive committee the person may, at any meeting of the executive committee, separately vote in the person's capacity as such a member and on behalf of the member in whose place the person has been appointed to act.
- (10) Notwithstanding any other provision of this section, the executive committee may be constituted before the first annual general meeting of the principal body corporate.
- (11) The members of the executive committee constituted under subsection (10) (if any) and the chairperson, secretary and treasurer of the principal body corporate shall be elected at a general meeting of the principal body corporate and the provisions of subsection (6) and such of the provisions of schedule 2, part 1 of the *Building Units and Group Titles Act 1980* in force at the commencement of this Act as applied by section 27 and as relate to the election of the chairperson, secretary and treasurer of the principal body corporate and of members of the executive committee apply to and in respect of the election of the chairperson, secretary and treasurer and of those members of the executive committee to be so constituted.
- (12) Schedule 2, part 2 of the *Building Units and Group Titles Act 1980* other than clause 16(1) as applied by section 27 does not apply to or in respect of the election of the chairperson, secretary and treasurer of the principal body corporate and the members of the executive committee to be constituted under subsection (10).
- (13) The provisions of this part (other than subsections (1), (2), (3) and (5)) apply to and in respect of an executive committee constituted under subsection (1) and the members thereof.
- (14) Where there is no executive committee of the principal body corporate, the principal body corporate shall exercise and perform the powers, authorities, duties and functions of the executive committee.

**42 Vacation of office of member of executive committee**

- (1) A person elected as chairperson, secretary or treasurer of the principal body corporate or as a member of the executive committee vacates the person's office—
- (a) if, where the person was a member of the principal body corporate at the time of the person's election, the person ceases to be such a member; or
  - (b) if, where the person was not a member of the principal body corporate at the time of the person's election, the member who nominated the person for election—
    - (i) ceases to be a member of the principal body corporate; or
    - (ii) notifies the principal body corporate, in writing, that the person's office, as member of the executive committee, is vacated;
- however, this paragraph shall not apply to a secretary or treasurer of the principal body corporate who is not a member of the executive committee; or
- (c) upon the receipt by the principal body corporate from the person of notice in writing of the person's resignation; or
  - (d) upon the election at a general meeting of the principal body corporate of another person to that office or as a member of the executive committee; or
  - (e) where the person is a member referred to in section 41(3) and the number of members of the principal body corporate increases to more than 3—upon the election of the chairperson, secretary and treasurer of the principal body corporate and the other members of the executive committee at the annual general meeting, or the extraordinary general meeting referred to in section 41(5); or
  - (f) if the person is absent without prior leave granted by the executive committee from 3 consecutive meetings of the executive committee of which due notice has been given to the person; or

- (g) if the person becomes bankrupt or compounds with the person's creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
  - (h) if the person is convicted in Queensland of an indictable offence or, elsewhere than in Queensland, is convicted of an offence which would be an indictable offence if committed in Queensland; or
  - (i) if the person dies; or
  - (j) if the principal body corporate, pursuant to a special resolution, determines that the person's office is vacated.
- (2) Upon the occurrence of a vacancy in the office of chairperson, secretary or treasurer of the principal body corporate or another member of the executive committee, otherwise than by reason of subsection (1)(d) or (e), the principal body corporate shall appoint a person eligible for election as such to fill the vacancy, and a person so appointed shall, subject to this section, hold office for the balance of the person's predecessor's term of office.

#### **43 Chairperson, secretary and treasurer of executive committee**

- (1) The chairperson shall preside at all meetings of the executive committee at which the chairperson is present and, if the chairperson is absent from any meeting, the members of the executive committee present at that meeting shall appoint one of their number to preside at that meeting during the absence of the chairperson.
- (2) A person shall not exercise or perform any of the powers, authorities, duties or functions of the principal body corporate or of the treasurer of the principal body corporate, being powers, authorities, duties or functions relating to the receipt or expenditure of, or accounting for, moneys, or the keeping of the books of account, of the principal body corporate, unless the person is—
- (a) the treasurer of the principal body corporate; or
  - (b) a person with whom the treasurer of the principal body corporate is required by an order of the executive

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committee to exercise or perform jointly that power, authority, duty or function, or who is enabling the treasurer to comply with the order.

Maximum penalty—10 penalty units.

- (3) The treasurer of the principal body corporate may delegate the exercise or performance of any of the treasurer's powers (other than this power of delegation), authorities, duties or functions as treasurer, the delegation of which as specifically approved by the executive committee, to another member of the executive committee so approved, subject to such limitations as to time or otherwise as are so approved and, while a delegate is acting in accordance with the terms of a delegation under this subsection, the member shall be deemed to be the treasurer of the principal body corporate.
- (4) The executive committee may, by a notice in writing served on the treasurer of the principal body corporate, order that the treasurer shall not exercise or perform any of the treasurer's powers, authorities, duties or functions that are specified in the notice, unless the treasurer does so jointly with another person so specified.
- (5) A person who has possession or control of—
  - (a) any records, books of account or keys belonging to the principal body corporate; or
  - (b) the principal body corporate roll; or
  - (c) any other property of the principal body corporate;

shall, within 7 days after service on the person of notice of a resolution of the executive committee requiring the person to do so, deliver those records, books of account and keys and that roll and other property to a member of the executive committee specified in the notice.

Maximum penalty—10 penalty units.

#### **44 Meetings of executive committee**

- (1) At a meeting of the executive committee more than half of the members of the executive committee constitutes a quorum.

- (2) Subject to this Act, the decision on any matter of the majority of the members voting on that matter shall be the decision of the executive committee at any meeting at which a quorum is present.
- (3) A decision of the executive committee has no force or effect if, before that decision is made, notice in writing is given to the secretary of the executive committee by not less than half of the total number of members of the principal body corporate, the sum of whose initial lot entitlements and secondary lot entitlements exceed half of the aggregate of all entitlements recorded in the principal body corporate roll, that the making of the decision is opposed by those members.
- (4) The executive committee shall cause to be kept a record of its decisions, of any notices given to its secretary under subsection (3) and full and accurate minutes of its meetings.

#### **45 Executive committee's decisions to be decisions of principal body corporate**

- (1) In this section—  
*restricted matter* means—
  - (a) any matter relating to the striking of a special monetary levy on all members of the principal body corporate; and
  - (b) any matter which seeks to alter the rights, privileges or obligations of members of the principal body corporate; and
  - (c) any matter which seeks to alter the annual monetary contribution of members of the principal body corporate; and
  - (d) any matter a decision on which may, in accordance with any provision of this Act, only be made by the principal body corporate pursuant to a special resolution or in general meeting of the principal body corporate; and
  - (e) any matter referred to in section 47 and specified in a resolution of the principal body corporate passed for the purposes of that section.

- (2) Subject to this Act, the decision of the executive committee on any matter, other than a restricted matter, shall be the decision of the principal body corporate.
- (3) Notwithstanding that the executive committee holds office, the principal body corporate may in general meeting continue to exercise or perform all or any of the powers, authorities, duties and functions conferred or imposed on it by this Act.

#### **46 Statutory restrictions on powers of executive committee**

- (1) Unless—
  - (a) otherwise determined pursuant to a special resolution of the principal body corporate; or
  - (b) in an emergency authorised by the Minister; or
  - (c) consented to by such persons entitled to vote at a general meeting of the principal body corporate who represent an aggregate lot entitlement of not less than 75% of the aggregate of all lot entitlements recorded in the principal body corporate roll;the executive committee shall not undertake expenditure.
- (2) In respect of any proposed expenditure which, under subsection (1), the executive committee is not entitled to undertake the executive committee shall—
  - (a) submit the proposal for determination at an extraordinary general meeting of the principal body corporate convened for the purpose of, or for purposes which include, consideration of the proposal; and
  - (b) if the proposed expenditure is in respect of work to be performed or the purchase of personal property submit at least 2 tenders to that meeting with the proposal.
- (3) Subsection (1) does not apply to the expenditure of moneys—
  - (a) in payment of any premium of insurance effected by or on behalf of the principal body corporate; or
  - (b) to comply with a notice or order served on the principal body corporate by any public or local government; or

- (c) in discharge of any liability incurred in respect of an obligation of the principal body corporate authorised by the principal body corporate in general meeting.

#### **47 Restrictions imposed on executive committee by principal body corporate**

The principal body corporate may in general meeting decide what matters or class of matters (if any) shall be determined only by the principal body corporate in general meeting.

### **Division 2A Principal body corporate manager**

#### **47A Principal body corporate manager**

- (1) Subject to subsection (2), the principal body corporate may, in general meeting and by instrument in writing, appoint upon such terms and conditions as the principal body corporate determines a body corporate manager and may, in like manner, delegate to the body corporate manager—
  - (a) all of its powers, authorities, duties and functions; or
  - (b) any 1 or more of its powers, authorities, duties and functions specified in the instrument; or
  - (c) all of its powers, authorities, duties and functions except those specified in the instrument;and may, in like manner, revoke wholly or in part the delegation.
- (2) The principal body corporate may not, under subsection (1), delegate to a body corporate manager its powers to make—
  - (a) a delegation under that subsection; or
  - (b) a decision on a restricted matter within the meaning of section 45.
- (3) A power, authority, duty or function the exercise or performance of which has been delegated under subsection (1) may, while the delegation remains unrevoked, be exercised from time to time in accordance with the delegation.

- (4) A delegation under subsection (1) may be made subject to such conditions or such limitations as to the exercise or performance of all or any of the powers, authorities, duties or functions, or as to time or circumstances, as may be specified in the instrument of delegation.
- (5) Notwithstanding any delegation made under subsection (1), the principal body corporate may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated by it.
- (6) Any act or thing done or suffered by a body corporate manager while acting in the exercise of a delegation under subsection (1) has the same force and effect as if it had been done or suffered by the principal body corporate and shall be deemed to have been done or suffered by the principal body corporate.
- (7) Where the instrument of appointment so provides, a body corporate manager shall have and may exercise and perform all the powers, authorities, duties and functions of the chairperson, secretary or treasurer of the principal body corporate and the executive committee or such of those powers, authorities, duties and functions as may be specified in the instrument.
- (8) Within the period of 3 years from the incorporation of the principal body corporate, the principal body corporate is not competent to appoint a body corporate manager for a term exceeding 3 years from the time of the appointment.
- (9) Nothing in this section shall prevent the reappointment of a body corporate manager after the term of appointment has expired.

## **Division 3                      General provisions**

### **48                      Costs in proceedings by members against principal body corporate**

- (1) In any proceedings brought by any member against the principal body corporate, the court before which the proceedings are brought may order that any moneys (including costs) payable by the principal body corporate

pursuant to an order of the court made in those proceedings shall be paid, only in respect of such lots as are specified in the order and in such proportions as may be so specified, by the principal body corporate out of contributions levied for the purpose.

- (2) Where a court makes an order under subsection (1) the principal body corporate shall, for the purpose of paying the moneys ordered to be paid by it, levy contributions in accordance with the terms of the order and shall pay the moneys out of the contributions paid pursuant to that levy. The provisions of section 29 with such modifications as may be necessary apply to and in respect of contributions levied under this subsection in the same way as those provisions apply to contributions levied under that section.

#### **49 Service of documents on principal body corporate, members and others**

- (1) A summons or other legal process may be served on the principal body corporate by leaving it with the chairperson or secretary of the principal body corporate or with any member of the executive committee.
- (2) A document other than a document referred to in subsection (1) may be served on the principal body corporate—
  - (a) by leaving it with any person referred to in subsection (1); or
  - (b) by post on the principal body corporate at its last address notified in the gazette.
- (3) Subject to this Act, a notice or other document required or authorised by this Act to be served by the principal body corporate, the executive committee or the secretary of the executive committee or a member or proprietor, lessee or occupier of a lot may be served—
  - (a) by leaving it with some person apparently of or above the age of 16 years—
    - (i) where the person to be served is an occupier of the lot, at the lot; or

- (ii) where an address for the service of notices on the person to be served is recorded in the principal body corporate roll, at the address so recorded; or
  - (b) by post on the person to be served, where an address for the service of notices on that person is recorded in the principal body corporate roll, at the address so recorded; or
  - (c) in the case of a member, in any manner authorised by the by-laws for the service of notices on members.
- (4) Notice under section 43(5) may be served on a person—
- (a) personally or by post; or
  - (b) by leaving it with a person apparently of or above the age of 16 years at the place of residence or place of business of the firstmentioned person.

## **50 Establishment of committees**

Nothing in this Act shall prevent the principal body corporate from establishing by resolution in general meeting a committee to consider any matter referred to it by the principal body corporate and to report thereon to the principal body corporate or the executive committee.

# **Part 4 Thoroughfares**

## **Division 1 Construction of roads**

### **51 Albert Shire Council to approve design etc.**

Any road constructed on the primary thoroughfare or on the secondary thoroughfare shall be constructed to a design and standard approved by the Albert Shire Council at the time of construction.

**52 Company to construct roads**

All roads on the primary thoroughfare and all roads on the secondary thoroughfare shall initially be constructed by the company at its cost in accordance with the requirements of the Albert Shire Council and to the satisfaction of that council.

**Division 2 Maintenance etc. of roads and other structures****53 Thoroughfares are roads**

For the purposes of the *Motor Accident Insurance Act 1994*, the roads on the primary thoroughfare and the roads on the secondary thoroughfare are roads.

**54 Powers etc. of inspectors and others on thoroughfares**

- (1) Notwithstanding any other provision of this Act or of any by-law or other decision made by the primary thoroughfare body corporate or the principal body corporate, any inspector or officer employed by the Crown or a statutory body (including the Albert Shire Council) or any other person authorised by a statutory body may enter and be upon any part of the primary thoroughfare or the secondary thoroughfare for the purpose of exercising powers or authorities or performing functions or duties as such inspector, officer or other person.
- (1A) In respect of the primary thoroughfare and the secondary thoroughfare, the inspector, officer or other person, in addition to any powers, authorities, functions and duties vested in the person by or under this or any other Act or law, shall have such powers, authorities, functions and duties that the person would have under any Act or law if the primary thoroughfare and the secondary thoroughfare was a public place.
- (2) A person shall not obstruct the inspector, officer or other person, in his or her access to any part of the primary thoroughfare or of the secondary thoroughfare as provided in subsection (1).

Maximum penalty—20 penalty units.

**54A Primary and secondary thoroughfares are public places for certain purposes**

A primary thoroughfare or secondary thoroughfare is a public place for the purposes of any law conferring powers or imposing functions on a police officer.

