

Queensland



ANNO TRICESIMO SEXTO

ELIZABETHAE SECUNDAE REGINAE

No. 23 of 1987

An Act to provide for the approval of schemes of integrated resort development, to make provision to assist in the establishment, operation and management of approved integrated resort developments and for other purposes

[ASSENTED TO 23RD APRIL, 1987]

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:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as the *Integrated Resort Development Act 1987*.

2. Arrangement of Act. This Act is arranged as follows:—

PART I—PRELIMINARY (ss. 1-4);

PART II—SCHEME OF INTEGRATED RESORT DEVELOPMENT (ss. 5-24);

Division 1—Approval of Scheme (ss. 5-10);

Division 2—Amendment of Approved Scheme (ss. 11-18);

Division 3—Effect of Approval of Scheme (ss. 19-20);

Division 4—Revocation of Approval of Scheme (ss. 21-24);

PART III—THE SITE (ss. 25-27);

PART IV—SUBDIVISION OF SITE (ss. 28-46);

Division 1—Initial Subdivision of and Dealing with Land (ss. 28-31);

Division 2—Subsequent Subdivision of and Dealing with Land in Residential Precincts (ss. 32-45);

Division 3—Dealing with Land Outside Residential Precincts (s. 46);

PART V—LAND SUBJECT TO TIDAL INFLUENCE (ss. 47-55);

PART VI—ROADS AND THOROUGHFARES (ss. 56-64);

PART VII—BODIES CORPORATE (ss. 65-121);

Division 1—Primary Thoroughfare Body Corporate (ss. 65-93);

Division 2—Principal Body Corporate (ss. 94-121);

PART VIII—BY-LAWS (ss. 122-125);

Division 1—Development Control By-laws (ss. 122-123);

Division 2—Primary Thoroughfare By-laws (s. 124);

Division 3—Secondary Thoroughfare By-laws (s. 125);

PART IX—MISCELLANEOUS (ss. 126-131);

SCHEDULE.

3. Interpretation. In this Act, unless the contrary intention appears—

“applicant” means an applicant for approval of a scheme and includes the executors, administrators, successors and assigns of the applicant;

“approved scheme” means a scheme approved or as amended for the time being by the Governor in Council pursuant to this Act;

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- “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 1980-1986*;
- “business precinct” means a precinct, however described, identified in an approved scheme for the purposes of this Act as being a business precinct;
- “development control by-laws” in respect of an approved scheme, means the development control by-laws in force for the time being pursuant to section 122;
- “floating dwelling” means a permanently moored floating dwelling constructed or to be constructed on a floatation system and which—
- (a) is or is to be supported by waters;
 - and
 - (b) is not intended for or usable in navigation;
- “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 1980-1986*;
- “initial lot” means a lot shown on the initial plan of subdivision other than a lot that comprises the whole or part of the primary thoroughfare;
- “initial plan of subdivision” means a plan of subdivision for the time being registered by the Registrar of Titles in accordance with section 30;
- “Local Authority” means a Local Authority within the meaning of the *Local Government Act 1936-1986* and Brisbane City Council constituted under the *City of Brisbane Act 1924-1986*;
- “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;
- “precinct” means a part of a site identified in an approved scheme as a precinct;
- “primary thoroughfare” in respect of an approved scheme means the lot or lots that comprises or together comprise the primary thoroughfare as shown at the material time on the initial plan or plans of subdivision;
- “primary thoroughfare body corporate” means a primary thoroughfare body corporate incorporated by the registration of the first initial plan of subdivision registered in respect of an approved scheme;
- “primary thoroughfare by-laws” in respect of an approved scheme means the primary thoroughfare by-laws for the time being in force pursuant to section 124;

- “primary thoroughfare precinct” means a precinct identified in an approved scheme for the purposes of this Act as being a primary thoroughfare precinct;
- “principal body corporate” means a principal body corporate incorporated by the registration of the first initial plan of subdivision subdividing a residential precinct registered in respect of an approved scheme;
- “quay line” means a line identified in an approved scheme as a quay line for the purposes of section 48;
- “residential precinct” means a precinct, however described, identified in an approved scheme for the purposes of this Act as being a residential precinct;
- “road” means any way constituted to facilitate the traffic of vehicles usually passing on public roads;
- “scheme” means a scheme of integrated resort development;
- “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 lot or lots that comprises or together comprise the secondary thoroughfare as shown on the plan or plans of subdivision subdividing lots within the residential precincts;
- “secondary thoroughfare by-laws” means the secondary thoroughfare by-laws for the time being in force pursuant to section 125;
- “site” in respect of an approved scheme, means the site as determined pursuant to section 25;
- “special dwelling” means a dwelling constructed or designed to be constructed on land and the foundations of which extend from land above high water mark to land below high water mark.

4. Minimum requirements for an approved scheme. (1) A scheme shall not be an approved scheme unless it provides for at the least—

- (a) a primary thoroughfare within the site;
- (b) a secondary thoroughfare within the site;
- (c) the division of the site into precincts specifying the name of the precincts, the intended development generally of each precinct and the permitted uses of the land within each precinct;
- (d) a schedule specifying the maximum number of lots into which each residential precinct may be subdivided;
- (e) a schedule specifying the voting entitlements and the method of calculating the voting entitlements of members of the primary thoroughfare body corporate;

and

- (f) a schedule specifying the voting entitlements and the method of calculating the voting entitlements of members of the principal body corporate.

(2) Each of them the primary thoroughfare and the secondary thoroughfare may consist of more than one thoroughfare.

PART II—SCHEME OF INTEGRATED RESORT DEVELOPMENT

Division 1—Approval of Scheme

5. Application for approval of scheme. (1) An application for a scheme to be an approved scheme shall be made to the Minister in the prescribed manner.

(2) The applicant shall include with his application in respect of the scheme—

- (a) the information and material specified in Part A of the Schedule to this Act;
and
- (b) such of the information and material specified in Part B of the Schedule to this Act as the Minister requires.

6. Minister to consider application. The Minister shall consider the application and

- (a) shall consult any Department of the Government, Local Authority or statutory authority;
and
- (b) may consult any person or body,

which or who, in his opinion, is likely to be affected by the scheme.

7. Variation of application. (1) An applicant may, with the consent of the Minister, vary an application at any time prior to a decision being made upon the application by the Governor in Council.

(2) The Minister may, with the written consent of the applicant, vary an application at any time prior to a decision being made upon an application by the Governor in Council.

8. Minister's recommendation to Governor in Council. The Minister shall submit an application for approval of a scheme or that application as varied pursuant to section 7 together with his recommendation thereon to the Governor in Council.

9. Decision upon application. (1) After consideration of an application for approval of a scheme and the Minister's recommendation thereon, the Governor in Council may—

- (a) approve the scheme subject to such conditions (if any) as he thinks fit;

or

(b) refuse to approve the scheme.

(2) The approval of a scheme by the Governor in Council shall be by way of Order in Council.

10. Copy of approved scheme to be sent to Registrar of Titles and Local Authority. (1) Upon approval of a scheme, the Minister shall forward a copy of the approved scheme to the Registrar of Titles, the Local Authority and the Director of Local Government.

(2) The Local Authority and the Director of Local Government shall each make an appropriate notation of the approved scheme on the relevant town planning scheme maps or, in the case of Brisbane City Council, on the relevant maps of the town plan for the City of Brisbane.

Division 2—Amendment of Approved Scheme

11. Application for amendment of approved scheme. An application for amendment of an approved scheme may be made to the Minister by the primary thoroughfare body corporate or, if that body has not been incorporated, by the applicant.

12. Members to be notified of proposed amendment. (1) Prior to making application for amendment of an approved scheme the primary thoroughfare body corporate shall give notice in writing to its members of the proposed amendment and invite written comments from its members and from members of the principal body corporate before a date specified in the notice being not less than 30 days from the giving of the notice.

13. Comments, etc. to accompany application. An application to the Minister for amendment of an approved scheme shall include a copy of the notice given pursuant to section 12 and all written comments submitted to the primary thoroughfare body corporate by its members and members of the principal body corporate and such other matters as the Minister considers necessary.

14. Minister to consider application. The Minister shall consider the application and any written comments included with the application and—

(a) shall consult any Department of the Government, Local Authority or statutory authority;
and

(b) may consult any person or body,

which or who, in his opinion, is likely to be affected by the amendment of the scheme.

15. Minister's recommendation to Governor in Council. The Minister shall submit an application for amendment of an approved scheme together with his recommendation thereon to the Governor in Council.

16. Decision upon application. (1) After consideration of an application for amendment of an approved scheme and the Minister's recommendation thereon, the Governor in Council may—

(a) approve the amendment subject to such conditions (if any) as he thinks fit;

or

(b) refuse to approve the amendment.

(2) The approval of an amendment of an approved scheme by the Governor in Council shall be by way of Order in Council.

