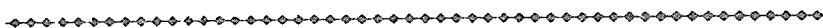


Queensland



ANNO VICESIMO SECUNDO

ELIZABETHAE SECUNDAE REGINAE



No. 58 of 1973

**An Act to Facilitate the Subdivision of Land into Lots and
the Disposition of Titles thereto, and for purposes
connected therewith**

[ASSENTED TO 15TH NOVEMBER, 1973]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and commencement. (1) This Act may be cited as the *Group Titles Act 1973*.

(2) This Act shall come into operation on a date to be fixed by Proclamation.

2. Interpretation. (1) In this Act unless the contrary intention appears—

- “body corporate” means a body corporate incorporated by section 12;
- “common area” means so much of the land for the time being comprised in a group titles plan as is not comprised in any lot shown in the plan;
- “council” means, in relation to a body corporate, the council of the body corporate constituted under the First Schedule;
- “Court” means the Supreme Court of Queensland;
- “Crown Law Officer” means the Attorney-General, Minister for Justice or Solicitor-General;
- “group titles plan” means a plan which—
 - (a) is described in the title or heading thereto as a group titles plan;
 - (b) shows the whole or any part of the land comprised therein as being divided into two or more lots; and
 - (c) complies with the requirements of section 4; and includes a plan of resubdivision of any lots in a group titles plan registered under this Act;
- “land” means land under the provisions of the Real Property Acts held by the registered proprietor in fee-simple;
- “local authority” means in relation to a parcel the local authority for the area under the *Local Government Act 1936–1973* in which the parcel is situated or, where the parcel is situated in the City of Brisbane, Brisbane City Council as constituted under the *City of Brisbane Act 1924–1972*;
- “lot” means a lot shown as such in a group titles plan;
- “lot entitlement” in respect of a lot means the lot entitlement of that lot specified or apportioned in accordance with the provisions of section 15 or paragraph (e) of subsection (5) of section 18, as the case may be;
- “mortgage” includes a charge for securing money or money’s worth;
- “parcel” means the land comprised in a group titles plan;
- “proprietor” means the proprietor for the time being of a lot;
- “Public Curator” means the Public Curator within the meaning of the *Public Curator Act 1915–1973*;
- “Real Property Acts” means *The Real Property Acts 1861 to 1963* as subsequently amended;
- “service right” means a service right created or implied by section 6 or 7;
- “service obligation” means a service obligation created or implied by section 6 or 7;
- “unanimous resolution” means, in relation to a body corporate, a resolution unanimously passed by those members of the body corporate present personally or by proxy at a duly convened meeting of the body corporate such members then being entitled to exercise the powers of voting conferred by or under this Act.

(2) In this Act, in relation to a parcel situated in the City of Brisbane, unless the contrary intention appears—

- (a) any reference to the *Local Government Act 1936–1973* includes a reference to the *City of Brisbane Act 1924–1972* and the *City of Brisbane Town Planning Act 1964–1972*;
- (b) any reference to a provision of the *Local Government Act 1936–1973* includes a reference to any corresponding provision of the *City of Brisbane Act 1924–1972* or the *City of Brisbane Town Planning Act 1964–1972*;
- (c) any reference to the *City of Brisbane Town Planning Act 1964–1972* includes a reference to the Town Plan for the City of Brisbane approved pursuant thereto.

(3) In this Act unless the contrary intention appears any reference to the *Local Government Act 1936–1973* includes a reference to any town planning scheme approved pursuant thereto that is applicable in relation to the parcel in question.

3. Subdivision. (1) Land may be subdivided into lots by registering a group titles plan in the manner provided by or under this Act.

(2) When a plan has been so registered the lots comprised therein or any one or more of them, may devolve or be transferred, leased, mortgaged, or otherwise dealt with in the same manner and form as any land held under the provisions of the Real Property Acts.

(3) A group titles plan shall for the purposes of the Real Property Acts be deemed upon registration to be embodied in the register book; and notwithstanding the provisions of those Acts, a proprietor shall hold his lot and his share in the common area subject to any interest affecting the same for the time being notified on the registered group titles plan and subject to any amendments to lots or common area shown on that plan.

(4) Upon registration of the group titles plan a memorial thereof shall be entered on the deed of grant or certificate of title relating to the parcel and the Registrar of Titles shall thereafter be authorized to issue a separate certificate of title for each lot together with the share of the common area appurtenant thereto.

(5) The parcel contained in a group titles plan shall be land within the meaning of section 67 of the *Auctioneers and Agents Act 1971–1972* and the provisions of that section shall, with such modifications as may be necessary, or as may be prescribed, apply to a sale of any part of such parcel.

4. Group Titles Plan. (1) A group titles plan shall—

- (a) delineate the external surface boundaries of the parcel and the location of each lot and the common area in relation thereto;
- (b) bear a statement containing such particulars as may be necessary to identify the title to such parcel;
- (c) delineate the lots and distinguish such lots by numbers;
- (d) delineate the common area;
- (e) show the area of each lot and of the common area;
- (f) have endorsed upon it a schedule complying with the provisions of section 15;

- (g) have endorsed upon it the name of the parcel;
- (h) have endorsed upon it the address at which documents may be served on the body corporate in accordance with section 25;
- (i) contain such other matters, be in such form and of such standard of accuracy, as may be prescribed.

(2)—

- (a) Except with the consent of the Crown Law Officer a group titles plan shall not be registered if the name of the parcel endorsed thereon, in the opinion of the Registrar of Titles, is undesirable;
- (b) a group titles plan shall not be registered if the Registrar of Titles is not satisfied that the proposed name of the parcel endorsed thereon has received the approval of the local authority.

(3) A body corporate may by unanimous resolution with the consent of the Registrar of Titles and the local authority change the name of the parcel endorsed upon the relevant group titles plan to a name with which the group titles plan could be registered without contravention of subsection (2).

(4) The council of the body corporate may change the address endorsed on the group titles plan at which documents may be served on the body corporate by registering with the Registrar of Titles on the group titles plan such change of address.

(5) Every group titles plan lodged for registration shall be endorsed with or be accompanied by a certificate of the local authority under the hand of the chairman and the clerk and sealed with the common seal of the local authority that the proposed subdivision of the parcel as illustrated in the group titles plan has been approved by the local authority and that all the requirements of the *Local Government Act 1936-1973* or, where the parcel is situated in the City of Brisbane the *City of Brisbane Act 1924-1972* and the *City of Brisbane Town Planning Act 1924-1972*, as modified by this Act have been complied with in regard to the subdivision and that the proposed name of the parcel endorsed on the group titles plan has been approved by the local authority.

(6) Upon registration of a group titles plan the Registrar of Titles shall allot thereto a number.

