

Queensland



ANNO TRICESIMO SEXTO

ELIZABETHAE SECUNDAE REGINAE

An Act to amend the Sanctuary Cove Resort Act 1985-1986
in certain particulars

[ASSENTED TO 30TH APRIL, 1987]

Preamble: Whereas the *Sanctuary Cove Resort Act 1985-1986* provides for the development of "Sanctuary Cove Resort" at Hope Island in the State of Queensland:

And Whereas it has become apparent that certain amendments of the provisions of that Act are desirable:

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

1. Short title and citation. (1) This Act may be cited as the *Sanctuary Cove Resort Act Amendment Act 1987*.

(2) In this Act the *Sanctuary Cove Resort Act 1985-1986* is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Sanctuary Cove Resort Act 1985-1987*.

2. Amendment of s. 3. Arrangement of Act. Section 3 of the Principal Act is amended by inserting after the expression "PART VI—DEVELOPMENT CONTROL BY-LAWS (ss. 95-96);" the following expression:—

"PART VIA—RESIDENTIAL ZONE ACTIVITIES BY-LAWS (ss. 96A-96B);".

3. Amendment of s. 4. Interpretation. Section 4 of the Principal Act is amended by omitting the definition "secondary thoroughfare" and substituting the following definition:—

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

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

4. Amendment of s. 8. Proposed use plan. Section 8 of the Principal Act is amended by—

(a) inserting in subsection (3) after the word "subdivided" where it twice occurs the words "for residential purposes" in each case;

(b) inserting in subsection (6) after the words "may be subdivided" and after the word "created" the words "for residential purposes" in each case.

5. Amendment of s. 10. Initial subdivision within the site. Section 10 of the Principal Act is amended by inserting in subsection (3) after the word “subdivided” the words “for residential purposes”.

6. Amendment of s. 13. Subdivision etc., of land within certain residential zones. Section 13 of the Principal Act is amended by inserting in subsection (2) in the third paragraph after the word “subdivided” the words “for residential purposes”.

7. Amendment of s. 14. Transfer of lots comprising secondary thoroughfares to principal body corporate. Section 14 of the Principal Act is amended by adding after subsection (1) the following subsection:—

“(1A) (a) Immediately upon registration of a group titles plan subdividing or resubdividing a secondary lot or resubdividing a lot shown on a group titles plan—

- (i) the registered proprietor of any lot shown on the plan as secondary thoroughfare;
- (ii) where common property is shown on the plan as secondary thoroughfare, the body corporate,

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

(b) Upon registration of the principal body corporate as proprietor of the lot or common property referred to in paragraph (a), that lot or, as the case may be, that common property shall, for the purposes of the *Building Units and Group Titles Act 1980-1986*, cease to be part of the parcel shown on the group titles plan.

(c) The principal body corporate shall not be required to make any payment or provide any consideration for a transfer pursuant to this subsection.”.

8. Amendment of s. 15. Subdivision of secondary lots. Section 15 of the Principal Act is amended by—

(a) inserting in subsection (2) after the word “subdivided” and after the word “subdivision” the words “or resubdivided” and the words “or resubdivision” respectively;

(b) adding after subsection (2) the following subsections:—

“(2A) A lot shown on a registered group titles plan referred to in subsection (2) may, subject to compliance with this section, be resubdivided by way of registration of a building units plan or a group titles plan.

(2B) Notwithstanding the provisions of the *Building Units and Group Titles Act 1980-1986*, a group titles plan subdividing a secondary lot referred to in subsection (2) or resubdividing a lot shown on a registered group titles plan referred to in subsection (2) or (2A) may create a lot or common property shown as secondary thoroughfare.

(2C) In a group titles plan resubdividing a lot shown on a registered group titles plan referred to in subsection (2) or (2A) each lot thereby created must have access to the primary thoroughfare whether directly or indirectly through a lot or lots shown as secondary thoroughfare or through common property.

(2D) Notwithstanding the provisions of section 19 and of section 19 of the *Building Units and Group Titles Act 1980-1986*, the lot entitlement of a lot on a group titles plan shown as secondary thoroughfare shall be zero and the proprietor of that lot shall not be a member of the body corporate constituted in respect of that plan.”.

9. Amendment of s. 19. Determination of lot entitlements. Section 19 of the Principal Act is amended by—

(a) numbering the existing paragraph as subsection (1) and therein—

(i) inserting after the word “subdivided” the words “or resubdivided”;

(ii) omitting the words “shall equal” and substituting the words “for residential purposes shall not exceed, and shall be not less than 90 per centum of,”;

(b) adding at the end thereof the following subsection:—

“(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.”.

10. Amendment of s. 22. Interpretation. Section 22 of the Principal Act is amended by omitting the definition “secondary thoroughfare”.

11. Amendment of s. 27. Meetings of principal body corporate. Section 27 of the Principal Act is amended in subsection (5) by inserting in paragraph (a) after the words “1980-1984” and after the words “that Act” the words “in force at the commencement of this Act” in each case.

