

Queensland



ANNO TRICESIMO SEPTIMO

ELIZABETHAE SECUNDAE REGINAE

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**No. 42 of 1988**

**An Act to provide in respect of the use of certain land in  
Mt. Gravatt Brisbane held by Brisbane City Council**

[ASSENTED TO 3RD MAY, 1988]

**Preamble:** Whereas in the year 1938 Brisbane City Council did become seised of an estate in fee simple in land described in Schedule 1;

And Whereas the land described in Schedule 1 is subject to a trust that the land be set apart permanently for showground, park and recreation purposes and that certain benefits be provided in relation to the land;

And Whereas in the year 1952 Brisbane City Council did become seised of an estate in fee simple in land described in Schedule 2, which land adjoins and has been used in conjunction with the land described in Schedule 1;

And Whereas in the year 1974 a plan of survey was registered in the office of the Registrar of Titles at Brisbane as Registered Plan No. 140827 by which—

the descriptions of the lands as specified in Schedules 1 and 2 were cancelled;

part of the lands described in Schedules 1 and 2 was dedicated to public use as road;

and

the residue of the lands described in Schedules 1 and 2 was resubdivided and described as specified in Schedule 3;

And Whereas it is desirable that a trust be declared in respect of the whole of the land described in Schedule 3 and the land shown on Registered Plan No. 140827 as dedicated to public use as road in lieu of the trust to which part of that land is subject and that provision be made for the development of that land in accordance with the terms of the trust declared:

NOW THEREFORE 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 *Mt. Gravatt Showgrounds Act 1988*.

**2. Commencement.** (1) Section 1 and this section shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1) the provisions of this Act shall commence on a date appointed by Proclamation.

The date so appointed is in this Act referred to as the commencement of this Act.

**3. Arrangement.** This Act is arranged in Parts as follows:—

PART I—PRELIMINARY (ss. 1-4);

PART II—CONSTITUTION OF TRUST (ss. 5-15);

PART III—PROVISIONS AFFECTING MT. GRAVATT LANDS (ss. 16-19);

PART IV—PERFORMANCE OF TRUSTS (ss. 20-23);

PART V—GENERAL PROVISIONS (ss. 24-27).

**4. Interpretation.** In this Act except where a contrary intention appears—

“Minister” includes any person for the time being performing the duties of the Minister;

“recreational purposes” includes sporting events and sporting activities of every description, whether or not participants therein receive reward;

“showgrounds” means the land described in Schedule 3 and the land shown on Registered Plan No. 140827 as dedicated to public use as road and all other land acquired by the Trust to achieve its objects, and all improvements on such lands;

“showground purposes” includes the conduct of—

(a) any agricultural, horticultural or industrial show;

(b) any exhibition or display;

(c) any carnival, fair or fete;

or

(d) any procession or gathering for any religious, charitable, educational or cultural purpose,

and any activity incidental to any of the foregoing activities;

“Society” means the Mount Gravatt Agricultural, Horticultural and Industrial Society, a body corporate incorporated under *The Religious Educational and Charitable Institutions Act of 1861* (now repealed);

“Trust” means the Mt. Gravatt Showgrounds Trust for the time being constituted under and in accordance with this Act.

## PART II—CONSTITUTION OF TRUST

**5. The Trust.** There shall be constituted from time to time in accordance with this Act a body under the name and style “Mt. Gravatt Showgrounds Trust”, which shall be a body corporate having perpetual succession and a common seal and capable in law of suing and being sued in its corporate name and in pursuance of its objects of acquiring, holding, letting, conveying and otherwise dealing with property, real or personal.

**6. Membership of Trust.** (1) The Trust shall consist of—

(a) the person elected for the time being as alderman of Brisbane City Council who represents the electoral ward in which the

showgrounds are situated, who shall be a member of the Trust *ex officio*;

- (b) one person nominated by Brisbane City Council;
- (c) three persons nominated by the Society;
- and
- (d) two persons selected by the Minister as representatives of the community that in his opinion is advantaged by the showgrounds.

(2) The names and particulars of all persons nominated for appointment to the Trust shall be furnished to the Minister.

For the purpose of his making a selection pursuant to paragraph (d) of subsection (1) the Minister may, if he considers it appropriate, invite any one or more associations or groups representative of community interest to nominate persons for appointment to the Trust.

**7. Appointment of members of Trust.** (1) Appointment of members of the Trust, other than the member *ex officio*, shall be made by the Governor in Council on the recommendation of the Minister, by notification published in the Gazette.