5. Support. In respect of each lot there shall be implied—

- (a) in favour of the proprietor of the lot and as appurtenant thereto, an easement for the lateral support thereof by the common area and by every other lot capable of affording such support;
- (b) as against the proprietor of the lot and to which the lot shall be subject, an easement for the lateral support of the common area and of every other lot capable of enjoying such support.

6. Services. In respect of each lot there shall be implied—

- (a) in favour of the proprietor of the lot and as appurtenant thereto, a right to the passage or provision of services (including water, sewerage, drainage, gas, electricity, garbage, telephone, radio and television) through or by means of any poles, pipes, wires, cables or ducts to be erected or laid down or which are for the

time being existing in or over the common area to the extent to which those services are capable of being used in connexion with the enjoyment of the lot;

- (b) as against the proprietor of the lot and to which the lot shall be subject, the obligation to permit the passage or provision of services (including water, sewerage, drainage, gas, electricity, garbage, telephone, radio and television) through or by means of any poles, pipes, wires, cables or ducts to be erected or laid down or which are for the time being existing in or over the common area as appurtenant to the common area and also to every other lot capable of enjoying such services,

but the rights 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 his lot and the common area.

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

8. Ownership of common area. (1) The common area shall be held by the proprietors as tenants in common in shares proportional to the lot entitlement of their respective lots.

(2) The Registrar of Titles in issuing a certificate of title for a lot shall certify therein the proprietor's share in the common area.

(3) Save as in this Act provided, no share in the common area shall be disposed of except as appurtenant to the lot of the proprietor and any assurance of a lot shall operate to assure the share of the disposing party in the common area, without express reference thereto.

9. Dispositions of common area. (1) The proprietors of all lots, subject to the approval of the local authority, may by unanimous resolution direct the body corporate to transfer (whether by way of surrender or otherwise howsoever) or lease the common area or any part thereof.

(2) For the purposes of this section and subsection (4) of section 18 the transfer or lease of the common area or any part thereof shall be deemed to be a resubdivision and that subsection shall with such modifications as may be necessary apply to and in respect of an application for approval of the local authority to the proposed transfer or lease.

(3) Any transfer or lease of the common area or any part thereof shall be in conformity with the provisions of the *Local Government Act 1936-1973*.

(4) The local authority shall not give its approval to a transfer or lease of the common area or any part thereof unless it is satisfied—

- (a) that the proposed transfer or lease will not interfere with the existing or likely future amenity of the neighbourhood, having regard to the circumstances of the case, the public interest and the adequacy of access drives and parking areas within the common area;

- (b) in a case where part only of the common area is proposed to be transferred or leased, that if the application for approval were an application to the local authority for a certificate for the purposes of subsection (5) of section 4 in respect of the subdivision of the parcel into the lots shown on the relevant group titles plan and the common area (excluding the part the subject of the proposed transfer or lease) it would be proper for the local authority to direct the issue of the certificate;
- (c) in a case where the whole of the common area is proposed to be transferred or leased, that if the application for approval were an application to the local authority under the *Local Government Act 1936-1973* for approval of a subdivision of the parcel (excluding the common area) into the lots shown on the group titles plan it would be proper for the local authority to approve the same;
- (d) that the easements, services and rights referred to in sections 5, 6 and 7 and presently enjoyed or exercised, or capable of being enjoyed or exercised, will not be, or be likely to be, unduly interfered with by the proposed transfer or lease or that suitable alternative arrangements have been agreed upon by the parties in relation thereto.

(5) The body corporate, if it is satisfied that the resolution was duly passed, and that all persons having registered interests in the parcel and all other persons having interests (other than statutory interests) which have been notified to the body corporate have, in the case either of a memorandum of transfer or lease, consented in writing to the release of those interests in respect of the land comprised in the proposed transfer or, in the case of a lease, have approved in writing of the execution of the proposed lease, shall execute the appropriate memorandum of transfer or lease and the memorandum of transfer or lease shall be valid and effective without execution by any person having an interest in the common area, and the receipt of the body corporate for the purchase money, rent, premiums, or other money payable to the body corporate under the terms of the memorandum of transfer or lease shall be a sufficient discharge, and shall exonerate the person taking under the memorandum of transfer or the lessee, as the case may be, from any responsibility for the application of the money expressed to have been so received.

(6) Every memorandum of transfer or lease executed pursuant to subsection (1) and lodged for registration shall be endorsed with or accompanied by a certificate under the seal of the body corporate that the resolution was duly passed, that the memorandum of transfer or lease conforms with the terms thereof and that all necessary consents were given.

(7) In favour of purchasers of the common area or part thereof and in favour of the Registrar of Titles the certificate shall be conclusive evidence of the matters certified therein.

(8) Upon lodgment for registration of a memorandum of transfer of the common area or part thereof, the Registrar of Titles shall, before issuing a certificate of title, amend the registered group titles plan by deleting therefrom the common area comprised in the memorandum of transfer.

- (9) The Registrar of Titles shall register—
- (a) the memorandum of transfer by issuing to the transferee a certificate of title for the land transferred;
 - (b) the lease by noting it on the registered group titles plan in the manner prescribed.

10. Creation of easements. (1) The proprietors of all lots by unanimous resolution may direct the body corporate—

- (a) to execute on their behalf a grant of easement;
- (b) to accept on their behalf a grant of easement;
- (c) to surrender on their behalf any grant of easement.

(2) The body corporate, if it is satisfied that the resolution was duly passed, and that all persons having registered interests in the parcel and all other persons having interests (other than statutory interests) which have been notified to the body corporate have consented in writing to the release of those interests in respect of the land comprised in the proposed disposition, shall execute the appropriate instrument and every instrument shall be valid and effective without execution by any person having an interest in the parcel, and the receipt of the body corporate shall be a sufficient discharge, and shall exonerate all persons taking under the instrument from any responsibility for the application of the money expressed to have been so received.

(3) Every instrument executed pursuant to subsection (2) and lodged for registration shall be endorsed with or accompanied by a certificate under the seal of the body corporate that the resolution was duly passed and that all necessary consents were given.

(4) In favour of persons dealing with the body corporate pursuant to this section and in favour of the Registrar of Titles the certificate shall be conclusive evidence of the matters certified therein.

(5) The Registrar of Titles shall register the instrument creating an easement by noting it on the registered group titles plan in the manner prescribed.

11. By-laws. (1) The parcel shall be regulated by by-laws.

(2) The by-laws shall provide for the control, management, administration, use and enjoyment of the lots and the common area and shall include—

- (a) the by-laws set forth in the First Schedule, which shall not be added to, amended or repealed except by unanimous resolution of the body corporate;
- (b) the by-laws set forth in the Second Schedule which may be added to, amended or repealed by the body corporate.

