

Queensland



# INTEGRATED RESORT DEVELOPMENT ACT 1987

**Reprinted as in force on 31 March 2000  
(includes amendments up to Act No. 5 of 2000)**

**Reprint No. 2D**

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# Information about this reprint

This Act is reprinted as at 31 March 2000. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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# INTEGRATED RESORT DEVELOPMENT ACT 1987

[as amended by all amendments that commenced on or before 31 March 2000]

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

## PART 1—PRELIMINARY

### Short title

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

### Interpretation

2. In this Act—

“**access**” means access by road.

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

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

“**building unit lot**” means a lot shown on a building units plan.

“**building units plan**” means a building units plan within the meaning of the *Building Units and Group Titles Act 1980*.

“**business precinct**” means a precinct, however described, identified in an approved scheme for the purposes of this Act as being a business precinct.

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“**canal**” has the meaning given by the *Canals Act 1958*.

“**chief executive**” means the chief executive of the department.

“**development control by-laws**” in respect of an approved scheme, means the development control by-laws in force for the time being pursuant to section 176.

“**drainage**” includes drainage for the product of rain, storm, soakage, a spring or seepage.

“**floating dwelling**” means a permanently moored floating dwelling constructed or to be constructed on a floatation system and which—

(a) is or is to be supported by waters; and

(b) is not intended for or usable in navigation.

“**future development area**” has the meaning given by section 21.

“**group title lot**” means a lot shown on a group titles plan.

“**group titles plan**” means a group titles plan within the meaning of the *Building Units and Group Titles Act 1980*.

“**initial lot**” means a lot shown on the initial plan of subdivision other than a lot that comprises the whole or part of the primary thoroughfare.

“**initial plan of subdivision**” means a plan of subdivision for the time being registered by the registrar of titles in accordance with section 32.

“**precinct**” means a part of a site identified in an approved scheme as a precinct.

“**primary thoroughfare**” in respect of an approved scheme means the lot or lots that comprises or together comprise the primary thoroughfare as shown at the material time on the initial plan or plans of subdivision.

“**primary thoroughfare body corporate**” means a primary thoroughfare body corporate incorporated by the registration of the first initial plan of subdivision registered in respect of an approved scheme.

“**primary thoroughfare by-laws**” in respect of an approved scheme means the primary thoroughfare by-laws for the time being in force pursuant to section 178.

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**“primary thoroughfare precinct”** means a precinct identified in an approved scheme for the purposes of this Act as being a primary thoroughfare precinct.

**“principal body corporate”** means a principal body corporate incorporated by the registration of the first initial plan of subdivision subdividing a residential precinct registered in respect of an approved scheme.

**“quay line”** means a line identified in an approved scheme as a quay line for the purposes of section 81.

**“residential precinct”** means a precinct, however described, identified in an approved scheme for the purposes of this Act as being a residential precinct.

**“road”** means any way constituted to facilitate the traffic of vehicles usually passing on public roads.

**“scheme”** means a scheme of integrated resort development.

**“secondary lot”** means a lot (other than a lot constituting a secondary thoroughfare) shown on a plan of subdivision of an initial lot or of subdivision of a secondary lot but does not include a building unit lot or a group title lot.

**“secondary thoroughfare”** means the lot or lots that comprises or together comprise the secondary thoroughfare as shown on the plan or plans of subdivision subdividing lots within the residential precincts.

**“secondary thoroughfare by-laws”** means the secondary thoroughfare by-laws for the time being in force pursuant to section 179.

**“service”** means—

- (a) a service for—
  - (i) water, sewage or drainage; or
  - (ii) gas, electricity or oil; or
  - (iii) air conditioning; or
  - (iv) garbage; or
- (b) a service for television, telephone or another means of telecommunication; or
- (c) another service prescribed by regulation.

“**site**” in respect of an approved scheme, means the site as determined pursuant to section 27.

