

MIXED USE DEVELOPMENT BILL 1993

EXPLANATORY NOTES

PART 1—PRELIMINARY

Clause 1 sets out the short title of the Act.

Clause 2 sets out the commencement of the Act.

Clause 3 defines various terms used in the Act.

Clause 4 provides for words and expressions used in the Building Units and Group Titles Act to have the same meaning in this Act unless a contrary meaning is expressly assigned to any such word or expression within the Act.

PART 2—BASIC CONCEPTS

Clause 5 states that this part is provided to set down the concepts that are important for an understanding of the Act.

Clause 6 states that a mixed use scheme, if approved, will allow land to be developed for 2 or more classes of uses and for certain property within the site of a development to be shared by some or all of the owners or occupiers of lots within the development.

An approved mixed use scheme will allow the development and subdivision of land in a way not presently permitted by law.

Clause 7 advises that an approval of a mixed use scheme may be sought for a wide range of developments or proposed developments regardless of the size of the site for the development.

Clause 8 provides that an approval cannot be granted to a mixed use scheme unless the uses proposed under the scheme are consistent with the provisions of the planning scheme which applies to the site.

It also advises that where a proposal is inconsistent with a planning scheme, application would have to be made to the local authority to amend the planning scheme in a way which would remove the inconsistency.

Clause 9 defines the site of an approved mixed use scheme.

Clause 10 provides that an approved mixed use scheme may include parts of the site which are identified as being future development areas.

A provisional approval may be granted for an area to be identified as a future development area. Where this is obtained, the area may be included in the site at a later stage.

Clause 11 provides that the first subdivision of the site must be effected by a plan of subdivision called a “community plan”.

It requires that a community plan must subdivide the whole site.

Clause 12 defines a community plan.

It requires that the community plan must create at least 1 community development lot and at least 1 community property lot.

Clause 13 defines community development lots.

It provides that community development lots may be further developed in accordance with the approved mixed use scheme.

Clause 14 defines community property lots as being property which is shared by, or common to, owners of community development lots.

Community property lots usually provide access to community development lots and may contain other improvements on them.

Clause 15 provides for a body corporate known as the community body corporate to be incorporated on registration of the community plan.

Community property lots are transferred to the community body corporate which is responsible for, and may make by-laws in relation to, the ongoing management of the community property lots.

Clause 16 provides that where a community development lot is to be developed in stages, it may be subdivided by a precinct plan.

Clause 17 defines a precinct plan.

States that the lots created by a precinct plan are called precinct development lots and precinct property lots.

Requires that the plan must create at least 1 precinct development lot and such precinct property lots as are required to provide access to each precinct development lot.

Recognises that the precinct development lots and the precinct property lots created may not comprise the whole area of the community development lot and where this occurs, the remaining area is identified as being a balance precinct development lot.

Clause 18 provides that a balance precinct development lot may be further subdivided by another precinct plan as if it were a community development lot.

Clause 19 states that a precinct development lot is initially owned by the person that owned the community development lot or balance precinct development lot subdivided by a precinct plan.

Clause 20 defines precinct property lots as being property which is shared by, or common to, owners of precinct development lots.

Precinct property lots usually provide access to precinct development lots and may contain other improvements on them.

Clause 21 provides for a body corporate known as the precinct body corporate to be incorporated on registration of the first precinct plan which subdivides a community development lot.

Precinct property lots are transferred to the precinct body corporate which is responsible for, and may make by-laws in relation to, the ongoing management of the precinct property lots.

Clause 22 provides that a community development lot or precinct development lots may be subdivided by a group titles plan or a building units plan.

A group title lot may be further subdivided by a group titles plan or a building units plan.

Provides that where a community development lot is subdivided by a group titles plan or a building units plan, it may not then be subdivided by a precinct plan.

Clause 23 provides that a community development lot, precinct development lot or a balance precinct development lot may be subdivided by a stratum plan.

Such a plan creates community stratum lots where it subdivides a community development lot. Where a stratum plan subdivides a precinct development lot or a balance precinct development lot it creates precinct stratum lots.

A community stratum lot or a precinct stratum lot may be further subdivided by a building units plan.

A stratum plan may only be registered if it is accompanied by a management statement which is a document that regulates a building and its site or is intended to regulate a proposed building and its site.

The management of a building and its site is the responsibility of a building management committee.

Clause 24 provides that:—

- (1) on registration of the community plan, the owners of the community development lots become members of the community body corporate;
- (2) on registration of a stratum plan subdividing a community development lot, the owners of the community stratum lots become members of the community body corporate in place of the owner of the community development lot;
- (3) where a community stratum lot is subdivided by a building units plan, the body corporate incorporated by registration of the building units plan becomes a member of the community body corporate in place of the owner of the community stratum lot;
- (4) where a community development lot is subdivided by a building units plan or group titles plan, the body corporate incorporated by registration of the plan becomes a member of the community body corporate in place of the owner of the community development lot;
- (5) where a community development lot is subdivided by a precinct plan, the precinct body corporate incorporated by registration of the plan becomes a member of the community body corporate in place of the owner of the community development lot.

Clause 25 provides that:—

- (1) on registration of a precinct plan, the owners of the precinct development lots and any balance precinct development lot become members of the precinct body corporate;
- (2) on registration of a stratum plan subdividing a precinct development lot the owners of the precinct stratum lots become members of the precinct body corporate in place of the owner of the precinct development lot;
- (3) where a precinct stratum lot is subdivided by a building units plan, the body corporate incorporated by registration of the building units plan becomes a member of the precinct body corporate in place of the owner of the precinct stratum lot;
- (4) where a precinct development lot is subdivided by a building units plan or group titles plan, the body corporate incorporated by registration of the plan becomes a member of the precinct body corporate in place of the owner of the precinct development lot;
- (5) where a group title lot is subdivided by a building units plan, the owners of the building unit lots become members of the body corporate incorporated by registration of the group titles plan that created the group title lot.

It states that a further body corporate is not incorporated upon subdivision of a group title lot by a building units plan.

PART 3—SCHEME OF MIXED USE DEVELOPMENT

Division 1—Approval of Schemes

Clause 26 sets out the minimum requirements of a proposal to allow it to be considered to be a mixed use scheme under the Act.

It does not limit the scope of matters which may be included in a scheme.

Clause 27 states that land is taken to be zoned for a mixed use development if the uses to be established under a proposed mixed use

scheme may be established under a proposed mixed use scheme may be established on an “as of right” basis or in accordance with a planning consent exists under the planning scheme that applies to the land.

Clause 28 requires that an application for approval of a mixed use scheme be made to the local authority concerned.

States that an application may only be made if the land in question is taken to be zoned appropriately for the mixed use development proposed or is the subject of an application to amend a planning scheme under the Local Government (Planning and Environment) Act 1990 which, if approved, would allow the mixed use development to establish.

Prescribes the matters and things which must be done or included in, an application made to the local authority.

Clause 29 requires that where the land is taken to be appropriately zoned, the local authority must decide an application made to it for approval of a mixed use scheme within 40 days of receiving the application or such longer period as the local authority may determine or within such other time as may be ordered by the Minister.

Provides that the local authority may approve the scheme, approve the scheme subject to reasonable and relevant conditions or refuse to approve the scheme.

Clause 30 provides that where land is taken to be not appropriately zoned an application for approval of a mixed use scheme may accompany an application to amend the planning scheme in a manner which would allow the development to proceed and when this happens, requires the local authority to decide both applications at the same time.

States that the requirements for giving public notice and receiving objections do not apply to an application for approval of a mixed use scheme.

Provides that the local authority may approve the scheme, approve the scheme subject to reasonable and relevant conditions or refuse to approve the scheme.

Clause 31 requires that the local authority notifies the applicant of its decision within 10 days of it being made.

Specifies the matters and things that must be included in the notification given by the local authority.

Clause 32 requires the local authority to submit a scheme approved by it to the Minister.

Specifies the information which must accompany the submission to the Minister.

Prescribes the times within which a submission is to be made to the Minister.

Allows an applicant to surrender appeal rights in writing. Where this occurs, the period for lodging or determining an appeal is deemed to have ended.

Clause 33 provides that the Governor in Council may approve a mixed use scheme or approve the scheme with modifications or subject to conditions or refuse to approve the scheme.