(2) The Trust shall be taken to be constituted from time to time upon the publication in the Gazette of notification of appointment of the whole number of members of the Trust, other than the member *ex officio*.

**8. Period of appointment.** (1) The period of membership of the Trust shall be three years commencing on the last constitution of the Trust.

- (2) A person appointed as a member of the Trust—
  - (a) shall, subject to this Act, hold his office for the period of membership;
  - and
  - (b) shall, subject to this Act, be eligible to be nominated and appointed from time to time for a further term of office.

**9. Refusal of nominees for appointment.** (1) The Minister—

- (a) shall refuse to submit for appointment as a member of the Trust any person nominated to him in that behalf whom he believes on reasonable grounds to be disqualified under this Act for membership of the Trust;
- and
- (b) may refuse to submit for appointment as a member of the Trust any person nominated to him in that behalf whom he considers on reasonable grounds not to be a fit and proper person to be so appointed.

(2) Where the Minister refuses to submit a person for appointment he may require or, as the case may be, invite the body concerned to nominate another person for appointment as a member of the Trust.

**10. Disqualification for membership of Trust.** (1) A person who is a party to or concerned directly or indirectly in a contract with the Trust or the Society is disqualified for appointment to or from continuing as a member of the Trust.

(2) A person shall not be taken to be concerned in a contract with the Trust or the Society by reason only that he is a shareholder in a corporation that consists of more than 20 members and that is a party to or concerned in such a contract for the benefit of the corporation.

(3) A person shall not be taken to be disqualified under subsection (1) for appointment to or from continuing as a member of the Trust by reason only that he is a party to or concerned in a contract with the Trust or the Society under which he is or is to be an exhibitor, a stall holder or a judge at any show conducted or to be conducted upon the showgrounds.

(4) A person who acts or attempts to act as a member of the Trust when he is disqualified for membership thereof commits an offence against this Act and is liable to a penalty of four penalty units.

If after his conviction of that offence a person continues to commit the offence he commits a continuing offence against this Act and is liable to a penalty of one penalty unit for each day of the period alleged in the complaint of the offence on which the offence is shown to have been continued.

**11. Vacating member's office.** The office of a member of the Trust shall become vacant if—

- (a) in the case of the member *ex officio* he ceases to be an alderman of Brisbane City Council for the electoral ward in which the showgrounds are situated;
- (b) in the case of any other member—
  - (i) he dies;
  - (ii) he resigns his office by writing signed by him and given to the Minister;
  - (iii) he is duly removed from office by the Governor in Council;or
- (iv) being a member nominated by Brisbane City Council or by the Society, another person is duly nominated by the Council or, as the case may be, the Society for appointment to the Trust in his stead.

**12. Removal from office.** (1) The Governor in Council may remove a member of the Trust, other than the member *ex officio*, from office if—

- (a) in the opinion of the Governor in Council the member is incapable of discharging his office adequately or is incompetent or unfit to hold office;
  - (b) the member becomes bankrupt or otherwise takes advantage of the laws relating to bankruptcy;
  - (c) the member becomes disqualified for membership of the Trust as provided by section 10;
- or
- (d) the member is absent, without leave of the Trust first obtained, from three consecutive meetings of the Trust of which notice has been duly given to him.
- (2) For the purposes of subsection (1)—
- (a) non-attendance of a member at the time and place appointed for a meeting of the Trust shall not constitute absence from a meeting of the Trust unless a meeting of the Trust at which a quorum is present is actually held at that time and place;
  - (b) attendance of a member at the time and place appointed for a meeting of the Trust shall be deemed to constitute attendance at a meeting of the Trust notwithstanding that because of the lack of a quorum a meeting is not actually held at that time and place.

**13. Casual vacancies.** (1) Where a vacancy occurs in the office of a member of the Trust, other than the member *ex officio*, another person who is not disqualified for membership under section 10 may be nominated or selected as prescribed and appointed as prescribed to fill the vacancy.

(2) A person appointed to fill the vacancy shall, subject to this Act, hold office for the balance of the period of membership of the Trust subsisting at the time the vacancy occurred.

**14. Proceedings of Trust.** (1) The members of the Trust shall from time to time elect one of their number to be chairman of the Trust and another of their number to be deputy-chairman.

(2) At every meeting of the Trust the chairman, if he is present, shall preside or, if he is not present, the deputy-chairman, if he is present, shall preside or, if he also is not present, a member of the Trust appointed from and by those members who are present shall preside.