17. Copy of amendment of approved scheme to be sent to Registrar of Titles and Local Authority. Upon approval of an amendment of an approved scheme, the Minister shall forward a copy of the approved amendment to the Registrar of Titles, the Local Authority and to the Director of Local Government.

18. Minor variation of precinct boundaries. Where an application is made to the Minister pursuant to this Division to amend an approved scheme by varying the boundaries of a precinct, the Governor in Council may approve the amendment if he considers the variation of the boundaries is of a minor nature notwithstanding that sections 12, 13 and 14 have not been complied with.

Division 3—Effect of Approval of Scheme

19. Approved scheme regulates development etc. of site. (1) An approved scheme shall supersede the provisions of any town planning scheme in force in respect of the site and any approvals granted pursuant to a town planning scheme in respect of the site shall be of no further effect.

The development and use of land within the site must comply with the provisions of the approved scheme.

(2) The provisions of sections 33, 34 and 34B of the *Local Government Act 1936-1986* and of any by-laws made pursuant to section 34 of that Act shall not apply in respect of the site.

(3) Where in respect of an approved scheme a site is within the Area of the City of Brisbane, the *City of Brisbane Town Planning Act 1964-1986* shall not apply in respect of the site.

(4) Notwithstanding subsections (2) and (3), any agreement entered into by a Local Authority, Department of the Government or statutory authority in respect of the site shall continue to have force and effect.

(5) Any land, building or other structure may be used within a precinct without the consent of the Local Authority for any of the purposes set forth in the approved scheme as an approved use in relation to that precinct.

(6) Within a precinct, a person shall not use any land, building or other structure otherwise than for a purpose set forth in the approved scheme as an approved use in relation to that precinct.

(7) For the purposes of this section, the expression "use" has the meaning assigned to it in section 33 of the *Local Government Act 1936-1986*.

(8) In respect of an approved scheme, particulars of the minimum requirements provided pursuant to section 4 shall be available for inspection during ordinary office hours at the offices of the Local Authority, the Director of Local Government and the Co-Ordinator-General.

20. Application of provisions of this Act. (1) Upon the approval of a scheme—

(a) the provisions of this Act other than Part V;
and

(b) such other provisions of this Act as are specified in the Order in Council approving the scheme,

shall apply in respect of the scheme.

(2) A subsequent Order in Council may vary a previous Order in Council with respect to the specification of provisions of this Act pursuant to subsection (1) (b).

Division 4—Revocation of Approval of Scheme

21. Application for revocation. An applicant may make application to the Minister to recommend to the Governor in Council for the approval of an approved scheme to be revoked.

22. Minister's recommendation to Governor in Council for revocation.

(1) Whether or not an application has been received by him, the Minister may recommend to the Governor in Council that the approval of an approved scheme be revoked.

(2) Before making a recommendation under subsection (1), the Minister shall consult any Department of the Government, Local Authority, statutory authority, person or body which or who is likely, in his opinion, to be affected by the revocation.

23. Revocation of approval by Order in Council. (1) After consideration of the Minister's recommendation, the Governor in Council may by Order in Council upon such conditions as he thinks fit revoke the approval of an approved scheme.

(2) The approval of an approved scheme shall not be revoked after any plan of subdivision lodged in accordance with the approved scheme has been registered by the Registrar of Titles.

24. Effect of revocation of approval. (1) Upon the revocation of the approval of an approved scheme—

- (a) the provisions of any town planning scheme;
 - (b) any approvals granted pursuant to any town planning scheme;
 - (c) the provisions of sections 33, 34 and 34B of the *Local Government Act 1936-1986*;
 - (d) the provisions of any by-laws made pursuant to section 34 of the *Local Government Act 1936-1986*;
 - (e) the provisions of the *City of Brisbane Town Planning Act 1964-1986*;
- and
- (f) the provisions of any Order in Council made pursuant to any enactment,

that would, but for the approval of the approved scheme have applied in respect of the site, shall so apply.

(2) Except where the Governor in Council in the Order in Council revoking an approval of an approved scheme otherwise determines, nothing in subsection (1) shall affect anything lawfully done prior to the revocation of the approval.

PART III—THE SITE

25. The site. (1) The site in respect of an approved scheme consists of all land within the boundaries of the site set forth in that scheme.

(2) A site shall be comprised of freehold land and may include land intended to be freeholded.

(3) Notwithstanding any other Act or law, where the approved scheme so specifies, the site may include land referred to in subsection (2) within the boundaries of the site that is, may be or becomes inundated by water or subject to tidal influence.

26. Grant of Crown land. The power conferred by the *Land Act 1962-1986* 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 included as part of an approved scheme to an applicant in fee simple in priority to and to the exclusion of all other persons, notwithstanding the provisions of the *Land Act 1962-1986*.

27. Site forms part of Local Authority Area. Notwithstanding the provisions of the *Local Government Act 1936-1986* or of any Proclamation made under that Act or of the *City of Brisbane Act 1924-1986*, where any part of the site is not within an Area of a Local Authority that part shall form part of the Area of the Local Authority specified in the Order in Council approving the scheme.

PART IV—SUBDIVISION OF SITE

Division 1—Initial Subdivision of and Dealing with Land

28. Plans to be lodged with Local Authority. (1) After the approval of a scheme, the proprietor of land within the site shall lodge with the Local Authority a plan or plans subdividing land within the site into—

- (a) a lot or lots which comprises or together comprise the primary thoroughfare as provided for in the approved scheme; and
- (b) lots which together comprise the balance of the land within the site.

(2) A plan of subdivision creating an initial lot within a residential precinct lodged with a Local Authority shall be accompanied by a schedule setting out in respect of each lot the maximum number of lots into which the lot may, in accordance with the approved scheme, be subdivided.

(3) The applicant shall forward to the Minister a copy of each plan of subdivision (including, where appropriate, a copy of the schedule referred to in subsection (2)) lodged with a Local Authority pursuant to this section.

29. Approval of Local Authority. (1) A Local Authority shall not approve a plan of subdivision lodged with it pursuant to section 28 unless it is satisfied that—

- (a) each lot has access to a dedicated road outside the site directly or through the lot or lots that comprise the primary thoroughfare; and
- (b) in respect of land within a residential precinct, the aggregate of the maximum number of lots into which each lot within the precinct may be subdivided equals the number specified in respect of that precinct in the approved scheme.

(2) A Local Authority shall not approve a plan of subdivision of land within the site unless—

- (a) the plan includes the subdivision of the site into a lot or lots comprising the primary thoroughfare; or
- (b) a plan of subdivision subdividing the site into a lot or lots comprising the primary thoroughfare has been approved by the Local Authority.

(3) Upon compliance with the provisions of subsections (1) and (2), the Local Authority may approve of the plan of subdivision and of the schedule accompanying the plan.

(4) The approval of a plan of subdivision and of the schedule by the Local Authority shall be by endorsement and under the seal of the Local Authority.

(5) For the purposes of subsection (1) (a), where the site is on an island and there is no dedicated road adjoining the site, the primary thoroughfare shall be taken to have access to a dedicated road if it adjoins foreshore.

30. Registration of initial plan of subdivision. (1) The Registrar of Titles shall not register a plan of subdivision referred to in section 28 unless—

- (a) where the plan of subdivision subdivides land in a residential precinct it is accompanied by the schedule referred to in section 28;
and
- (b) the plan and the schedule (if any) have been endorsed with the approval of the Local Authority under its seal.

(2) The Registrar of Titles shall not register a plan of subdivision of land within the site unless—

- (a) the plan includes the subdivision of the site into a lot or lots comprising the primary thoroughfare;
or
- (b) a plan or plans of subdivision subdividing the site into a lot or lots comprising the primary thoroughfare has or have been registered by the Registrar of Titles.

(3) Notwithstanding any other Act, for the purposes of the registration of a plan of a subdivision referred to in section 28, 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 or, in a case referred to in section 29 (5) adjoins foreshore;
- (b) in the case of any other lot, that lot adjoins—
 - (i) a dedicated road;
or
 - (ii) a lot that comprises wholly or partly the primary thoroughfare.

31. Transfer of primary thoroughfare to primary thoroughfare body corporate. (1) Immediately upon the registration of a plan or plans of subdivision creating a lot or lots comprising the primary thoroughfare, the registered proprietor of any lot shown on the plan as primary thoroughfare shall lodge with the Registrar of Titles all documents necessary to transfer free of mortgage that lot or those lots to the primary thoroughfare body corporate.

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 applicant of his obligation to effect at his expense the initial construction of the primary thoroughfare to a standard prescribed pursuant to section 56.

Division 2—Subsequent Subdivision of and Dealing with Land in Residential Precincts

32. Plan of subdivision of initial lots. (1) A plan of subdivision subdividing an initial lot within a residential precinct shall be lodged with the Local Authority.

(2) A plan of subdivision subdividing land in accordance with subsection (1) shall be accompanied by a schedule setting out in respect of each lot (other than a lot shown as secondary thoroughfare) the maximum number of lots into which the lot may, in accordance with the approved scheme, be subdivided.