Notification of approval is to be published in the Gazette.

Requires that, where a scheme has been approved by the Governor in Council, such approval is to be noted on the plan of development and for copies of the scheme to be supplied to the Registrar of Titles and the local authority concerned.

Requires the chief executive to keep a copy of the scheme open to inspection and for copies of the scheme to be supplied to any person upon the payment of an appropriate fee.

Clause 34 requires the local authority and the chief executive to note an approval of a scheme on the relevant planning scheme documents.

Division 2—Future Development Area

Clause 35 provides that an application for approval of a mixed use scheme may include an area identified as being a future development area for which provisional approval is being sought and which is proposed to be the subject of a subsequent application for approval under Division 1 of this Part.

A future development area may only comprise land which is freehold or intended to be freehold and must be contiguous to the primary site area within the meaning of the Act.

The intended use of a future development area must be compatible with the uses proposed to be established under the primary application.

A primary application may only include a future development area if the land is taken to be zoned for the proposed mixed use development or is the subject of an application to amend a planning scheme which, if approved, would allow the development.

Sets out the information required to accompany the primary application where provisional approval for a future development area is being sought.

Clause 36 requires that an application for provisional approval of a future development area be dealt with in the same manner and times as an application for approval of a mixed use scheme.

Clause 37 provides for the proprietor of land in a future development area may make application to the Minister to have all or part of the provisional approval revoked provided action has not been taken to obtain further approvals as provided for in clause 40 of this Bill.

Requires the proprietor to give written notice of intention to make the application at least 30 days before doing so to the community body corporate and the precinct bodies corporate (if they exist) seeking their comments on the proposal.

Requires that the application made to the Minister be accompanied by the notifications given to the bodies corporate, their written comments on the proposal and such other information as the Minister may require.

Clause 38 provides that the Governor in Council may approve the revocation, approve the revocation subject to modifications or specific conditions or refuse to approve of the revocation.

Notification of approval is to be published in the Gazette.

Requires that where the Governor in Council approves of the revocation the chief executive is to notify the Registrar of Titles and the local authority of the decision.

Clause 39 requires the local authority and the chief executive to note the approval of the revocation on the relevant planning scheme documents.

Clause 40 sets out the requirements for making applications for obtaining approvals for the development of subsequent stages (including the assignment of voting entitlements of proposed members of the community body corporate).

Division 3—Amendment of Approved Scheme

Clause 41 provides for an application to be made to the local authority to amend an approved scheme.

Where the applicant is the community body corporate, application may only be made if the proposal is supported by a special resolution of the body corporate members.

Clause 42 requires that an application for amendment of an approved scheme to add additional land to the site be such that the uses to which the land is proposed to be put are permitted by the planning scheme or are the subject of an application to amend the planning scheme which, if approved, would allow the intended uses to establish.

Requires that the intended uses be compatible with those allowed in the approved scheme.

Prescribes the matters and things that must be included in an application for approval to include additional land in an approved site.

Clause 43 specifies that an application for approval of an amendment to an approved scheme which does not propose that additional land be added to a site, contains certain information.

Clause 44 prevents certain applications for amendment of a scheme being made after a community plan has been registered.

Clause 45 prescribes the requirements to be observed by a local authority when dealing with an application for amendment of a scheme where no amendment of a planning scheme is required.

Clause 46 prescribes the requirements to be observed by a local authority when dealing with an application for amendment of a scheme where an amendment of a planning scheme is required to allow additional land to be included in a site.

Clause 47 requires the local authority to notify an applicant of its decision on an application within 10 days of the decision being made.

Specifies the information to be contained in the notification given to an applicant.

Clause 48 requires the local authority to submit an amendment of a scheme which has been approved by it to the Minister.

Specifies the information which must accompany the submission to the Minister.

Prescribes the times within which a submission is to be made to the Minister.

Allows an applicant to surrender appeal rights in writing. Where this occurs, the period for lodging or determining an appeal is deemed to have ended.

Clause 49 provides that the Governor in Council may approve an amendment to a mixed use scheme, approve an amendment subject to modifications or conditions or refuse to approve the amendment.

Notification of the approval is to be published in the Gazette.

Requires that where an amendment to a scheme has been approved by the Governor in Council, such approval is to be noted on any plan of development and for copies of the amendment to be supplied to the Registrar of Titles and the local authority concerned.

Requires the chief executive to keep or copy of the amendment open to inspection and for copies of the amendment to be supplied to any person upon the payment of an appropriate fee.

Clause 50 requires the local authority and the chief executive to note an approval of an amendment on the relevant planning scheme documents where the amendment includes additional land in the site.

Clause 51 allows a local authority to approve an application to vary the boundaries of a precinct if the variation is considered to be minor.

Requires a local authority to submit an approved variation to the Minister.

The Minister is authorised to approve the variation or refuse to approve it.

States that variations may be made to an approved scheme or an amendment of a scheme.

Requires the chief executive to give copies of an approved variation to the Registrar of Titles and the local authority concerned.

Division 4—Appeals

Clause 52 confers rights of appeal to an applicant to the Planning and Environment Court against certain decisions made by a local authority or the failure of a local authority to make certain decisions in relation to applications made under this Act.

States that Part 7 of the Local Government (Planning and Environment) Act applies to any appeals instituted under this Act.

Division 5—Effect of Approval of Scheme

Clause 53 states that an approved mixed use scheme regulates the development and use of land within the site and that the scheme modifies the planning scheme to the extent that it is inconsistent with the approved scheme but an approved scheme is unable to extend the uses permitted by the planning scheme.

Provides that Part 5 (subdivision applications) of the Local Government (Planning and Environment) Act and subdivision of land by-laws made under the Local Government Act do not apply to the site.

Provides that the by-laws or ordinances made by a local authority under any Act do not apply to the site to the extent that they are inconsistent with this Act or the approved scheme.

Provides that any land, building or structure within a precinct may be used for any of the purposes set out in the scheme as a “permitted use”.

Division 6—Rescission of Approved Scheme

Clause 54 provides for an application to be made to the Minister for an approved scheme to be rescinded provided that no plan of subdivision has been registered under this Act.

Allows an application for rescission of an approved scheme to be made if all plans which have been registered under this Act have been extinguished and requires that, where this has occurred, the application must be made by all of the proprietors within the site.

Clause 55 requires that the Minister considers an application for rescission of an approved scheme and discusses it with the local authority.

Provides that the Governor in Council may approve the rescission or approve it subject to conditions or refuse to approve it.

Notification of the approval is published in the Gazette.

Requires that the chief executive sends a copy of the notification approving the rescission to the Registrar of Titles and the local authority.

Requires that, where the rescission of a scheme has been approved by the Governor in Council such approval is to be noted on the plan of development by the chief executive and the Registrar of Titles.

Clause 56 requires the local authority and the chief executive to note the approval of the rescission of an approved scheme on the relevant planning scheme documents.

Clause 57 states that upon rescission of an approved scheme the provisions of this Act no longer apply.

States that those provisions of the Canals Act 1958 which were prescribed as not applying to the development, again apply.

States that anything lawfully done before a scheme is rescinded remains lawful.

Division 7—Unauthorised Uses

Clause 58 prevents a person from undertaking works in a future development area unless such works have been approved as a stage of development under this Act.

Prescribes a maximum penalty for offences under this Clause as being 500 penalty units.

Clause 59 prevents a person from using any land, building or other structure for a purpose not permitted by an approved scheme.

Prescribes a maximum penalty for offences under this Part as being 200 penalty units.

PART 4—THE SITE

Clause 60 defines the site for an approved mixed use scheme.

States that the site must consist of freehold land or land that is intended to be freeholded and allows the site to include lands that may be subject to inundation by tidal waters.

Allows the site to include more than one parcel of land where the site is divided by lands which cannot be freeholded because they are required for public purposes.

Clause 61 allows the Governor in Council, in accordance with the provisions of the Land Act, to grant land in fee simple, and in priority, to an applicant in certain circumstances, subject to the payment of such an amount as the Governor in Council determines.

Clause 62 provides that, where a part of a site is outside a local authority area, that part becomes a part of the local authority.