Until by-laws are made in that behalf, the by-laws set forth in the First Schedule and the Second Schedule shall as on and from the registration of a group titles plan be in force for all purposes in relation to the parcel and the lots and the common area therein.

(3) No by-laws or addition to or amendment or repeal of any by-law shall be capable of operating to prohibit or restrict the devolution of lots or any transfer, lease, mortgage or other dealing therewith or to destroy or modify any easement, service right or service obligation implied or created by this Act.

(4) No addition to or amendment or repeal of any by-law pursuant to paragraph (a) of subsection (2) shall have effect until the body corporate shall have lodged a notification thereof in the form prescribed with the Registrar of Titles and until the Registrar of Titles shall have made reference thereto on the registered group titles plan.

(5) The body corporate shall on the application of any person at all reasonable times make available for inspection the by-laws for the time being in force.

(6) The body corporate shall permit any person to whom the by-laws are made available for inspection pursuant to subsection (5) to make copies of or take extracts from the by-laws.

(7) Any person may request the body corporate to furnish him with a copy of the by-laws for the time being in force or any part thereof on payment in advance of the prescribed sum or such less sum as the body corporate requires for every page required to be copied and the body corporate shall cause any copy so requested to be sent to that person within the period of twenty-one days commencing on the day next after the day on which the request is received by the body corporate.

(8) The by-laws for the time being in force shall bind the body corporate and the proprietors to the same extent as if such by-laws had respectively been signed and sealed by the body corporate and each proprietor and contained covenants on the part of the body corporate with each proprietor and on the part of each proprietor with every other proprietor and with the body corporate to observe and perform all the provisions of the by-laws.

12. Management. (1) The proprietor or proprietors shall, by virtue of this Act, upon registration of the group titles plan be a body corporate under the name "The Proprietors—(insert name of the parcel) Group Titles Plan No. _____". (The name of the parcel shall be the name endorsed upon the relevant group titles plan and the plan number shall be the number allotted to that plan pursuant to subsection (6) of section 4).

(2) The provisions of the *Companies Act 1961–1972* shall not apply to the body corporate.

(3) Subject to this Act the body corporate shall be responsible for enforcement of the by-laws and the control, management and administration of the common area.

(4) The 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 by-laws for the time being in force.

(5) The 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 common area caused by any person, whether a proprietor or not;
- (c) be sued in respect of any matter connected with the parcel for which the proprietors are jointly liable.

(6) In any case in which work is carried out for the purpose of constructing or preparing the common area, the body corporate, upon registration of the group titles plan, 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 such contract.

13. Duties and powers of body corporate. (1) The duties of the body corporate shall include the following:—

- (a) to insure and keep insured the common area including any improvement thereon, to the reinstatement or replacement value thereof against fire and such other risks as may be prescribed unless the proprietors by unanimous resolution otherwise resolve;
- (b) to effect such insurance as it is required by law to effect;
- (c) to insure against such other risks as the proprietors may from time to time determine by special resolution as defined in clause 38 of the First Schedule;
- (d) forthwith to apply insurance money received by it in respect of damage to the common area in rebuilding and reinstating the common area, and any improvement thereon so far as they may lawfully be effected;
- (e) to pay premiums on any policies of insurance effected by it;
- (f) to keep in a state of good and serviceable repair and properly maintain the common area;
- (g) to comply with notices or orders by any competent public or local authority requiring repairs to, or work to be done in respect of the common area;
- (h) to comply with any reasonable request for the names and addresses of the persons who are members of the council of the body corporate,

and the body corporate for the purposes of effecting any insurance under this subsection shall be deemed to have an insurable interest in the subject matter of such insurance.

(2) The powers of the body corporate shall include the following:—

- (a) to establish a fund for administrative expenses sufficient in the opinion of the body corporate for the control, management and administration of the common area, for the payment of any premiums of insurance and the discharge of any other obligation of the body corporate;
- (b) to determine from time to time the amounts to be raised for the purposes aforesaid;
- (c) to raise amounts so determined by levying contributions on the proprietors in proportion to the lot entitlement of their respective lots;

(3)—

- (a) Subject to the provisions of paragraph (b), any contribution levied under subsection (2) shall be due and payable on the passing of a resolution to that effect and in accordance with the terms of the resolution and may be recovered as a joint and several debt by the body corporate in an action in any court of competent jurisdiction from the proprietor entitled at the time when such a resolution was passed and from the proprietor entitled at the time when such action was instituted;

- (b) The body corporate shall on the application of the proprietor or any person authorized in writing by him certify—
- (i) the amount of any contribution determined as the contribution of the proprietor,
 - (ii) the manner in which such contribution is payable;
 - (iii) the extent to which such contribution has been paid by the proprietor; and
 - (iv) the amount of any rate paid by the body corporate pursuant to section 14 and not recovered by it,
- and, in favour of any person dealing with that proprietor, such certificate shall be conclusive evidence of the matters certified therein.

14. Recovery of rates. (1) Where any rate levied in respect of a lot by any competent local or public authority is due and payable and the proprietor has made default in payment thereof, then such authority may serve upon the body corporate a copy of the notice of assessment of such rate together with a notice requiring the body corporate to pay the same or such part thereof as remains unpaid within thirty days of the date of such service.

(2) If the body corporate fails to pay such rate or part thereof within the period specified in the notice in accordance with subsection (1) the authority by which the notice was issued without prejudice to its rights against any proprietor, may sue the body corporate for such rate or part thereof as a debt in any court of competent jurisdiction and may exercise any other remedy available to the authority under any Act, regulation, ordinance or by-law as if the body corporate were the sole proprietor of the parcel and the rate levied was the rate applicable to the parcel.

(3) Where the body corporate pays any such rate or part thereof it may recover the amount so paid in an action for debt in any court of competent jurisdiction from the person who is the proprietor of the lot in respect of which the rate was levied at the time when such action is instituted.

(4) Where the body corporate pays any such rate or part thereof the amount so paid shall until recovery by the body corporate be and remain a first charge upon the lot in respect of which the rate was levied of the same nature and priority as the local or public authority had in respect of such rate or part thereof before payment by the body corporate.

15. Lot entitlement of lots. (1) Every plan lodged for registration as a group titles plan shall have endorsed upon it a schedule specifying in whole numbers the lot entitlement of each lot and a number equal to the aggregate lot entitlement of all lots contained in such plan and such lot entitlement shall determine—

- (a) the quantum of the undivided share of each proprietor in the common area;
- (b) the proportion payable by each proprietor of contributions levied pursuant to subsection (2) of section 13.