(3) The person who lodges a plan of subdivision pursuant to subsection (1) shall forward a copy of the plan and of the schedule to the Minister and to the Director of Local Government.

33. Approval by Local Authority. (1) A Local Authority shall not approve a plan of subdivision of an initial lot lodged with it pursuant to section 32 unless it is satisfied that—

(a) section 30 has been complied with;

(b) each secondary lot has access to—

(i) a dedicated road outside the site;

or

(ii) the primary thoroughfare,

whether directly or through a lot or lots shown in the plan as constituting a secondary thoroughfare;

and

(c) the aggregate of the maximum number of lots specified in the schedule accompanying the plan into which all the secondary lots thereby created may be subdivided does not exceed, and is not less than 85 per centum of, the maximum number of lots into which the initial lot may be subdivided.

(2) Upon compliance with the provisions of subsection (1), the Local Authority may approve of the plan of subdivision and of the schedule accompanying the plan.

(3) The approval of the plan of subdivision and of the schedule by the Local Authority shall be by endorsement and under the seal of the Local Authority.

34. Registration of plan of subdivision of initial lot. (1) The Registrar of Titles shall not register a plan of subdivision referred to in section 32 unless it is accompanied by the schedule referred to in section 32 each of which has been endorsed with the approval of the Local Authority under its seal.

(2) Notwithstanding any other Act, for the purposes of the registration of a plan of subdivision referred to in section 32, a lot shall be taken to have access to a dedicated road if that lot adjoins—

- (a) a dedicated road;
- (b) the primary thoroughfare;
- or
- (c) a secondary thoroughfare.

35. Transfer of lots comprising secondary thoroughfare to principal body corporate. (1) Immediately upon registration of a plan of subdivision 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 free of mortgage that lot to the principal body corporate.

The principal 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 applicant of his obligation to effect at his expense the initial construction of the secondary thoroughfare to the standard prescribed pursuant to section 56.

36. Subdivision of secondary lots within residential precincts. (1) Except as provided by subsection (2), a secondary lot within a residential precinct may only be subdivided by way of a building units plan or a group titles plan.

(2) (a) For the purpose of the subsequent registration of a building units plan or a group titles plan over a lot thereby created, a secondary lot within a residential precinct may be subdivided by a plan of subdivision which may include a lot or lots constituting a secondary thoroughfare.

(b) The provisions of this Act relating to the subdivision of initial lots and to the effect of such subdivision shall apply in respect of a subdivision pursuant to this subsection as if a secondary lot being subdivided were an initial lot and each lot, other than a lot constituting a secondary thoroughfare, so created shall become a secondary lot.

(3) A plan of subdivision of a secondary lot within a residential precinct pursuant to subsection (1) shall be lodged with the Local Authority.

(4) A group titles plan of subdivision lodged pursuant to subsection (3) shall be accompanied by a statement by or on behalf of the proprietor of the secondary lot whether or not it is proposed to subdivide any lot thereby created by the registration of that plan by the registration of a building units plan and, if so, identifying that lot.

(5) Where a group titles plan creates lots which it is proposed to further subdivide the plan shall be accompanied by a schedule setting out, in respect of each such lot, the maximum number of lots into which the lot may be subdivided.

(6) Each lot shown on a plan lodged pursuant to this section, other than on a building units plan, must have access to a dedicated road whether directly or through all or any of—

- (a) the primary thoroughfare;
- (b) a secondary thoroughfare;
- (c) the common property shown on the plan.

37. Approval by Local Authority. (1) A Local Authority shall not approve a group titles plan lodged with it pursuant to section 36 unless—

- (a) it is accompanied by the statement prescribed by section 36 (4);
- (b) each lot thereby created has the prescribed access;
and
- (c) the aggregate of the lots thereby created that are not proposed to be subdivided and the number of lots specified in the schedule into which lots are proposed to be subdivided does not exceed the maximum number of lots into which the secondary lot may be subdivided.

(2) A Local Authority shall not approve a building units plan lodged with it pursuant to section 36 unless—

- (a) each lot thereby created has the prescribed access;
and
- (b) the aggregate of the lots thereby created does not exceed the maximum number of lots into which the secondary lot may be subdivided.

(3) Upon compliance with the provisions of subsections (1) and (2), the Local Authority may approve of a building units plan or a group titles plan and, where a group titles plan was accompanied by a schedule referred to in section 36 (5), that schedule.

(4) The approval of a building units plan or group titles plan and of the schedule (if any) by the Local Authority shall be by endorsement and under the seal of the Local Authority.

(5) Where the statement accompanying a group titles plan indicates that it is proposed to subdivide any lot thereby created, the Local Authority shall endorse that fact on the plan.

38. Registration of building units plan or group titles plan over secondary lot. (1) The Registrar of Titles shall not register a building units plan or a group titles plan referred to in sections 36 and 37 unless the plan has been endorsed with the approval of the Local Authority under its seal and, in the case of a group titles plan that has endorsed thereon the fact that it is proposed to subdivide a lot thereby created, unless it is accompanied by a schedule referred to in section 36 (5) duly endorsed with the Local Authority's approval under its seal.

(2) Notwithstanding the provisions of any other Act, for the purposes of the registration of a building units plan or a group titles plan referred

to in section 36 a lot shall be taken to have access to a dedicated road if that lot has the access prescribed in section 36 (6).

(3) The provisions of section 9 (6) of the *Building Units and Group Titles Act 1980-1986* do not apply in respect of a group titles plan referred to in sections 36 and 37.

39. Subdivision of group titles lot by way of building units plan.

(1) Where a statement accompanying a group titles plan lodged with the Local Authority pursuant to section 36 indicates that a lot thereby created is proposed to be subdivided by way of a building units plan, such a building units plan may be approved by the Local Authority and may be registered by the Registrar of Titles and for that purpose the first proviso to section 10 (1) of the *Building Units and Group Titles Act 1980-1986* shall not apply.

(2) The registration of a building units plan pursuant to subsection (1) shall, notwithstanding the provisions of the *Building Units and Group Titles Act 1980-1986*, take effect as if it were a resubdivision of the original group titles plan.

(3) Notwithstanding the provisions of section 27 of the *Building Units and Group Titles Act 1980-1986*, where a secondary lot is subdivided by way of a group titles plan and a lot created by that group titles plan is subdivided by a building units plan pursuant to this section, the body corporate created by the registration of the group titles plan shall be deemed, for the purposes 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.

40. Subdivision of group title lot by way of a group titles plan.

(1) Where a group titles plan lodged for the approval of the Local Authority has been accompanied by a statement that it is proposed to subdivide a lot shown therein by the registration of a building units plan, the Local Authority shall not approve a subsequent group titles plan subdividing that lot unless the plan is accompanied by a statement to the like effect.

(2) A subdivision of a group title lot by way of a group titles plan is a resubdivision of the original group titles plan within the meaning of section 10 of the *Building Units and Group Titles Act 1980-1986*.

41. Application of Building Units and Group Titles Act to subdivisions.

- (1) The provisions of
the second proviso to subsection (1);
paragraph (b) of subsection (6);
subsection (10),

of section 10 of the *Building Units and Group Titles Act 1980-1986* do not apply to any subdivision under this Division.

(2) For the purposes of section 9 (7) of the *Building Units and Group Titles Act 1980-1986*, a plan of subdivision shall be taken to

have complied with the requirements of the *Local Government Act 1936-1986* as modified by the *Building Units and Group Titles Act 1980-1986* in regard to the subdivision if the plan has complied with those requirements as modified by this Act.

42. Lot entitlements under Building Units and Group Titles Act 1980-1986. (1) For the purposes of section 19 (1) of the *Building Units and Group Titles Act 1980-1986*, where a secondary lot in a residential precinct is subdivided by way of a group titles plan or a building units plan, the aggregate lot entitlement of the lots thereby created shall equal the maximum number of lots specified in respect of that secondary lot in the schedule that accompanied the plan of subdivision whereby that secondary lot was created.

(2) The provisions of section 19 (2) and (3) of the *Building Units and Group Titles Act 1980-1986* do not apply to any subdivision under this Division.

43. Service easements. 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 connexion 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 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 his lot or the use of the primary thoroughfare or the secondary thoroughfare.

44. 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.

45. Creation of easements. Each of them the primary thoroughfare body corporate and the principal body corporate may by special resolution—

- (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.

Division 3—Dealing with Land Outside Residential Precincts

46. Primary thoroughfare deemed to be dedicated road. For the purposes of the subdivision of or other dealing with land within a precinct other than a residential precinct the primary thoroughfare shall be deemed to be a dedicated road.

PART V—LAND SUBJECT TO TIDAL INFLUENCE

47. Estate or interest in submerged land continues. Where, as provided for in an approved scheme, land becomes inundated by water or subject to tidal influence, any estate or interest held in that land before the land became so inundated or subject is not affected by the inundation or becoming subject to tidal influence.