“**special dwelling**” means a dwelling constructed or designed to be constructed on land and the foundations of which extend from land above high water mark to land below high water mark.

“**subsequent stage**” means a subsequent stage mentioned in section 26.

### **Minimum requirements for an approved scheme**

**3.(1)** Subject to subsection (3), a scheme shall not be an approved scheme unless it provides for at the least—

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

**(2)** Each of them the primary thoroughfare and the secondary thoroughfare may consist of more than 1 thoroughfare.

**(3)** An application for approval of a subsequent stage must provide for at least—

- (a) the division of the site into precincts specifying the name of the precincts, the intended development generally of each precinct and the permitted uses of the land within each precinct; and
- (b) a schedule specifying the voting entitlements and the method of

calculating the voting entitlements of members of the primary thoroughfare body corporate.

## **PART 2—SCHEME OF INTEGRATED RESORT DEVELOPMENT**

### *Division 1—Approval of scheme*

#### **Application for approval of scheme**

**4.(1)** An application for a scheme to be an approved scheme shall be made to the Minister in the prescribed manner.

**(1A)** However, on and from the commencement of the *Body Corporate and Community Management Act 1997*, no further applications for scheme approval may be made.

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

- (a) the information and material specified in the schedule, part A; and
- (b) such of the information and material specified in the schedule, part B as the Minister requires.

#### **Minister to consider application**

**5.** The Minister shall consider the application and—

- (a) shall consult any department of the Government, local government or statutory authority; and
- (b) may consult any person or body;

which or who, in the Minister's opinion, is likely to be affected by the scheme.

**Variation of application**

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

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

**Decision on application**

**7.(1)** The Governor in Council may—

- (a) approve the scheme; or
- (b) approve the scheme with modifications or subject to conditions; or
- (c) refuse to approve the scheme.

**(2)** If the Governor in Council approves the scheme, the chief executive must—

- (a) notify the approval of the scheme by a gazette notice that specifies—
  - (i) the modifications (if any) made by the approval and the conditions (if any) to which the approval is subject; and
  - (ii) the places where a copy of the approved scheme is available for inspection; and
- (b) keep a copy of the approved scheme available for inspection at the office of the chief executive at Brisbane at all times during which the office is open for the transaction of public business; and
- (c) note the approval on the plan of development; and
- (d) send a copy of the approved scheme and the plan of development to the registrar of titles and the local government.

**(3)** The chief executive must, on payment by a person of the reasonable fee decided by the chief executive, give a copy of the approved scheme to the person.



**Notation of approved scheme**

8. The local government and the chief executive must each make an appropriate notation of the approved scheme on—

- (a) relevant zoning maps; and
- (b) any relevant regulatory maps; and
- (c) any relevant development control plan maps.

***Division 2—Amendment of approved scheme*****Application for amendment of approved scheme**

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

**Members to be notified of proposed amendment**

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

**Comments etc. to accompany application**

11. An application to the Minister for amendment of an approved scheme shall include a copy of the notice given pursuant to section 10 and all written comments submitted to the primary thoroughfare body corporate by its members and members of the principal body corporate and such other matters as the Minister considers necessary.

**Minister to consider application**

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

(a) shall consult any department of the Government, local government or statutory authority; and

(b) may consult any person or body;

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

### **Decision on application**

**13.(1)** The Governor in Council may—

(a) approve the amendment; or

(b) approve the amendment with modifications or subject to conditions; or

(c) refuse to approve the amendment.

**(2)** If the Governor in Council approves the amendment, the chief executive must—

(a) notify the approval of the amendment by a gazette notice that specifies—

(i) the modifications (if any) made by the approval and the conditions (if any) to which the approval is subject; and

(ii) the places where a copy of the approved amendment is available for inspection; and

(b) keep a copy of the approved amendment available for inspection at the office of the chief executive at Brisbane at all times during which the office of the chief executive is open for the transaction of public business; and

(c) note the approval on any plan of development; and

(d) send a copy of the approved amendment and any plan of development each endorsed by the chief executive to the registrar of titles and the local government.