A person, other than the chairman, while he is presiding at a meeting of the Trust shall have all the powers and authorities of the chairman.

(3) At every meeting of the Trust four members thereof shall constitute a quorum.

(4) At every meeting of the Trust at which a quorum is present—

- (a) each member thereof who is present shall be entitled to one vote upon each question;
- (b) any member thereof who is present and who abstains from voting upon a question shall be deemed to have voted in the negative;
- and
- (c) in the event of an equality of votes upon any question it shall be deemed that the question has been resolved in the negative.

(5) Except as is provided by this section, business of a meeting of the Trust shall be conducted as determined by the members of the Trust present at the meeting.

**15. Custody and use of seal.** (1) The common seal of the Trust shall be in the custody of the chairman of the Trust and may be affixed to any document by the chairman.

(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Trust and shall presume, until the contrary is proved, that it has been duly affixed to any document in question.

### PART III—PROVISIONS AFFECTING MT. GRAVATT LANDS

**16. Road dedication invalid.** The dedication to public use as road of part of the lands described in Schedules 1 and 2 by means of Registered Plan No. 140827 is hereby declared to have always been invalid and ineffectual.

(2) The land shown on Registered Plan No. 140827 as dedicated to public use as road has remained vested in Brisbane City Council notwithstanding that attempted dedication.

**17. Discharge of trusts; vesting of land.** Upon the commencement of this Act the lands described in Schedule 3 and the land shown on Registered Plan No. 140827 as dedicated to public use as road are divested from Brisbane City Council and vested in the Trust freed and discharged from the trusts upon which that land was held immediately before the commencement of this Act.

**18. Statutory trust.** Upon and from the commencement of this Act the lands described in Schedule 3 and the land shown on Registered Plan No. 140827 as dedicated to public use as road shall be held by the Trust upon trust to apply the lands and the improvements thereon, subject to this Act, for showgrounds, park and recreation purposes and such other purposes not inconsistent with those prescribed purposes as the Trust may from time to time approve.

**19. Authority of Registrar of Titles to record divesting and vesting.**

(1) Upon receipt by him of a request by the Trust so to do the Registrar of Titles is hereby authorized to make all such entries in the register kept by him as are necessary to record therein the divesting of the lands referred to in section 17 and the vesting of the lands referred to in that section upon the statutory trust referred to in section 18.

(2) A request by the Trust, such as is referred to in subsection (1), shall not be chargeable with stamp duty under the *Stamp Act 1894-1987* and no fees shall be payable in connexion with making the entries referred to in that subsection.

**PART IV—PERFORMANCE OF TRUSTS****20. Objects of Trust.** The objects of the Trust are—

- (a) to draw up and implement a plan and strategy for the development and use of the showgrounds with a view to co-ordinating the development of facilities connected therewith and the use of the showgrounds and facilities for the benefit of all users thereof, having regard to community needs for the time being;
- (b) to develop and manage the showgrounds for or consistently with the trust purposes of showgrounds, park and recreation;
- (c) to apply monies acquired by the Trust, less any sum payable to discharge any liability reasonably incurred in acquiring the monies, towards the proper development and management of the showgrounds and the implementation of the plan referred to in paragraph (a).

**21. Powers of Trust.** For the purpose of pursuing its objects the Trust shall have and may exercise the following powers:—

- (a) subject to its obtaining any relevant approval, to erect or permit to be erected on land that is part of the showgrounds any building, fencing or other structure being, in any case, such that its purpose or use is consistent with all or any of the trust purposes;
- (b) to make or permit to be made on land that is part of the showgrounds any development, landscaping or beautification, such that its purpose or use is consistent with all or any of the trust purposes;
- (c) to acquire such additional land adjacent to land for the time being vested in the Trust as the Trust considers desirable to achieve its objects;
- (d) to let, lease or permit the use of the showgrounds or any part thereof on such terms and conditions as the Trust thinks fit, whether for or without reward, but so as not to



prejudice any right conferred by this Act on any person or association of persons;

- (e) to borrow or to raise money and, where necessary, to charge by way of security any assets of the Trust other than the show-grounds;
- (f) to sell or otherwise dispose of assets of the Trust other than the showgrounds;
- (g) to do all such acts as, in the opinion of the Trust, are necessary to or incidental in the proper development, maintenance or management of the showgrounds or the achievement of the objects of the Trust.

**22. Trusts affecting land acquired.** Where the Trust acquires additional land for the purpose of achieving its objects it shall hold that land upon the trusts declared by section 18 with respect to the lands referred to in that section.