48. Subdivision of land. A parcel of land within the site that—

- (a) includes land that is submerged or subject to tidal influence and to which section 47 applies;
- and

(b) does not extend from the shore beyond the quay line, may be subdivided by way of a building units plan or a group titles plan:

Provided that permanent above water access is provided from each lot on the plan of subdivision to the primary thoroughfare or to a secondary thoroughfare either directly or through common property of the parcel.

49. Construction of floating dwellings and special dwellings. Notwithstanding the provisions of the *Harbours Act 1955-1982*, the *Queensland Marine Act 1958-1985* or of any other enactment, the construction of a floating dwelling or a special dwelling is not the construction of a vessel, harbour works or other works of any kind or the placing of a pile or any other structure in, on, over, through or across land that is submerged or subject to inundation or tidal influence.

50. Tidal waters within jurisdiction of harbour board etc. Where an area of the site for any reason becomes inundated with tidal water

or subject to tidal influence, the banks and foreshores thereof shall to the extent that the area is beyond the quay line become within the jurisdiction of the harbour board, The Harbours Corporation of Queensland or such other statutory authority, as the case may be, which has jurisdiction over adjacent banks and foreshores.

51. Obligation of harbour board etc. to maintain or undertake works. Nothing in the *Harbours Act 1955-1982*, or any other enactment or the payment of moneys by the proprietor or occupier of land within the site to a harbour board, The Harbours Corporation of Queensland or to any other statutory authority having jurisdiction over banks and foreshores of tidal waters shall impose upon that board, Corporation or authority any obligation to maintain or undertake any works (including dredging) in respect of land within the site (or tidal waters above that land) except to any extent agreed in writing by them.

52. Movement of vessels on tidal waters. Notwithstanding the provisions of the *Harbours Act 1955-1982*, the *Queensland Marine Act 1958-1985* or any other enactment, 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 that land where those waters are not beyond the quay line:

Provided that, where the proprietor of land within the site permits the mooring of a vessel in waters above that land, the proprietor of any other land within the site shall not restrict or prohibit the movement of that vessel to that mooring and any other place where permission to moor the vessel has been granted or to tidal waters beyond the boundary of the site.

53. 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 floating dwellings and to special dwellings so far as those laws may be sensibly so applied, as if floating dwellings or, as the case may be, special dwellings, were constructed on land.

(2) Where the Joint Committee established for the purposes of the Standard Sewerage By-laws or the Joint Committee established for the purposes of the Standard Water Supply By-laws considers that a standard determined under the Standard Sewerage By-laws or, as the case may be, the Standard Water Supply By-laws 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.

54. 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, any land within the site that is or may be 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.

55. Modification of powers of harbour board etc. Notwithstanding the provisions of any enactment, a harbour board, The Harbours Corporation of Queensland or any other statutory authority having jurisdiction over the banks and foreshores of tidal waters within the site is not competent to grant—

- (a) a lease;
 - (b) a licence to use and occupy;
- or

(c) a permit to use and occupy,
any foreshore, tidal lands or tidal waters within the site.

PART VI—ROADS AND THOROUGHFARES

56. Construction of roads. (1) Roads constructed on the primary thoroughfare or on the secondary thoroughfare shall be constructed to a design and standard approved by the Local Authority at the time of construction:

Provided that the Minister may direct that the Local Authority approve of the design and standard.

(2) All roads on the primary thoroughfare and all roads on the secondary thoroughfare shall initially be constructed by the applicant at his cost in accordance with the requirements of the Local Authority and to the satisfaction of that Local Authority.

57. Maintenance of roads and thoroughfares. (1) 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.

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

58. 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.

(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 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 Local Authority approves those works;

and

(b) all conditions of that approval (including conditions as to standards of construction) are complied with:

Provided that the Minister may direct that the Local Authority approve those works.

(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 Local Authority 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 two 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 his 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 72 with such modifications as may be necessary apply to and with respect to 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 him pursuant to this section may apply in writing to the Minister for a review of the levy. The Minister after considering all the relevant information shall determine that member's liability and may adjust other members' liability accordingly.

The Minister's decision may be expressed as an amount or as a proportion of the total amount payable for works.

59. Leasing of land comprising primary thoroughfare. No part of a primary thoroughfare may be leased without the prior approval of—

(a) the primary thoroughfare body corporate given by special resolution within the meaning of section 65;

and

(b) the Minister.

60. Dedication of thoroughfare as road. (1) (a) The primary thoroughfare body corporate, with the prior approval of—

(i) the principal body corporate determined by special resolution within the meaning of section 94;

(ii) 75 per centum of members of the primary thoroughfare body corporate who are members by reason of being proprietors of land within the site that is not within the residential precincts which members have voting rights at meetings of the primary thoroughfare body corporate that aggregate not less than 75 per centum of the aggregate voting rights of those members;

(iii) the Local Authority;

and

(iv) the Governor in Council by Order in Council,

and subject to any reasonable conditions that the Local Authority imposes, may dedicate in accordance with the *Land Act 1962-1985* any part of the primary thoroughfare that adjoins a dedicated road to public use as a road.

(b) The Local Authority may impose a condition pursuant to paragraph (a) that the primary thoroughfare body corporate pay to the Local Authority an amount of money fixed by the Local Authority with a view to the cost of constructing or maintaining the road.

(c) A part of the primary thoroughfare that is dedicated to public use as a road pursuant to this subsection shall thereupon cease to be a part of the primary thoroughfare.

(2) (a) The principal body corporate, with the prior approval of—

(i) the principal body corporate determined by special resolution within the meaning of section 94;

(ii) the Local Authority;

and

(iii) the Governor in Council by Order in Council,

and subject to any reasonable conditions that the Local Authority imposes, may dedicate in accordance with the *Land Act 1962-1985* any part of the secondary thoroughfare that adjoins a dedicated road to public use as a road.

(b) The Local Authority may impose a condition pursuant to paragraph (a) that the principal body corporate pay to the Local Authority an amount of money fixed by the Local Authority with a view to the cost of constructing or maintaining the road.

(c) A part of a secondary thoroughfare that is dedicated to public use as a road pursuant to this subsection shall thereupon cease to be part of that secondary thoroughfare.

61. Thoroughfares are roads under certain Acts. (1) For the purposes of the *Motor Vehicles Insurance Act 1936-1979*, the roads on the primary thoroughfare and the roads on the secondary thoroughfare shall be roads under the *Main Roads Act 1920-1985*.

(2) For the purposes of the *Traffic Act 1949-1985* (other than Parts IV and VIA) the roads on the primary thoroughfare and the roads on the secondary thoroughfare shall be roads within the meaning of that Act.

62. Powers etc. of inspectors, police officers and others on thoroughfares. (1) (a) 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 Local Authority), any other person authorized by a statutory body or any member of the police force may enter and be upon any part of the primary thoroughfare or the secondary thoroughfare for the purpose of exercising his powers or authorities or performing his functions or duties as such inspector, officer, other person or member.

(b) In respect of the primary thoroughfare and the secondary thoroughfare, an inspector, officer, other person or member of the police force referred to in paragraph (a), in addition to any powers, authorities, functions and duties vested in him by or under this or any other Act or law, shall have such powers, authorities, functions and duties that he 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 an inspector, officer, other person or member of the police force referred to in subsection (1), in his access to any part of the primary thoroughfare or of the secondary thoroughfare as provided in subsection (1).

63. 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

(b) written notice given to each member of the primary thoroughfare body corporate or, as the case may be, the principal body corporate who is the proprietor of a lot access to which is likely to be affected by the closure.

The notice shall—

- (c) identify the lots within the site access to which is likely to be affected by the closure;
- (d) specify the classes of traffic to be excluded;
- (e) identify the location of the road to be closed;
- (f) specify the period or periods of the closure;
and
- (g) 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.

64. 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 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 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.

PART VII—BODIES CORPORATE

Division 1—Primary Thoroughfare Body Corporate

65. Interpretation. In this Division, unless the contrary intention appears—

“executive committee” means the executive committee of the primary thoroughfare body corporate constituted under this Division;

“primary thoroughfare body corporate roll” means the roll referred to in section 77 to be maintained by the primary thoroughfare body corporate;

“proprietor”, in relation to land, means the person for the time being registered or entitled to immediate registration under the Real Property Acts as the proprietor of that land;

and

in relation to land subdivided by way of a group titles plan or a building units plan, means the body corporate incorporated by the operation of section 27 of the *Building Units and Group Titles Act 1980-1986*;

“Real Property Acts” means the *Real Property Act 1861-1986* and the *Real Property Act 1877-1986*;

“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 per centum 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 or plans of subdivision, the proprietor or proprietors of the land within the site (excluding land within each residential precinct and land comprising the primary thoroughfare) and the principal body corporate shall by virtue of this Act be a body corporate under the name "(insert name of development specified in the approval of the scheme) Primary Thoroughfare Body Corporate".