(2) The lot entitlement of each lot shall (as nearly as is practicable) bear in relation to the aggregate lot entitlement of all lots contained in such plan the same proportion as the unimproved value of such lot bears to the sum of the unimproved values of all lots contained in the plan.

(3) Every group titles plan lodged for registration as such shall be accompanied by a certificate under the hand of a valuer registered under the provisions of the *Valuers Registration Act 1965-1971* setting forth his opinion as to the unimproved value, and the lot entitlement, of each lot contained in the plan.

16. Extinguishment of the group titles plan. (1) For the purposes of this Act a group titles plan is extinguished on the happening of the following events—

- (a) when the approval of the local authority to the extinguishment has been obtained; and
- (b) when—
 - (i) the proprietors by unanimous resolution so resolve; or
 - (ii) the Court is satisfied that having regard to the rights and interests of the proprietors as a whole it is just and equitable that the group titles plan should be extinguished and makes an order to that effect.

(2) Upon a proposal to extinguish the group titles plan pursuant to this section, the body corporate shall make application to the local authority for approval to the extinguishment of the group titles plan.

(3) Upon an application pursuant to subsection (2) the local authority shall not refuse to approve such application but may approve the application subject to reasonable and relevant conditions including—

- (a) the removal of such buildings or other structures therefrom, and such numbers thereof, as would be necessary for the land and any buildings or other structures thereon to comply with the requirements of the ordinances or by-laws, as the case may be, of the local authority;
- (b) the subdivision of the parcel in such a manner that the locations of any remaining buildings or other structures thereon comply with the provisions of the ordinances or by-laws, as the case may be, of the local authority.

(4)—

- (a) Upon an application for approval pursuant to subsection (2) the local authority shall issue notification of the approval in principle and the conditions, if any, required by the local authority within forty days after the date of application for such approval;
- (b) where the application has been approved in principle and the applicant has complied in every respect with the conditions, if any, lawfully imposed by the local authority pursuant to subsection (3), the local authority shall within fourteen days after such compliance issue a certificate that the requirements of the local authority have been complied with.

(5) Upon the failure by the local authority to notify approval in principle together with the conditions, if any, of such approval within forty days after application for such approval or upon the failure of the local authority to comply with the provisions of paragraph (b) of subsection (4), the applicant may appeal to the Local Government Court within the meaning of the *Local Government Act 1936-1973* in accordance with the provisions of subsection (15) of section 34 of that Act and the provisions of that subsection shall extend with such modifications as may be necessary to and in respect of such appeal.

(6) In any case where an order is made pursuant to subparagraph (ii) of paragraph (b) of subsection (1), the Court may by order impose—

- (a) such conditions and give such directions (including directions for the payment of money) as it thinks fit for the purpose of adjusting as between the body corporate and the proprietors and as amongst the proprietors themselves the effect of the order; and
- (b) any of the conditions which a local authority may impose pursuant to subsection (3).

(7) For the purpose of the foregoing provisions of this section an application may be made to the Court by the body corporate or by a proprietor or by a registered mortgagee of a lot.

(8) The Court may from time to time vary any order made by it under this section.

(9)—

- (a) The Court on the application of the body corporate or of any member thereof or of the administrator appointed under section 21 may by order make provision for the winding up of the affairs of the body corporate;
- (b) by the same or subsequent order the Court may declare the body corporate dissolved as on and from a date specified in the order.

(10) On any application under this section the Court may make such order for the payment of costs as it thinks fit.

17. Disposition on extinguishment of the group titles plan. (1) Upon extinguishment of the group titles plan the body corporate shall forthwith lodge with the Registrar of Titles a notification of the extinguishment in the form prescribed together with the certificate of the local authority that the requirements of the local authority have been complied with, together with any plan of subdivision approved by the local authority and required by the local authority pursuant to paragraph (b) of subsection (3) of section 16.

(2) Upon receipt of the notification referred to in subsection (1) together with any other documents required to be lodged by that subsection, the Registrar of Titles shall make an entry thereof on the registered group titles plan in the manner prescribed.

(3) Upon such entry in pursuance of subsection (2) proprietors of lots in the group titles plan in question shall be entitled to the parcel as tenants in common in such shares as the proprietors by unanimous resolution may resolve or as the Court may order having regard to the rights and interests of the proprietors as a whole upon an application made to the Court by any person specified in subsection (7) of section 16.

(4) The proprietors of all lots by unanimous resolution may direct the body corporate to transfer the parcel or any part or parts thereof.

(5) The body corporate if it is satisfied that the resolution was duly passed, and that all persons having interests (other than statutory interests) which have been notified to the body corporate have consented in writing to the release of those interests in respect of the land comprised in the proposed disposition, shall execute the appropriate memorandum of transfer and the memorandum of transfer shall be valid and effective without execution by any person having an interest in the parcel and the

receipt of the body corporate shall be a sufficient discharge, and shall exonerate the person taking under the memorandum of transfer from any responsibility for the application of the money expressed to have been so received.

(6) Every memorandum of transfer executed pursuant to subsection (5) and lodged for registration shall be endorsed with or accompanied by a certificate under the seal of the body corporate that the resolution was duly passed and that all necessary consents were given.

(7) In favour of purchasers of the parcel and in favour of the Registrar of Titles, the certificate shall be conclusive evidence of the facts stated therein.

(8) Upon lodgment for registration of a memorandum of transfer of a parcel by the body corporate pursuant to this section, the Registrar of Titles shall, before issuing a certificate of title, make the entry prescribed by subsection (2).

(9) Where land is transferred by the body corporate pursuant to this section—

- (a) the proprietors shall surrender to the Registrar of Titles their duplicate certificates of title for cancellation;
- (b) The Registrar of Titles shall, after cancelling the folios of the register book constituted by the certificates of title relating to the lots, register the memorandum of transfer by issuing to the transferee a certificate of title for the land transferred.

18. Approval of subdivision. (1) The local authority may direct the issue of a certificate for the purposes of subsection (5) of section 4 in relation to any subdivision or resubdivision pursuant to subsection (1) of section 3 or this section notwithstanding that it does not comply with the provisions relating to subdivision contained in the *Local Government Act 1936-1973* and to the extent to which the local authority, having regard to all circumstances of the case, deems that waiver of compliance with those provisions is warranted, the local authority is hereby authorized to waive such compliance, but the boundaries of the parcel shall correspond with the boundaries of a lawful subdivision within the meaning of the *Local Government Act 1936-1973*.

(2) The power of a local authority to make ordinances or by-laws, as the case may be, shall include power to make all such ordinances or by-laws not inconsistent with this Act as may be necessary or convenient to regulate and control subdivision undertaken pursuant to the provisions of this Act (including but without limiting the generality hereof matters to which sections 9 and 16 relate).