PART 5—SUBDIVISION OF SITE

Division 1—Subdivision of Site by Community Plan

Clause 63 requires the proprietor of the land comprising the site to lodge a community plan of subdivision in the first instance with the local authority which creates community property lots, community development lots and balance area lots (if any).

Requires that the community plan identifies the community property and is accompanied by a schedule which sets out the voting entitlements which are to be assigned to each community development lot.

Clause 64 provides for the local authority to approve of the community plan of subdivision if the plan satisfies certain specified criteria. Approval is to be granted under the seal of, and by endorsement of the local authority in the normal manner.

Allows island and remote area sites to be subdivided by a community plan if certain criteria relating to access to the site are met.

Clause 65 provides for the Registrar of Titles to register a community plan if it complies with the requirements of clause 63 and has been approved by the local authority.

Allows the Registrar of Titles to accept the determination by the local authority that proposed lots have adequate access to a dedicated road in accordance with the Bill.

Clause 66 provides for the community property lots created by the registration of a community plan to be transferred free of cost and free of mortgage to the community body corporate.

Requires that certificates of title for the community property lots created be issued in the name of the community body corporate.

Division 2—Amalgamation of Community Development Lots by Community Plan of Amalgamation

Clause 67 permits the proprietor of 2 or more community development lots to amalgamate the lots by way of a community plan of amalgamation provided that the plan is lodged with the local authority and is accompanied by a schedule setting out the voting entitlements that are to apply in respect of the new community development lot.

Clause 68 requires that a community plan of amalgamation be approved by the local authority in the normal manner.

Clause 69 provides for the registration of a community plan of amalgamation by the Registrar of Titles subject to compliance with certain requirements.

Clause 70 requires the proprietor of a new community development lot to give notice in writing to the community body corporate of its existence and for such notification to contain certain prescribed information.

Division 3—Subdivision of Community Development Lot by Community Plan of Subdivision

Clause 71 permits the proprietor of a community development lot to make application for approval by the local authority to subdivide the lot by way of a community plan of subdivision provided that the plan:—

- a. creates 2 or more community development lots; or

b. creates 1 or more community development lots and 1 or more community property lots.

Requires that the plan be accompanied by a schedule setting out the voting entitlement of each community development lot proposed to be created.

Requires that the prior approval of the community body corporate without dissent, be obtained.

Clause 72 provides that the local authority may approve a community plan of subdivision if certain requirements are met and for the approval to be granted in the normal manner.

Clause 73 allows the Registrar of Titles to register a community plan of subdivision if it complies with the requirements of clause 71 and has been approved by the local authority.

Allows the Registrar of Titles to accept the determination by the local authority that the proposed lots have adequate access to a dedicated road in accordance with the Bill.

Clause 74 requires the proprietor of new community development lots created by the registration of a community plan of subdivision to give written notice of its existence to the community body corporate.

Requires that the notification given to the community body corporate contains certain particulars.

Clause 75 states that upon registration of a community plan of subdivision and lodgement of the necessary transfer documents, lots comprising community property are to be transferred free of cost and free of mortgage to the community body corporate.

Division 4—Subdivision of Community Development Lot by Stratum Plan Under Part 6

Clause 76 permits the proprietor of a community development lot to subdivide the lot by way of a stratum plan.

Requires that a stratum plan be lodged with the local authority and that it be accompanied by a schedule which sets out the voting entitlements attaching to each community stratum lot to be created and a management statement as required by Part 6 of the Bill.

Clause 77 provides that the local authority may approve a stratum plan and schedule if certain requirements are met and for the approval to be granted in the normal manner.

Division 5—Subdivision of Community Development Lot by Building Units or Group Titles Plan

Clause 78 states that a community development lot which is not to be subdivided by a precinct plan or a stratum plan, may be subdivided by a building units or group titles plan.

Clause 79 requires that a building units or group titles plan be lodged with the local authority.

Requires that the proprietor submits a statement with the plan where it is proposed that a group titles lot is to be further subdivided by a building units plan and that the statement identifies the lot to be further subdivided.

Requires that the plan be accompanied by a schedule which sets out the maximum number of lots to be created where a group titles lot is to be further subdivided by a building units plan.

Requires that each lot proposed to be created has access to a dedicated road either directly or by way of a community thoroughfare or through common property or both.

Clause 80 provides that the local authority may approve of a building units or group titles plan if certain minimum requirements are met and that such approval is to be granted in the normal manner.

Clause 81 provides that the Registrar of Titles may register a building units or group titles plan if it has been approved by the local authority.

Allows the Registrar of Titles to accept the determination by the local authority that each proposed lot has adequate access.

Clause 82 provides that where a group titles plan is to be further subdivided by a building units plan, the building units plan may be:—

- (a) approved by the local authority in the normal manner; and
- (b) registered by the Registrar of Titles.

States that the approval of a building units plan on a group titles plan is to be dealt with as if the lots created were group title lots and that a further body corporate is not created for the building unit lot owners.

States that the first proviso to section 10(1) of the Building Units and Group Titles Act does not apply to a building units plan approved under this section but subsections (4) and (5) of this section apply despite section 27 of the Building Units and Group Titles Act.

Clause 83 allows a group title lot that is not subdivided by a building units plan to be subdivided by a further group titles plan as if the lot were a community development lot or a balance community development lot subject to certain requirements being met.

Clause 84 states that where a group title lot is to be subdivided by a building units plan, regard must be had to the maximum number of lots which may be created by a building units plan in respect of that lot.

States that sections 19(2) and 19(3) of the Building Units and Group Titles Act do not apply to a group titles plan if a lot created by that plan is further subdivided by a building units plan.

Clause 85 states that the second proviso to section 10(1) and section 10(6)(b) of the Building Units and Group Titles Act do not apply to subdivisions under this Division and that for the purposes of section 9(7) of that Act a plan of subdivision is taken to comply with the requirements of that subsection if it complies with those requirements as modified by this Bill.

Division 6—Subdivision of Community Development Lot by Precinct Plan

Clause 86 provides for a proprietor to subdivide a community development lot by a precinct plan in a number of ways subject to that plan complying with certain specified criteria.

Allows the local authority and an applicant to agree to defer contributions towards water supply, sewerage and drainage works where staged development is proposed, until such time as precinct development lots are to be created.

Clause 87 allows a local authority to approve a precinct plan and a schedule of voting entitlements if:—

- the community plan has been approved by it;
- each precinct development lot has adequate access; and
- the total voting entitlement is equal to the voting entitlement of the community development lot being subdivided.

Provides for approval to be granted in the normal way.

Clause 88 provides that the Registrar of Titles may register a precinct plan and accompanying voting entitlement schedule if they have been approved by the local authority.

Allows the Registrar of Titles to accept the determination by the local authority that each proposed lot has adequate access.

Clause 89 provides for the precinct property lots created by the registration of a precinct plan to be transferred free of cost and free of mortgage to the precinct body corporate.

Requires that certificates of title for the precinct property lots be issued in the name of the precinct body corporate.

Division 7—Amalgamation of Precinct Development Lots by Precinct Plan of Amalgamation

Clause 90 permits the proprietor of 2 or more precinct development lots to amalgamate the lots by way of a precinct plan of amalgamation provided that the plan is lodged with the local authority and is accompanied by a schedule setting out the voting entitlements that are to apply in respect of the new precinct development lot.

Clause 91 requires that a precinct plan of amalgamation be approved by the local authority in the normal manner.

Clause 92 provides for the registration of a precinct plan of amalgamation by the Registrar of Titles subject to compliance with certain requirements.

Clause 93 requires the proprietor of a new precinct development lot to give notice in writing to the precinct body corporate of its existence and for such notification to contain certain prescribed information.

Division 8—Subdivision of Precinct Development Lot by Precinct Plan of Subdivision

Clause 94 permits the proprietor of a precinct development lot to make application for approval by the local authority to subdivide the lot by way of a precinct plan of subdivision provided that the plan:—

- a. creates 2 or more precinct development lots; or
- b. creates 1 or more precinct development lots and 1 or more precinct property lots.

Requires that the plan be accompanied by a schedule setting out the voting entitlement of each precinct development lot proposed to be created.

Requires that the prior approval of the precinct body corporate without dissent, be obtained.