**(3)** The chief executive must, on payment by a person of the reasonable fee decided by the chief executive, give a copy of the amendment to the person.

(4) The registrar of titles must note the amendment on the plan of development.

### **Minor variation of precinct boundaries**

14. Where an application is made to the Minister pursuant to this division to amend an approved scheme by varying the boundaries of a precinct, the Governor in Council may approve the amendment if the Governor in Council considers the variation of the boundaries is of a minor nature notwithstanding that sections 10 to 12 have not been complied with.

### *Division 3—Effect of approval of scheme*

#### **Approved scheme regulates development etc. of site**

15.(1) The approved scheme regulates the development and use of land within the site.

(2) The approved scheme modifies any planning scheme in force in relation to the site to the extent the planning scheme is inconsistent with the approved scheme.

(3) However, the approved scheme cannot increase the uses permitted by the planning scheme.

(4) The provisions of the *Integrated Planning Act 1997* about reconfiguring a lot do not apply to the site.

(6) Local laws made by a local government under any Act do not apply to the site so far as they are inconsistent with this Act or the approved scheme.

(7) Any land, building or structure may be used within a precinct without the consent of the local government for any of the purposes set out in the approved scheme as a permitted use in relation to the precinct.

(8) A person must not use land, or a building or other structure, within a precinct for a use that is not a use specified in the approved scheme as a permitted use in relation to the precinct.

Maximum penalty for subsection (8)—200 penalty units.

**Application of provisions of this Act**

**16.(1)** Upon the approval of a scheme—

- (a) the provisions of this Act other than part 6; and
- (b) such other provisions of this Act as are specified in the approval of the scheme;

shall apply in respect of the scheme.

**(2)** The Governor in Council may vary provisions specified under subsection (1)(b).

**(3)** If the Governor in Council varies the provisions, the chief executive must notify the variation by gazette notice.

***Division 4—Revocation of approval of scheme*****Application for revocation**

**17.(1)** The applicant may apply to the Minister for revocation of the approved scheme.

**(2)** The application may be made only if no plan of subdivision has been registered under this Act.

**(3)** However, the application may be made if all plans that have been registered have been extinguished under section 68.

**(4)** If all plans have been extinguished, the application for revocation must be made by all proprietors within the site.

**(5)** The Minister must consider the application and discuss it with the local government.

**Revocation of approval**

**18.(1)** The Governor in Council may—

- (a) approve the revocation; or
- (b) approve the revocation subject to conditions; or
- (c) refuse to approve the revocation.

(2) If the Governor in Council approves the revocation, the chief executive must—

- (a) notify the approval of revocation by a gazette notice that specifies—
  - (i) the conditions (if any) to which the approval is subject; and
  - (ii) the places where a copy of the approved revocation is available for inspection; and
- (b) keep a copy of the approval available for inspection at the office of the chief executive at Brisbane at all times during which the office is open for the transaction of public business; and
- (c) note the revocation on the plan of development; and
- (d) send a copy of the approval to the registrar of titles and the local government.

(3) The chief executive must, on payment by a person of the reasonable fee decided by the chief executive, give a copy of the approval of the revocation to the person.

(4) The registrar of titles must note the revocation on the plan of development.

### **Notation of revocation**

**19.** The local government and chief executive must each make an appropriate notation of the revocation of the approved scheme on—

- (a) relevant zoning maps; and
- (b) any relevant regulatory maps; and
- (c) any relevant development control maps.

### **Effect of revocation**

**20.(1)** On revocation of an approved scheme—

- (a) the provisions of this Act that applied because of the approved scheme no longer apply; and

(b) the provisions of the *Canals Act 1958* prescribed for the purposes of section 90 again apply.

(2) Nothing in subsection (1) affects anything lawfully done before the revocation of the approved scheme.