Until the incorporation of the principal body corporate, the proprietors of the land within the residential precincts shall be members of the primary thoroughfare body corporate in place of the principal body corporate.

(2) When land, within the site (excluding land within the residential precincts) 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 in so far as he was a member by virtue of his being the proprietor of that land,

and the body corporate created by the registration of that plan shall become a member of the primary thoroughfare body corporate.

(3) The *Companies (Queensland) Code* 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.

(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) (a) 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 subdivision, 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.

(b) Nothing in this subsection shall relieve the applicant from his obligation to pay for the initial construction of the primary thoroughfare to the standard prescribed pursuant to section 56.

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 chairman 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 his 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 one member or two members, that or those members as the case may be;

or

(b) where the primary thoroughfare body corporate is constituted by more than two members, such two 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:

Provided that, 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 of the primary thoroughfare body corporate for service of notices on it shall upon its incorporation pursuant to section 66 be the address of the applicant for service of notices on him.

70. Meetings of primary thoroughfare body corporate. (1) Within three months after the incorporation of the primary thoroughfare body corporate, the applicant shall, in the prescribed manner, convene a meeting of the primary thoroughfare body corporate to be held within that period.

(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 76 (1) (h) or (2) should be confirmed or varied;
- (c) where there are more than three members of the primary thoroughfare body corporate, to determine the number of members of the executive committee;
- (d) to elect the chairman, 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 corporate and at such meeting a chairman, secretary and treasurer shall be elected:

Provided that a person may be elected to one or more of those offices.

(4) The applicant 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 him and relating to the primary thoroughfare;

- (b) if they are in his possession or under his 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 applicant 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 applicant.

(5) (a) Part 1 of the Second Schedule to the *Building Units and Group Titles Act 1980-1986* 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 Part 2 of the Second Schedule to that Act in force at the commencement of this 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:

Provided that the provisions in those Schedules relating to the rights and obligations of mortgagees and mortgagors shall not apply.

(b) The provisions of the Schedules referred to in paragraph (a) shall, for the purposes of paragraph (a), be read and construed as if—

- (i) references therein to “aggregate lot entitlement” were references to the aggregate of all voting entitlements specified in the approved scheme;
- (ii) references therein to “body corporate” were references to primary thoroughfare body corporate;
- (iii) references therein to “by-laws” were references to primary thoroughfare by-laws;
- (iv) references therein to “council” were references to executive committee;

- (v) references therein to a “lot” were references to a parcel of land within the site;
- (vi) references therein to “lot entitlement” were references to the voting entitlement of a member;
- (vii) references therein to the “original proprietor” were references to the applicant;
- (viii) references therein to a “proprietor” were references to a member of the primary thoroughfare body corporate;
- (ix) references therein to the “roll” were references to the primary thoroughfare body corporate roll;
- (x) references to particular provisions of the *Building Units and Group Titles Act 1980-1986* (other than the provisions in those Schedules) were references to corresponding provisions of this Act;
- (xi) the principal body corporate were the proprietor of a parcel of land within the site and its voting entitlements where the voting entitlements of that parcel.

(c) When an expression is substituted for an expression used in the *Building Units and Group Titles Act 1980-1986* and referred to in paragraph (b), the substituted expression shall, for the purposes of paragraph (b), 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 him 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 chairman, 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 he so presides, shall be deemed to be the chairman 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 applicant remains liable to the penalty provided by subsection (1) for any failure to comply with that subsection.

71. Voting entitlements.(1) Until land within a precinct, other than a residential precinct or the primary thoroughfare precinct, is subdivided, the proprietor of that land as a member of the primary thoroughfare body corporate shall have a voting entitlement as set out in the approved scheme in respect of that precinct.

(2) Until the incorporation of the principal body corporate, the proprietor or proprietors of land within the residential precincts shall have the voting entitlement as set out in the approved scheme in respect of those precincts.

(3) When the land comprising a precinct, other than a residential precinct or the primary thoroughfare precinct, is subdivided the voting entitlement for that precinct 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.

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.

(4) Immediately upon the incorporation of the principal body corporate—

- (a) the proprietor or proprietors referred to in subsection (2) shall cease to have those voting entitlements; and
- (b) the principal body corporate shall have those voting entitlements.

72. 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 76 (1) (h) and the amount (if any) determined pursuant to section 76 (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.

(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 the proprietor became the proprietor of that land to pay such part of that contribution as was unpaid when he 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;

(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 76 (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.

73. Change of primary thoroughfare body corporate's address. 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 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 primary thoroughfare body corporate shall, notwithstanding any other provision of this Act, be the address so notified.

74. 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 authority;

(b) any work referred to in section 76 (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.

For the purposes of paragraph (d), an occupier 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).

75. 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 precincts or to the proprietor or occupier thereof;
- (e) acquire and hold any personal property to facilitate the carrying out of its duties.

76. 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;
- (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;
- (c) effect insurance in accordance with section 80;
- (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;
- (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;
 - (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 two months before each annual general meeting;
 - (g) cause annual general meetings to be convened in accordance with Clause 1 (1) of Part 2 of the Second Schedule to the *Building Units and Group Titles Act 1980-1986* in force at the commencement of this Act;
 - (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 primary thoroughfare body corporate, other than amounts referred to in paragraph (l);
 - (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 79 and into which may be paid any amounts paid to the primary thoroughfare body corporate by way of discharge of insurance claims;
 - (j) from time to time, levy, in accordance with section 72, on each person liable therefor a contribution to raise the amounts referred to in paragraph (h);
 - (k) pay any moneys referred to in paragraph (i) that are received by it and are not otherwise invested in accordance with section 75 (a) into an account established in a bank in the name of the primary thoroughfare body corporate;
 - (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 72, 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) (l) determine by special resolution, for the purposes of section 72, an amount being not greater than ten per centum 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) (l).

(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.

(5) If the primary thoroughfare body corporate fails or neglects to convene an annual general meeting within the period required by Clause 1 (1) of Part 2 of the Second Schedule to the *Building Units and Group Titles Act 1980-1986* in force at the commencement of this Act, the annual general meeting held after the expiration of that period shall be an annual general meeting of the primary thoroughfare body corporate.

77. 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 precincts);
- (b) the voting entitlements of the principal body corporate;
- (c) the total of the voting entitlements referred to in provisions (a) and (b);
- (d) the name and address for service of notices on each member of the primary thoroughfare body corporate;
- (e) 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.

78. Notices to be given by proprietors. (1) The applicant and any person who, under this section, has given notice of an address for the service of notices on him may give notice in writing to the primary thoroughfare body corporate of an address or change of address for the service of notices on him.

(2) (a) After delivery to a transferee of any land within the site (excluding land within the residential precincts) 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—

- (i) 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
- (ii) bear written confirmation by the transferee of the accuracy of the information contained in the notice.

(b) Where a transferor of any land fails to comply with paragraph (a), the transferee of that land may give to the primary thoroughfare body corporate written notice which shall identify the land and specify his name in full, address for service of notices and the date upon which the instrument was or instruments were delivered to him.

(3) After a person becomes entitled, otherwise than as a transferee, to be registered under the Real Property Acts as the proprietor of land within the site (excluding land within the residential precincts) he 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 he became entitled to the land; and
 - (b) his name, in full, the address for the service of notices on him and the date upon which he 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 he is entitled to give the notice and requiring him—

- (c) to state, within 14 days, whether or not he is a person entitled to give a notice in that capacity;

and

(d) if he 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 he gives the required notice.

(6) A vote cast at a meeting of the primary thoroughfare body corporate by a person 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 that the person is 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.

79. 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 authorized 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 one 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 chairman, 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 his agent—
 - (i) the primary thoroughfare body corporate roll;
 - (ii) the notices and orders referred to in section 76 (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 76 (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,
 - at such time and place as may be agreed upon by the applicant or his 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 76 (1) (h) and (4) and the periods in respect of which those contributions are payable;
 - (ii) whether there is any amount unpaid of any contribution determined under section 76 (1) (h) and, if so, the amount thereof;
 - (iii) whether there is any amount unpaid of any contribution levied under section 76 (1) (l) and, if so, the amount thereof and the date on which it was levied;
 - (iv) whether there is any amount unpaid of any contribution levied under section 91 and, if so, the amount thereof and the date on which it was levied;
- and
- (v) the amount, if any, determined under section 76 (2) in respect of any unpaid contribution referred to in this paragraph;
- or
- (d) furnish to the applicant or his 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 three 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 ten 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.

80. 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 by reason of the provisions of the *Workers' Compensation Act 1916-1983*;
- (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 amount prescribed by Order in Council or, if not prescribed, \$5 000 000.

(3) The primary thoroughfare body corporate may insure any property in which it has an insurable interest.

81. Power for individuals to act for corporate members. (1) A body corporate (including the principal body corporate) may authorize 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 authorized.