Clause 95 provides that the local authority may approve a precinct plan of subdivision if certain requirements are met or for the approval to be granted in the normal manner.

Clause 96 allows the Registrar of Titles to register a precinct plan of subdivision if it complies with the requirements of clause 94 and has been approved by the local authority.

Allows the Registrar of Titles to accept the determination by the local authority that the proposed lots have adequate access to a dedicated road in accordance with the Act.

Clause 97 requires the proprietor of a new precinct development lot created by the registration of a precinct plan of subdivision to give written notice of its existence to the precinct body corporate.

Requires that the notification given to the precinct body corporate contains certain particulars.

Clause 98 states that upon registration of a precinct plan of subdivision and lodgement of the necessary transfer documents, lots comprising precinct property are to be transferred free of cost and free of mortgage to the precinct body corporate.

Requires that certificates of title for the precinct property lots be issued in the name of the precinct body corporate.

***Division 9—Subdivision of Precinct Development Lot or Balance
Precinct Development Lot by Stratum Plan Under Part 6***

Clause 99 permits the proprietor of a precinct development lot to subdivide the lot by way of a stratum plan.

Requires that a stratum plan be lodged with the local authority and that it be accompanied by a schedule which sets out the voting entitlements attaching to each precinct stratum lot to be created and a management statement as required by Part 6 of the Bill.

Clause 100 provides that the local authority may approve a stratum plan and schedule if certain requirements are met and for the approval to be granted in the normal manner.

***Division 10—Subdivision of Precinct Development Lot or Balance
Precinct Development Lot by Building Units or Group Titles Plan***

Clause 101 states that, other than as provided for separately in the Act, a precinct development lot may only be subdivided by a building units plan or a group titles plan.

Provides that a balance precinct development lot may be subdivided by a building units plan or a group titles plan.

Requires that a building units plan or a group titles plan be lodged with the local authority.

Requires that the proprietor submits a statement with the plan where it is proposed that a group titles lot is to be further subdivided by a building units plan and that the statement identifies the lot to be further subdivided.

Requires that the plan be accompanied by a schedule which sets out the maximum number of lots to be created where a group titles lot is to be further subdivided by a building units plan.

Requires that each lot proposed to be created has access to a dedicated road either directly or by way of a community thoroughfare, a precinct thoroughfare or the common property or any combination of these.

Clause 102 provides that the local authority may approve of a building units or group titles plan if certain minimum requirements are met and that such approval is to be granted in the normal manner.

Clause 103 provides that the Registrar of Titles may register a building units or group titles plan if it has been approved by the local authority.

Allows the Registrar of Titles to accept the determination by the local authority that each proposed lot has adequate access.

Clause 104 provides that where a group titles plan is to be further subdivided by a building units plan, the building units plan may be:—

- approved by the local authority in the normal manner; and
- registered by the Registrar of Titles.

States that the approval of a building units plan on a group titles plan is to be dealt with as if the lots created were group titles lots and that a further body corporate is not created for the building unit lot owners.

States that the first proviso to section 10(1) of the Building Units and Group Titles Act does not apply to a building units plan approved under this section but subsections (4) and (5) of this section apply despite section 27 of the Building Units and Group Titles Act.

Clause 105 allows a group title lot that is not subdivided by a building units plan to be subdivided by a further group titles plan as if the lot were a precinct development lot or a balance precinct development lot subject to certain requirements being met.

Clause 106 states that where a group title lot is to be subdivided by a building units plan, regard must be had to the maximum number of lots which may be created by a building units plan in respect of that lot.

States that sections 19(2) and 19(3) of the Building Units and Group Titles Act do not apply to a group titles plan if a lot created by that plan is further subdivided by a building units plan.

Clause 107 states that the second proviso to section 10(1) and section 10(6)(b) of the Building Units and Group Titles Act do not apply to subdivisions under this Division and that for the purposes of section 9(7) of that Act a plan of subdivision is taken to comply with the requirements of that subsection if it complies with those requirements as modified by this Act.

Division 11—Matters Applying to Subdivision Generally***Subdivision A—Extinguishment of Plans***

Clause 108 allows a plan to be extinguished by unanimous resolution of the body corporate or by order of the Supreme Court.

Clause 109 allows the relevant body corporate, a proprietor of a lot or the registered mortgagee of a lot to apply to the Supreme Court for an order to extinguish a plan.

Requires the Court to have regard to the rights and interests of the lot proprietors as a whole.

States that where the Court orders that a plan be extinguished, it must also order that the body corporate be wound up and that the interest in the assets of the body corporate be vested in the proprietors of the lots as the Court deems to be appropriate.

Allows the Court to make other determinations which are relevant to the making of the order and allows the Court to subsequently vary an order made by it where this is considered to be necessary.

Clause 110 requires the Registrar of Titles to take action to give effect to an order made by the Supreme Court.

Provides for the Registrar of Titles to deal with an application made for the extinguishment of a plan; and

Specifies what must happen as a consequence to the registration of a request for extinguishment of a plan.

Clause 111 requires that the Registrar of Titles notifies the local authority concerned of the registration of a request to extinguish a plan.

Subdivision B—Boundary Adjustment Plans

Clause 112 provides for the lodgement of a boundary adjustment plan with the local authority and for such a plan to be approved by the local authority in the normal manner provided the variation is minor and the consent of all affected parties has been obtained.

Provides a right of appeal to the Planning and Environment Court by an applicant where the local authority has not decided the application within forty days or has refused to approve of the plan.

States that Part 7 of the Local Government (Planning and Environment) Act applies to appeals instituted under this section.

Clause 113 prevents the Registrar of Titles from registering a boundary adjustment plan unless it has been approved by the local authority.

Allows the Registrar of Titles to rely on the approval by the local authority as being evidence that all requirements of the Act have been complied with.

Clause 114 states that the registration of a boundary adjustment plan does not affect any interest held by any party in any lot affected by the plan and does not, in itself, create a liability for stamp duty.

Subdivision C—Easements

Clause 115 states that unless an easement has been established for a particular service or services, easements are implied to exist in favour of any lot or common property or against any lot or common property for the provision of services required or provided for the use and enjoyment of the lots or common property.

Prevents the unreasonable use of implied easement rights by a proprietor or a body corporate in a way which interferes with the enjoyment of the use or occupation by a proprietor or a body corporate of another lot or common property.

Establishes reasonable implied easement rights in favour of and against lot owners where boundary clearances are such that access for maintenance has to be obtained from a neighbouring lot.

Prevents the unreasonable use of implied easement rights by a proprietor of a lot against the proprietor of another lot.

Clause 116 provides that all rights and obligations necessary to make implied easements effective, apply.

Clause 117 provides that a community body corporate or precinct body corporate may, by special resolution, execute, accept, surrender a grant of easement and accept the surrender of a grant of easement.

Subdivision D—Sequential Plans

Clause 118 allows a local authority to approve of a range of different types of plans at the same time if it is satisfied that the sequential implementation of the proposed development will result in the requirements of the Act being satisfied.

Clause 119 allows the Registrar of Titles to register plans referred to in Clause 118 at the same time and in the appropriate order.

PART 6—STRATUM SUBDIVISION***Division 1—Interpretation***

Clause 120 defines the meaning of the terms “land” to be used in this Part.

Division 2- Subdivision

Clause 121 states that—

- a community development lot or a precinct development lot may be subdivided by a stratum plan; and
- a stratum lot may be subdivided by a stratum plan of subdivision; and
- minor adjustments may be made to the boundaries of stratum lots by a stratum boundary adjustment plan; and
- stratum lots may be amalgamated by a stratum plan of amalgamation.

States that the Real Property Acts apply to stratum lots with any necessary modification.

Clause 122 provides for the local authority to approve of a stratum boundary adjustment plan if the adjustment is minor.

Provides for the registration of a stratum boundary adjustment plan.

States that the registration of a stratum boundary adjustment plan does not affect any interest held by any party in any lot affected by the plan and does not, in itself, create a liability for stamp duty.

Clause 123 allows a stratum lot to be subdivided into 2 or more stratum lots by the registration of a stratum plan of subdivision.

Prevents the Registrar of Titles from registering a stratum plan of subdivision unless it is accompanied by a schedule which shows the apportionment of the unimproved value for each stratum lot to be created.