(3) In respect of any application for a certificate for the purposes of subsection (5) of section 4 the local authority shall, subject to subsection (4), direct the issue of such certificate if it is satisfied that—

- (a) the subdivision complies with the applicable provisions referred to in subsections (1) and (2);
- (b) separate occupation of the proposed lots will not contravene the provisions of—
 - (i) any town planning scheme approved pursuant to section 33 of the *Local Government Act 1936-1973*;

-
- (ii) any by-law made pursuant to subsection (21) of section 33 of the *Local Government Act 1936-1973*;
 - (iii) any Order in Council made pursuant to section 33A of the *Local Government Act 1936-1973*; or
 - (iv) any by-law made pursuant to section 34 of the *Local Government Act 1936-1973*,
or in the case of Brisbane City Council—
 - (v) the Town Plan for the City of Brisbane approved pursuant to the *City of Brisbane Town Planning Act 1964-1972*;
 - (c) any consent or approval required under any such approved scheme or plan, Order in Council, by-law or ordinance has been given in relation to the separate occupation of the proposed lots;
 - (d) the proposed subdivision of the parcel into lots for separate occupation will not interfere with the existing or likely future amenity of the neighbourhood, having regard to the circumstances of the case, the public interest and the adequacy of access drives and parking areas within the common area;
 - (e) the name of the parcel is not undesirable.
- (4)—
- (a) Within forty days after the application for a certificate for the purposes of subsection (5) of section 4 the local authority shall notify the applicant in writing of its decision to approve in principle or to refuse the application but the local authority shall not issue such a certificate until it is satisfied that any necessary works lawfully required by the conditions of approval are completed and any money lawfully required to be paid to the local authority is paid and that the applicant has entered into any necessary agreement with the local authority and has furnished any security lawfully required by the ordinances or by-laws as the case may be, of the local authority and that all other conditions of approval lawfully required have been complied with in every respect;
 - (b) where the application has been approved in principle and the applicant has complied in every respect with the requirements of or pursuant to the ordinances or by-laws, as the case may be, of the local authority, the local authority shall within fourteen days after such compliance or, if the relevant plan is submitted to it at a later date, within fourteen days of such later date, endorse on the group titles plan the certificate required for the purposes of subsection (5) of section 4;
 - (c) upon any refusal by the local authority to direct the issue of a certificate for the purposes of subsection (5) of section 4 or upon the failure by the local authority to notify approval in principle within forty days after application for such certificate, or upon the failure of the local authority to comply with the provisions of paragraph (b), the applicant may appeal to the Local Government Court within the meaning of the *Local Government Act 1936-1973* in accordance with the provisions of subsection (15) of section 34 of that Act and the provisions of that subsection shall extend with such modifications as may be necessary to and in respect of such appeal.

(5)—

- (a) Any proprietor or proprietors may, with the approval of the local authority, resubdivide his or their lots by registering a group titles plan relating to the lot or lots so resubdivided in the manner provided by this Act for the registration of group titles plans;
 - (b) save as in this section provided, the provisions of this Act relating to group titles plans and to appeals from any decision of the local authority or failure by the local authority to make a decision shall with such modifications as may be necessary apply to such a resubdivision;
 - (c) notwithstanding the provisions of section 12 proprietors of lots in a group titles plan of resubdivision shall not be a body corporate, but shall, upon the date of registration of such plan of resubdivision be members of the body corporate formed on registration of the original group titles plan;
 - (d) on registration of a group titles plan of resubdivision, lots comprised therein shall be subject to the burden and have the benefit of any easements, service rights and service obligations affecting such lots in the original group titles plan as are included in the plan of resubdivision;
 - (e) the schedule endorsed on the group titles plan of resubdivision as required by section 15 shall apportion among the lots the lot entitlement of such lot or lots in the original group titles plan as are included in the plan of resubdivision;
 - (f) before registering a group titles plan of resubdivision the Registrar of Titles shall amend the original registered group titles plan in the manner prescribed;
 - (g) upon registration of any group titles plan of resubdivision land therein shall not be dealt with by reference to lots in the original group titles plan.
- (6) The decision of the Local Government Court upon any appeal under this Act shall be final and shall be binding upon the local authority and the appellant and for the purposes of this Act shall be deemed to be the final decision of the local authority.

19. Rates and taxes. (1) In this section—

“Area” has the meaning ascribed to that expression in the *Valuation of Land Act 1944–1971*.

(2)—

- (a) Where the Valuer-General causes a parcel to be valued under and subject to the *Valuation of Land Act 1944–1971*, the parcel shall, notwithstanding the provisions of that Act, or any other Act, be valued as a single parcel of land and as if it were owned by a single owner and for the purposes of any such valuation and all purposes incidental thereto (including objection to and appeal against a valuation) but not otherwise, the parcel and all improvements thereon shall be deemed to be owned by the body corporate and by no other person;
- (b) during the period from the registration of the group titles plan and until a valuation of the parcel showing the body corporate as owner becomes effective for rating or taxing purposes the valuation then in force shall, for the purposes

of subsections (4) and (5), be deemed to be a valuation of the parcel made by the Valuer-General showing the body corporate as owner;

- (c) the Valuer-General is not required to make separate valuations of any part of the parcel otherwise than as if the parcel were owned by a single owner;
- (d) notwithstanding the provisions of the *Valuation of Land Act 1944-1971*, the Valuer-General may upon the registration of the group titles plan, cause a valuation of the parcel to be made under and subject to that Act showing the body corporate as owner.

(3) The body corporate shall, within twenty-eight days after the registration of a group titles plan or any amendment thereof, furnish to the Valuer-General and to the Commissioner of Land Tax, and to the local authority in relation to the parcel or any part thereof two copies of the registered group titles plan or any amendment thereof (including all endorsements thereon) certified as prescribed. For all purposes in relation to the making, levying, imposition, assessment, or recovery of rates, charges or taxes in relation to the parcel or any part thereof—

- (a) the particulars shown on the certified copy of the group titles plan or any amendment thereof so furnished shall be conclusive evidence of those particulars; and
- (b) the production by an authority authorized to levy charges, rates or taxes in relation to the parcel or any part thereof of what purports to be the certified copy of the group titles plan or any amendment thereof so furnished shall be *prima facie* evidence that it is the certified copy so furnished.