### **PART 3—STAGED INTEGRATED RESORT DEVELOPMENT**

#### **Future development area**

**21.(1)** An application under part 2, division 1 may identify an area (the “**future development area**”) in relation to which—

- (a) provisional approval is sought; and
- (b) a subsequent application will be made under part 2, division 1.

(2) A future development area must contain freehold land or land intended to be freeholded.

(3) Except in relation to land intended to be freeholded, an application under part 2, division 1 must not include a future development area unless the future development area is in a zone that permits a use that is not inconsistent with the intended use of other land mentioned in the application.

(4) If an application under part 2, division 1 identifies a future development area the applicant must, in addition to providing the information and material required to be provided by part 2, division 1, provide such of the information and material set out in the schedule, part A as relates to a future development area.

#### **Decision on application**

**22.(1)** An application for provisional approval in relation to a future development area is to be decided in the same way and at the same time as the application under part 2, division 1.

(2) Section 8 applies to a provisional approval as if it were the approval of a scheme.

**Revocation of provisional approval**

**23.(1)** An applicant may apply to have the provisional approval in relation to all or part of the future development area revoked.

**(2)** An application for revocation must not be made in relation to any part of the future development area that has been the subject of an application under section 26.

**(3)** Before making an application under this section, the applicant must give written notice of the application to—

- (a) the primary thoroughfare body corporate; and
- (b) the principal body corporate;

if these exist, inviting written comments from their members before a specified date (not less than 30 days from the giving of the notice).

**(4)** A written application is to be made to the Minister and must include—

- (a) a copy of the written notice given under subsection (3); and
- (b) any written comments received by the applicant from the primary thoroughfare body corporate or the principal body corporate; and
- (c) other matters that the Minister considers necessary.

**(5)** The Minister is to consider the application and any written comments included with the application and—

- (a) is to consult any department, local government or statutory authority; and
- (b) may consult any person or body;

that, in the Minister's opinion, is likely to be affected by the revocation.

**Approval of revocation**

**24.(1)** The Governor in Council may—

- (a) approve the revocation; or
- (b) approve the revocation with modifications or subject to specified conditions; or

(c) refuse to approve the revocation.

(2) If the Governor in Council approves the revocation, the chief executive must—

(a) notify the approval of the revocation by a gazette notice that specifies—

(i) the modifications (if any) made by the approval and the conditions (if any) to which the approval is subject; and

(ii) the places where a copy of the approved revocation is available for inspection; and

(b) keep a copy of the approval available for inspection at the office of the chief executive at Brisbane at all times during which the office is open for the transaction of public business; and

(c) note the revocation on the plan of development; and

(d) send a copy of the revocation to the registrar of titles and the local government.

(3) The chief executive must, on payment by a person of the reasonable fee decided by the chief executive, give a copy of the approval of the revocation to the person.

(4) The registrar of titles must note the revocation on the plan of development.

### **Notation of revocation of provisional approval**

25. The local government and the chief executive must each make an appropriate notation of the revocation on—

(a) relevant zoning maps; and

(b) any relevant regulatory maps; and

(c) any relevant development control plan maps.

### **Application for subsequent stages**

26.(1) A subsequent application may be made under part 2, division 1 in relation to all or only part of the future development area.



(2) The future development area (whether all or part) that is the subject of a subsequent application under part 2, division 1 is in this Act referred to as a “**subsequent stage**”.

(3) Subject to subsection (4), part 2, division 1 applies to an application for approval of a subsequent stage.

(4) The applicant must include with the application for approval of a subsequent stage—

- (a) the information and material set out in clauses 1 to 12, 15, 16, 17, 18 and 21 of the schedule, part A; and
- (b) such of the information and material set out in the schedule, part B as the Minister requires.

(5) An application under this section may only be made if all necessary amounts have been paid to, undertakings given to, or securities lodged with, the local government under an agreement entered into between the applicant and the local government.

(6) A person must not use construction works that have been undertaken in a future development area unless the works are situated in a subsequent stage that has been approved under part 2, division 1.