(2) Where an individual exercises or performs a power, authority, duty or function that he is, by a member of the primary thoroughfare body corporate, authorized 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 authorization under subsection (1) or to be a revocation of such an authorization is admissible in evidence and shall, unless the contrary is proved, be deemed to be such an authorization or revocation, as the case may be.

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

- (a) in the case of a member who is an infant, by his guardian;
- (b) in the case of a member 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 a member which is a body corporate, by the person nominated pursuant to section 81 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 Division 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 83 the term “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.

83. Procedure upon application to Supreme Court. (1) Every application to the Supreme Court of Queensland under this Division 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 Division.

(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 Division.

84. 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 chairman, secretary and treasurer and such other members as may be elected or appointed pursuant to this section.

(2) The chairman, secretary and treasurer of the primary thoroughfare body corporate shall be members of, and be also respectively the chairman, secretary and treasurer of, the executive committee:

Provided that a person may be elected to one or more of those offices.

(3) Where there are not more than three members of the primary thoroughfare body corporate, the executive committee shall consist of each member, if any, who is an individual or his nominee, together with the nominee of each member which is a body corporate.

(4) Where there are more than three members of the primary thoroughfare body corporate, the executive committee shall consist of such number of persons, being not less than three nor more than the number of members of the primary thoroughfare body corporate or seven, 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 chairman, 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 three, at an extraordinary general meeting convened for the purpose.

(6) A person is not eligible for election as chairman, secretary or treasurer of the primary thoroughfare body corporate or as a member of an executive committee unless he is—

- (a) an individual who is a member of the primary thoroughfare body corporate;
- (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.

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 his place as a member of the executive committee at any meeting of the executive committee and any member or nominee so appointed shall, when he 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 he is a member of the executive committee.

(9) If a person appointed under subsection (7) is a member of the executive committee he may, at any meeting of the executive committee, separately vote in his capacity as such a member and on behalf of the member in whose place he 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 chairman, 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 Part I of the Second Schedule to the *Building Units and Group Titles Act 1980-1986* in force at the commencement of this Act as applied by section 70 as they relate to the election of the chairman, 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 chairman, secretary and treasurer and of those members of the executive committee to be so constituted.

(12) Part 2 of the Second Schedule to the *Building Units and Group Titles Act 1980-1986* other than clause 16 (1) as applied by section 70 does not apply to or in respect of the election of the chairman, 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 Division (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.

85. Vacation of office of member of executive committee. (1) A person elected as chairman, secretary or treasurer of the primary

thoroughfare body corporate or as a member of the executive committee vacates his office—

- (a) if, where he was a member of the primary thoroughfare body corporate at the time of his election, he ceases to be a member of the primary thoroughfare body corporate;
- (b) upon the receipt by the primary thoroughfare body corporate from him of notice in writing of his resignation;
- (c) 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;
- (d) where he is a member referred to in section 84 (3) and the number of members of the primary thoroughfare body corporate increases to more than three, upon the election of the chairman, 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 84 (5);
- (e) if he is absent without prior leave granted by the executive committee from three consecutive meetings of the executive committee of which due notice has been given to him;
- (f) if he becomes bankrupt or compounds with his creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
- (g) if he 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;
- (h) if he dies or becomes mentally ill;
or
- (i) if the primary thoroughfare body corporate, pursuant to a special resolution, determines that his office is vacated.

(2) Upon the occurrence of a vacancy in the office of chairman, secretary or treasurer of the primary thoroughfare body corporate or another member of the executive committee, otherwise than by reason of the operation 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 his predecessor's term of office.

86. Chairman, secretary and treasurer of executive committee. (1)

The chairman shall preside at all meetings of the executive committee at which he is present and, if he 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 chairman.

(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 he 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.

(3) The treasurer of the primary thoroughfare body corporate may delegate the exercise or performance of any of his 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, he 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 he shall not exercise or perform any of his powers, authorities, duties or functions that are specified in the notice, unless he 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;
 - (b) the primary thoroughfare body corporate roll;
or
 - (c) any other property of the primary thoroughfare body corporate,

shall, within seven days after service on him of notice of a resolution of the executive committee requiring him 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.

87. 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.

88. 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;
 - (b) any matter which seeks to alter the rights, privileges or obligations of members of the primary thoroughfare body corporate;
 - (c) any matter which seeks to alter the annual monetary contribution of members of the primary thoroughfare body corporate;
 - (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 90 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 the body corporate by this Act.

89. Statutory restrictions on powers of executive committee. (1) Unless—

- (a) otherwise determined pursuant to a special resolution of the primary thoroughfare body corporate;
 - (b) authorized by the Minister in an emergency;
- 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 per centum 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 two 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;
 - (b) to comply with a notice or order served on the primary thoroughfare body corporate by any public or local authority;
 - or
 - (c) in discharge of any liability incurred in respect of an obligation of the primary thoroughfare body corporate authorized by the primary thoroughfare body corporate in general meeting.

90. 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.

91. 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 72 with such modifications as may be necessary apply to and in respect of contributions levied under

subsection (2) in the same way as those provisions apply to contributions levied under that section.

92. 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 chairman 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 authorized 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—
 - (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;
 - (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 authorized by the primary thoroughfare by-laws for the service of notices on members.
- (4) Notice under section 86 (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.

93. 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, convene a meeting in respect of any matter of interest to proprietors or occupiers of land or lots within the site.

(2) Any proprietor or occupier of land or of a lot within the site may attend and vote at a meeting convened pursuant to subsection (1).

(3) The chairman of the primary thoroughfare body corporate shall preside at the meeting for the purpose of the election of a chairman of the meeting and until the election of a chairman.

(4) A meeting convened pursuant to subsection (1) is not a meeting of the primary thoroughfare body corporate.

Division 2—Principal Body Corporate

94. Interpretation. In this Division, unless the contrary intention appears—

“executive committee” means the executive committee of the principal body corporate constituted under this Division;

“initial lot” means an initial lot within a residential precinct;

“initial lot entitlement”, in relation to an initial lot, means the maximum number (specified in the schedule that accompanied the plan of subdivision) 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 105 to be maintained by the principal body corporate;

“proprietor”, in relation to an initial lot or a secondary lot, means the person for the time being registered or entitled to immediate registration under the Real Property Acts as the proprietor of that lot;

and

in relation to a secondary lot subdivided by way of a group titles plan or a building units plan, means the body corporate incorporated by the operation of section 27 of the *Building Units and Group Titles Act 1980-1986*;

“Real Property Acts” means the *Real Property Act 1861-1986* and the *Real Property Act 1877-1986*;

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

“secondary thoroughfare” means a lot on a plan of subdivision of a lot within a residential precinct and shown as constituting a secondary thoroughfare;

“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 per centum of the aggregate

of all lot entitlements recorded in the principal body corporate roll.

95. Principal body corporate. (1) Upon registration of the first plan of subdivision creating a lot or lots within a residential precinct, the proprietor or proprietors of all the land within the residential precincts shall by virtue of this Act be a body corporate under the name "(insert name of development specified in the approval of the scheme) 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 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 principal body corporate in so far as he was a member by virtue of his being proprietor of that secondary lot,

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 of 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 *Companies (Queensland) Code* 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 or the development control by-laws and shall do all things reasonably necessary for the enforcement of the development control by-laws, the secondary thoroughfare 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 (if any) 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) (a) 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 or plans of subdivision, 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.

(b) Nothing in this subsection shall relieve the applicant from his obligation to pay for the initial construction of secondary thoroughfares to the standard prescribed pursuant to section 56.

96. 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,

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 chairman 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 his appointment, is received by the secretary of the principal body corporate.

97. 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 applicant alone, by the applicant;
- (b) where the principal body corporate is constituted by two 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 one or two members, that member or those members, as the case may be;

or

(b) where the principal body corporate is constituted by more than two members, such two 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:

Provided that, 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.

98. Address of principal body corporate. The address of the principal body corporate for the service of notices on it shall upon its incorporation pursuant to section 95 be the address of the applicant for service of notices on him.

99. Meetings of principal body corporate. (1) Within three months after the incorporation of the principal body corporate, the applicant shall, in the prescribed manner, convene a meeting of the principal body corporate to be held within that period.

(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 104 (1) (h) or (2) should be confirmed or varied;

(c) where there are more than three members of the principal body corporate, to determine the number of members of the executive committee;

(d) to elect the chairman, 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 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 chairman, secretary and treasurer shall be elected:

Provided that a person may be elected to one or more of those offices.

(4) The applicant 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 him and relating to the secondary thoroughfare;
- (b) if they are in his possession or under his 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 applicant 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 applicant.

(5) (a) Part 1 of the Second Schedule to the *Building Units and Group Titles Act 1980-1986* 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 Part 2 of the Second Schedule to 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:

Provided that the provisions in those Schedules relating to the rights and obligations of mortgagees and mortgagors shall not apply.