**55 Temporary closure of thoroughfares**

(1) Subject to subsection (2), if the primary thoroughfare body corporate or the principal body corporate determines that any work is to be carried out on a primary thoroughfare or, as the case may be, a secondary thoroughfare which work is of such a nature as will or would require the temporary closure to some or all traffic on any road, the primary thoroughfare body corporate or, as the case may be, the principal body corporate shall give notice of intention to temporarily close the road at least 7 days prior to the closure by—

- (a) public notice in a newspaper circulating in the site and the adjacent site; and
- (b) written notice given to each member of the primary thoroughfare body corporate or, as the case may be, the principal body corporate access to whose lot is or is likely to be affected by the closure.

(1A) The notice shall—

- (a) specify the classes of traffic to be excluded; and
- (b) identify the location of the road to be closed; and
- (c) specify the period or periods of the closure; and
- (d) specify the nature of the work being carried out.

(2) The provisions of subsection (1) do not apply where the work to be carried out is of an emergent nature.

**56 Occupier's right to use thoroughfares**

(1) Subject to the application of any primary thoroughfare by-law or any secondary thoroughfare by-law, every person who lawfully occupies any land within the site or the adjacent site has a right of way over the primary thoroughfare and the secondary thoroughfare.

- (2) A primary thoroughfare by-law or a secondary thoroughfare by-law that, but for this subsection, would have the effect of unreasonably restricting access to or access from any land within the site or the adjacent site shall in respect of that land have no force or effect unless the person for the time being entitled to occupy that land consents in writing to that restriction.
- (3) For the purposes of this section, where land is the subject of a registered mortgage, the mortgagee shall be deemed to be a person who lawfully occupies that land.

### **Division 3                    Primary thoroughfare**

#### **57            Maintenance etc. of roads and other improvements**

The primary thoroughfare body corporate shall be responsible for the maintenance and reconstruction (including construction on relocation) of roads within the primary thoroughfare and of any other improvements on the primary thoroughfare.

#### **58            Dealings with land comprising primary thoroughfare**

Except as provided in sections 59 and 60, no part of a primary thoroughfare may be subdivided, transferred or leased without the prior approval of—

- (a) the primary thoroughfare body corporate given by special resolution; and
- (b) the Albert Shire Council; and
- (c) the Minister.

#### **59            Dedication of primary thoroughfare as road**

- (1) With the prior approval of—
  - (a) the principal body corporate determined by special resolution within the meaning of section 22; and
  - (b) 75% of members of the primary thoroughfare body corporate who are members by reason of being

proprietors of land within the site or the adjacent site that is not within the residential zones which members have voting rights at meetings of the primary thoroughfare body corporate that aggregate not less than 75% of the aggregate voting rights of those members; and

- (c) the Albert Shire Council; and
- (d) the Minister;

and subject to any reasonable conditions that the Albert Shire Council imposes, the primary thoroughfare body corporate may dedicate in accordance with the *Land Act 1962* any part of the primary thoroughfare that adjoins a dedicated road to public use as a road.

- (2) The Albert Shire Council may impose a condition pursuant to subsection (1) that the primary thoroughfare body corporate pay to the Albert Shire Council an amount of money fixed by the Albert Shire Council with a view to the cost of constructing or maintaining the road.
- (3) A part of the primary thoroughfare that is dedicated to public use as a road pursuant to this section shall thereupon cease to be a part of the primary thoroughfare.

## **60 Establishment of pedestrian mall**

- (1) Notwithstanding any other law, a pedestrian mall may not be established on the primary thoroughfare except in accordance with the provisions of this section.
- (2) At the request in writing of the proprietor or where there is more than 1 proprietor of a majority of proprietors of the land within the Village Zone delivered to the secretary of the primary thoroughfare body corporate, the primary thoroughfare body corporate may in general meeting resolve that a pedestrian mall be established on a part of the primary thoroughfare adjacent to that zone and specified in the resolution.
- (3) A pedestrian mall established on a part of the primary thoroughfare shall not limit vehicular access to the Floating Dwelling House Zone.

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- (4) The primary thoroughfare body corporate, upon passing a resolution to establish a pedestrian mall shall give notice in writing to all owners and lessees of property in the Harbour Zone, the Village Zone, the Floating Dwelling House Zone and the International Hotel Zone of the resolution and details of the proposed pedestrian mall (including its location, the extent of restriction upon vehicular traffic to, on or through the pedestrian mall or upon the primary thoroughfare) and, in the case of proprietors of land, the proposed method of meeting the cost of the establishment and maintenance of the pedestrian mall.
- (4A) The notice shall specify a date (being not less than 30 days from the giving of the notice) on or before which the owner or lessee may forward any submission in writing to the secretary of the primary thoroughfare body corporate.
- (5) After the date specified pursuant to subsection (4A), the primary thoroughfare body corporate shall make application to the Minister for the Governor in Council's approval of the establishment of the pedestrian mall.
- (5A) The application shall be accompanied by—
- (a) a copy of the resolution, certified by the secretary of the primary thoroughfare body corporate, of the primary thoroughfare body corporate resolving that the pedestrian mall be established;
  - (b) a copy certified by the secretary of the primary thoroughfare body corporate of the request by the proprietor or, as the case may be, by proprietors of the relevant land for the establishment of the pedestrian mall and, where there is more than 1 proprietor, a certificate by the secretary of the primary thoroughfare body corporate as to the proportion of the number of proprietors making the request;
  - (c) all submissions received by the secretary of the primary thoroughfare body corporate (whether before or after the date specified in subsection (4A)) in respect of the proposed pedestrian mall.
- (6) In determining whether to recommend the establishment of a pedestrian mall, the Minister shall have regard to—

- (a) the desirability of the proposal; and
  - (b) the effect thereof on the movement of traffic (including emergency service vehicles) within the site or the adjacent site; and
  - (c) the cost of its establishment and maintenance and who it is proposed will contribute to the cost.
- (7) The Governor in Council, upon the recommendation of the Minister and upon such terms and conditions as to the proper management, operation and use of the pedestrian mall as the Governor in Council thinks fit, may by order in council approve the establishment of the pedestrian mall.
- (8) Upon the Governor in Council approving the establishment of a pedestrian mall and from time to time thereafter, the Minister may determine that the cost of the establishment of the pedestrian mall and the maintenance thereof shall be met by specified members of the primary thoroughfare body corporate and the proportion which those members shall contribute.

## **61 Additional works on primary thoroughfare**

- (1) At the request in writing of any member of the primary thoroughfare body corporate, the primary thoroughfare body corporate may undertake works on any part of the primary thoroughfare with a view to enhancing the amenity of land or the profitability of any business undertaking within the site or the adjacent site.
- (2) Works that restrict vehicular access that is available immediately prior to the commencement of the undertaking of the works, to any part of the site or of the adjacent site shall not be undertaken unless each proprietor of the land comprising that part consents in writing to that restriction.
- (3) Works shall not be undertaken pursuant to this section unless—
- (a) the Albert Shire Council approves those works; and
  - (b) all conditions of that approval (including conditions as to standards of construction) are complied with.

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- (4) The primary thoroughfare body corporate shall recover all costs of undertaking works pursuant to this section (including the costs incurred in obtaining the approval of the Albert Shire Council and any other approvals required by law) from the member or members of the primary thoroughfare body corporate at whose request the works were undertaken.
- (5) Where 2 or more members of the primary thoroughfare body corporate are liable to pay the costs of undertaking works each shall pay an amount that bears to the total costs incurred the same proportion that the member's voting entitlements attributable to the land the amenity of which is sought to be enhanced or on which the business undertaking sought to be enhanced is carried on bears to the aggregate of such voting entitlements of all persons liable to contribute towards those costs.
- (6) The primary thoroughfare body corporate shall levy contributions in accordance with subsection (5) to recover the costs of undertaking the works and the provisions of section 73 with such modifications as may be necessary apply to and with respect of contributions levied under this subsection in the same way as those provisions apply to contributions levied under that section.
- (7) Nothing in subsections (4) and (5) shall prevent the primary thoroughfare body corporate from requiring the persons specified in those subsections to pay to the primary thoroughfare body corporate the whole or part of the expected costs of the completed works before the works are commenced or completed.
- (8) Any member of the primary thoroughfare body corporate who feels aggrieved by any levy imposed upon the member pursuant to this section may apply in writing to the Minister for a review of the levy.
- (9) The Minister after considering all the relevant information shall determine that member's liability and may adjust other members' liability accordingly.
- (10) The Minister's decision may be expressed as an amount or as a proportion of the total amount payable for works.

## **Division 4                      Secondary thoroughfare**

### **62            Maintenance etc. of roads and other improvements**

The principal body corporate shall be responsible for the maintenance and reconstruction (including construction on relocation) of roads within the secondary thoroughfare and of any other improvements on the secondary thoroughfare.

### **63            Dealings with land comprising secondary thoroughfare**

Except as provided in section 64, no part of a secondary thoroughfare may be subdivided, transferred or leased without the prior approval of—

- (a) the principal body corporate given by special resolution; and
- (b) the Albert Shire Council.

### **64            Dedication of secondary thoroughfare as road**

(1) With the prior approval of—

- (a) the principal body corporate determined by special resolution within the meaning of section 22; and
- (b) the Albert Shire Council; and
- (c) the Minister;

and subject to any reasonable conditions that the Albert Shire Council imposes, the principal body corporate may dedicate in accordance with the *Land Act 1962* any part of the secondary thoroughfare that adjoins a dedicated road to public use as a road.

- (2) The Albert Shire Council may impose a condition pursuant to subsection (1) that the principal body corporate pay to the Albert Shire Council an amount of money fixed by the Albert Shire Council with a view to the cost of constructing or maintaining the road.
- (3) A part of the secondary thoroughfare that is dedicated to public use as a road pursuant to this section shall thereupon cease to be a part of the secondary thoroughfare.

**64A Maintenance etc. of canals**

Where any part of the secondary thoroughfare would, but for the operation of section 103(3), be a canal within the meaning of the *Canals Act 1958*, the principal body corporate shall preserve, maintain and keep clean that part.

**64B Surrender of secondary thoroughfare as canal**

(1) For the purposes of this section—

*canal* means a part of the secondary thoroughfare that would, but for the operation of section 103(3), be a canal or a channel within the meaning of the *Canals Act 1958*.

(2) With the prior approval of—

- (a) the principal body corporate determined by special resolution within the meaning of section 22; and
- (b) the Albert Shire Council; and
- (c) the Minister; and
- (d) the Governor in Council upon the recommendation of the Minister for the time being administering the *Canals Act 1958*;

and subject to any reasonable conditions that the Albert Shire Council imposes, the principal body corporate may transfer and surrender a canal to the Crown.

(3) The Albert Shire Council may impose a condition pursuant to subsection (2) that the principal body corporate pay to the Albert Shire Council an amount of money fixed by the Albert Shire Council with a view to the cost of constructing or restoring as necessary and preserving, maintaining and keeping clean the canal.

(4) The Minister for the time being administering the *Canals Act 1958* shall not recommend that the Governor in Council give approval to the transfer and surrender to the Crown of a canal pursuant to subsection (2) unless the Minister is satisfied that the construction and condition of the canal is of a standard that, if it was proposed, at the time of the recommendation, to construct such a canal over land to which the *Canals Act 1958*

applied, no approval required by that Act in respect thereof would have reasonably been refused.

- (5) A canal that, pursuant to this section, is transferred and surrendered to the Crown shall cease to be a part of the secondary thoroughfare and of the site or, as the case may be, the adjacent site, and shall be deemed to be a canal within the meaning of the *Canals Act 1958* which has been constructed in accordance with that Act.

## Part 5                      Primary thoroughfare body corporate

### Division 1                Primary thoroughfare body corporate

#### 65            Interpretation

In this part—

*executive committee* means the executive committee of the primary thoroughfare body corporate constituted under division 2.

*primary thoroughfare body corporate roll* means the roll referred to in section 78 to be maintained by the primary thoroughfare body corporate.

*proprietor* means—

- (a) for land subdivided under a group titles plan or building units plan—the body corporate incorporated under the *Building Units and Group Titles Act 1994*; or
- (b) for other land—the person registered, or entitled to be registered, under the *Land Title Act 1994* as the proprietor of the land.

*special resolution* means a resolution which is passed at a duly convened general meeting of the primary thoroughfare body corporate by the members whose voting entitlements

aggregate not less than 75% of the aggregate of all voting entitlements recorded in the primary thoroughfare body corporate roll.

## **66 Primary thoroughfare body corporate**

- (1) Upon registration of the initial plan of survey, the proprietor or proprietors of the land within the site (excluding land within the residential zones and land comprising the primary thoroughfare) and the principal body corporate shall by virtue of this Act be a body corporate under the name ‘Sanctuary Cove Primary Thoroughfare Body Corporate’.
- (1A) Upon registration of the initial plan of survey of the adjacent site, the proprietor or proprietors of the land within the adjacent site (excluding land within the residential zones and land comprising the primary thoroughfare) shall be members of the primary thoroughfare body corporate.
- (2) When land, within the site or the adjacent site (excluding land within the residential zones) is subdivided by way of a group titles plan or a building units plan, the proprietor of that land—
  - (a) shall give notice in writing to the primary thoroughfare body corporate of the name and address for service of notices of the body corporate incorporated by the registration of that plan; and
  - (b) shall cease to be a member of the primary thoroughfare body corporate;and the body corporate created by the registration of that plan shall become a member of the primary thoroughfare body corporate.
- (3) The Corporations Act does not apply to or in respect of the primary thoroughfare body corporate.
- (4) The primary thoroughfare body corporate shall have the powers, authorities, duties and functions conferred or imposed on it by or under this Act and shall do all things reasonably necessary for the control, management and administration of the primary thoroughfare.

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- (5) The primary thoroughfare body corporate shall have perpetual succession and a common seal and shall be capable of suing and being sued in its corporate name and shall be regulated in accordance with the primary thoroughfare by-laws for the time being in force.
- (6) The primary thoroughfare body corporate may—
  - (a) sue and be sued on any contract made by it;
  - (b) sue for and in respect of any damage or injury to the primary thoroughfare caused by any person;
  - (c) be sued in respect of any matter connected with the primary thoroughfare which as proprietor it is so liable;
  - (d) take such legal action as may be necessary to enforce the primary thoroughfare by-laws.
- (7) In any case in which work is carried out for the purpose of constructing or preparing the primary thoroughfare, upon registration of the initial plan of survey or, as the case may be, initial plan of survey of the adjacent site, the primary thoroughfare body corporate shall be deemed to have been a party to an enforceable contract for the carrying out of such work, and may sue in respect of that contract.
- (8) Nothing in subsection (7) shall relieve the company from its obligation to pay for the initial construction of the primary thoroughfare to the standard prescribed pursuant to section 51.