Maximum penalty—200 penalty units.

(7) Applications in relation to stages in a future development area may be made at any time and from time to time.

(8) For the purposes of this Act, an approval of an application made under this section is taken to be an approval of a scheme.

(9) For the purposes of part 5, the land in a subsequent stage is taken to be the site.

## **PART 4—THE SITE**

### **The site**

**27.(1)** The site of an approved scheme consists of all land within the boundaries of the site set out in the approved scheme.

(2) The site must consist only of freehold land and land intended to be freeholded.

(3) Despite any other Act or law, the site may include land mentioned in subsection (2) that is, or may become, inundated by water or subject to tidal influence.

(4) The boundaries of the site may enclose 2 or more parcels of land, but only to the extent that this is necessary because a road, railway, tramway or boundary watercourse that is not intended to be freeholded divides the parcels.

### **Grant of Crown land**

**28.(1)** The power conferred by the *Land Act 1962* on the Governor in Council to grant in fee simple any Crown land within Queensland includes, in relation to Crown land included or to be included as part of a scheme, power to grant the land in fee simple to an applicant, on payment of the amount that the Governor in Council determines, in priority to and to exclusion of all other persons.

(2) Subsection (1) applies despite the *Land Act 1962*.

(3) The power applies only to land—

- (a) that is necessary to regularise the boundaries of the site and is required in relation to works to be carried out on the site; and
- (b) that, following development of the site, is of a shape that cannot reasonably be used otherwise than in relation to the site.

### **Site forms part of local government area**

**29.(1)** If a part of the site is not within the area of any local government, the part forms part of the area of the local government to which application in relation to a scheme was made.

(2) Subsection (1) applies despite any other Act.

## **PART 5—SUBDIVISION OF SITE**

### *Division 1—Initial subdivision of and dealing with land*

#### *Subdivision A—Creation of initial lots and primary thoroughfare*

#### **Plans to be lodged with local government**

**30.(1)** After the approval of a scheme, the proprietor of land within the site shall lodge with the local government a plan or plans subdividing land within the site into—

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

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

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

#### **Approval of local government**

**31.(1)** A local government shall not approve a plan of subdivision lodged with it pursuant to section 30 unless it is satisfied that—

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

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

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

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

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

(5) For the purposes of subsection (1)(a)—

- (a) if the site is on an island and there is no dedicated road adjoining the site—an initial lot is taken to have access to a dedicated road if the lot or the primary thoroughfare on which there is, or is to be, a road adjoins the foreshore; or
- (b) if the site is remote and there is no dedicated road adjoining the site—an initial lot is taken to have access to a dedicated road if the Minister has advised the local government that the Minister is satisfied that there is appropriate access to the site.

(6) If an initial lot is taken to have access to a dedicated road under subsection (5), a lot is also taken to have access to a dedicated road if created by the subdivision of—

- (a) an initial lot; or
- (b) a lot created by the subdivision of an initial lot.

(7) Subsection (6) has effect subject to the provisions of this Act that relate to access.

### **Registration of initial plan of subdivision**

**32.(1)** The registrar of titles shall not register a plan of subdivision referred to in section 30 unless—

- (a) where the plan of subdivision subdivides land in a residential precinct—it is accompanied by the schedule referred to in section 30; and
- (b) the plan and the schedule (if any) have been endorsed with the approval of the local government under its seal.

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

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

(3) In determining whether a lot has access to a dedicated road, the registrar of titles is not obliged to make enquiries but may rely on the endorsement of the local government on the plan and the schedule under subsection (1).

### **Transfer of primary thoroughfare to primary thoroughfare body corporate**

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

(2) The primary thoroughfare body corporate shall not be required to make any payment or provide any consideration for such transfer.

(3) Nothing in this section shall operate to relieve the applicant of the applicant's obligation to effect at the applicant's expense the initial construction of the primary thoroughfare to a standard prescribed pursuant to section 89.