Allows the Registrar of Titles to make recordings on, or amend the management statement affected by the plan in a manner which will give effect to the plan.

Clause 124 provides for some or all stratum lots to be amalgamated by the registration of a stratum plan of amalgamation.

Allows the Registrar of Titles to make recordings on, or amend the management statement affected by the plan in a manner which will give effect to the plan.

States that the unimproved value of the lot created by the amalgamation must be the sum of the proportions assigned to the lots amalgamated.

Provides that a stratum lot which has been subdivided by a building units plan may only be amalgamated with another stratum lot if the building units plan has been extinguished.

States that, where a stratum plan of amalgamation is registered and that plan amalgamates all of the stratum lots in a stratum plan, the stratum plan is extinguished and the management statement is terminated.

Requires the Registrar of Titles to record the termination of the management statement affected by the registration of a stratum plan of amalgamation and to make such other recordings in the register so as to give effect to the termination.

Clause 125 requires that stratum plans, stratum boundary adjustment plans, stratum plans of subdivision and stratum plans of amalgamation comply with the requirements of regulations.

Allows the Registrar of Titles to register the plans, issue certificates of title and to make such recordings in the register as are required to give effect to the plan/s notwithstanding the provisions of any other Act, including the

Surveyors Act, provided that the plans have been approved by the local authority in the normal manner.

States that, for the purposes of the Real Property Acts, the registration of these plans is taken to form a part of the register.

Division 3—Easements

Clause 126 states that in a stratum plan there is implied, in favour of and against each stratum lot—

- an easement for the lateral support of other parts of the building to a lot and by a lot for other parts of the building;
- an easement for the shelter provided by other parts of the building to a lot and by a lot for other parts of the building.

States that the implied easements allow the proprietor of the dominant tenement to enter the servient tenement to maintain support and shelter.

Provides for the implied easements to remain in existence until the stratum plan is extinguished or the easement is surrendered.

States that implied easements do not affect implied easements established in a building units plan, the by-laws or other particulars contained in a management statement where they modify the provisions of this section.

Clause 127 states that unless an easement has been established for a particular service or services, easements are implied to exist in favour of any stratum lots in a stratum plan or against any stratum lots in a stratum plan for the provision of services required or provided for the use and enjoyment of the stratum lots.

Prevents the unreasonable use of implied easement rights by a proprietor of a stratum lot in a way which interferes with the enjoyment of the use or occupation by a proprietor of another stratum lot.

States that implied easements do not affect implied easements established in a building units plan created pursuant to the Building Units and Group Titles Act.

Clause 128 states that in a stratum plan, implied easements are created in favour of, and against the proprietors of stratum lots to allow a proprietor on the proprietor's servants, agents, invitees, etc. to gain access to a dedicated road, community property or precinct property by means of

stairs, elevators, passages and the like. This right of access extends to the use of vehicles where it is appropriate.

States that implied easements do not affect implied easements established in a building units plan, the by-laws or other particulars contained in a management statement where they modify the provisions of this section.

Clause 129 provides that all rights and obligations necessary to make implied easements effective, apply.

Clause 130 allows land comprising a stratum lot, including a part of a building, be subdivided into lots or lots and common property by the registration of a building units plan and that the provisions of the Building Units and Group Titles Act apply where this is done.

Clause 131 provides authority for the establishment of normal easements in a stratum plan, notwithstanding any provisions contained in the Real Property Acts or any other Act which may have applied in a way which would prevent this being done.

Confers upon the proprietors of stratum lots the rights and obligations which normally attach to easements created under the Real Property Acts or any other Act.

Division 4—Valuation

Clause 132 requires that the Valuer-General when valuing a stratum lot—

first values the land comprised in a stratum lot as if the land was in single ownership; and

then apportions the unimproved value fo the land between the stratum lots in the stratum plan.

States that the value apportioned to a stratum lot becomes the unimproved value of the lot for the purpose of levying rates and land tax where applicable.

Provides for the valuation or apportioned valuations to be varied when the management statement is amended in a way which results in a change in value of the stratum lot or the apportionment of value previously determined.

States that where a stratum lot is to be subdivided by a building units plan, the value apportioned to the stratum lot to be subdivided becomes the value of the stratum parcel for the purposes of the Building Units and Group Titles Act.

Division 5—Management Statements

Clause 133 states that a stratum plan which subdivides parts of a building or a proposed building be accompanied by a management statement as a pre-requisite to registration of the plan unless it subdivides a stratum lot that is already subject to a registered management statement.

Allows a local authority to waive compliance with certain requirements for a management statement as specified in clause 139 if it considers that compliance is unreasonable, unnecessary or impracticable.

Requires that the approval by the local authority to the waiving of the need to comply with certain specified requirements for a management statement be endorsed on the management statement.

Clause 134 requires that the Registrar of Titles records the management statement on the stratum plan provided the statement has been approved by the local authority.

Requires that where a stratum lot is to be subdivided by a building units plan, the Registrar of Titles is to record the management statement or any amendments made to it on the building units plan.

Clause 135 states that a management statement is binding on the body corporate of a building units plan on a stratum lot and on any lessee, sublessee, occupier or mortgagee of any part of the building or of its site.

Provides that a management statement does not affect the rights of a person under a lease or mortgage entered into or given before the stratum plan is registered.

Clause 136 allows a by-law contained in a management statement to restrict the use of certain parts of a building or its site to particular interest groups.

States that a management statement ceases to have any effect from the time the termination of the statement is recorded by the Registrar of Titles.

Requires that the Registrar of Titles notifies the Valuer-General of the recording of a management statement or an amendment to a management statement within 28 days of the recording being effected.

Provides for the settlement of disputes between parties bound by a management statement by way of arbitration by a third party by mutual agreement or by a person appointed by the local authority in accordance with the provisions of the Commercial Arbitration Act.

States that the Registrar of Titles can rely on the approval by the local authority that the requirements of the Act relating to management statements or amendments to them have been complied with.

Clause 137 states that a management statement must contain certain prescribed information and be approved by the local authority.

Clause 138 requires that a management statement includes the real property description of the stratum lots in a stratum plan and a plan which identifies the whole of property to which the statement applies.

Specifies the matters and things which must be contained in a management statement.

States that each body corporate for a building units plan in a stratum lot and every other proprietor having an interest in a stratum lot must be a member of the building management committee.

Specifies the matters and things which must be contained in a by-law which restricts the use of certain parts of the stratum lot site to certain parties.

Clause 139 allows a management statement to include other matters which are considered to be appropriate for a particular development in a stratum plan.

Clause 140 provides that a management statement may be amended provided that certain specified procedural requirements are satisfied and the approval of the local authority to such amendments being made is obtained.

Authorises the Registrar of Titles to record the amendment on the relevant plans.

PART 7—LAND SUBJECT TO TIDAL INFLUENCE

Clause 141 preserves an interest in land which is, or becomes submerged by tidal waters.

Clause 142 allows land submerged by tidal waters to be subdivided provided that the boundary of the subdivision does not extend beyond the quay line and each lot has above water access to a dedicated road, a community thoroughfare or a precinct thoroughfare either directly or through common property.

States that above water access need not be access by a road.

Clause 143 states that, if prescribed by regulation, a floating building or a special building is not a vessel or the placing of a pile or any other structure in, on or over, land that is subject to tidal influence is not harbour works.

Clause 144 provides that the banks and foreshores which extend beyond the quay line, comes within the jurisdiction of the harbour board, the Harbours Corporation of Queensland or any other authority that has responsibilities relative to adjacent banks and foreshores.

Clause 145 states that the relevant authority has no obligation to carry out works within the site under the Harbours Act or as a consequence of the payment of moneys to the authority concerned unless a specific undertaking in writing to carry out certain works is in existence.

Clause 146 allows the proprietor of submerged land to restrict the movement of vessels over the land provided the waters are not beyond the quay line.

States that where a proprietor of submerged land permits a vessel to be moored above that land, the proprietors of other lands within the site must not restrict the movement of vessels to or from the mooring.

Clause 147 states that the design, construction, and use of materials or fixtures and fittings for floating buildings and special buildings are to comply with the requirements of the laws of the state to the extent that they can be sensibly applied.