**67 Member's nominee**

- (1) A member of the primary thoroughfare body corporate—
  - (a) being a body corporate created by the registration of a building units plan or a group titles plan, shall at its annual general meeting and may from time to time thereafter;
  - (b) in any other case, may from time to time;  
appoint a person to represent the member and to vote on behalf of the member at meetings of the primary thoroughfare body corporate.

- (2) The appointment of a person pursuant to subsection (1) shall not be effective until notification in writing signed by the member or, in a case referred to in subsection (1)(a), by the chairperson and secretary of the body corporate is received by the secretary of the primary thoroughfare body corporate.
- (3) The appointment of a person to represent a member at meetings of the primary thoroughfare body corporate shall continue until—
  - (a) notice of the appointment of another person to represent that member; or
  - (b) notice of the cancellation of the person's appointment;is received by the secretary of the primary thoroughfare body corporate.

## **68 Seal of primary thoroughfare body corporate**

- (1) The common seal of the primary thoroughfare body corporate shall be kept by such member of the primary thoroughfare body corporate or member of the executive committee as the primary thoroughfare body corporate determines or, in the absence of any such determination, by the secretary of the executive committee.
- (2) The common seal of the primary thoroughfare body corporate shall only be affixed to an instrument or document in the presence of—
  - (a) where the primary thoroughfare body corporate is constituted by 2 members—those members; or
  - (b) where the primary thoroughfare body corporate is constituted by more than 2 members—such 2 persons, being members of the primary thoroughfare body corporate or members of the executive committee, as the primary thoroughfare body corporate determines or, in the absence of any such determination, the secretary and any other member of the executive committee;who shall attest the fact and date of the affixing of the seal by their signatures.
- (3) However, where a member is a body corporate, the common seal affixed in the presence of a person nominated in writing

by the body corporate for that purpose and attested by that person as provided in this subsection shall be deemed to have been duly affixed in the presence of that body corporate.

## **69 Address of primary thoroughfare body corporate**

The address for service of notices on the primary thoroughfare body corporate shall upon its incorporation pursuant to section 66 be the address for service of notices on the company.

## **70 Meetings of primary thoroughfare body corporate**

- (1) Within 3 months after the registration of the initial plan of survey, the company shall, in the prescribed manner, convene a meeting of the primary thoroughfare body corporate to be held within that period.

Maximum penalty—20 penalty units.

- (2) The agenda for a meeting convened under subsection (1) shall consist of the following items—
  - (a) to decide whether insurances effected by the primary thoroughfare body corporate should be confirmed, varied or extended;
  - (b) to decide whether any amounts determined under section 77(1)(h) or (2) should be confirmed or varied;
  - (c) where there are more than 3 members of the primary thoroughfare body corporate, to determine the number of members of the executive committee;
  - (d) to elect the chairperson, secretary and treasurer of the primary thoroughfare body corporate and other members of the executive committee;
  - (e) to decide whether to make by-laws regulating, controlling or prohibiting the passage through and conduct and activities of persons on or within all or part of the primary thoroughfare.
- (3) The meeting convened under subsection (1) shall be the first annual general meeting of the primary thoroughfare body

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corporate and at such meeting a chairperson, secretary and treasurer shall be elected.

- (3A) However, a person may be elected to 1 or more of those offices.
- (4) The company shall not fail or neglect to deliver to the primary thoroughfare body corporate at its first annual general meeting—
- (a) all plans, specifications, drawings showing water pipes, electric cables and drainage, certificates (other than certificates of title for lots), diagrams and other documents (including policies of insurance) obtained or received by it and relating to the primary thoroughfare;
  - (b) if they are in its possession or under its control, the primary thoroughfare body corporate roll, books of account and any notices or other records relating to the primary thoroughfare;
  - (c) the budget showing the estimated expenditure of the primary thoroughfare body corporate in relation to the primary thoroughfare on an annual basis;

other than documents which exclusively evidence rights or obligations of the company and which are not capable of being used for the benefit of the primary thoroughfare body corporate or any of the members of the primary thoroughfare body corporate, other than the company.

Maximum penalty—20 penalty units.

- (4A) The company shall not fail or neglect to deliver to the primary thoroughfare body corporate at or before its annual general meeting first held after the registration of the initial plan of survey of the adjacent site—
- (a) all plans, specifications, drawings showing water pipes, electric cables and drainage, certificates (other than certificates of title for lots), diagrams and other documents (including policies of insurance) obtained or received by it and relating to the primary thoroughfare within the adjacent site;
  - (b) if they are in its possession or under its control, any books of account and any notices or other records

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relating to the primary thoroughfare within the adjacent site;

- (c) the budget showing the estimated expenditure of the primary thoroughfare body corporate in relation to the primary thoroughfare within the adjacent site on an annual basis;

other than documents which exclusively evidence rights or obligations of the company and which are not capable of being used for the benefit of the primary thoroughfare body corporate or any of the members of the primary thoroughfare body corporate, other than the company.

Maximum penalty—20 penalty units.

- (5) Schedule 2, part 1 of the *Building Units and Group Titles Act 1980* in force at the commencement of this Act applies to and in respect of the first annual general meeting of the primary thoroughfare body corporate and voting at that meeting and schedule 2, part 2 of that Act applies to and in respect of meetings of the primary thoroughfare body corporate, other than the first annual general meeting, and voting at those meetings.
- (5A) However, the provisions in those schedules relating to the rights and obligations of mortgagees and mortgagors shall not apply.
- (5B) The provisions of the schedules referred to in subsection (5) shall, for the purposes of subsection (5), be read and construed as if—
  - (a) references therein to ‘aggregate lot entitlement’ were references to the aggregate of all voting entitlements specified in the table in section 72(1);
  - (b) references therein to ‘body corporate’ were references to primary thoroughfare body corporate;
  - (c) references therein to ‘by-laws’ were references to primary thoroughfare by-laws;
  - (d) references therein to ‘council’ were references to executive committee;
  - (e) references therein to a ‘lot’ were references to a parcel of land within the site and, after the registration of the

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- initial plan of survey of the adjacent site, the adjacent site;
- (f) references therein to ‘lot entitlement’ were references to the voting entitlement of a member;
  - (g) references therein to the ‘original proprietor’ were references to the company;
  - (h) references therein to a ‘proprietor’ were references to a member of the primary thoroughfare body corporate;
  - (i) references therein to the ‘roll’ were references to the primary thoroughfare body corporate roll;
  - (j) references to particular provisions of the *Building Units and Group Titles Act 1980* (other than the provisions in those schedules) were references to corresponding provisions of this Act;
  - (k) the principal body corporate were the proprietor of a parcel of land within the site and, after the registration of the initial plan of survey of the adjacent site, the adjacent site and its voting entitlements were the voting entitlements of that parcel.
- (5C) When an expression is substituted for an expression used in the *Building Units and Group Titles Act 1980* and referred to in subsection (5B), the substituted expression shall, for the purposes of subsection (5B), be read and construed in the same manner as the expression for which it is substituted is required to be read and construed.
- (6) If a meeting of the primary thoroughfare body corporate is not convened in accordance with subsection (1), the Minister for Justice and Attorney-General may, pursuant to an application by the primary thoroughfare body corporate or any member of the primary thoroughfare body corporate appoint by order a person to convene a meeting of the primary thoroughfare body corporate within such time as may be specified in the order and the meeting convened by that person shall, for the purposes of subsection (3), be deemed to be the meeting convened under subsection (1).
  - (7) At any time after the meeting convened under subsection (1) has been held, the Minister for Justice and Attorney-General may, pursuant to an application made to the Minister for

Justice and Attorney-General by a member of the primary thoroughfare body corporate, appoint by order a person, nominated by the member, who has consented to that nomination, if there is not an executive committee, to convene a meeting of the primary thoroughfare body corporate within such time as may be specified in the order and a meeting so convened shall, for the purpose of the election of the chairperson, secretary and treasurer of the primary thoroughfare body corporate and the other members of the executive committee, be deemed to be a first annual general meeting of the primary thoroughfare body corporate.

- (8) An order made under subsection (6) or (7) may include such ancillary or consequential provisions as the Minister for Justice and Attorney-General thinks fit.
- (9) Notwithstanding subsection (5), where an order made under subsection (6) or (7) so provides—
  - (a) the person appointed to convene a meeting of the primary thoroughfare body corporate by the order shall preside at the meeting and, while the person so presides, shall be deemed to be the chairperson of the primary thoroughfare body corporate; and
  - (b) notice of that meeting may be given in the manner specified in the order.
- (10) Notwithstanding that an order has been made under subsection (6) or that a meeting has been convened pursuant to any such order, the company remains liable to the penalty provided by subsection (1) for any failure to comply with that subsection.

## **71 Primary thoroughfare by-laws**

- (1) Subject to subsection (5), the primary thoroughfare body corporate, pursuant to a special resolution, for the purpose of the control, management, administration, use or enjoyment of the primary thoroughfare, may from time to time make by-laws and may in like manner amend or repeal those by-laws.

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- (2) A primary thoroughfare by-law has no force or effect until the Minister has approved the by-law and notification of the Minister's approval has been published in the gazette.
- (3) A lease of any land where access to a dedicated road is by way of the primary thoroughfare shall be deemed to contain an agreement by the lessee that the lessee will comply with the primary thoroughfare by-laws for the time being in force.
- (4) Without limiting the operation of any other provision of this Act, the primary thoroughfare by-laws for the time being in force bind the primary thoroughfare body corporate, the principal body corporate and each registered proprietor and any mortgagee in possession (whether by himself or herself or any other person), lessee or occupier, of land (including lots) within the site to the same extent as if those by-laws had been signed and sealed by the primary thoroughfare body corporate, the principal body corporate and each registered proprietor and each such mortgagee, lessee and occupier respectively and as if they contained mutual covenants to observe and perform all the provisions of those by-laws.
- (5) No amendment of or addition to a primary thoroughfare by-law shall be capable of operating to prohibit, destroy or modify any easement, service right or service obligation implied or created by this Act.

## **72 Voting entitlements before registration of initial plan of survey of adjacent site**

- (1) Until land within a zone within the site, other than a residential zone or the Primary Thoroughfare Zone, is subdivided, the proprietor of that land as a member of the primary thoroughfare body corporate shall have a voting entitlement as set out opposite that zone in the following table—

**Table**

<b>Zone</b>	<b>Voting entitlement</b>
Golf Course Zone	100
Harbour Zone	200
International Hotel Zone	500

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Recreation Club Zone	100
Village Zone	1200

- (2) When the land comprising a zone set out in the table in subsection (1), is subdivided the voting entitlement set out opposite that zone in that table shall be apportioned by notice in writing by the proprietor of the land given to the primary thoroughfare body corporate amongst parcels thereby created and a proprietor of a parcel shall as a member of the primary thoroughfare body corporate have the voting entitlement apportioned in respect of that parcel.
- (2A) In like manner the voting entitlement of a proprietor of land that is further subdivided shall be apportioned amongst the parcels thereby created and the proprietor of each parcel shall have the relevant voting entitlement so apportioned.
- (3) Until the registration of the initial plan of survey of the adjacent site, the principal body corporate as a member of the primary thoroughfare body corporate shall have a voting entitlement of 900.

**72A Voting entitlements after registration of initial plan of survey of adjacent site**

- (1) Upon the registration of the initial plan of survey of the adjacent site and until land within the Golf Course Zone or the Administration Zone each within the adjacent site is subdivided, the proprietor of that land as a member of the primary thoroughfare body corporate shall have a voting entitlement as set out opposite that zone in the following table—

**Table**

<b>Zone</b>	<b>Voting entitlement</b>
Administration Zone	50
Golf Course Zone	100

- (2) When the land comprising a zone set out in the table in subsection (1) within the adjacent site is subdivided the voting entitlement set out opposite that zone in that table shall be apportioned by notice in writing by the proprietor of the land

given to the primary thoroughfare body corporate amongst the parcels thereby created and a proprietor of a parcel shall as a member of the primary thoroughfare body corporate have the voting entitlement apportioned in respect of that parcel.

- (2A) In like manner the voting entitlement of a proprietor of land that is further subdivided shall be apportioned amongst the parcels thereby created and the proprietor of each parcel shall have the relevant voting entitlement so apportioned.
- (3) Upon the registration of the initial plan of survey of the adjacent site, the principal body corporate as a member of the primary thoroughfare body corporate shall have, in lieu of its voting entitlement prescribed in section 72(3), a voting entitlement of 2 000.

### **73 Levies by primary thoroughfare body corporate on members**

- (1) The primary thoroughfare body corporate may levy the contributions determined by it in accordance with section 77(1)(h) and the amount (if any) determined pursuant to section 77(2) in respect thereof by serving on its members notice in writing of the contributions payable by them.
- (2) Contributions levied by the primary thoroughfare body corporate shall be levied and shall be payable, subject to this section, by the members of the primary thoroughfare body corporate in shares proportional to the voting entitlements at the time when the contribution was levied.
- (3) In respect of a contribution levied under subsection (1), a proprietor of land is liable, jointly and severally with any person who was liable to pay that contribution when that proprietor became the proprietor of that land to pay such part of that contribution as was unpaid when the proprietor became the proprietor of that land.
- (4) A contribution levied under this section—
  - (a) becomes due and payable to the primary thoroughfare body corporate in accordance with the decision of the primary thoroughfare body corporate to make the levy; and

- (b) if paid within 30 days after the date when it becomes due and payable shall be reduced by that part of the contribution attributable to the amount determined pursuant to section 77(2) (if any); and
  - (c) may be recovered, as a debt, by the primary thoroughfare body corporate in any court of competent jurisdiction.
- (5) Nothing in this section shall be construed to prevent the primary thoroughfare body corporate, in general meeting, either generally or in a particular case, determining that a contribution may be reduced as provided in subsection (4)(b) notwithstanding that the contribution is not paid as prescribed in that subsection.

**74 Change of primary thoroughfare body corporate's address**

- (1) The primary thoroughfare body corporate may, in general meeting, decide that the address for the service of notices on the primary thoroughfare body corporate shall be changed.
- (2) Upon giving notice in writing to the Minister and notification by the Minister in the gazette of the change of address, the address for service of notices on the primary thoroughfare body corporate shall, notwithstanding any other provision of this Act, be the address so notified.

**75 Power of entry**

- (1) For the purpose of carrying out—
  - (a) any work required to be carried out by the primary thoroughfare body corporate by a notice served on it by a public or local government;
  - (b) any work referred to in section 77(1)(b);the primary thoroughfare body corporate may, by its agents, servants or contractors, enter upon any part of the primary thoroughfare for the purpose of carrying out the work—
  - (c) in the case of an emergency—at any time; or

- (d) in any other case—at any reasonable time on notice given to any occupier of a lot likely to be affected thereby.
- (1A) For the purposes of subsection (1)(d), a proprietor of a lot, being a lot on a group titles plan or a building units plan, shall be taken to have been given notice if the notice is duly given to the body corporate incorporated by the registration of that plan.
- (2) A person shall not obstruct or hinder the primary thoroughfare body corporate in the exercise of its power under subsection (1).