(4) For all purposes in relation to the making, levying or recovery of rates or charges by a local authority pursuant to the *Local Government Act 1936-1973* in relation to the parcel the following provisions have effect—

- (a) the unimproved value of the parcel shown in the valuation shall be apportioned by the local authority between the lots comprised in the parcel in proportion to the lot entitlement of the respective lots as shown on the registered group titles plan or any amendment thereof;
- (b) subject to section 14 the body corporate is not liable in respect of the parcel for any rate made and levied by the local authority;
- (c) the proprietor of each lot comprised in the parcel is deemed to be the owner in fee-simple in possession of the lot as if it were a separate parcel of land having an unimproved value equal to that apportioned to it under paragraph (a) and is liable accordingly for any rate or charge made and levied by the local authority on the owners of the land:

Provided that where part of a parcel is rateable in respect of water, sewerage or drainage services then the rateable value of that part shall be the unimproved value of the parcel after deducting therefrom the unimproved value of any lot assessed and rated separately and in which the water, sewerage or drainage service, as the case may be, is exclusively for the use and benefit of such lot.

(5) For all purposes in relation to the imposition, assessment or recovery of land tax in relation to the parcel, the following provisions shall have effect—

- (a) the unimproved value of the parcel shown in the valuation shall be apportioned by the Commissioner of Land Tax between the lots comprised in the parcel in proportion to the lot entitlement of the respective lots as shown on the registered group titles plan or any amendment thereof;
- (b) the body corporate shall not be liable in respect of the parcel for land tax;
- (c) for the purpose of the *Land Tax Act* 1915–1972 and subject to any concessions or exemptions which may be applicable, each lot shall be deemed to be a separate parcel of land with an unimproved value equal to that apportioned to it under paragraph (a);
- (d) the provisions of paragraph (viii) of subsection (1) of section 13 of the *Land Tax Act* 1915–1972 shall apply to the parcel and for the purpose of such application each lot together with the portion of the common area appurtenant thereto that bears to the whole of the common area the same proportion as the undivided share of the proprietor of the lot bears to the whole estate in the common area shall be taken to be one parcel owned by the proprietor.

(6) Where the parcel is situated in an area or part of an area in respect of which area or part the Valuer-General has furnished a copy of the valuation roll or a part of the valuation roll to the local authority concerned in accordance with the *Valuation of Land Act* 1944–1971, nothing in this section prevents the Valuer-General from making and entering on the valuation roll the valuation of any interest in the parcel and all improvements thereon; but the valuation shall not be included in a copy of the valuation roll or a part of the valuation roll and shall not be used for any purpose of this section.

(7) A reference in the *Land Tax Act* 1915–1972 to an owner or joint owner includes a proprietor of a lot.

20. Powers of entry by public or local authority. Where any public or local authority or person authorized by it has a statutory right to enter upon any part of the parcel such authority or person shall be entitled to enter upon any other part of the parcel to the extent necessary or expedient to enable it or him to exercise its or his statutory powers.

21. Administrator. (1) The body corporate or any person having an interest in a lot may apply to the Court for the appointment of an administrator.

(2) The Court may in its discretion on cause shown appoint an administrator for an indefinite period or for a fixed period on such terms and conditions as to remuneration or otherwise as it thinks fit. The remuneration and expenses of the administrator shall be an administrative expense within the meaning of this Act.

(3) The administrator shall, to the exclusion of the body corporate, have the powers and duties of the body corporate or such of those powers and duties as the Court may order.

(4) The administrator may delegate any of the powers so vested in him.

(5) A Court may in its discretion on the application of the administrator or any person referred to in subsection (1) remove or replace the administrator.

(6) On any application made under this section the Court may make such order for payment of costs as it thinks fit.

22. Voting rights. (1) Any powers of voting conferred by or under this Act may be exercised—

(a) in the case of the proprietor who is an infant—

(i) of or over the age of 18 years, by the proprietor;

(ii) under the age of 18 years, by his guardian;

(b) in the case of the proprietor who is for any reason unable to control his property, by the person who for the time being is authorized by law to control that property;

(c) in the case of the proprietor or a registered mortgagee which is a corporation by a person authorized in that behalf either generally or in a particular case by a resolution of its directors or other governing body.

(2) Where the Court upon the application of the body corporate or of any proprietor or of any registered mortgagee is satisfied that there is no person able to vote in respect of a lot or that the person able to vote in respect of a lot cannot be found, the Court—

(a) shall, in cases where the unanimous resolution is required by this Act; and

(b) may in its discretion in any other case,

appoint the Public Curator or some other fit and proper person for the purpose of exercising such powers of voting under this Act 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 any 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 any order so made.

(5) The powers of the Court under this section may be exercised by the Registrar of the Court 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 23 the term “Registrar” means the Registrar of the Court at Brisbane, Rockhampton or Townsville, as the case may be, and includes a deputy registrar.

23. Procedure upon application to Court. (1) Every application to the Court under this Act shall be by summons at Chambers unless otherwise provided by rules of court made in relation thereto.

(2) On any 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 any 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 Act.

(5) The power to make rules of the Supreme Court includes power to make rules regarding the practice and procedure of the Court under this Act.

24. Voting rights of mortgagees. (1) Where a proprietor's interest is subject to a registered mortgage, the power of voting conferred upon a proprietor by or under this Act—

(a) where a unanimous resolution is required, shall not be exercised by the proprietor, but shall be exercised by the registered mortgagee first entitled in priority;

(b) in other cases, may be exercised by the first or a subsequent mortgagee present personally or by proxy according to their respective priorities, and shall not be exercised by the proprietor where a mortgagee is present personally or by proxy.

(2) Subsection (1) shall not apply unless the mortgagee has given written notice of his mortgage to the body corporate.

25. Service of documents on body corporate. (1) The body corporate shall at or near the front building alignment of the parcel cause to be continuously available a receptacle suitable for purposes of postal delivery, with the name of the body corporate clearly designated thereon.

(2) A document may be served on the body corporate or the council thereof by post enclosed in a prepaid letter addressed to the body corporate or the council, as the case may be, at the address shown on the group titles plan or where there has been any amendment thereof on the plan as amended, or by placing it in the receptacle referred to in subsection (1).

(3) For the purpose of this section, "document" includes summons, notice, order and other legal process.

26. Offences. (1) If default is made in complying with—

(a) any requirement of subsection (5), subsection (6) or subsection (7) of section 11, subsection (3) of section 19 or subsection (1) of section 25; or

(b) any duty imposed on the body corporate under section 13 to a public or local authority,

the body corporate and each member of the council of the body corporate who is knowingly a party to the default shall be guilty of an offence.

(2) Any person who fails to comply with the provisions of subsection (9) of section 17 (other than paragraph (b) thereof) is guilty of an offence against this Act.

(3) Any person (including the body corporate) who is guilty of an offence against this Act is liable to a penalty not exceeding \$400.

(4) Proceedings for offences against this Act shall be heard and determined in a summary way under the *Justices Act 1886–1973*.