Clause 148 states that for the purposes of determining the unimproved value of land and the assessment of rates, land tax and other statutory charges, submerged lands are to be taken as being lands that are not or never have been submerged.

Clause 149 prevents a harbour board or similar authority from granting leases, licenses or permits to occupy any land which comprises a part of the site of an approved scheme.

PART 8—THOROUGHFARES, CANALS AND FACILITIES

Division 1—Thoroughfares

Clause 150 requires that community thoroughfares and precinct thoroughfares be constructed by the applicant or the proprietor of a community development lot or a precinct development lot.

Requires that community and precinct thoroughfares be constructed—

- in accordance with approvals granted by the local authority;
- to the satisfaction of the local authority; and
- at the cost of the applicant or the proprietor of the lot subdivided.

Clause 151 states that the relevant community body corporate or precinct body corporate is responsible for the maintenance and reconstruction of thoroughfares and improvements on thoroughfares which are vested in those bodies corporate.

Clause 152 allows community thoroughfares and precinct thoroughfares to be dedicated as roads within the meaning of the Land Act.

Specifies the requirements which must be satisfied in relation to the conversion of thoroughfares to roads.

Clause 153 states that for the purposes of the Motor Vehicles Insurance Act, community thoroughfares and precinct thoroughfares are roads within the meaning of the Main Roads Act.

States that for the purposes of the Traffic Act, the roads on a community thoroughfare or precinct thoroughfare are roads within the meaning of that Act to the extent that it can be reasonably applied.

Clause 154 provides authority for a community body corporate or a precinct body corporate to temporarily close a thoroughfare for the purpose

of carrying out works provided appropriate notice is given to the proprietors of each lot affected by the closure.

Allows a thoroughfare to be closed temporarily without notice for the purpose of carrying out urgent works in the thoroughfare.

Clause 155 provides a “right of way” over thoroughfares to any lawful occupier of land within the site subject to the reasonable provisions which may be contained by-laws of the community body corporate or precinct body corporate.

Division 2—Canals

Clause 156 allows canals to be constructed within a site by the applicant and at the applicant's expense provided they are to be established on community property or precinct property.

States that the provisions of the Canals Act (other than the provisions prescribed by regulation for the purposes of this Clause) are to apply.

Allows the Registrar of Titles to register instruments of title for canals even though the land is not surrendered to the Crown as required by section 9 of the Canals Act.

Clause 157 states that the responsibility for maintenance of canals and any improvements in them rests with the relevant body corporate.

Clause 158 allows a community body corporate or a precinct body corporate to surrender a canal to the State.

Specifies the requirements which must be satisfied in relation to the transfer of title of land comprising a canal from the body corporate to the Crown.

Allows the Registrar of Titles to register a transfer of ownership of a canal to the Crown subject to conditions.

Provides that where a canal has been transferred to the Crown, all of the provisions of the Canals Act and the Canals Regulations apply in respect of it.

Division 3—Community and Precinct Facilities

Clause 159 allows a community body corporate, by special resolution, to establish facilities on community property or on land leased by the community body corporate for use by persons lawfully occupying land within the site.

States that the community body corporate must maintain community facilities.

Clause 160 allows a precinct body corporate, by comprehensive resolution, to establish facilities on precinct property or on land leased by the precinct body corporate for use by persons lawfully occupying land within the site.

States that the precinct body corporate must maintain precinct facilities.

Division 4—Other Matters

Clause 161 allows the community body corporate to undertake works on any part of the community property which will enhance the amenity or profitability of any business within the site at the request of a member of the community body corporate and at the sole cost of that member.

Provides that where the works affect a road, the approval of the local authority must be obtained and where the works affect a canal the approval of the Governor in Council must be obtained.

Requires that where the works proposed will restrict vehicular access to any part of the site the written consent of the proprietors of lots affected by the restriction to the carrying out of the works be obtained.

Provides for the sharing of costs by members who benefit from the carrying out of the works.

Clause 162 allows a precinct body corporate to undertake works on precinct property for the same purposes and subject to the same conditions as provided for in clause 161 of the Bill.

Clause 163 allows both the community body corporate and a precinct body corporate to lease property vested in them provided authority is granted by the members by special resolution.

Clause 164 allows the community body corporate or a precinct body corporate to take a lease over a road closed in strata or over a wharf for the

purposes of providing access to thoroughfares or for any other prescribed purpose.

Clause 165 provides authority for authorised persons to enter and be upon community property or precinct property for the purposes of carrying out their duties and responsibilities.

Defines who is an authorised person.

PART 9—BODIES CORPORATE

Division 1—Interpretation

Clause 166 defines the terms used in this Division.

Division 2—Incorporation of Community Body Corporate

Clause 167 provides for the proprietor or proprietors of community development lots to become members of a community body corporate upon the registration of a community plan.

Provides for other proprietors of lots or other bodies corporate subsequently created, to become members of the community body corporate.

Requires that the proprietor of a lot which is to be subdivided in a way which creates a body corporate, notifies the community body corporate of the name and address of the body corporate created by the registration of the plan of subdivision.

States that the body corporate created by the registration of the plan of subdivision becomes a member of the community body corporate and that the former proprietor ceases to be a member of the community body corporate.

Declares that the Corporations Law of Queensland does not apply in relation to the community body corporate.

Confers the powers and functions required by the Act or the by-laws upon the community body corporate.

Requires that the community body corporate does all things necessary and reasonable for the enforcement of its by-laws and the control, management and administration of community property.

States that the community body corporate has perpetual succession, a common seal and is capable of suing and being sued in its corporate name.

Provides that, in relation to work carried out on land which subsequently becomes community property, the community body corporate is taken to have been a party to an enforceable contract and may sue or be sued in relation to the contract.

Division 3—Incorporation of Precinct Body Corporate

Clause 168 provides for the proprietor or proprietors of precinct development lots to become members of a precinct body corporate upon the registration of a precinct plan.

Provides for other proprietors of lots or other bodies corporate subsequently created, to become members of the precinct body corporate.

Requires that the proprietor of a lot which is to be subdivided in a way which creates a body corporate, notifies the precinct body corporate of the name and address of the body corporate created by the registration of the plan of subdivision.

States that the body corporate created by the registration of the plan of subdivision becomes a member of the precinct body corporate and that the former proprietor ceases to be a member of the precinct body corporate.

Declares that the Corporations Law of Queensland does not apply in relation to the precinct body corporate.

Confers the powers and functions required by the Act or the by-laws upon the precinct body corporate.

Requires that the precinct body corporate does all things necessary and reasonable for the enforcement of its by-laws and the control, management and administration of precinct property.

States that the precinct body corporate has perpetual succession, a common seal and is capable of suing and being sued in its corporate name.

Provides that, in relation to work carried out on land which subsequently becomes precinct property, the precinct body corporate is taken to have been

a party to an enforceable contract and may sue or be sued in relation to the contract.

Division 4—Matters Applying to Community and Precinct Bodies Corporate

Clause 169 provides for persons to be appointed to represent members and member bodies corporate at meetings of the community body corporate or a precinct body corporate (applicable body corporate) and the requirements for such appointments to become effective or for them to be terminated.

Clause 170 prescribes:—

- who is entitled to keep the common seal of the applicable body corporate;
- who is entitled to use the common seal;
- how the common seal is to be used; and
- the rights of a manager of the applicable body corporate to use the common seal.

Invalidates the use of the common seal of the applicable body corporate for a fraudulent purpose.

Clause 171 states that the address for the service of notices on the applicable body corporate when it is incorporated is to be the same address as the applicant.

Requires that the address for serving of notices upon the applicable body corporate is to be recorded on the plan which creates it.

Requires that where the address for serving of notices is changed, the applicable body corporate must immediately notify the Registrar of Titles of the change and requires that the change of address be recorded on the plan.

Clause 172 requires that the original applicant convenes a meeting of the community body corporate or the precinct body corporate within three months of its incorporation and for the original applicant to deliver certain documents and records held by the applicant to the applicable body corporate at that meeting. Non-compliance with these requirements is an offence which attracts a maximum penalty of 50 units.