Maximum penalty—4 penalty units.

## **76 Miscellaneous powers of primary thoroughfare body corporate**

The primary thoroughfare body corporate may—

- (a) invest any moneys held by it in any manner permitted by law for the investment of trust funds or in any prescribed investment;
- (b) borrow moneys and secure the repayment thereof and of any interest in such manner as may be agreed upon by the primary thoroughfare body corporate and the lender;
- (c) enter into an agreement for the provision of amenities or services by it or any other person to any land or to the proprietor or occupier thereof;
- (d) enter into an agreement with the principal body corporate for the provision of amenities or services by the primary thoroughfare body corporate or any other person to any land within the residential zones or to the proprietor or occupier thereof;
- (e) acquire and hold any personal property to facilitate the carrying out of its duties;
- (f) exchange land that forms part of the primary thoroughfare with other land within the site or the adjacent site for the purpose of that other land becoming part of the primary thoroughfare.

**77 Duties of primary thoroughfare body corporate**

- (1) The primary thoroughfare body corporate shall—
  - (a) control, manage and administer the primary thoroughfare for the benefit of its members; and
  - (b) properly maintain and keep in a state of good and serviceable repair—
    - (i) the primary thoroughfare, including any improvements thereon;
    - (ii) any personal property vested in it; and
  - (c) effect insurance in accordance with section 81; and
  - (d) cause proper records to be kept of notices given to the primary thoroughfare body corporate under this or any other Act and of any orders made by a court and served on the primary thoroughfare body corporate; and
  - (e) cause to be kept and retained, for at least 10 years, minutes of its meetings, which shall include particulars of motions passed by it at those meetings, and proper books of account in respect of moneys received or expended by the primary thoroughfare body corporate showing the items in respect of which the moneys were received or expended; and
  - (f) cause to be prepared, from the books referred to in paragraph (e), a proper statement of accounts of the primary thoroughfare body corporate in respect of each period commencing on the date of its incorporation or the date up to which the last previous such statement was prepared and ending on a date not earlier than 2 months before each annual general meeting; and
  - (g) cause an annual general meeting to be held each year on or after the anniversary of the annual general meeting held in 1990 but not later than 2 months after that anniversary; and
  - (h) not later than 14 days after its incorporation and from time to time thereafter, determine the amounts necessary in its opinion to be raised by way of contributions for the purpose of meeting its actual or expected liabilities incurred or to be incurred under paragraph (b) or for the

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- payment of insurance premiums, rates or any other liability of the primary thoroughfare body corporate, other than amounts referred to in paragraph (1); and
- (i) upon first determining the amounts referred to in paragraph (h), establish a fund into which shall be paid all amounts received by it, including the proceeds of the sale or other disposal of any personal property of the primary thoroughfare body corporate and any fees received by it under section 80 and into which may be paid any amounts paid to the primary thoroughfare body corporate by way of discharge of insurance claims; and
  - (j) from time to time, levy, in accordance with section 73, on each person liable therefor a contribution to raise the amounts referred to in paragraph (h); and
  - (k) pay any moneys referred to in paragraph (i) that are received by it and are not otherwise invested in accordance with section 76(a) into an account established in a financial institution in the name of the primary thoroughfare body corporate; and
  - (l) if the primary thoroughfare body corporate—
    - (i) becomes liable to pay any moneys that it is unable to pay forthwith; and
    - (ii) is not required, under paragraph (j), to levy contributions to meet the liability;
 

levy, in accordance with section 73, contributions to raise those moneys; and
  - (m) implement the decisions of the primary thoroughfare body corporate.
- (2) The primary thoroughfare body corporate from time to time may in respect of contributions determined in accordance with subsection (1)(h) or contributions referred to in subsection (1)(1) determine by special resolution, for the purposes of section 73, an amount being not greater than 10% of those contributions.
  - (3) The primary thoroughfare body corporate shall not disburse any moneys from its fund, otherwise than for the purpose of carrying out its powers, authorities, duties and functions under

this Act or the primary thoroughfare by-laws or meeting any liability referred to in subsection (1)(1).

- (4) A determination made by the primary thoroughfare body corporate under subsection (1)(h) may specify that the amounts to be raised shall be raised by such regular periodic contributions as may be specified in the determination.

## **78 Primary thoroughfare body corporate roll**

- (1) The primary thoroughfare body corporate shall prepare and maintain a roll in accordance with this section.
- (2) The primary thoroughfare body corporate shall record in the primary thoroughfare body corporate roll the following information—
  - (a) the voting entitlements of the proprietor of each parcel of land within the site (excluding land within the residential zones);
  - (b) the voting entitlements for the time being of the principal body corporate;
  - (c) the total of the voting entitlements referred to in paragraphs (a) and (b);
  - (d) from the registration of the initial plan of survey of the adjacent site—
    - (i) the voting entitlement of the proprietor of each parcel of land within the adjacent site (excluding land within the residential zones);
    - (ii) the total of the voting entitlements referred to in paragraphs (a), (b) and (d)(i);
  - (e) the name and address for service of notices on each member of the primary thoroughfare body corporate;
  - (f) the name and address of any person appointed (in writing addressed to the primary thoroughfare body corporate) by any member of the primary thoroughfare body corporate to represent that member at meetings of the primary thoroughfare body corporate.
- (3) The primary thoroughfare body corporate shall record and maintain in the primary thoroughfare body corporate roll a

copy of the primary thoroughfare by-laws for the time being in force.

## **79 Notices to be given by proprietors**

- (1) The company and any person who, under this section, has given notice of an address for the service of notices on the company or person may give notice in writing to the primary thoroughfare body corporate of an address or change of address for the service of notices on the company or person.
- (2) After delivery to a transferee of any land within the site or the adjacent site (excluding land within the residential zones) of an instrument or instruments of transfer in the name of the transferee duly executed and capable of immediate registration, the transferor shall give to the primary thoroughfare body corporate written notice which shall identify the land and—
  - (a) specify the name of the transferee in full, the address for the service of notices on the transferee, the address for the service of notices on the transferor and the date upon which the instrument was or instruments were so delivered; and
  - (b) bear written confirmation by the transferee of the accuracy of the information contained in the notice.
- (2A) Where a transferor of any land fails to comply with subsection (2), the transferee of that land may give to the primary thoroughfare body corporate written notice which shall identify the land and specify the transferee's name in full, address for service of notices and the date upon which the instrument was or instruments were delivered to the transferee.
- (3) After a person becomes entitled, otherwise than as a transferee, to be registered under the *Land Title Act 1994* as the proprietor of land within the site or the adjacent site (excluding land within the residential zones) the person shall give to the primary thoroughfare body corporate written notice, in the form of a statutory declaration, which shall identify the lot and specify—
  - (a) by what right the person became entitled to the land; and

- (b) the person's name, in full, the address for the service of notices on the person and the date upon which the person became entitled to the land.
- (4) Where—
- (a) the primary thoroughfare body corporate believes that a person may, under this section, give a notice to it; and
  - (b) the primary thoroughfare body corporate has not received that notice;
- the primary thoroughfare body corporate may serve a notice on that person specifying the capacity in which it believes the person is entitled to give the notice and requiring the person—
- (c) to state, within 14 days, whether or not the person is a person entitled to give a notice in that capacity; and
  - (d) if the person is such a person, to give that notice.
- (5) Where the primary thoroughfare body corporate has served a notice under subsection (4) on a person whom it believes to be a person entitled to give a notice to the primary thoroughfare body corporate under this section that person is not entitled to cast a vote at any meeting of the primary thoroughfare body corporate until the person gives the required notice.
- (6) A vote cast at a meeting of the primary thoroughfare body corporate by or on behalf of a member of the primary thoroughfare body corporate has no effect unless the primary thoroughfare body corporate has been given notice in writing specifying the nominee of the member.
- (7) A notice referred to in subsection (6) may be included in any other notice that the member of the primary thoroughfare body corporate to which it relates is entitled under this section to give to the primary thoroughfare body corporate.

## **80 Supply of information, certificates and copies by primary thoroughfare body corporate**

- (1) The primary thoroughfare body corporate shall, upon application made to it in writing by a member of the primary thoroughfare body corporate, by a member of the principal body corporate or by a proprietor of any lot on a group titles plan or building units plan or by a person authorised in writing

by such member or proprietor and on payment of such sum as the primary thoroughfare body corporate may fix by resolution but not exceeding the reasonable cost to the primary thoroughfare body corporate, do such 1 or more of the following things as are required of it in the application—

- (a) inform the applicant of the name and address of each person who is the chairperson, secretary or treasurer of the primary thoroughfare body corporate or a member of the executive committee;
- (b) make available for inspection by the applicant or the applicant's agent—
  - (i) the primary thoroughfare body corporate roll;
  - (ii) the notices and orders referred to in section 77(1)(d);
  - (iii) the plans, specifications, drawings showing water pipes, electric cables or drainage, certificates, diagrams and other documents held by it relating to the primary thoroughfare;
  - (iv) the minutes of general meetings of the primary thoroughfare body corporate and of the executive committee;
  - (v) the books of account of the primary thoroughfare body corporate;
  - (vi) a copy of the statement of accounts of the primary thoroughfare body corporate last prepared by the primary thoroughfare body corporate in accordance with section 77(1)(f);
  - (vii) every current policy of insurance effected by the primary thoroughfare body corporate and the receipt for the premium last paid in respect of each such policy;
  - (viii) any other record or document in the custody or under the control of the primary thoroughfare body corporate;
  - (ix) the primary thoroughfare by-laws for the time being in force;

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- at such time and place as may be agreed upon by the applicant or the applicant's agent and the primary thoroughfare body corporate and, failing agreement, at the office of the primary thoroughfare body corporate at a time and on a date fixed by the primary thoroughfare body corporate under subsection (2);
- (c) certify, as at the date of the certificate, in respect of any land in respect of which the application is made—
- (i) the amount of any regular periodic contributions determined by the primary thoroughfare body corporate under section 77(1)(h) and (4) and the periods in respect of which those contributions are payable; and
  - (ii) whether there is any amount unpaid of any contribution determined under section 77(1)(h) and, if so, the amount thereof; and
  - (iii) whether there is any amount unpaid of any contribution levied under section 77(1)(l) and, if so, the amount thereof and the date on which it was levied; and
  - (iv) whether there is any amount unpaid of any contribution levied under section 92 and, if so, the amount thereof and the date on which it was levied; and
  - (v) the amount (if any) determined under section 77(2) in respect of any unpaid contribution referred to in this paragraph; and
  - (vi) whether there is a liability to contribute towards the establishment and maintenance of a pedestrian mall approved pursuant to section 60 and whether there is unpaid any contribution levied and if so, the amount thereof and the date which it was levied;
- (d) furnish to the applicant or the applicant's agent a copy of the primary thoroughfare by-laws for the time being in force or any part thereof within a period of 21 days commencing on the day next after the date on which the

application is received by the primary thoroughfare body corporate.

- (2) Where an applicant and the primary thoroughfare body corporate fail to reach an agreement referred to in subsection (1)(b) within 3 days after the receipt of the application by the primary thoroughfare body corporate, the primary thoroughfare body corporate shall forthwith send by post to the applicant a notice fixing a time, specified in the notice, between 9 a.m. and 8 p.m. on a date so specified, being a date not later than 10 days after the receipt of the application by the primary thoroughfare body corporate for the making of the inspection referred to in subsection (1)(b).
- (3) The primary thoroughfare body corporate shall permit any person to whom the primary thoroughfare by-laws are made available for inspection to make copies of or take extracts from those by-laws.

## **81 Insurance by primary thoroughfare body corporate**

- (1) The primary thoroughfare body corporate shall effect insurance—
  - (a) in respect of any occurrence against which it is required by law to insure, including any insurance required to be effected because of the *Workers' Compensation and Rehabilitation Act 2003*; and
  - (b) in respect of damage to property, death or bodily injury occurring upon the primary thoroughfare or the consequences resulting therefrom; and
  - (c) against the possibility of the members becoming jointly liable by reason of a claim arising in respect of any other occurrence against which the primary thoroughfare body corporate, pursuant to a special resolution, decides to insure.
- (2) Insurance effected pursuant to subsection (1)(b) shall be for a cover of the prescribed amount prescribed by order in council or, if not prescribed, \$10 000 000.
- (3) The primary thoroughfare body corporate may insure any property in which it has an insurable interest.

**82 Power for individuals to act for corporate members**

- (1) A body corporate (including the principal body corporate) may authorise an individual to exercise or perform on its behalf any power, authority, duty or function conferred by or under this Act on the body corporate as member of the primary thoroughfare body corporate and may revoke the authority of an individual so authorised.
- (2) Where an individual exercises or performs a power, authority, duty or function that the individual is, by a member of the primary thoroughfare body corporate, authorised pursuant to subsection (1) to exercise or perform, the power, authority, duty or function shall be deemed to be exercised or performed by the member.
- (3) Nothing in subsection (1) or (2) affects any liability or obligation imposed by or under this Act on a body corporate which is a member.
- (4) A document under the seal of a body corporate purporting to be an authorisation under subsection (1) or to be a revocation of such an authorisation is admissible in evidence and shall, unless the contrary is proved, be deemed to be such an authorisation or revocation, as the case may be.

**83 Voting rights**

- (1) Any powers of voting conferred by or under this part may be exercised—
  - (a) in the case of a member who is an infant—by the member’s guardian;
  - (b) in the case of a member who is for any reason unable to control the member’s property—by the person who for the time being is authorised by law to control that property;
  - (c) in the case of a member which is a body corporate—by the person nominated pursuant to section 82 by that member.
- (2) Where the Supreme Court of Queensland upon the application of the primary thoroughfare body corporate or of any member is satisfied that there is no person able to vote in respect of any

voting entitlement or that the person able to vote cannot be found, the court in its discretion may appoint the public trustee or some other fit and proper person for the purpose of exercising such powers of voting under this part as the court shall determine.

- (3) The court may order service of notice of an application under subsection (2) on such persons as it thinks fit or may dispense with service of such notice.
- (4) On making an appointment under subsection (2) the court may make such order as it thinks necessary or expedient to give effect to the appointment including an order as to the payment of costs of the application, and may vary an order so made.
- (5) The powers of the court under this section may be exercised by the registrar in the first instance, who may refer the application to a Judge and who shall so refer it at the request of the applicant or any respondent.
- (6) In this section and in section 84—

*registrar* means the registrar of the Supreme Court of Queensland at Brisbane, Rockhampton or Townsville, as the case may be, and includes a deputy registrar.