27. Regulations. The Governor in Council may, from time to time, make regulations not inconsistent with this Act for and with respect to—

- (a) prescribing the manner and form of registering a group titles plan;
- (b) prescribing forms under this Act and the respective purposes for which such forms shall be used;
- (c) prescribing the fees to be paid for any procedure or function required or permitted to be done under this Act;
- (d) prescribing all matters and things which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act.

28. Construction of Act. This Act shall be read and construed with and as an amendment of *The Real Property Acts 1861 to 1963* as amended by Act No. 31 of 1972, *The Registrar of Titles Act of 1884*, *The Real Property (Local Registries) Act of 1887* and *The Central and Northern District Boundaries Act of 1900*:

Provided that those Acts shall be read and construed subject to this Act and to the extent that those Acts are inconsistent with this Act, this Act shall prevail.

FIRST SCHEDULE

[s. 11

1. Duties of a proprietor. A proprietor shall—

- (a) permit the body corporate and its agents at all reasonable times on notice (except in case of emergency when no notice shall be required), to enter his lot for the purpose of maintaining, repairing or renewing the common area, or for the purpose of ensuring that the by-laws are being observed;
- (b) forthwith carry out all work that may be ordered by any competent public or local authority in respect of his lot other than such work as may be for the benefit of the group generally and pay all rates, taxes, charges, outgoing and assessments which may be payable in respect of his lot;
- (c) repair and maintain any common boundary between his lot and an adjoining lot (in respect of which boundary the provisions of the *Dividing Fences Act 1953–1972* shall apply) or between his lot and the common area (in respect of which boundary the provisions of the said Act shall not apply) and keep the same in a state of good repair;
- (d) use and enjoy the common area in such a manner as not unreasonably to interfere with the use and enjoyment thereof by other proprietors or the members of their households or their visitors;

- (e) not use his lot or permit the same to be used in such a manner or for such purposes as shall cause a nuisance or hazard to any occupier of any other lot (whether a proprietor or not) or the members of the household of such occupier;
- (f) notify the body corporate forthwith upon any change of ownership or of any mortgage or other dealing in connexion with his lot.

2. Further duties of the body corporate. The body corporate shall—

- (a) control, manage and administer the common area for the benefit of all proprietors;
- (b) keep in a state of good and serviceable repair and properly maintain the roads, footpaths and any other improvements used in connexion with the common area;
- (c) where practicable establish and maintain suitable lawns and gardens on the common area;
- (d) maintain and keep in a state of good repair the common boundaries between the lots and the common area; and where considered desirable, erect and maintain in a state of good repair fences thereon;
- (e) maintain and repair (including renewal where reasonably necessary) poles, pipes, wires, cables and ducts for the time being existing in the parcel and capable of being used in connexion with the enjoyment of more than one lot or of the common area;
- (f) on the written request of a proprietor or registered mortgagee of a lot, produce to such proprietor or mortgagee or person authorized in writing by such proprietor or mortgagee the policy or policies of insurance effected by the body corporate, and the receipt or receipts for the last premium or premiums in respect thereof;
- (g) where authorized to do so by special resolution establish and maintain such recreational facilities on the common area as such special resolution shall specify.

3. Further powers of the body corporate. The body corporate may—

- (a) purchase, hire or otherwise acquire personal property for use by proprietors in connexion with their enjoyment of the common area;
- (b) borrow money required by it in the performance of its duties or the exercise of its powers;
- (c) secure the repayment of money borrowed by it, and the payment of interest thereon, by negotiable instrument or mortgage of unpaid contributions (whether levied or not), or mortgage of any property vested in it or by a combination of those means;
- (d) invest as it may determine any money in the fund for administrative expenses;

- (e) make an agreement with any proprietor or occupier of a lot for the provision of amenities or services by it to such lot or to the proprietor or occupier thereof;
- (f) grant to a proprietor the right to exclusive use and enjoyment of part of the common area, or special privileges in respect thereof, provided that any such grant shall be determinable on reasonable notice unless the body corporate by unanimous resolution otherwise resolves;
- (g) do all things reasonably necessary for the enforcement of the by-laws and the control, management and administration of the common area.

4. **Council of body corporate.** The powers and duties of the body corporate shall, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the council of the body corporate. A meeting of the council at which a quorum is present shall be competent to exercise all or any of its authorities, functions or powers.

5. The council shall consist of not less than three nor more than seven proprietors and shall be elected at each annual general meeting:

Provided that where there are not more than three proprietors, the council shall consist of all proprietors:

Provided further that the first council shall consist of the first proprietor, and in addition the second and third proprietors (if any) and shall hold office until the first annual general meeting of the body corporate is held.

6. Except where the council consists of all the proprietors the body corporate may by resolution at an extraordinary general meeting remove any member of the council before the expiration of his term of office and appoint another proprietor in his place to hold office until the next annual general meeting.

7. Any casual vacancy on the council may be filled by the remaining members of the council.

8. Except where there is only one proprietor a quorum of the council shall be two where the council consists of four or fewer members; three where it consists of five or six members; and four when it consists of seven members.

9. The continuing members of the council may act notwithstanding any vacancy therein, but if and so long as their number is reduced below the number fixed by or pursuant to these by-laws as the necessary quorum of the council, the continuing members or member of the council may act for the purpose of increasing the number of members of the council or of convening a general meeting of the body corporate, but for no other purpose.

10. At the commencement of each meeting the council shall elect the chairman for the meeting, who shall have a casting as well as an original vote, and if any chairman so elected shall vacate the chair during the course of the meeting the council shall choose in his stead another chairman who shall have the same rights of voting.

11. At meetings of the council all matters shall be determined by simple majority vote.

12. The council may—

- (a) meet together for the conduct of business, adjourn and otherwise regulate its meetings as it thinks fit:

Provided that it shall meet when any member of the council gives to the other members not less than seven days notice of a meeting proposed by him specifying the reason for calling such meeting;

- (b) employ for and on behalf of the body corporate such agents and servants as it thinks fit in connexion with the control, management and administration of the common area, and the exercise and performance of the powers and duties of the body corporate;
- (c) subject to any restriction imposed or direction given at a general meeting, delegate to one or more of its members such of its powers and duties as it thinks fit, and at any time revoke such delegation.

13. The council shall—

- (a) keep minutes of its proceedings;
- (b) cause minutes to be kept of general meetings;
- (c) cause a record to be kept of unanimous resolutions;
- (d) cause proper books of account to be kept in respect of all sums of money received and expended by it and the matters in respect of which such receipt and expenditure take place;
- (e) prepare proper accounts relating to all assets and liabilities of the body corporate, and the income and expenditure thereof for each annual general meeting;
- (f) on application of a proprietor or registered mortgagee or any person authorized in writing by a proprietor or registered mortgagee, make the minutes of general meetings, records of unanimous resolutions, books of account and records relating to books of account available for inspection at such time and place as may be mutually agreed upon between the council and the applicant and failing agreement at the parcel on a date within seven days after receipt of the application and at a time between the hours of nine o'clock in the morning and eight o'clock in the evening of which date and time at least two days' notice shall be given to the applicant by the council.