12. Amendment of s. 28. Secondary thoroughfare by-laws. Section 28 of the Principal Act is amended in subsection (4) by—

(a) omitting the words “and the proprietors” and substituting the words “, each member of the principal body corporate and each registered proprietor”;

(b) omitting the words “where the proprietor is a member of the principal body corporate” and substituting the words “within a residential zone”;

(c) omitting the words “and each proprietor” and substituting the words “, the members of the principal body corporate and each registered proprietor”.

13. Amendment of s. 30. Change of principal body corporate’s address. Section 30 of the Principal Act is amended by inserting in subsection (2) after the words “and Attorney-General” the words “and notification by the Minister in the Gazette”.

14. Amendment of s. 33. Duties of principal body corporate. Section 33 of the Principal Act is amended by—

(a) inserting in subsection (1) (g) after the words “1980-1984” the words “in force at the commencement of this Act”;

(b) inserting in subsection (5) after the words “1980-1984” the words “in force at the commencement of this Act”.

15. Amendment of s. 41. Constitution of executive committee. Section 41 of the Principal Act is amended by inserting in subsection (11) after the words “1980-1984” the words “in force at the commencement of this Act”.

16. Amendment of s. 49. Service of documents on principal body corporate, members and others. Section 49 of the Principal Act is amended in subsection (2) by omitting from provision (b) the words “address recorded on the principal body corporate register” and substituting the words “last address notified in the Gazette”.

17. Amendment of s. 70. Meetings of primary thoroughfare body corporate. Section 70 of the Principal Act is amended in subsection (5) by inserting in paragraph (a) after the words “1980-1984” the words “in force at the commencement of this Act”.

18. Amendment of s. 71. Primary thoroughfare by-laws. Section 71 of the Principal Act is amended in subsection (4) by—

(a) omitting the words “and the proprietors” and substituting the words “, the principal body corporate and each registered proprietor”;

(b) omitting the words “where the proprietor is a member of the primary thoroughfare body corporate or is a member of the principal body corporate” and substituting the words “(including lots) within the site”;

(c) omitting the words “and each proprietor” and substituting the words “, the principal body corporate and each registered proprietor”.

19. Amendment of s. 77. Duties of primary thoroughfare body corporate. Section 77 of the Principal Act is amended by—

(a) inserting in subsection (1) (g) after the words “1980-1984” the words “in force at the commencement of this Act”;

(b) inserting in subsection (5) after the words “1980-1984” the words “in force at the commencement of this Act”.

20. Amendment of s. 85. Constitution of executive committee. Section 85 of the Principal Act is amended by inserting in subsection (11) after the words “1980-1984” the words “in force at the commencement of this Act”.

21. Amendment of s. 93. Service of documents on primary thoroughfare body corporate, members and others. Section 93 of the Principal Act is amended in subsection (2) by omitting from provision (b) the words “address recorded on the primary thoroughfare body corporate register” and substituting the words “last address notified in the Gazette”.

22. Amendment of s. 95. Development control by-laws. Section 95 of the Principal Act is amended in subsection (7) by—

(a) omitting the words “and each proprietor” where they firstly occur and substituting the words “, each member of the principal body corporate and each registered proprietor”;

(b) omitting the words “and each proprietor” where they secondly occur and substituting the words “, each member and each registered proprietor”.

23. New Part VIA. The Principal Act is amended by inserting after section 96 the following heading and sections:—

“PART VIA—RESIDENTIAL ZONE ACTIVITIES BY-LAWS

96A. Residential zone activities by-laws. (1) The principal body corporate, pursuant to a special resolution, may from time to time make by-laws for the control, management, administration, use or enjoyment of land and lots (other than the secondary thoroughfare) within the residential zones.

(2) A residential zone activities by-law may apply to all the residential zones or to a particular zone or part of a zone specified in the by-law.

(3) A residential zone activities by-law may repeal or amend an existing residential zone activities by-law.

(4) A residential zone activities by-law shall have no force or effect until the Minister has approved the by-law and notification of his approval has been published in the Gazette.

(5) Subject to subsection (7), a residential zone activities by-law shall not affect the operation of any other Act or law.

(6) Without limiting the operation of any other provision of this Act, the residential zone activities by-laws for the time being in force bind the principal body corporate, the members of the principal body corporate and the registered proprietor and any mortgagee in possession (whether by himself or any other person), lessee or occupier of a lot within the residential zones to the same extent as if those by-laws had been signed and sealed by the principal body corporate, each member and each registered proprietor and each such mortgagee, lessee and occupier respectively and as if they contained mutual covenants to observe and perform all the provisions of those by-laws.

(7) Notwithstanding the provisions of the *Building Units and Group Titles Act 1980-1986* or of section 28, a by-law made by a body corporate incorporated by the registration of a building units plan or group titles plan in respect of land within a residential zone or a secondary thoroughfare by-law that is inconsistent with the residential zone activities by-laws shall to the extent of the inconsistency have no effect.

96B. Minor non-compliance with residential zone activities by-laws. (1) At the request in writing of a member of the principal body corporate or of a proprietor of land or a lot within a residential zone, the principal body corporate may permit the non-compliance by that member or proprietor of a residential zone activities 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 residential zone activities by-law has been permitted by the principal body corporate under subsection (1) there is not a failure to comply with that by-law by reason only of that non-compliance.”