**23. Rights of Society.** (1) The Trust shall permit the Society to enjoy the sole occupation of the showgrounds, free of charge, for a period of two weeks in each calendar year at a time agreed between the Trust and the Society for the purpose of conducting an annual district show, and for such further period or periods as the Trust considers necessary to prepare for the district show or to restore the showgrounds after the district show.

(2) Persons authorized by the Society are entitled to enter and be upon the showgrounds for the purpose of making improvements thereon for showground purposes at all other times but so as not to prejudice the rights of any other person conferred by the Trust.

#### PART V—GENERAL PROVISIONS

**24. Rule against perpetuities excluded.** No purpose trust upon which the showgrounds or any part thereof may be held for the time being pursuant to this Act shall be held to be invalid by reason of—

(a) uncertainty;

or

(b) the fact that, where the purpose is non-charitable, the trust may endure for a period longer than that allowed by any rule of law directed against perpetuities.

**25. By-laws.** (1) The Trust may, with the approval of the Governor in Council and in accordance with this section, make by-laws that it considers necessary or expedient to provide for and regulate—

the maintenance of;

entry upon;

use of;

behaviour within;

control of;

and  
the protection of,  
the showgrounds.

(2) A by-law may impose a penalty not exceeding four penalty units referred to in the *Penalty Units Act 1985* in respect of a breach of any by-law.

(3) A by-law may be revoked by resolution of the Trust in accordance with this section or amended by a further by-law in accordance with this section.

(4) Upon adoption by the Trust of a resolution making a by-law a copy of the by-law and evidence of the adoption of the resolution relating thereto shall be furnished to the Minister for submission to the Governor in Council.

Upon adoption by the Trust of a resolution revoking a by-law a copy of the resolution and evidence of its adoption shall be furnished to the Minister for submission to the Governor in Council.

(5) When a by-law or, as the case may be, resolution revoking a by-law has been approved by the Governor in Council the Trust shall cause a copy of the by-law or, as the case may be, notification of the revocation to be published in the Gazette, and the by-law or revocation shall take effect upon such publication.

**26. Enforcement of Act and by-laws.** (1) Proceedings against any person for an offence against this Act or a breach of a by-law shall be taken in a summary way under the *Justices Act 1886-1987*.

(2) The provisions of this Act are in addition to the provisions of any other Act or law to the intent that where an act or omission constitutes an offence against this Act or a breach of a by-law and also constitutes an offence against any other Act or law a person may be prosecuted in respect thereof under this Act and under the other Act or law but so that the offender is not twice punished for the one act or omission.

(3) Prosecution of an offender under this Act in respect of an act or omission shall not prejudice the enforcement of any civil liability that the offender may have incurred by the act or omission.

**27. Abatement of danger or annoyance.** Where it appears to—

- (a) the Trust or any servant or agent of the Trust;  
or
- (b) any person in lawful occupation of the showgrounds or any part thereof at a particular time or any servant or agent of that person;  
or
- (c) any member of an association in lawful occupation of the showgrounds or any part thereof at a particular time,

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that there are reasonable grounds for apprehending injury or annoyance to members of the public or damage to the showgrounds or any part thereof from any structure or thing that is on the showgrounds in breach of a by-law of the Trust it is lawful for the Trust or, as the case may be, such person, member, servant or agent to take all steps necessary to remove or dismantle such structure or thing and no liability shall be incurred on account of any such step taken without negligence.

## SCHEDULE 1

[PREAMBLE; PART III]

Subdivisions 2 and 3 of Portions 332 and 333

County: Stanley Parish: Bulimba

containing 20 acres 1 rood 27 perches

Certificate of Title No. 145379 Vol. 902 Folio 69

## SCHEDULE 2

[PREAMBLE; PART III]

Resubdivision 28 of subdivision 1 of Portion 332

County: Stanley Parish: Bulimba

containing 6 acres 2 roods 28 perches

Certificate of Title No. 548253 Vol. 2721 Folio 243

## SCHEDULE 3

[PREAMBLE; PART III]

Lot 1 on registered Plan No. 140827

County: Stanley Parish: Bulimba City: Brisbane

containing 5.138 hectares

Certificate of Title Vol. 5233 Folio 49

Lot 2 on registered Plan No. 140827

County: Stanley Parish: Bulimba City: Brisbane

containing 5.792 hectares

Certificate of Title Vol. 5233 Folio 50