States that the meeting convened by the original applicant is the first annual general meeting of the applicable body corporate and that a chairperson, secretary and treasurer of the applicable body corporate must be elected at that meeting.

Prescribes the way by which a meeting is convened and held as well as the matters which must be addressed in the agenda for that meeting.

Provides that Part 1 or Part 2 of Schedule 2 to the Building Units and Group Titles Act, as the case may be, applies to the conduct of meetings of the applicable body corporate except for those provisions which relate to the rights and obligations of mortgagees and mortgagors.

Provides for the Minister responsible for the administration of the Building Units and Group Titles Act to appoint a person to convene, conduct and/or preside over meetings of the applicable body corporate in the event that the original applicant or the applicable body corporate does not convene meetings as required by the Bill.

Allows the responsible Minister to make such orders or give such directions to the person appointed to convene, conduct and/or preside over meetings of the applicable body corporate as are reasonably required to ensure that the objects of this section are achieved.

Clause 173 specifies who is entitled to be members of the community body corporate or a precinct body corporate and their respective voting entitlements as a member of the applicable body corporate.

Clause 174 provides authority for the community body corporate and a precinct body corporate to levy contributions against their members in proportion to their respective voting entitlements.

States that outstanding contributions levied by the applicable body corporate remain as a debt owing to it regardless of ownership at any given time and may be recovered by the body corporate in a court of competent jurisdiction.

Allows the applicable body corporate to grant incentive discounts for early payment of contributions levied by it.

Clause 175 provides a power of entry onto any part of a lot in favour of the applicable body corporate, its agents, servants or contractors for the purpose of carrying out work required to be done. Entry may be made at

any time in cases of emergency and in other cases, after reasonable notice has been given to the occupier of a lot likely to be affected by the work.

States that it is an offence to obstruct or hinder the carrying out of work on a lot which attracts a maximum penalty of 50 units.

Clause 176 provides general authority for an applicable body corporate to:—

- invest and borrow moneys;
- enter into contracts for the provision of amenities or services to a lot or the proprietor or occupier of a lot;
- enter into contracts with a precinct body corporate for the provision of amenities or services to a lot or the proprietor or occupier of a lot in a staged use precinct; and
- to acquire and hold personal property in its name.

Clause 177 prescribes in detail the duties of the community body corporate or a precinct body corporate to its members in relation to the control, management and administration of:—

- community property or precinct property and personal property vested in them;
- the obtaining and maintenance of personal and property insurance;
- the maintenance of proper records and books of account;
- the giving of notice of, and the conduct of, all meetings of the applicable body corporate;
- the levying of contributions from their members to provide for the effective operation of the applicable body corporate;
- the making of payments in respect of liabilities which accrue from time to time or are caused by specific actions taken by the applicable body corporate in the discharge of their prescribed duties;
- the sale of personal property vested in them; and
- the carrying out of its powers and functions under the Act or the community or precinct by-laws.

Clause 178 requires that the community body corporate and a precinct body corporate prepares and maintains a body corporate roll which records:—

- the voting entitlement of each member;
- the total voting entitlements of all of its members;
- the name and address for serving notices on each of its members;
- the name and address of any person appointed to represent a member of the applicable body corporate; and
- a copy of all of the by-laws in force at any time.

Clause 179 requires that the community body corporate and the precinct body corporate be notified, in writing, of any change of address for the service of notices issued by it by the person or member concerned.

Requires that notification, in writing, be given to the applicable body corporate of the address for serving notice by it on new property owners and members when changing circumstances require that this be done.

Identifies who is responsible for giving notification of the name and address of new owners, members and representatives of members, to the applicable body corporate in particular circumstances.

Prescribes the details to be provided in a notification given to the applicable body corporate under this section for each of the circumstances likely to arise.

Provides for the applicable body corporate to require that notice be given to it as required by this section if it believes that a notice should have been given to it but no such notice has been received.

States that voting entitlements at meetings of the applicable body corporate cannot be exercised until the required notice has been received by the applicable body corporate.

States that the maximum penalty for failure to comply with the provisions of this Clause is 4 penalty units.

Clause 180 provides for an application to be made to the applicable body corporate for the supply of certain information held by it to particular persons or members upon the lodgement of an application in writing, in a prescribed format and upon the payment of a reasonable fee to the applicable body corporate.

Clause 181 identifies the information which may be required to be supplied by or made available for inspection by the applicable body corporate to an applicant or the applicant's agent.

Specifies the process by which arrangements are made to inspect documents where this is necessary.

Allows an applicant or the applicant's agent to make copies of by-laws or take extracts from by-laws.

Clause 182 requires that the applicable body corporate effects insurance against occurrences required by law and in relation to property damage, death or bodily injury happening on property vested in the applicable body corporate.

Requires that the amount of cover purchased be as prescribed by regulation or, where no amount is prescribed, the cover is to be \$10,000,000.

Requires that members of the applicable body corporate be protected by insurance against claims which could be directed to them as a consequence of their involvement with the conduct of business of the body corporate.

Allows the applicable body corporate to insure other property in which it has an interest.

States that insurance "required by law" includes insurance required by the Workers' Compensation Act.

Clause 183 provides for a body corporate to authorise a person to perform any power or duty required by the Act on behalf of the body corporate as a member of the applicable body corporate.

Clause 184 states that voting powers conferred on a member by this Division of the Act may be exercised by:—

- the member's guardian where the member is an infant;
- a person authorised by law to act for the member where the member is unable to control the member's property; or
- a person authorised by a body corporate to act on its behalf pursuant to section 183.

Provides that upon an application being made to it by the applicable body corporate or a member of that body corporate, the Supreme Court may

appoint the Public Trustee or other appropriate person to exercise the power of voting on behalf of a member in certain circumstances.

Clause 185 requires that an executive committee be established after the first meeting of the community body corporate or a precinct body corporate where this is practical, but also allows an executive committee to be established prior to the first meeting of the applicable body corporate where this is deemed to be necessary.

Provides a precise code for the election or appointment of members to constitute the executive committee.

States that the provisions of Part 1 of Schedule 2 to the Building Units and Group Titles Act apply to the election of members of the executive committee.

States that the provisions of Part 2 of Schedule 2 to the Building Units and Group Titles Act do not apply to the election of members of the executive committee except for clause 16(1) of those provisions.

States that if there is no executive committee established, the applicable body corporate is the executive committee.

Clause 186 defines the circumstances by which the office of a member of the executive committee becomes vacant.

Specifies the process by which a vacancy in the executive committee is filled.

Provides for the referee under the Building Units and Group Titles Act to appoint a person to convene a meeting of the applicable body corporate or to fill a vacancy in the executive committee in certain circumstances and subject to such directions as the referee may give. In these cases, the referee is authorised to give certain directions notwithstanding that such directions may be inconsistent with the provisions of Schedule 2 of the Building Units and Group Titles Act.

Clause 187 specifies the minimum performance requirements of the chairperson and the treasurer of an executive committee.

Provides for other persons to act on behalf of the chairperson and the treasurer subject to compliance with certain procedural requirements.

Allows the treasurer of the community body corporate or a precinct body corporate, with the approval of an executive committee, to delegate the

powers and functions of the treasurer to a member of an executive committee and, where this is done, the delegate is taken to be the treasurer of the applicable body corporate.

Requires a person who has control of any records, books of account, keys belonging to the applicable body corporate, the body corporate roll and any other property of the applicable body corporate, to deliver such items to a specified member of the executive committee within 7 days of receipt of notice containing a copy of a resolution of the executive committee that this be done.

Clause 188 requires that the executive committee keeps a record of decisions made by it together with full and accurate minutes of its meetings.

Specifies what constitutes a quorum for meetings of the executive committee.

States that decisions of the executive committee are of no effect if the criteria relating to a quorum are not satisfied.

Clause 189 states that decisions made by the executive committee in relation to any matter except “restricted matter” is a decision of the applicable body corporate.

Allows the applicable body corporate to exercise all or any of its powers at a general meeting even though such exercise of powers may also vest with the executive committee.

Clause 190 prevents the expenditure of moneys by the executive committee on certain matters unless such expenditure has been approved by the applicable body corporate by special resolution.

Prescribes the requirements to be observed by the executive committee when it seeks the approval of the applicable body corporate to incur expenditure.