#### **84 Procedure upon application to Supreme Court**

- (1) Every application to the Supreme Court of Queensland under this part shall be by summons at chambers unless otherwise provided by rules of court made in relation thereto.
- (2) On an application, notice shall be served on such persons as the court thinks fit or the court may dispense with such notice.
- (3) The court may, if it thinks fit, adjourn an application into court and thereupon may give such directions as to all matters, including filing of pleadings as may appear necessary and proper for a final hearing of the application.
- (4) The court may delegate to the registrar all or any of its powers under this part.

## **Division 2                      Executive committee**

### **85                      Constitution of executive committee**

- (1) After the first annual general meeting of the primary thoroughfare body corporate, there shall be an executive committee consisting of a chairperson, secretary and treasurer and such other members as may be elected or appointed pursuant to this section.
- (2) The chairperson, secretary and treasurer of the primary thoroughfare body corporate shall be members of, and be also respectively the chairperson, secretary and treasurer of, the executive committee.
- (2A) However, a person may be elected to 1 or more of those offices.
- (3) Where there are not more than 3 members of the primary thoroughfare body corporate, the executive committee shall consist of each member (if any) who is an individual or the individual's nominee, together with the nominee of each member which is a body corporate.
- (4) Where there are more than 3 members of the primary thoroughfare body corporate, the executive committee shall consist of such number of persons, being not less than 3 nor more than the number of members of the primary thoroughfare body corporate or 7, whichever is the less, as is determined by the primary thoroughfare body corporate.
- (5) The members of an executive committee referred to in subsection (4) (if any) and the chairperson, secretary and treasurer shall be elected at each annual general meeting of the primary thoroughfare body corporate or, if the number of members of the primary thoroughfare body corporate increases to more than 3, at an extraordinary general meeting convened for the purpose.
- (6) A person is not eligible for election as chairperson, secretary or treasurer of the primary thoroughfare body corporate or as a member of an executive committee unless the person is—
  - (a) an individual who is a member of the primary thoroughfare body corporate; or

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- (b) a nominee of a body corporate which is a member of the primary thoroughfare body corporate; or
  - (c) an individual who is not a member of the primary thoroughfare body corporate but who is nominated for election by such a member.
- (6A) Notwithstanding the provisions of this section, the primary thoroughfare body corporate may determine that the holder of the office of secretary or treasurer of the primary thoroughfare body corporate shall not be a member of the executive committee whereupon, upon election to that office a person shall be the secretary or, as the case may be, treasurer of the primary thoroughfare body corporate and of the executive committee but shall not be a member of the executive committee.
- (7) A member of the executive committee may, with the consent of the executive committee, appoint a member of the primary thoroughfare body corporate or nominee of a body corporate which is a member of the primary thoroughfare body corporate to act in the member's place as a member of the executive committee at any meeting of the executive committee and any member or nominee so appointed shall, when the member is so acting, be deemed to be a member of the executive committee.
- (8) A member of the primary thoroughfare body corporate or a nominee of a body corporate may be appointed under subsection (7) whether or not the member is a member of the executive committee.
- (9) If a person appointed under subsection (7) is a member of the executive committee the person may, at any meeting of the executive committee, separately vote in the person's capacity as such a member and on behalf of the member in whose place the person has been appointed to act.
- (10) Notwithstanding any other provision of this section, the executive committee may be constituted before the first annual general meeting of the primary thoroughfare body corporate.
- (11) The members of the executive committee constituted under subsection (10) (if any) and the chairperson, secretary and treasurer of the primary thoroughfare body corporate shall be

elected at a general meeting of the primary thoroughfare body corporate and the provisions of subsection (6) and such of the provisions of schedule 2, part 1 of the *Building Units and Group Titles Act 1980* in force at the commencement of this Act as applied by section 70 as relate to the election of the chairperson, secretary and treasurer of the primary thoroughfare body corporate and of members of the executive committee apply to and in respect of the election of the chairperson, secretary and treasurer and of those members of the executive committee to be so constituted.

- (12) Schedule 2, part 2 of the *Building Units and Group Titles Act 1980* other than clause 16(1) as applied by section 70 does not apply to or in respect of the election of the chairperson, secretary and treasurer of the primary thoroughfare body corporate and the members of the executive committee to be constituted under subsection (10).
- (13) The provisions of this part (other than subsections (1), (2), (3) and (5) of this section) apply to and in respect of an executive committee constituted under subsection (10) and the members thereof.
- (14) Where there is no executive committee, the primary thoroughfare body corporate shall exercise and perform the powers, authorities, duties and functions of the executive committee.

## **86 Vacation of office of member of executive committee**

- (1) A person elected as chairperson, secretary or treasurer of the primary thoroughfare body corporate or as a member of the executive committee vacates the person's office—
  - (a) if, where the person was a member of the primary thoroughfare body corporate at the time of the person's election, the person ceases to be a member of the primary thoroughfare body corporate; or
  - (b) if, where the person was not a member of the primary thoroughfare body corporate at the time of the person's election the member who nominated the person for election—

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- (i) ceases to be a member of the primary thoroughfare body corporate; or
- (ii) notifies the primary thoroughfare body corporate, in writing, that his office, as a member of the executive committee, is vacated;

however, this paragraph shall not apply to a secretary or treasurer of the primary thoroughfare body corporate who is not a member of the executive committee; or

- (c) upon the receipt by the primary thoroughfare body corporate from the person of notice in writing of the person's resignation; or
- (d) upon the election at a general meeting of the primary thoroughfare body corporate of another person to that office or as a member of the executive committee; or
- (e) where the person is a member referred to in section 85(3) and the number of members of the primary thoroughfare body corporate increases to more than 3, upon the election of the chairperson, secretary and treasurer of the primary thoroughfare body corporate and the other members of the executive committee at the annual general meeting, or the extraordinary general meeting referred to in section 85(5); or
- (f) if the person is absent without prior leave granted by the executive committee from 3 consecutive meetings of the executive committee of which due notice has been given to the person; or
- (g) if the person becomes bankrupt or compounds with his creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
- (h) if the person is convicted in Queensland of an indictable offence or, elsewhere than in Queensland, is convicted of an offence which would be an indictable offence if committed in Queensland; or
- (i) if the person dies; or
- (j) if the primary thoroughfare body corporate, pursuant to a special resolution, determines that the person's office is vacated.

- (2) Upon the occurrence of a vacancy in the office of chairperson, secretary or treasurer of the primary thoroughfare body corporate or another member of the executive committee, otherwise than by reason of subsection (1)(d) or (e), the primary thoroughfare body corporate shall appoint a person eligible for election as such to fill the vacancy, and a person so appointed shall, subject to this section, hold office for the balance of the person's predecessor's term of office.

### **87 Chairperson, secretary and treasurer of executive committee**

- (1) The chairperson shall preside at all meetings of the executive committee at which the chairperson is present and, if the chairperson is absent from any meeting, the members of the executive present at that meeting shall appoint one of their number to preside at that meeting during the absence of the chairperson.
- (2) A person shall not exercise or perform any of the powers, authorities, duties, or functions of the primary thoroughfare body corporate or of the treasurer of the primary thoroughfare body corporate, being powers, authorities, duties or functions relating to the receipt or expenditure of, or accounting for, moneys, or the keeping of the books of account, of the primary thoroughfare body corporate, unless the person is—
  - (a) the treasurer of the primary thoroughfare body corporate; or
  - (b) a person with whom the treasurer of the primary thoroughfare body corporate is required by an order of the executive committee to exercise or perform jointly that power, authority, duty or function, or who is enabling the treasurer to comply with the order.

Maximum penalty—10 penalty units.

- (3) The treasurer of the primary thoroughfare body corporate may delegate the exercise or performance of any of the treasurer's powers (other than this power of delegation), authorities, duties or functions as treasurer, the delegation of which is specifically approved by the executive committee, to another member of the executive committee so approved, subject to such limitations as to time or otherwise as are so approved

and, while a delegate is acting in accordance with the terms of a delegation under this subsection, the delegate shall be deemed to be the treasurer of the primary thoroughfare body corporate.

- (4) The executive committee may, by a notice in writing served on the treasurer of the primary thoroughfare body corporate, order that the treasurer shall not exercise or perform any of the treasurer's powers, authorities, duties or functions that are specified in the notice, unless the treasurer does so jointly with another person so specified.
- (5) A person who has possession or control of—
  - (a) any records, books of account or keys belonging to the primary thoroughfare body corporate; or
  - (b) the primary thoroughfare body corporate roll; or
  - (c) any other property of the primary thoroughfare body corporate;

shall, within 7 days after service on the person of notice of a resolution of the executive committee requiring the person to do so, deliver those records, books of account and keys and that roll and other property to a member of the executive committee specified in the notice.

Maximum penalty—10 penalty units.

## **88 Meetings of executive committee**

- (1) At a meeting of the executive committee more than half of the members of the executive committee constitutes a quorum.
- (2) Subject to this Act, the decision on any matter of the majority of the members voting on that matter shall be the decision of the executive committee at any meeting at which a quorum is present.
- (3) A decision of the executive committee has no force or effect if, before that decision is made, notice in writing is given to the secretary of the executive committee by not less than half of the total number of members of the primary thoroughfare body corporate, the sum of whose voting entitlements exceed half of the aggregate of all voting entitlements recorded in the

primary thoroughfare body corporate roll, that the making of the decision is opposed by those members.

- (4) The executive committee shall cause to be kept a record of its decisions, of any notices given to its secretary under subsection (3) and full and accurate minutes of its meetings.

## **89 Executive committee's decisions to be decisions of primary thoroughfare body corporate**

- (1) In this section—

*restricted matter* means—

- (a) any matter relating to the striking of a special monetary levy on all members of the primary thoroughfare body corporate; and
  - (b) any matter which seeks to alter the rights, privileges or obligations of members of the primary thoroughfare body corporate; and
  - (c) any matter which seeks to alter the annual monetary contribution of members of the primary thoroughfare body corporate; and
  - (d) any matter a decision on which may, in accordance with any provision of this Act, only be made by the primary thoroughfare body corporate pursuant to a special resolution or in general meeting of the primary thoroughfare body corporate; and
  - (e) any matter referred to in section 91 and specified in a resolution of the primary thoroughfare body corporate passed for the purposes of that section.
- (2) Subject to this Act, the decision of the executive committee on any matter, other than a restricted matter, shall be the decision of the primary thoroughfare body corporate.
  - (3) Notwithstanding that the executive committee holds office, the primary thoroughfare body corporate may in general meeting continue to exercise or perform all or any of the powers, authorities, duties and functions conferred or imposed on it by this Act.

**90 Statutory restrictions on powers of executive committee**

- (1) Unless—
- (a) otherwise determined pursuant to a special resolution of the primary thoroughfare body corporate; or
  - (b) in an emergency authorised by the Minister; or
  - (c) consented to by such persons entitled to vote at a general meeting of the primary thoroughfare body corporate who represent an aggregate voting entitlement of not less than 75% of the aggregate of all voting entitlements recorded in the primary thoroughfare body corporate roll;
- the executive committee shall not undertake expenditure.
- (2) In respect of any proposed expenditure which, under subsection (1), the executive committee is not entitled to undertake the executive committee shall—
- (a) submit the proposal for determination at an extraordinary general meeting of the primary thoroughfare body corporate convened for the purpose of, or for purposes which include, consideration of the proposal; and
  - (b) if the proposed expenditure is in respect of work to be performed or the purchase of personal property submit at least 2 tenders to that meeting with the proposal.
- (3) Subsection (1) does not apply to the expenditure of moneys—
- (a) in payment of any premium of insurance effected by or on behalf of the primary thoroughfare body corporate; or
  - (b) to comply with a notice or order served on the primary thoroughfare body corporate by any public or local government; or
  - (c) in discharge of any liability incurred in respect of an obligation of the primary thoroughfare body corporate authorised by the primary thoroughfare body corporate in general meeting.

**91 Restrictions imposed on executive committee by primary thoroughfare body corporate**

The primary thoroughfare body corporate may in general meeting decide what matters or class of matters (if any) shall be determined only by the primary thoroughfare body corporate in general meeting.

**Division 2A Primary thoroughfare body corporate manager****91A Primary thoroughfare body corporate manager**

- (1) Subject to subsection (2), the primary thoroughfare body corporate may, in general meeting and by instrument in writing, appoint upon such terms and conditions as the primary thoroughfare body corporate determines a body corporate manager and may, in like manner, delegate to the body corporate manager—
  - (a) all of its powers, authorities, duties and functions; or
  - (b) any 1 or more of its powers, authorities, duties and functions specified in the instrument; or
  - (c) all of its powers, authorities, duties and functions except those specified in the instrument;and may, in like manner, revoke wholly or in part the delegation.
- (2) The primary thoroughfare body corporate may not, under subsection (1), delegate to a body corporate manager its powers to make—
  - (a) a delegation under that subsection; or
  - (b) a decision on a restricted matter within the meaning of section 89.
- (3) A power, authority, duty or function the exercise or performance of which has been delegated under subsection (1) may, while the delegation remains unrevoked, be exercised from time to time in accordance with the delegation.

- (4) A delegation under subsection (1) may be made subject to such conditions or such limitations as to the exercise or performance of all or any of the powers, authorities, duties or functions, or as to time or circumstances, as may be specified in the instrument of delegation.
- (5) Notwithstanding any delegation made under subsection (1), the primary thoroughfare body corporate may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated by it.
- (6) Any act or thing done or suffered by a body corporate manager while acting in the exercise of a delegation under subsection (1) has the same force and effect as if it had been done or suffered by the primary thoroughfare body corporate and shall be deemed to have been done or suffered by the primary thoroughfare body corporate.
- (7) Where the instrument of appointment so provides, a body corporate manager shall have and may exercise and perform all the powers, authorities, duties and functions of the chairperson, secretary or treasurer of the primary thoroughfare body corporate and the executive committee or such of those powers, authorities, duties and functions as may be specified in the instrument.
- (8) Within the period of 3 years from the incorporation of the primary thoroughfare body corporate, the primary thoroughfare body corporate is not competent to appoint a body corporate manager for a term exceeding 3 years from the time of the appointment.
- (9) Nothing in this section shall prevent the reappointment of a body corporate manager after the term of appointment has expired.

## **Division 3                      General provisions**

### **92            Costs in proceedings by members against primary thoroughfare body corporate**

- (1) In any proceedings brought by any member against the primary thoroughfare body corporate, the court before which the proceedings are brought may order that any moneys

(including costs) payable by the primary thoroughfare body corporate pursuant to an order of the court made in those proceedings shall be paid, only in respect of such members as are specified in the order and in such proportions as may be so specified, by the primary thoroughfare body corporate out of contributions levied for the purpose.