14. All acts done in good faith by the council shall notwithstanding it be afterwards discovered that there was some defect in the appointment or continuance in office of any member of the council be as valid as if such member had been duly appointed or had duly continued in office.

15. **General meetings.** A general meeting of proprietors shall be held within three months after registration of the group titles plan.

16. A general meeting of the body corporate to be called "the annual general meeting" shall in addition to any other meeting be held at least once in every calendar year and not more than fifteen months after the holding of the last preceding annual general meeting, but so long as the body corporate holds its first annual general meeting within eighteen months of its incorporation, it need not hold it in the year of its incorporation or in the following year.

17. All general meetings other than the annual general meeting shall be called extraordinary general meetings.

18. The council may whenever it thinks fit and shall upon a requisition in writing made by twenty-five per centum of the total number of proprietors (or where there are fewer than four proprietors, any one of them) convene an extraordinary general meeting. If the council does not within twenty-one days after the date of the making of the requisition proceed to convene an extraordinary general meeting the requisitionists, or any of them representing more than one-half of the total lot entitlement of all of them, may themselves, in the manner as nearly as possible as that in which meetings are to be convened by the council convene a meeting, but any meeting so convened shall not be held after the expiration of three months from that date.

19. Subject to the provisions of the by-laws relating to special resolutions seven days' notice of every general meeting specifying the place, the date and the hour of meeting and in the case of special business the general nature of such business shall be given to all proprietors and registered first mortgagees who have notified their interests to the body corporate except those proprietors and registered first mortgagees who have not supplied to the body corporate an address within the State for the giving of notices to them but accidental omission to give such notice to any proprietor or to any registered first mortgagee or non receipt of such notice by any proprietor or by any registered first mortgagee shall not invalidate any proceedings at such meeting.

20. **Proceedings at general meetings.** All business shall be deemed special which is transacted at an annual general meeting (with the exception of the consideration of accounts and election of members to the council) or at an extraordinary general meeting.

21. Save as in these by-laws otherwise provided, no business shall be transacted at any general meeting unless a quorum of persons entitled to vote is present at the time when the meeting proceeds to business. One-half of the persons entitled to vote present in person or by proxy shall constitute a quorum.

22. If within one-half hour from the time appointed for a general meeting a quorum is not present the meeting, if convened upon the requisition of proprietors shall be dissolved; but in any other case it shall stand adjourned to the same day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within one-half hour from the time appointed for the meeting the persons entitled to vote present shall be a quorum.

23. The chairman of the general meeting may with the consent of the meeting adjourn any general meeting from time to time from place to place but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

24. At the commencement of a general meeting a chairman of the meeting shall be elected.

25. It shall not be necessary at any general meeting to pass resolutions by more than a simple majority vote except where it is otherwise required by or under the Act or by the by-laws.

26. At any general meeting a resolution by the vote of the meeting shall be decided on the show of hands unless a poll is demanded by any proprietor present in person or by proxy. Unless a poll be so demanded a declaration by the chairman that a resolution has on the show of hands been carried shall be conclusive evidence of the fact without proof of the numbers or proportion of votes recorded in favour of or against such resolution. A demand for a poll may be withdrawn.

27. A poll if demanded shall be taken either immediately or at the conclusion of any other business and in such manner as the chairman thinks fit and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.

28. In the case of equality in the votes whether on a show of hands or on a poll the chairman of the meeting shall be entitled to a casting vote in addition to his original vote.

29. **Votes of proprietors.** On a show of hands each proprietor shall have one vote.

30. On a show of hands or on a poll votes may be given either personally or by proxy.

31. An instrument appointing a proxy shall be in writing under the hand of the appointer or his attorney, and be either general or for a particular meeting. A proxy need not be a proprietor.

32. Except in cases where by or under the Act a unanimous resolution is required, no proprietor shall be entitled to vote at any general meeting unless all contributions payable in respect of his lot have been duly paid.

33. Co-proprietors may vote by proxy jointly appointed by them, and in the absence of such proxy shall not be entitled to vote on a show of hands, except where the unanimous resolution of proprietors is required by or under the Act; but any one co-proprietor may demand a poll. On any poll each co-proprietor shall be entitled to such part of the vote

applicable to a lot as is proportional to his interest in the lot. The joint proxy (if any) on a poll shall have a vote proportional to the interests in the lot of such of the joint proprietors as do not vote personally or by individual proxy.

34. Where proprietors are entitled to successive interests in the lot, the proprietor entitled to the first interest shall alone be entitled to vote, whether on a show of hands or a poll; and this by-law shall be applicable whether by the Act the unanimous resolution of proprietors is required or not.

35. Where the proprietor is a trustee he shall exercise the voting rights in respect of the lot to the exclusion of persons beneficially interested in the trust, and such persons shall not vote.

36. **Common Seal.** The body corporate shall have a common seal which shall at no time be used except by the authority of the council previously given and in the presence of the members of the council or at least two members thereof, who shall sign every instrument to which the seal is affixed:

Provided that where there is only one member of the body corporate his signature shall be sufficient for the purpose of this clause. The council shall make provision for the safe custody of the common seal.

37. **Amendment of by-laws.** The by-laws in the Second Schedule to the Act may be amended by special resolution of the body corporate, and not otherwise.

38. **Special resolution.** A special resolution means a resolution passed at a general meeting of which at least fourteen days' notice specifying the proposed special resolution has been given by a majority of not less than seventy-five per centum of the total number of proprietors.

39. In these by-laws "Act" shall mean the *Group Titles Act 1973* and the regulations made thereunder.

40. Each proprietor or registered first mortgagee shall give to the body corporate a notice in writing specifying an address within the State for the giving of notice to him.

41. A notice may be given by the body corporate to any proprietor or registered first mortgagee either personally or by sending it by certified mail service to the address, if any, supplied by him to the body corporate for the giving of notices to him. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected in the case of a notice of a meeting on the day after the date of its posting and in any other case at the time at which the letter would be delivered in the ordinary course of post.

SECOND SCHEDULE

[s. 11]

1. A proprietor shall not—

- (a) use his lot for any purpose which may be illegal or injurious to the reputation of the group;
- (b) make undue noise in or about any lot or common area.

2. A proprietor shall not keep any animal on his lot or the common area after notice in that behalf from the council.