(b) The provisions of the Schedules referred to in paragraph (a) shall, for the purposes of paragraph (a), be read and construed as if—

- (i) 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;
- (ii) references therein to “body corporate” were references to principal body corporate;
 - (iii) references therein to “by-laws” were references to principal body corporate by-laws or development control by-laws;
 - (iv) references therein to “council” were references to executive committee;
 - (v) references therein to a “lot” were references to an initial lot or a secondary lot;
 - (vi) references therein to “lot entitlement” were references—
 - (A) in the case where a “lot” is an initial lot, to the initial lot entitlement of that lot;
 - (B) in the case where a “lot” is a secondary lot, to the secondary lot entitlement of that lot;
 - (vii) references therein to the “original proprietor” were references to the applicant;
 - (viii) references therein to a “proprietor” were references to a proprietor within the meaning of this Division;
 - (ix) references therein to the “roll” were references to the principal body corporate roll;
 - (x) references to particular provisions of the *Building Units and Group Titles Act 1980-1986* (other than the provisions in those Schedules) were references to corresponding provisions of this Act.

(c) When an expression is substituted for an expression used in the *Building Units and Group Titles Act 1980-1986* and referred to in paragraph (b), the substituted expression shall, for the purposes of paragraph (b), 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).

(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 him 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 chairman, 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 he so presides, shall be deemed to be the chairman 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 applicant remains liable to the penalty provided by subsection (1) for any failure to comply with that subsection.

100. Levies by principal body corporate on members. (1) The principal body corporate may levy the contributions determined by it in accordance with section 104 (1) (h) and the amount (if any) determined pursuant to section 104 (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.

(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 he 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;
- (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 104 (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.

101. 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.

102. 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 authority;
- (b) any work referred to in section 104 (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;
or
- (d) in any other case, at any reasonable time on notice given to any occupier of a lot likely to be affected thereby.

For the purposes of paragraph (d), an occupier 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).

103. 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.

104. 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;
- (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;
- (c) effect insurance in accordance with section 108,
- (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;
- (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;
- (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 two months before each annual general meeting;
- (g) cause annual general meetings to be convened in accordance with Clause 1 (l) of Part 2 of the Second Schedule to the *Building Units and Group Titles Act 1980-1986* in force at the commencement of this Act;
- (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 (l).

- (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 107 and into which may be paid any amounts paid to the principal body corporate by way of discharge of insurance claims;
- (j) from time to time, levy, in accordance with section 100, on each person liable therefor a contribution to raise the amounts referred to in paragraph (h);
- (k) pay any moneys referred to in paragraph (i) that are received by it and are not otherwise invested in accordance with section 103 (a) into an account established in a bank in the name of the principal body corporate;
- (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 100, 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 100, an amount being not greater than ten per centum 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.

(5) If the principal body corporate fails or neglects to convene an annual general meeting within the period required by Clause 1 (l) of

Part 2 of the Second Schedule to the *Building Units and Group Titles Act 1980-1986* in force at the commencement of this Act, the annual general meeting held next after the expiration of that period shall be an annual general meeting of the principal body corporate.

105. 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 provisions (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.

106. Notices to be given by proprietors. (1) The applicant and any person who, under this section, has given notice of an address for the service of notices on him shall give notice in writing to the principal body corporate of an address or change of address for the service of notices on him.

(2) (a) 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—

- (i) 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
- (ii) bear written confirmation by the transferee of the accuracy of the information contained in the notice.

(b) Where a transferor of an initial lot or a secondary lot fails to comply with paragraph (a), the transferee of that lot may give to the

principal body corporate written notice which shall identify the lot and specify his name in full, address for service of notices and the date upon which the instrument was or instruments were delivered to him.

(3) After a person becomes entitled, otherwise than as a transferee, to be registered under the Real Property Acts as the proprietor of an initial lot or a secondary lot, he 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 he became entitled to the lot;

and

(b) his name, in full, the address for the service of notices on him and the date upon which he 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 he is required to give the notice and requiring him—

(c) to state, within 14 days, whether or not he is required to give a notice in that capacity;

and

(d) if he 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 he gives the required notice.

(6) A vote cast at a meeting of the principal body corporate by a person on behalf of a body corporate has no effect unless the principal body corporate has been given notice in writing specifying that the person is 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.

107. 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 authorized 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 one 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 chairman, secretary or treasurer of the principal body corporate or a member of the executive committee;
- (b) make available for inspection by the applicant or his agent—
 - (i) the principal body corporate roll;
 - (ii) the notices and orders referred to in section 104 (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 104 (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 his 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 section 104 (1) (h) and (4) and the periods in respect of which those contributions are payable;
 - (ii) whether there is any amount unpaid of any contribution determined under section 104 (1) (h) and, if so, the amount thereof;
 - (iii) whether there is any amount unpaid of any contribution levied under section 104 (1) (l) and, if so, the amount thereof and the date on which it was levied;
 - (iv) whether there is any amount unpaid of any contribution levied under section 119 and, if so, the amount thereof and the date on which it was levied;

and

- (v) the amount, if any, determined under section 104 (2) in respect of any unpaid contribution referred to in this paragraph;

or

- (d) furnish to the applicant or his 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 three 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 ten 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.

108. 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 by reason of the provisions of the *Workers' Compensation Act 1916-1983*;
 - (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, \$5 000 000.

(3) The principal body corporate may insure any property in which it has an insurable interest.

109. Power for individuals to act for corporate proprietors. (1) A body corporate may authorize 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 a member of the principal body corporate and may revoke the authority of an individual so authorized.

(2) Where an individual exercises or performs a power, authority, duty or function that he is, by a member of the principal body corporate, authorized 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 of the principal body corporate.

(4) A document under the seal of a body corporate purporting to be an authorization under subsection (1) or to be a revocation of such an authorization is admissible in evidence and shall, unless the contrary is proved, be deemed to be such an authorization or revocation, as the case may be.

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

- (a) in the case of a proprietor who is an infant, by his guardian;
- (b) in the case of a 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 a proprietor which is a body corporate, by the person nominated pursuant to section 109 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 Division 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 111 the term “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.

111. Procedure upon application to Supreme Court. (1) Every application to the Supreme Court of Queensland under this Division 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 Division.

(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 Division.

112. 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 chairman, secretary and treasurer and such other members as may be elected or appointed pursuant to this section.

(2) The chairman, secretary and treasurer of the principal body corporate shall be members of, and be also respectively the chairman, secretary and treasurer of, the executive committee:

Provided that a person may be elected to one or more of those offices.

(3) (a) Where there are not more than three members of the principal body corporate, the executive committee shall consist of each member, if any, who is an individual or his nominee, together with the nominee of each member, if any, which is a body corporate.

(b) Where there is one member only of the principal body corporate, he 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.

(4) Where there are more than three members of the principal body corporate, the executive committee shall consist of such number of persons, being not less than three nor more than the number of members of the principal body corporate or seven, 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 chairman, 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 three, at an extraordinary general meeting convened for the purpose.

(6) A person is not eligible for election as chairman, secretary or treasurer of the principal body corporate or as a member of an executive committee unless he is—

- (a) an individual who is a member of the principal body corporate;
- (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.

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 his place as a member of the executive committee at any meeting of the executive committee and any member or nominee so appointed shall, when he is so acting, be deemed to be a member of the executive committee.

(8) A member of the principal body corporate or a nominee of a body corporate may be appointed under subsection (7) whether or not he is a member of the executive committee.

(9) If a person appointed under subsection (7) is a member of the executive committee he may, at any meeting of the executive committee, separately vote in his capacity as such a member and on behalf of the member in whose place he 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 chairman, 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 Part I of the Second Schedule to the *Building Units and Group Titles Act 1980-1986* in force at the commencement of this Act as applied by section 99 and as relate to the election of the chairman, 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 chairman, secretary and treasurer and of those members of the executive committee to be so constituted.

(12) Part 2 of the Second Schedule to the *Building Units and Group Titles Act 1980-1986* other than clause 16 (1) as applied by section 99 does not apply to or in respect of the election of the chairman, 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 Division (other than subsections (1), (2), (3) and (5) of this section) 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.

113. Vacation of office of member of executive committee. (1) A person elected as chairman, secretary or treasurer of the principal body corporate or as a member of the executive committee vacates his office—

- (a) if, where he was a member of the principal body corporate at the time of his election, he ceases to be such a member;
- (b) upon the receipt by the principal body corporate from him of notice in writing of his resignation;
- (c) 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;
- (d) where he is a member referred to in section 112 (3) and the number of members of the principal body corporate increases to more than three, upon the election of the chairman, 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 112 (5);
- (e) if he is absent without prior leave granted by the executive committee from three consecutive meetings of the executive committee of which due notice has been given to him;
- (f) if he becomes bankrupt or compounds with his creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
- (g) if he 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;
- (h) if he dies or becomes mentally ill;
or
- (i) if the principal body corporate, pursuant to a special resolution, determines that his office is vacated.