- (2) Where a court makes an order under subsection (1) the primary thoroughfare body corporate shall, for the purpose of paying the moneys ordered to be paid by it, levy contributions in accordance with the terms of the order and shall pay the moneys out of the contributions paid pursuant to that levy.
- (3) The provisions of section 73 with such modifications as may be necessary apply to and in respect of contributions levied under this subsection in the same way as those provisions apply to contributions levied under that section.

**93 Service of documents on primary thoroughfare body corporate, members and others**

- (1) A summons or other legal process may be served on the primary thoroughfare body corporate by leaving it with the chairperson or secretary of the primary thoroughfare body corporate or with any member of the executive committee.
- (2) A document other than a document referred to in subsection (1) may be served on the primary thoroughfare body corporate—
  - (a) by leaving it with any person referred to in subsection (1); or
  - (b) by post on the primary thoroughfare body corporate at its last address notified in the gazette.
- (3) Subject to this Act, a notice or other document required or authorised by this Act to be served by the primary thoroughfare body corporate, the executive committee or the secretary of the executive committee or a member or proprietor, lessee or occupier of land or of a lot may be served—
  - (a) by leaving it with some person apparently of or above the age of 16 years—

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- (i) where the person to be served is an occupier of land or a lot, at the land or lot; or
    - (ii) where an address for the service of notices on the person to be served is recorded in the primary thoroughfare body corporate roll, at the address so recorded; or
  - (b) by post on the person to be served, where an address for the service of notices on that person is recorded in the primary thoroughfare body corporate roll, at the address so recorded; or
  - (c) in the case of a member—in any manner authorised by the primary thoroughfare by-laws for the service of notices on members.
- (4) Notice under section 87(5) may be served on a person—
- (a) personally or by post; or
  - (b) by leaving it with a person apparently of or above the age of 16 years at the place of residence or place of business of the firstmentioned person.

**94 Power of primary thoroughfare body corporate to convene community meetings**

- (1) The primary thoroughfare body corporate may, at the request of any proprietor or occupier of land or of a lot within the site or the adjacent site, convene a meeting in respect of any matter of interest to proprietors or occupiers of land or lots within the site or the adjacent site.
- (2) Any proprietor or occupier of land or of a lot within the site or the adjacent site may attend and vote at a meeting convened pursuant to subsection (1).
- (3) The chairperson of the primary thoroughfare body corporate shall preside at the meeting for the purpose of the election of a chairperson of the meeting and until the election of a chairperson.
- (4) A meeting convened pursuant to subsection (1) is not a meeting of the primary thoroughfare body corporate.



**96 Minor noncompliance with development control by-laws**

- (1) At the request in writing of a member of the principal body corporate, the principal body corporate may permit the noncompliance by that member of a development control by-law in respect of the land or lot specified in the request.
- (1A) However, the noncompliance is of a minor nature.
- (2) Where noncompliance with a development control by-law has been permitted by the principal body corporate under subsection (1) there is not a failure to comply with that by-law by reason only of that noncompliance.

**Part 6A Residential zone activities by-laws****96A Residential zone activities by-laws**

- (1) The principal body corporate, pursuant to a special resolution, may from time to time make by-laws for the control, management, administration, use or enjoyment of land and lots (other than the secondary thoroughfare) within the residential zones.
- (2) A residential zone activities by-law may apply to all the residential zones or to a particular zone or part of a zone specified in the by-law.
- (3) A residential zone activities by-law may repeal or amend an existing residential zone activities by-law.
- (4) A residential zone activities by-law shall have no force or effect until the Minister has approved the by-law and notification of the Minister's approval has been published in the gazette.
- (5) Subject to subsection (7), a residential zone activities by-law shall not affect the operation of any other Act or law.
- (6) Without limiting the operation of any other provision of this Act, the residential zone activities by-laws for the time being in force bind the principal body corporate, the members of the

principle body corporate and the registered proprietor and any mortgagee in possession (whether by himself or herself or any other person), lessee or occupier of a lot within the residential zones to the same extent as if those by-laws had been signed and sealed by the principal body corporate, each member and each registered proprietor and each such mortgagee, lessee and occupier respectively as if they contained mutual covenants to observe and perform all the provisions of those by-laws.

- (7) Notwithstanding the provisions of the *Building Units and Group Titles Act 1980* or of section 28, a by-law made by a body corporate incorporated by the registration of a building units plan or group titles plan in respect of land within a residential zone or a secondary thoroughfare by-law that is inconsistent with the residential zone activities by-laws shall to the extent of the inconsistency have no effect.

#### **96B Minor noncompliance with residential zone activities by-laws**

- (1) At the request in writing of a member of the principal body corporate or of a proprietor of land or a lot within a residential zone, the principal body corporate may permit the noncompliance by that member or proprietor of a residential zone activities by-law in respect of the land or lot specified in the request.
  - (1A) However, the noncompliance is of a minor nature.
  - (2) Where noncompliance with a residential zone activities by-law has been permitted by the principal body corporate under subsection (1) there is not a failure to comply with that by-law by reason only of that noncompliance.

## Part 7 Provisions as to land subject to tidal influence

### 97 Interpretation

For the purposes of this part—

*floating dwelling house* means a structure constructed or designed to be constructed as a dwelling house which structure is or is to be supported by tidal waters and is securely anchored above land comprising a lot on a group titles plan in the Floating Dwelling House Zone by means of at least 4 piles permanently embedded in that land which structure is designed to move only in a vertical direction with the ebb and flow of the tide, and includes the piles by which the structure is securely anchored.

*site* includes adjacent site.

*special dwelling house* means a structure constructed or designed to be constructed as a dwelling house which structure is upon land comprising a lot on a group titles plan in the Harbour, River and Waterfront Residential Zone and the foundations of which structure extend from land above high-water mark to land below low-water mark.

### 99 Obligation of authorities to maintain or undertake works

An authority having jurisdiction over banks and foreshores of tidal waters is obliged to maintain or undertake works (including dredging) in relation to land within the site or tidal waters above land within the site, or for the Coomera River or the banks or foreshores of that river, only to the extent (if any) that it agrees in writing to accept the obligation.

### 100 Movement of vessels on tidal waters

- (1) The proprietor of land within the site has the right to restrict, regulate or prohibit the use or movement of vessels on, over, through or beneath tidal waters above the land if the waters are not beyond the quay line.

- (2) If the proprietor of land within the site permits the mooring of a vessel in waters above the land, the proprietor of other land within the site must not restrict or prohibit the movement of the vessel over the proprietor's land that is beyond the quay line to—
- (a) the mooring; or
  - (b) the Coomera River; or
  - (c) another place for which permission to moor the vessel has been given; or
  - (d) tidal waters outside the site.

### **101 State not to grant lease etc. within site etc.**

The State may not grant a lease, a licence to use and occupy, or a permit to use and occupy, any foreshore, tidal lands or tidal waters within the site.

### **102 Construction of floating dwelling houses and special dwelling houses**

- (1) The construction of a floating dwelling house or a special dwelling house within the site is not—
- (a) the construction of a vessel, harbour works or other works of any kind; or
  - (b) the placing of a pile or another structure;  
in, on, over, through or across land that is submerged or subject to inundation or tidal influence.
- (2) Subsection (1) has effect only for purposes prescribed by regulation.

### **103 Application of laws of the State**

- (1) The laws of the State relating to the design and construction and standard of construction or materials of buildings and other structures apply according to their tenor in respect of special dwelling houses and to floating dwelling houses so far as those laws may be sensibly so applied, as if special

dwelling houses or, as the case may be, floating dwelling houses were constructed on land.

- (2) Where the joint committee established for the purposes of the Standard Sewerage Law or the joint committee established for the purposes of the Standard Water Supply Law considers that a standard determined under the Standard Sewerage Law or, as the case may be, the Standard Water Supply Law cannot sensibly be applied in respect of a floating dwelling house, the relevant committee may determine a standard to apply in lieu of the firstmentioned standard and the standard as determined shall apply accordingly.
- (3) The provisions of the *Canals Act 1958* do not apply in respect of the development within the site of any harbour facility as defined in schedule A, clause 1.

#### **104 Construction and use of structures on bank of Coomera River**

- (1) With the prior written approval of the chief executive, the proprietor of land within the site bounded in part by the Coomera River may erect a structure that extends from that land upon or over that part of the river or bank that abuts that land.
- (2) An application for approval to erect a structure referred to in subsection (1) shall be made to the chief executive and accompanied by the prescribed fee.
- (3) A structure erected pursuant to subsection (1) shall be for the purpose of providing pedestrian access from the land abutting the structure and for such other purpose as may be approved by the chief executive.
- (4) For so long as the structure is maintained in a good state of repair and to the standard specified by the chief executive in giving approval for its construction or from time to time specified by the chief executive, the proprietor for the time being of the land abutting the structure shall have the right to exclusive use of the structure for the purpose specified in subsection (3).
- (5) If the chief executive is of the opinion that a structure erected upon or over the part of the Coomera River bank apparently

for a purpose specified in subsection (3) does not comply with this section it may by notice in writing directed to the proprietor of land within the site that abuts the river bank where the structure is erected order—

- (a) the demolition and removal of the structure; or
- (b) the structure to be repaired or other work as is necessary to comply with this section be carried out;

within the time specified in the order.

- (6) A proprietor of land shall comply with an order directed to the proprietor pursuant to subsection (5).

Maximum penalty—20 penalty units.

- (7) The chief executive may at any time enter upon land for the purpose of inspecting any structure referred to in subsection (1) or (5) and may be upon the structure for that purpose.

- (8) A person shall not prevent the chief executive from entering land or being upon any structure for the purpose of inspecting the structure pursuant to subsection (7) or obstruct or hinder the chief executive in carrying out the chief executive's inspection.

Maximum penalty—20 penalty units.

## **Part 8**                      **Miscellaneous provisions**

### **104A Dealing with disputes**

Unless otherwise provided in this Act, a dispute about the operation of this Act or the rights and obligations of persons under this Act may be dealt with under the *Building Units and Group Titles Act 1980*, part 5.<sup>3</sup>

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3 *Building Units and Group Titles Act 1980*, part 5 (Disputes)

**105 Statutory charges**

For the purpose of the assessment of rates, land tax and any other statutory charges payable in respect of land and for the purpose of determining the unimproved value of land, the land within the site or the adjacent site that is or may be or becomes inundated by water or subject to tidal influence shall be deemed to be land that is not and never has been so inundated or subject.

**105A Delegation by chief executive**

The chief executive may delegate the chief executive's powers under this Act to an officer or employee of the public service.

**106 Request for Albert Shire Council approval to be accompanied by fee**

- (1) An application to the Albert Shire Council for any approval by this Act required shall be accompanied by the relevant application fee fixed from time to time by the Albert Shire Council.
- (2) Different amounts may be fixed as application fees in respect of applications for different types of approval required by this Act or in respect of a particular application and may be fixed before or after the application is made.

**107 Offences generally and penalty**

- (1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.
- (2) Where no penalty is expressly provided, a person who commits an offence against this Act is liable to a penalty of 20 penalty units.

**108 Proceedings for offences**

- (1) A prosecution for an offence against this Act shall be by way of summary proceedings under the *Justices Act 1886* upon the complaint of—

- (a) in the case of offences against the provisions of part 2, division 2—the chief executive officer of the Albert Shire Council or the chief executive officer’s delegate; or
  - (b) in any other case—any person authorised in writing in that behalf by the Minister.
- (2) In any proceedings it shall not be necessary to prove the appointment of the chief executive officer of the Albert Shire Council or the authority of a complainant to lay a complaint in respect of an offence against this Act in the absence of evidence that challenges that appointment or authority.

### **109 Evidentiary provisions**

In proceedings under this Act a signature purporting to be that of the Minister shall be taken to be the signature it purports to be until the contrary is proved.

### **110 Tabling of orders in council**

Section 28A of the *Acts Interpretation Act 1954* (Tabling of Regulations) shall apply with respect to orders in council made for the purposes of this Act as if they were regulations.

### **111 Regulation-making power**

- (1) The Governor in Council may make regulations, not inconsistent with this Act, with respect to—
- (a) the preparation of plans and documents for the purposes of this Act;
  - (b) the plans and documents that under this Act may be lodged in the office of the registrar of titles;
  - (c) the registration in the office of the registrar of titles of plans and documents;
  - (d) the fees to be paid in respect of the lodgment and registration in the office of the registrar of titles of plans and documents;

- (e) the nomination and election of the offices of chairperson, secretary and treasurer of the principal body corporate or of the primary thoroughfare body corporate and of other members of the executive committee of each such body corporate;
  - (f) any matter or thing which by this Act is required or permitted to be prescribed or is necessary or convenient to be prescribed for carrying out or giving effect to any provision of this Act.
- (2) A regulation may impose a penalty not exceeding \$200 for an offence against a regulation.

## **Part 9                      Validation**

### **112      Declaration about resolution of disputes under Building Units and Group Titles Act 1980**

- (1) This section applies to all acts, matters and things done before the commencement of section 104A for the resolution, under the *Building Units and Group Titles Act 1980*, part 5, of a dispute about the operation of this Act or the rights and obligations of persons under this Act.
- (2) To remove any doubt, it is declared that the acts, matters and things are taken to be, and always to have been, as validly done as if they were done after the commencement.

## Schedule A      Uses permitted within zones

### section 9

1 In this schedule—

***accommodation units*** means premises not exceeding 4 storeys in height suitable for and used or intended for use as apartment houses, flats or home units.

***brewery*** means premises used or intended to be used for the manufacture, dispensing and packaging for sale of alcoholic beverages brewed wholly or in part from malten hops.

***car hire premises*** means premises used or intended for use for the storage of motor vehicles pending their hire to customers.

***catering facility*** means premises used for cafes, espresso bars, kiosks, milk bars, restaurants, snack bars, soft drink shops, tea gardens or tea rooms.

***child care centre*** means premises used or intended for use for the care of more than 8 children and includes a kindergarten.

***club*** means premises in the form of an integrated development whether operated for profit or otherwise and which is used or intended to be used by persons resorting thereto, for social, literary, political, sporting, athletic or other like purposes or by a body or bodies constituted for those purposes whether the whole or part of the premises are premises to which a license under the *Liquor Act 1992* applies, and includes premises used or intended to be used for all or any of the following purposes—

- (a) the watching of, practicing of, receiving or giving instruction in or taking part in, whether for recreation or otherwise—
  - (i) a sport; or
  - (ii) a form of athletics; or
  - (iii) a game not being a sport or form of athletics; or
  - (iv) health or physical fitness activities; or

## Schedule A (continued)

- (b) a meeting place for persons associated with the club; or
- (c) a function room; or
- (d) a catering facility.