Exempts certain types of expenditure from the need to obtain approval from the applicable body corporate.

Provides for the Minister responsible for the administration of the Building Units and Group Titles Act to authorise expenditure by the executive committee in emergent situations.

Clause 191 allows the applicable body corporate to decide that certain matters or classes of matters may only be dealt with by that body corporate.

Clause 192 allows the community body corporate or a precinct body corporate to appoint a body corporate manager at a general meeting of the applicable body corporate, to act on its behalf in respect of powers delegated by the body corporate to the body corporate manager.

Prevents an applicable body corporate from delegating particular powers to a body corporate manager.

Allows the body corporate manager to perform the powers and functions of the chairperson, secretary or treasurer of the applicable body corporate or of the executive committee.

Prevents an applicable body corporate, within 3 years of its incorporation, from appointing a body corporate manager for an initial term of more than 3 years.

Allows a body corporate manager to be reappointed after the term of appointment has expired.

Clause 193 provides for the Court to determine the costs to be paid by the community body corporate or a precinct body corporate to members who are a party to an action in the Court and the proportions of the costs which are to be paid to each member.

Allows the applicable body corporate to levy contributions against its members to pay the costs and to make the payments from moneys received or held by it which have been obtained from contributions made.

Clause 194 prescribes the means by which documents may be properly served upon the applicable body corporate, members of the body corporate and other persons having an interest in a part of the site.

Clause 195 provides for the community body corporate or a precinct body corporate to convene a meeting in relation to any matter of interest to proprietors or occupiers of land within the site when requested to do so by the proprietors or occupiers of such lands.

Allows a proprietor or occupier of land within the site to attend and to vote at such meetings.

Requires that the chairperson of the applicable body corporate presides over the meeting until a chairperson for the meeting has been elected.

States that meetings convened under this section are not meetings of the applicable body corporate.

Clause 196 allows the applicable body corporate to establish committees to consider any matters referred to them and to require that those committees report on the matters back to the body corporate or the executive committee.

Clause 197 provides authority for a precinct body corporate to enter into an agreement with another precinct body corporate in relation to precinct property or personal property which is vested in one of them.

Division 5—Increase in Membership of Community Body Corporate

Clause 198 provides that where a part of the site is further subdivided or additional land is subdivided, the proprietors of the lots created become members of the community body corporate.

Clause 199 requires that the community body corporate convenes a meeting within 3 months of a community plan being registered which subdivides a subsequent stage or additional land.

States that for the purpose of setting dates for subsequent annual general meetings the meeting referred to in this section is taken to be the first annual general meeting.

Clause 200 states that within 14 days of a community plan being registered which subdivides a subsequent stage or additional land, the community body corporate is to determine the contributions to be made to it in respect of those lands.

States that the fund of the community body corporate which existed at the time new members joined the community body corporate continues in existence.

Clause 201 states that the provisions of Divisions 2 and 4 of Part 9 of the Act (with necessary modifications) apply to the increased membership.

PART 10—BY-LAWS

Division 1—Community by-laws

Clause 202 allows the community body corporate, by comprehensive resolution to make by-laws regulating the quality of design and development within the site and to appoint a committee to advise it in relation to compliance with the development control by-laws.

Provides that development control by-laws may regulate the size, shape, height, colour, texture and overall placement of buildings within the site.

Allows the by-laws to provide for certain things to be determined by the community body corporate and to specify procedures to be adopted for determining disputes regarding design and development matters.

Clause 203 allows the community body corporate, by comprehensive resolution to make by-laws for the control, management, use or enjoyment of lots which are not community property or precinct property within the site.

Clause 204 states that a by-law made under sections 202 or 203 of the Act may repeal or amend existing by-laws made under either of those sections and may apply to the whole or specified parts of the site.

States that a by-law has no effect until it has been approved by the Minister and notification of such approval has been published in the Gazette.

Declares that by-laws made under sections 202 or 203 of the Act are binding upon the bodies corporate, their members, the proprietors or occupiers of lots and other persons who have an interest in a part of, or the whole of, the site.

Provides for community development by-laws and community activities by-laws to prevail over precinct by-laws or by-laws made by a body corporate under the Building Units and Group Titles Act in the event that an inconsistency exists between them.

Clause 205 allows the community body corporate to allow non-compliance with a by-law if it is satisfied that such non-compliance is of a minor nature.

Clause 206 allows the community body corporate by comprehensive resolution to make by-laws or repeal or amend existing by-laws for the control, management, administration, use or enjoyment of the community property.

Requires that the approval of the Minister be obtained and notification of such approval be published in the Gazette before a by-law, a by-law amendment or its repeal has any effect.

Declares that the by-laws are binding upon the bodies corporate, their members, the proprietors or occupiers of lots and other persons who have an interest in a part of, or the whole of, the site.

States that a lessee of community property is bound by the community property by-laws.

States that a community property by-law cannot interfere with rights or obligations created by this Act.

States that a community property by-law does not affect the operation of any other Act or law.

Clause 207 states that community by-laws may apply to a road, wharf or any other land leased to the community body corporate.

Division 2—Precinct by-laws

Clause 208 allows a precinct body corporate, by comprehensive resolution to make by-laws regulating the quality of design and development within a staged use precinct and to appoint a committee to advise it in relation to compliance with the development control by-laws.

Provides that development control by-laws may regulate the size, shape, height, colour, texture and overall placement of buildings within a staged use precinct.

Allows the by-laws to provide for certain things to be determined by the precinct body corporate and to specify procedures to be adopted for determining disputes regarding design and development matters.

Clause 209 allows a precinct body corporate, by comprehensive resolution to make by-laws for the control, management, use or enjoyment of lots which are not precinct property within a precinct.

Clause 210 states that a by-law made under sections 208 or 209 of the Act may repeal or amend existing by-laws made under either of those sections and may apply to the whole or specified parts of the site.

States that a by-law has no effect until it has been approved by the Minister and notification of such approval has been published in the Gazette.

Declares that by-laws made under sections 208 or 209 of the Act are binding upon the bodies corporate, their members, the proprietors or occupiers of lots and other persons who have an interest in a part of, or the whole of, a precinct.

Provides for precinct development by-laws and precinct activities by-laws to prevail over by-laws made by a body corporate under the Building Units and Group Titles Act in the event that an inconsistency exists between them.

Clause 211 allows the precinct body corporate to allow non-compliance with a by-law if it is satisfied that such non-compliance is of a minor nature.

Clause 212 allows the precinct body corporate by comprehensive resolution to make by-laws or repeal or amend existing by-laws for the control, management, administration, use or enjoyment of the precinct property.

Requires that the approval of the Minister be obtained and notification of such approval be published in the Gazette before a by-law, a by-law amendment or a by-law repeal has any effect.

Declares that the by-laws are binding upon the bodies corporate, their members, the proprietors or occupiers of lots and other persons who have an interest in a part of, or the whole of, a precinct.

States that a lessee of precinct property is bound by the precinct property by-laws.

States that a precinct property by-law cannot interfere with rights or obligations created by this Act.

States that a precinct property by-law does not affect the operation of any other Act or law.

Clause 213 states that precinct by-laws may apply to a road, wharf or any other land leased to a precinct body corporate.

PART 11—MISCELLANEOUS

Clause 214 requires that a fire safety officer of the relevant fire authority has regard to the provisions contained in the Act, the by-laws and any other matters which may be prescribed by regulations made under this Act when issuing a fire safety approval for a building within the site.

Prevents the relevant fire safety officer from compromising the principles of fire safety contained in the Fire Service Act or any other Act.

Clause 215 provides for applications made to a local authority for approval to be accompanied by fees determined by the local authority.

Allows a local authority to vary its fees from time to time.

Allows a local authority to fix different fees in relation to applications made to it for different types of approval.

Clause 216 states that the chief executive may approve a form for use for purposes of this Act and requires that the chief executive supplies a person with a copy of that form on request.

Clause 217 authorises the Minister to delegate the Ministers' powers under this Act to an officer of the department.

Clause 218 provides for the Governor in Council to make regulations for the purposes of this Act.

Prescribes the matters and things which may be addressed by regulations.

Limits the penalties which may be imposed by regulation to not more than 4 penalty units.