(2) Upon the occurrence of a vacancy in the office of chairman, secretary or treasurer of the principal body corporate or another member of the executive committee, otherwise than by reason of the operation 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 his predecessor's term of office.

114. Chairman, secretary and treasurer of executive committee. (1) The chairman shall preside at all meetings of the executive committee at which he is present and, if he 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 chairman.

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

(3) The treasurer of the principal body corporate may delegate the exercise or performance of any of his 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, he 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 he shall not exercise or perform any of his powers, authorities, duties or functions that are specified in the notice, unless he 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;

(b) the principal body corporate roll;

or

(c) any other property of the principal body corporate,

shall, within seven days after service on him of notice of a resolution

of the executive committee requiring him 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.

115. 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.

116. 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;
 - (b) any matter which seeks to alter the rights, privileges or obligations of members of the principal body corporate;
 - (c) any matter which seeks to alter the annual monetary contribution of members of the principal body corporate;
 - (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 118 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 the principal body corporate by this Act.

117. Statutory restrictions on powers of executive committee. (1)
Unless—

- (a) otherwise determined pursuant to a special resolution of the principal body corporate;
- (b) authorized by the Minister in an emergency;
- 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 per centum 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 two 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;
 - (b) to comply with a notice or order served on the principal body corporate by any public or local authority;
 - or
 - (c) in discharge of any liability incurred in respect of an obligation of the principal body corporate authorized by the principal body corporate in general meeting.

118. 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.

119. 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.

(3) The provisions of section 100 with such modifications as may be necessary apply to and in respect of contributions levied under subsection (2) in the same way as those provisions apply to contributions levied under that section.

120. 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 chairman 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 authorized 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;
- (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 authorized by the by-laws for the service of notices on members.

(4) Notice under section 114 (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.

121. 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 VIII—BY-LAWS

Division 1 Development Control By-laws

122. Development control by-laws. (1) The principal body corporate, pursuant to a special resolution, may from time to time make by-laws regulating the quality of design and development within the residential precincts.

(2) The development control by-laws may regulate the size, shape, height, colour, texture and overall placement of buildings or other structures within the residential precincts.

(3) A development control by-law may apply to all the residential precincts or to a particular precinct or part of a precinct specified in the by-law.

(4) A development control by-law may repeal or amend an existing development control by-law.

(5) A development control by-law shall have no force or effect until the Minister has approved the by-law and notification of his approval has been published in the Gazette.

(6) A development control by-law shall not affect the operation of any other Act or law.

(7) Without limiting the operation of any other provision of this Act, the development control by-laws for the time being in force bind the principal body corporate, the members of the principal body corporate and the proprietor and any mortgagee in possession (whether by himself or any other person), lessee or occupier of a lot within the residential precincts to the same extent as if those by-laws had been signed and sealed by the principal body corporate, each member and each 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.

(8) Notwithstanding the provisions of the *Building Units and Group Titles Act 1980-1986*, 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 precinct that is inconsistent with the development control by-laws shall to the extent of the inconsistency have no effect.

123. Minor non-compliance 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 non-compliance by that

member of a development control by-law in respect of the land or lot specified in the request:

Provided that the non-compliance is of a minor nature.

(2) Where non-compliance 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 non-compliance.

Division 2—Primary Thoroughfare By-laws

124. 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.

(2) A primary thoroughfare by-law has no force or effect until the Minister has approved the by-law and notification of his 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 he shall 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 proprietor and any mortgagee in possession (whether by himself 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 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.

(6) A primary thoroughfare by-law may apply to all the primary thoroughfare or to a particular part thereof specified in the by-law.

(7) A primary thoroughfare by-law shall not affect the operation of any other Act or law.

Division 3—Secondary Thoroughfare By-laws

125. 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.

(2) A secondary thoroughfare by-law has no force or effect until the Minister has approved the by-law and notification of his 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 he shall 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 proprietor and any mortgagee in possession (whether by himself or any other person), lessee or occupier, of a lot within the residential precincts to the same extent as if those by-laws had been signed and sealed by the principal body corporate, each member of the principal body corporate and each 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.

(6) A secondary thoroughfare by-law may apply to all the secondary thoroughfares or to a particular thoroughfare or part thereof specified in the by-law.

(7) A secondary thoroughfare by-law shall not affect the operation of any other Act or law.

PART IX—MISCELLANEOUS

126. Applications to be accompanied by fees. (1) An application to the Minister for approval of a scheme shall be accompanied by a fee as determined by the Minister.

(2) An application to a Local Authority for any approval required pursuant to this Act shall be accompanied by the relevant application fee fixed from time to time by the Local Authority.

(3) Different amounts may be fixed or determined as application fees in respect of applications for different types of approval required under this Act or in respect of a particular application and may be fixed before or after the application is made.

127. 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 200 penalty units.

128. Proceedings for offences. (1) A prosecution for an offence against this Act shall be by way of summary proceedings under the *Justices Act 1886-1985* upon the complaint of—

- (a) in the case of offences against the provisions of section 19, the Shire or Town Clerk of the Local Authority or his delegate;
- or
- (b) in any other case, any person authorized in writing in that behalf by the Minister.

(2) In any proceedings it shall not be necessary to prove the appointment of the Shire Clerk or, as the case may be, the Town Clerk of a Local Authority 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.

(3) All penalties and expenses pursuant to a proceeding for an offence against section 19 shall be paid into the General Fund of the relevant Local Authority.

129. 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.

130. Tabling of Orders in Council. Section 28A of the *Acts Interpretation Act 1954-1977* (Tabling of Regulations) shall apply with respect to Orders in Council made for the purposes of this Act as if they were regulations.

131. Regulations. 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 lodgement and registration in the office of the Registrar of Titles of plans and documents;
- (e) the nomination and election of the offices of chairman, 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 4 penalty units for an offence against a regulation.

SCHEDULE

S. 5

REQUIREMENTS FOR APPLICATION FOR APPROVAL
OF SCHEME**Part A**

1. The name of the proposed resort development.
2. The name, address and signature of each applicant.
3. The name, address, signature and written consent of each owner (other than the applicant) of land within the site.
4. The name, address, signature and written consent of each owner of land (if any) outside the site that is proposed to be incorporated as part of the scheme.
5. The address of the site and other land (if any) proposed to be used as part of the scheme.
6. The real property description (including the area) of the land comprising the site.
7. Confirmation that the land comprising the site is freehold land or is intended to be freeholded.
8. The existing and proposed form of land tenure of land referred to in paragraph 4.
9. The Local Authority Area or Areas in which is situated the site and any other land proposed to be incorporated as part of the scheme.
10. Details of those matters or things for which approval or provision is required pursuant to any Act before approval of the scheme may be granted.
11. Details of the financial capability of the applicant or proposed developer to implement the scheme and the method of funding the development.
12. A study report on the environmental impact of the scheme.
13. A market feasibility study report of the scheme.
14. Evidence of all undertakings given and agreements entered into by or between the applicant, the developer, the Local Authority, a department of the Government or statutory authority and any other person whose interests would be affected by the proposed development.
15. Details of a works program for implementation of the development together with an assessment of the number of people to be engaged in the carrying out of the works on the site and whether or not special provision is to be made to accommodate the construction workforce and permanent workforce in the locality.

16. Evidence of support for the approval of the scheme by the Minister for Tourism, National Parks and Sport.

17. The proposed precincts, the names thereof and the proposed uses of the land to be permitted within each precinct;

18. A plan of the scheme of development which shall include—

- (a) a site plan and definition of the area including where appropriate metes and bounds descriptions and real property descriptions;
- (b) identification on the site plan of the location and area of each of the proposed precincts (including the primary thoroughfare precinct) and their component parts;
- (c) identification on the site plan of the relationship between the site and adjoining lands (if any);
- (d) identification of lands (if any) outside the site which are proposed to be used in association with the establishment and operation of the proposed development together with evidence that those lands may be lawfully used for the purposes set out in the scheme;
- (e) identification of proposed roads within the site and the access points to the site from roads outside the site (if any);
- (f) existing and proposed easements and reserves;
- (g) watercourse lines, flood lines, storm surge lines, waterholes and similar features (if any);

19. Such other information as the Minister requires.

Part B

1. In respect of any part of the proposed development that includes or comprises the use of a building or structure or part thereof which has a gross floor area exceeding 4 000 square metres primarily for the purpose of shops, a study report including an assessment of the public need and demand for that development and a statement of the likely economic impact upon existing development of a similar nature or involving similar activities in the locality and in the estimated area of influence of the proposed development if the proposal were implemented.

2. An engineering or geotechnical report on infrastructure requirements to service the development.

3. Details of the equivalent population proposed to be accommodated within the development together with an assessment of the number of persons to be employed on the site to service the development specifying the methods used in making that determination.

4. Upon the plan of the scheme of development show—
 - (a) the contours of the site;
 - (b) adequate geographical information relating to the site and adjoining areas;
 - (c) drainage catchment areas (if any).