**commercial premises** means premises used or intended for use as a business office or professional office or for other business or commercial purposes not otherwise specifically defined in this schedule.

**commissary** means a kitchen used for the preparation of food to be distributed to a catering facility.

**dwelling house** means premises which consist of only self-contained accommodation for the exclusive use of persons residing within the site including such outbuildings as are incidental to and necessarily associated with a dwelling house, and does not include accommodation units.

**educational establishment** means premises used or intended to be used as an art gallery or museum and includes craft workshops producing handicrafts, folk art and other art work for sale to the public.

**fauna park** means premises used or intended to be used for keeping and viewing either fauna or marine life or both.

**floating dwelling house** means a structure constructed or designed to be constructed as a dwelling house which structure is or is to be supported by tidal waters and is securely anchored above land by means of at least 4 piles permanently embedded in that land which structure is designed to move only in a vertical direction with the ebb and flow of the tide, and includes the piles by which the structure is securely anchored.

**gatehouse** means premises used or intended to be used for the purpose of maintaining security by restricting or regulating public access to the site or any part or parts of the site.

**harbour facility** means any part of the site which has been developed to provide a protected navigable water area for the specific use by marine vessels with access to the site and providing for the servicing, mooring or anchorage of vessels, and includes wharves, docks, jetties and the like but does not

## Schedule A (continued)

include marinas or land used or intended for use for residential or commercial purposes.

***health care institution*** means premises used or intended for use for the medical care or treatment of persons and includes an ambulance station, a first-aid station, a nursing service and premises used or intended for use by a medical practitioner, optometrist, pathologist, radiologist, physiotherapist, chiropodist, chiropractor or dentist in the practice of his or her profession.

***helipad*** means premises used or intended for use for the landing and departure of helicopters and includes facilities used or intended for use in sheltering, securing, servicing, maintaining and repairing helicopters.

***indoor entertainments*** includes the conducting or performing indoors of the following—

- amusement parlours or arcades
- bazaars
- billiard saloons
- bowling centres
- cinemas
- competitions
- covered swimming pools
- exhibitions (including tourist attractions)
- games
- gymnasiums
- skating rinks
- squash courts
- stadiums.

***international hotel*** means licensed premises which provide at least for—

- (a) 250 guest suites each of which—

**Schedule A (continued)**

- (i) have bath, shower and toilet facilities;
- (ii) have a minimum floor area (including the bath, shower and toilet facilities) of 35.0 m<sup>2</sup>;
- (iii) is furnished with lounge chairs and a writing table or desk;
- (iv) provide facilities for making tea and coffee;
- (b) 30 of the guest suites referred to in paragraph (a) to comprise more than 1 room (excluding the bath, shower and toilet facilities);
- (c) a dining room or restaurant capable of seating at least 150 persons;
- (d) 8 meeting rooms, 1 of which is capable of seating at least 400 persons;
- (e) a lobby lounge bar capable of seating at least 60 persons;
- (f) parking space for at least 200 cars increasing by at least 2 spaces for each 3 guest suites provided in excess of 300;
- (g) airconditioning with a control panel in each suite;
- (h) telephone, television and radio in each guest's suite;
- (i) swimming pool and pool snack bar;
- (j) adequate space for reception of guests and storage of baggage;
- (k) adequate kitchens and storage space for food, liquor and other beverages;
- (l) adequate lighting of first-class quality;
- (m) carpeting in guest bedrooms and public rooms;
- (n) adequate portering service for guests;
- (o) room service for food, liquor and other beverages available for 24 hours of each day;
- (p) a valet service available to guests;

## Schedule A (continued)

- (q) a medical service available to guests;
- (r) adequate access and parking or buses and taxis for the setting down and picking up of passengers.

**lake** means a body of water whether occurring naturally or artificially constructed, used or intended to be used primarily for ornamental or recreational purposes.

**landscaping** means the treatment of land for the purpose of enhancing or protecting the amenities of any part of the site and the locality in which it is situated by—

- (a) screening by fences, walls or other means; or
- (b) planting of trees, hedges, shrubs or grass; or
- (c) forming of banks, terraces or other earthworks; or
- (d) laying out of gardens or courts; or
- (e) constructing walkways or tracks.

**licensed premises** means premises in respect of which a license has been issued under the *Liquor Act 1992*.

**liquid fuel depot** means premises used or intended to be used for the storage and distribution of flammable or combustible liquids, which premises are required to be licensed under the *Building Act 1975*.

**marina** means a building or other structure erected in a harbour facility used for the mooring, servicing, provisioning and fuelling of marine vessels.

**motel** means a building or group of buildings within the same curtilage suitable for and used or intended to be used for the temporary accommodation of travellers and includes restaurant facilities on the same site for use by persons accommodated in the motel.

**outdoor entertainment** includes the conducting or performing outdoors of the following—

- exhibitions
- fairs
- marine aquaria

## Schedule A (continued)

- promotional activities
- zoological gardens.

***park*** means land which is provided for use or intended for use for open air recreation and which—

- (a) has been ornamentally laid out or repaired; or
- (b) is maintained so as to preserve or enhance its natural beauty; or
- (c) has been prepared or is maintained as a grassed or landscaped area;

and includes facilities provided on the land for the enjoyment or convenience of visitors to the park including—

- (d) exercise or light refreshment booths; or
- (e) picnic places, places for enjoying views, nature areas, vehicular parking areas and footways; or
- (f) shelters and other public conveniences; or
- (g) children's play areas.

***place of assembly*** means land or premises used or intended for use as a music hall, concert hall, theatre, dance hall or place of public assembly whether or not used for purposes of gain.

***place of worship*** means premises used or intended for use primarily for religious activities.

***plant nursery*** means premises used or intended for use for the purpose of propagating and nurturing of flowers, grasses, shrubs or trees to be used in connection with the landscaping of the site or used for the interior decorating of any premises contained within the site and includes the purpose of growing of plants for gain and the storage of materials necessarily required in association with landscaping.

***premises*** means land, building or other structure or any part thereof.

***recreation*** includes—

- boating

## Schedule A (continued)

- bowling
- bush walking
- fishing
- golfing
- swimming
- tennis.

**recreation club** means a club where the principal area of interest of persons resorting thereto relates to sporting activities, but does not include a yacht club.

**service station** means premises used or intended for use for the fuelling of motor vehicles involving the sale by retail of motor fuel, whether or not the premises are also used or intended for use for—

- (a) the sale by retail of any 1 or more of the following—
  - (i) motor fuel for boats;
  - (ii) motor fuel for motor mowers;
  - (iii) lubricating oils and greases;
  - (iv) batteries;
  - (v) power and lighting kerosene;
- (b) the carrying out of any 1 or more of the following—
  - (i) the removal, exchange and fitting of tyres;
  - (ii) minor repairs to tyres and tubes or either of them;
  - (iii) the supply of air;
  - (iv) the charging of batteries;
  - (v) the lubrication of motor vehicles;
  - (vi) running repairs to a motor vehicle being of a minor nature;
  - (vii) the washing or cleaning of motor vehicles other than by the use or operation of an automatic or partly automatic process using mechanically

## Schedule A (continued)

operated brushes and washers or either of them and air jet dryers.

**shop** includes any premises used or intended for use for the purpose of displaying or offering goods for sale by retail and includes a hairdressing salon, a barber's shop, a coin-operated laundry and premises for the reception or return of goods deposited for washing, cleaning or repairing.

**site maintenance depot** means premises used or intended for use for the garaging, servicing and fuelling of any plant and equipment required in connection with the ongoing maintenance of the site including the storage of materials (including fertilisers, pesticides and the like) associated with such maintenance.

**special dwelling house** means a structure constructed or designed to be constructed as a dwelling house which structure is upon land comprising a lot on a group titles plan the foundations of which structure extend from lands above high-water mark to land below low-water mark.

**thoroughfare** means any land used or intended for use to facilitate the traffic of vehicles usually passing on public roads.

**transport terminal** means premises used or intended for use for the loading of goods and people, for transport whether by road, water or air.

**utility undertaking** includes any of the following services—

- (a) transport by rail, road, air or water;
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of radio broadcasting, television, telephone, sewerage or drainage services.

**vehicular parking area** means premises used or intended for use solely for the parking or storage of motor vehicles, other transport vehicles, recreation vehicles and boat trailers.

**veterinary surgery** means premises used or intended for use by a veterinary surgeon in the practice of the veterinary surgeon's profession.

### Schedule A (continued)

**visitor information centre** means premises used or intended for use for providing information on the activities and attractions available within the site.

**waste transfer facility** means premises used or intended for use for the reception and compaction of refuse and garbage collected within the Sanctuary Cove Resort and for loading compacted refuse and garbage upon conveyances for removal from Sanctuary Cove Resort and includes offices and facilities for sheltering, securing, maintaining and repairing conveyances and other machinery used in conveying or compacting refuse and garbage.

**water recreation** includes any land, buildings or other structures or part thereof used for beach and water-oriented recreation including changing rooms, toilets, lifesaving, first aid and kiosk facilities and facilities for the rental of water sports equipment.

**yacht club** means any club where the principal area of interest of persons resorting thereto relates to yachting, boating or marine activities.

- 2 Within a zone, buildings and other structures may be used or erected and land may be used without the consent of the Albert Shire Council for any of the purposes set out in the following table under the heading of that zone.

### Table

#### Harbour Zone

Catering facilities

Commercial premises

Educational establishments

Fauna park

Harbour facility

Landscaping

**Schedule A (continued)**

Licensed premises  
Liquid fuel depot  
Marina  
Outdoor entertainment  
Recreation  
Service station  
Shop  
Transport terminal  
Utility undertaking  
Vehicular parking area  
Visitor information centre  
Water recreation  
Yacht club

**Floating Dwelling House Zone**

Floating dwelling house  
Harbour facility  
Landscaping  
Utility undertaking  
Vehicular parking area

**Village Zone**

Accommodation units  
Brewery  
Car hire premises  
Catering facilities  
Child care centre  
Commercial premises

**Schedule A (continued)**

Educational establishment

Harbour facility

Health care institution

Indoor entertainments

Lake

Landscaping

Licensed premises

Liquid fuel depot

Outdoor entertainment

Park

Place of assembly

Place of worship

Service station

Shop

Thoroughfare

Transport terminal

Utility undertaking

Vehicular parking area

Veterinary surgery

Visitor information centre

Water recreation

**International Hotel Zone**

Accommodation units

Car hire premises

Catering facilities

Commercial premises

Harbour facility

**Schedule A (continued)**

Indoor entertainments  
International hotel  
Lake  
Landscaping  
Licensed premises  
Liquid fuel depot  
Motel  
Outdoor entertainment  
Recreation  
Service station  
Shop  
Site maintenance depot  
Thoroughfare  
Utility undertaking  
Vehicular parking area  
Visitor information centre  
Water recreation

**Golf Course Zone**

Catering facilities  
Club  
Gatehouse  
Indoor entertainments  
Lake  
Landscaping  
Licensed premises  
Liquid fuel depot  
Outdoor entertainment

**Schedule A (continued)**

Plant nursery  
Recreation  
Shop  
Site maintenance depot  
Thoroughfare  
Utility undertaking  
Vehicular parking area

**Recreation Club Zone**

Accommodation units  
Catering facilities  
Child care centre  
Club  
Dwelling house  
Gatehouse  
Indoor entertainments  
Lake  
Landscaping  
Licensed premises  
Liquid fuel depot  
Outdoor entertainment  
Plant nursery  
Recreation  
Recreation club  
Service station  
Shop  
Site maintenance depot  
Thoroughfare

**Schedule A (continued)**

Utility undertaking  
Vehicular parking area

**Harbour, River and Waterfront Residential Zone**

Accommodation units  
Dwelling house  
Gatehouse  
Harbour facility  
Lake  
Landscaping  
Park  
Recreation  
Special dwelling house  
Thoroughfare  
Utility undertaking  
Vehicular parking area

**General Residential Zone**

Accommodation units  
Dwelling house  
Gatehouse  
Lake  
Landscaping  
Park  
Recreation  
Thoroughfare  
Utility undertaking  
Vehicular parking area

## Schedule A (continued)

**Primary Thoroughfare Zone**

Gatehouse  
Lake  
Landscaping  
Park  
Site maintenance depot  
Thoroughfare  
Utility undertaking  
Vehicular parking area

**Administration Zone**

Catering facilities  
Commercial premises  
Commissary  
Helipad  
Landscaping  
Liquid fuel depot  
Park  
Plant nursery  
Service station  
Site maintenance depot  
Thoroughfare  
Transport terminal  
Utility undertaking  
Vehicular parking area  
Visitor information centre  
Waste transfer facility

**Schedule B      The site<sup>4</sup>**

**Schedule C      Zones of the site**

**Schedule D      Adjacent site plan**

**Schedule E      Zones of the adjacent site**

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<sup>4</sup> Fold out maps of schedules B to E appear in the printed copy of this reprint.  
The size of these maps precludes inclusion in the electronic version.

## Endnotes

### 1 Index to endnotes

	Page
2 Date to which amendments incorporated . . . . .	136
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7 List of annotations . . . . .	140
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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 29 November 2004. Future amendments of the Sanctuary Cove Resort Act 1985 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Reprint date
1	to 1989 Act No. 114	31 October 1989	28 April 1994
1A	to 1995 Act No. 57	28 November 1995	16 July 1996
1B	to 1997 Act No. 17	1 July 1997	21 October 1997
2	to 1997 Act No. 17	1 July 1997	17 February 1998
2A	to 1999 Act No. 30	16 June 1999	10 August 1999
3	to 1999 Act No. 30	16 June 1999	31 January 2000
3A	to 2000 Act No. 5	23 March 2000	6 April 2000
3B	to 2001 Act No. 45	15 July 2001	27 July 2001
3C	to 2001 Act No. 45	28 February 2002	28 February 2002
			(Column discontinued)
			Notes
3D	to 2003 Act No. 6	4 March 2003	
3E	to 2003 Act No. 27	1 July 2003	R3E withdrawn, see R4
4	to 2003 Act No. 27	1 July 2003	
4A	to 2004 Act No. 53	29 November 2004	

## 5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1

## 6 List of legislation

### **Sanctuary Cove Resort Act 1985 No. 79**

date of assent 18 November 1985

ss 1–2 commenced on date of assent

remaining provisions commenced 7 December 1985 (proc pubd gaz 7 December 1985 p 1903)

amending legislation—

### **Sanctuary Cove Resort Act Amendment Act 1986**

date of assent 6 March 1986

commenced on date of assent

### **Sanctuary Cove Resort Act Amendment Act 1987**

date of assent 30 April 1987

commenced on date of assent

### **Sanctuary Cove Resort Act Amendment Act (No. 2) 1987 No. 91**

date of assent 3 December 1987

commenced on date of assent

### **Sanctuary Cove Resort Act Amendment Act 1989 No. 114**

date of assent 31 October 1989

commenced on date of assent

### **Transport Infrastructure Amendment Act (No. 2) 1994 No. 49 ss 1–2, 6 sch 2**

date of assent 14 September 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 18 November 1994 (1994 SL No. 399)

### **Building Units and Group Titles Act 1994 No. 69 ss 1–2, 229 sch 2**

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions never proclaimed into force and rep 1995 No. 58 s 5(1) sch 7

### **Land Act 1994 No. 81 ss 1–2, 525 sch 3**

date of assent 1 December 1994

commenced on date of assent

**Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
commenced on date of assent

**WorkCover Queensland Act 1996 No. 75 ss 1–2, 535 sch 2**

date of assent 12 December 1996  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 February 1997 (1996 SL No. 442)

**Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997 No. 17 ss 1–2, 74 sch**

date of assent 15 May 1997  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 1997 (1997 SL No. 163)

**Local Government and Other Legislation Amendment Act 1999 No. 30 ss 1, 2(4), 98 sch 3 pt 1**

date of assent 16 June 1999  
commenced on date of assent (see s 2(4))

**Police Powers and Responsibilities Act 2000 No. 5 ss 1–2(1)–(2), 373 sch 2**

date of assent 23 March 2000  
commenced on date of assent (see s 2(1)–(2))

**Mental Health Act 2000 No. 16 ss 1–2, 590 sch 1 pt 2**

date of assent 8 June 2000  
ss 1–2, 590 commenced on date of assent (see s 2(1))  
remaining provisions commenced 28 February 2002 (2002 SL No. 27) (provisions were to commence 8 June 2002 (automatic commencement under AIA s 15DA(2) (2001 SL No. 46 s 2)))

**Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 schs 2–3**

date of assent 28 June 2001  
ss 1–2 commenced on date of assent  
sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)  
remaining provisions commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

**Body Corporate and Community Management and Other Legislation Amendment Act 2003 No. 6 s 1, pt 10**

date of assent 4 March 2003  
commenced on date of assent

**Workers' Compensation and Rehabilitation Act 2003 No. 27 ss 1–2(2), 622 sch 5**

date of assent 23 May 2003  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 2003 (see s 2(2))

**Statute Law (Miscellaneous Provisions) Act 2004 No. 53**

date of assent 29 November 2004  
commenced on date of assent

## 7 List of annotations

### Arrangement of Act

s 3 amd 1987 s 2; 1987 No. 91 s 2; 1989 No. 114 s 2  
om R1 (see RA s 36)

### Sanctuary Cove Resort

s 3A ins 1987 No. 91 s 3

### Interpretation

s 4 def “**building units plan**” sub 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)  
def “**group titles plan**” sub 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)  
def “**initial lot**” amd 1987 No. 91 s 4(a)  
def “**initial plan of survey**” amd 1987 No. 91 s 4(b)  
def “**initial plan of survey of the adjacent site**” ins 1987 No. 91 s 4(c)  
def “**Minister**” om 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)  
def “**plan of survey**” ins 1989 No. 114 s 3(a)  
def “**primary thoroughfare**” amd 1987 No. 91 s 4(d)  
def “**proposed use plan**” amd 1987 No. 91 s 4(e); 1989 No. 114 s 3(b)  
def “**proposed use plan of adjacent site**” ins 1987 No. 91 s 4(f); 1989 No. 114 s 3(c)  
def “**residential zone**” amd 1987 No. 91 s 4(g)  
def “**secondary thoroughfare**” sub 1987 s 3  
def “**zone**” amd 1987 No. 91 s 4(h)

### Proposed use plan

s 8 amd 1987 s 4; 1987 No. 91 s 5; 1989 No. 114 s 4

### Town planning provisions

s 9 amd 1987 No. 91 s 6

### Initial subdivision within the site

s 10 amd 1987 s 5; 1987 No. 91 s 7; 1989 No. 114 s 5

### Effect of registration of initial plan of survey

s 11 amd 1987 No. 91 s 8

### Transfer of primary thoroughfare to primary thoroughfare body corporate

s 12 amd 1987 No. 91 s 9

## PART 2A—THE ADJACENT SITE AND SUBDIVISION OF THE ADJACENT SITE

pt hdg ins 1987 No. 91 s 10

### Division 1—The adjacent site

div hdg ins 1987 No. 91 s 10

### The adjacent site

s 12A ins 1987 No. 91 s 10  
amd 1989 No. 114 s 6

**Grant of Crown land to the company**

s 12B ins 1987 No. 91 s 10

**Division 2—Zones in the adjacent site**

div hdg ins 1987 No. 91 s 11

**Adjacent site divided into zones**

s 12C ins 1987 No. 91 s 11

**Proposed use plan of the adjacent site**s 12D ins 1987 No. 91 s 11  
amd 1989 No. 114 s 7**Town planning provisions**s 12E ins 1987 No. 91 s 11  
amd 1989 No. 114 s 8**Division 3—Initial subdivision of adjacent site**

div hdg ins 1987 No. 91 s 12

**Initial subdivision within the adjacent site**s 12F ins 1987 No. 91 s 12  
amd 1989 No. 114 s 9**Effect of registration of initial plan of survey of the adjacent site**

s 12G ins 1987 No. 91 s 12

**Transfer of primary thoroughfare to primary thoroughfare body corporate**

s 12H ins 1987 No. 91 s 12

**Division 4—Dealing with Land in Residential Zones**

div hdg om 1987 No. 91 s 13

**PART 2B—DEALING WITH LAND IN ZONES**

pt hdg ins 1987 No. 91 s 13

**Division 1—Dealing with land in residential zones**

div hdg ins 1987 No. 91 s 13

**Subdivision etc. of land within certain residential zones**

s 13 amd 1987 s 6; 1987 No. 92 s 14; 1989 No. 114 s 10

**Transfer of lots comprising secondary thoroughfares to principal body corporate**

s 14 amd 1987 s 7; 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)

**Subdivision of secondary lots**

s 15 amd 1986 s 2; 1987 s 8; 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7); 1999 No. 30 s 98 sch 3 pt 1

**Plan of survey where variation of boundary approved**

s 15A ins 1989 No. 114 s 11

**Creation of easements over group title lots**

s 16A ins 1989 No. 114 s 12

**Determination of lot entitlements**

- s 19** amd 1987 s 9  
sub 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)

**Division 2—Dealing with land in zones other than residential zones**

- div hdg** amd 1987 No. 91 s 15

**Subdivision of land outside residential zones**

- s 21A** ins 1989 No. 114 s 13

**Interpretation**

- s 22** def “**proprietor**” sub 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7); 1994 No. 81 s 525 sch 3  
def “**Real Property Acts**” om R1 (see RA s 39)  
def “**secondary thoroughfare**” om 1987 s 10

**Principal body corporate**

- s 23** amd 1987 No. 91 s 16; 1999 No. 30 s 98 sch 3 pt 1; 2001 No. 45 s 29 sch 3

**Meetings of principal body corporate**

- s 27** amd 1987 s 11; 1987 No. 91 s 17; 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)

**Secondary thoroughfare by-laws**

- s 28** amd 1987 s 12

**Levies by principal body corporate on members**

- s 29** amd 1987 No. 91 s 18

**Change of principal body corporate’s address**

- s 30** amd 1987 s 13

**Power of entry**

- s 31** amd 1987 No. 91 s 19

**Duties of principal body corporate**

- s 33** amd 1987 s 14; 1989 No. 114 s 14; 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7); 1997 No. 17 s 74 sch; 1999 No. 30 s 98 sch 3 pt 1

**Notices to be given by proprietors**

- s 35** amd 1999 No. 30 s 98 sch 3 pt 1

**Insurance by principal body corporate**

- s 37** amd 1987 No. 91 s 20; 1996 No. 75 s 535 sch 2; 2003 No. 27 s 622 sch 5

**Procedure upon application to Supreme Court**

- s 40** amd 1995 No. 57 s 4 sch 1

**Constitution of executive committee**

- s 41** amd 1987 s 15; 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)

**Vacation of office of member of executive committee**

- s 42** amd 2000 No. 16 s 590 sch 1 pt 2

**Chairperson, secretary and treasurer of executive committee**

s 43            amd 1987 No. 91 s 21

**Division 2A—Principal body corporate manager**

div hdg        ins 1987 No. 91 s 22

**Principal body corporate manager**

s 47A          ins 1987 No. 91 s 22

**Service of documents on principal body corporate, members and others**

s 49            amd 1987 s 16

**Thoroughfares are roads**

prov hdg      sub 1999 No. 30 s 98 sch 3 pt 1

s 53            amd 1999 No. 30 s 98 sch 3 pt 1

**Powers etc. of inspectors and others on thoroughfares**

prov hdg      amd 2000 No. 5 s 373 sch 2

s 54            amd 1987 No. 91 s 23; 2000 No. 5 s 373 sch 2

**Primary and secondary thoroughfares are public places for certain purposes**

s 54A          ins 2000 No. 5 s 373 sch 2

**Temporary closure of thoroughfares**

s 55            amd 1987 No. 91 s 24

**Occupier's right to use thoroughfares**

s 56            amd 1987 No. 91 s 25

**Dedication of primary thoroughfare as road**

s 59            amd 1987 No. 91 s 26

**Establishment of pedestrian mall**

s 60            amd 1987 No. 91 s 27

**Additional works on primary thoroughfare**

s 61            amd 1987 No. 91 s 28

**Maintenance etc. of canals**

s 64A          ins 1987 No. 91 s 29

**Surrender of secondary thoroughfare as canal**

s 64B          ins 1987 No. 91 s 29

**Interpretation**s 65            def “**proprietor**” sub 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7); 1994 No. 81 s 525 sch 3def “**Real Property Acts**” om R1 (see RA s 39)**Primary thoroughfare body corporate**

s 66            amd 1987 No. 91 s 30; 2001 No. 45 s 29 schs 2–3

**Meetings of primary thoroughfare body corporate**

s 70            amd 1987 s 17; 1987 No. 91 s 31; 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)

**Primary thoroughfare by-laws**

s 71            amd 1987 s 18

**Voting entitlements before registration of initial plan of survey of adjacent site**

**prov hdg** amd 1987 No. 91 s 32(a)  
**s 72** amd 1987 No. 91 s 32(b)–(c)

**Voting entitlements after registration of initial plan of survey of adjacent site**

**s 72A** ins 1987 No. 91 s 33  
 amd 1989 No. 114 s 15

**Levies by primary thoroughfare body corporate on members**

**s 73** amd 1987 No. 91 s 34

**Power of entry**

**s 75** amd 1987 No. 91 s 35

**Miscellaneous powers of primary thoroughfare body corporate**

**s 76** amd 1987 No. 91 s 36

**Duties of primary thoroughfare body corporate**

**s 77** amd 1987 s 19; 1989 No. 114 s 16; 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7); 1997 No. 17 s 74 sch; 1999 No. 30 s 98 sch 3 pt 1

**Primary thoroughfare body corporate roll**

**s 78** amd 1987 No. 91 s 37

**Notices to be given by proprietors**

**s 79** amd 1987 No. 91 s 38

**Insurance by primary thoroughfare body corporate**

**s 81** amd 1987 No. 91 s 39; 1996 No. 75 s 535 sch 2; 2003 No. 27 s 622 sch 5

**Procedure upon application to Supreme Court**

**s 84** amd 1995 No. 57 s 4 sch 1

**Constitution of executive committee**

**s 85** amd 1987 s 20; 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)

**Vacation of office of member of executive committee**

**s 86** amd 2000 No. 16 s 590 sch 1 pt 2

**Chairperson, secretary and treasurer of executive committee**

**s 87** amd 1987 No. 91 s 40; 1994 No. 81 s 525 sch 3

**Division 2A—Primary thoroughfare body corporate manager**

**div hdg** ins 1987 No. 91 s 41

**Primary thoroughfare body corporate manager**

**s 91A** ins 1987 No. 91 s 41

**Service of documents on primary thoroughfare body corporate, members and others**

**s 93** amd 1987 s 21

**Power of primary thoroughfare body corporate to convene community meetings**

**s 94** amd 1987 No. 91 s 42

**Development control by-laws**

**s 95** amd 1987 s 22; 1994 No. 69 s 229 sch 2 (never proclaimed into force and om  
1995 No. 58 s 5(1) sch 7)

**PART 6A—RESIDENTIAL ZONE ACTIVITIES BY-LAWS**

**pt hdg** ins 1987 s 23

**Residential zone activities by-laws**

**s 96A** ins 1987 s 23; 1994 No. 69 s 229 sch 2 (never proclaimed into force and om  
1995 No. 58 s 5(1) sch 7)

**Minor noncompliance with residential zone activities by-laws**

**s 96B** ins 1987 s 23

**Interpretation**

**s 97** amd 1987 No. 91 s 43

**Tidal waters part of Gold Coast waterways**

**s 98** om 1994 No. 49 s 6 sch 2

**Obligation of authorities to maintain or undertake works**

**s 99** sub 1994 No. 49 s 6 sch 2

**Movement of vessels on tidal waters**

**s 100** sub 1994 No. 49 s 6 sch 2

**State not to grant lease etc. within site etc.**

**s 101** sub 1994 No. 49 s 6 sch 2

**Construction of floating dwelling houses and special dwelling houses**

**s 102** sub 1994 No. 49 s 6 sch 2

**Construction and use of structures on bank of Coomera River**

**s 104** amd 1987 No. 91 s 44; 1994 No. 49 s 6 sch 2

**Dealing with disputes**

**s 104A** ins 2003 No. 6 s 161

**Statutory charges**

**s 105** amd 1987 No. 91 s 45

**Delegation by chief executive**

**s 105A** ins 1994 No. 49 s 6 sch 2

**Offences generally and penalty**

**s 107** amd 1987 No. 91 s 46

**Regulation-making power**

**s 111 prov hdg** sub 2004 No. 53 s 2 sch

**PART 9—VALIDATION**

**pt 9 (s 112)** ins 2003 No. 6 s 162

**SCHEDULE A—USES PERMITTED WITHIN ZONES**

amd 1987 No. 91 s 47; 1989 No. 114 s 19; 1999 No. 30 s 98 sch 3 pt 1

**SCHEDULE D—ADJACENT SITE PLAN**

ins 1987 No. 91 s 48  
 sub 1989 No. 114 s 20

**SCHEDULE E—ZONES OF THE ADJACENT SITE**

ins 1987 No. 91 s 48  
 sub 1989 No. 114 s 20

**8 Table of corrected minor errors**

under the Reprints Act 1992 s 44

Provision	Description
74	om 'The' ins '(1) The'