***Subdivision B—Subdivision of initial lots*****Subdivision of initial lot**

**34.(1)** The proprietor of an initial lot may subdivide it by a plan of subdivision into 2 or more initial lots.

**(2)** The plan of subdivision must—

- (a) be lodged with the local government; and
- (b) in the case of the subdivision of an initial lot that is not within a residential precinct—be accompanied by a schedule setting out the voting entitlement that is to apply to each initial lot created by the plan; and
- (c) in the case of the subdivision of an initial lot that is within a residential precinct—be accompanied by a schedule setting out the maximum number of lots into which each initial lot created by the plan may be subdivided.

**Approval of local government**

**35.** A local government may approve a plan of subdivision that subdivides an initial lot only if it is satisfied that—

- (a) in the case of an initial lot that is not within a residential precinct—the total voting entitlement that is to apply to the new initial lots equals the voting entitlement that applies to the initial lot being subdivided; and
- (b) in the case of an initial lot that is within a residential precinct—the total of the maximum number of lots into which each initial lot may be subdivided, equals the maximum number of lots that applies to the initial lot being subdivided; and
- (c) each new initial lot has access to a dedicated road outside the site directly or through the primary thoroughfare on which there is, or is to be, a road.

**Registration of plan of subdivision of initial lot**

**36.(1)** The registrar of titles may register a plan of subdivision that subdivides an initial lot only if—

- (a) in the case of an initial lot that is not within a residential precinct—it is accompanied by a schedule setting out the voting entitlement that is to apply to each initial lot created by the plan; and
- (b) in the case of an initial lot that is within a residential precinct—it is accompanied by a schedule setting out the maximum number of lots into which each initial lot created by the plan may be subdivided; and
- (c) the plan and the schedule have been approved by the local government.

**(2)** In determining whether a lot has access to a dedicated road, the registrar of titles is not obliged to make inquiries but may rely on the local government's approval of the plan.

**Notice of subdivision to primary thoroughfare body corporate**

**37.** On registration of a plan subdividing an initial lot that is not within a residential precinct, the proprietor of the new initial lots must give written notice to the primary thoroughfare body corporate of—

- (a) the proprietor's full name and address for service; and
- (b) the date of registration of the plan; and
- (c) the description of the initial lot subdivided; and
- (d) the description of the new initial lots; and
- (e) the voting entitlement that applies to each new initial lot.

**Notice of subdivision to principal body corporate**

**38.** On registration of a plan subdividing an initial lot that is within a residential precinct, the proprietor of the new initial lots must give written notice to the principal body corporate of—

- (a) the proprietor's full name and address for service; and

- (b) the date of registration of the plan; and
- (c) the description of the initial lot subdivided; and
- (d) the description of the new initial lots; and
- (e) the maximum number of lots into which each new initial lot may be subdivided.

### *Subdivision C—Amalgamation of initial lots*

#### **Amalgamation of initial lots**

**39.(1)** The proprietor of 2 or more initial lots within the same precinct may amalgamate the lots by a plan of amalgamation.

**(2)** The plan of amalgamation must—

- (a) be lodged with the local government; and
- (b) in the case of the amalgamation of initial lots that are not within a residential precinct—be accompanied by a schedule setting out the voting entitlement that is to apply to the new initial lot; and
- (c) in the case of the amalgamation of initial lots that are within a residential precinct—be accompanied by a schedule setting out the maximum number of lots into which the new initial lot may be subdivided.

#### **Approval of local government**

**40.** A local government may approve a plan of amalgamation that amalgamates initial lots only if it is satisfied that—

- (a) in the case of initial lots that are not within a residential precinct—the voting entitlement that is to apply to the new initial lot equals the total voting entitlement that applies to the initial lots being amalgamated; and
- (b) in the case of initial lots that are within a residential precinct—the maximum number of lots into which the new initial lot may be subdivided equals the total of the maximum number of lots into



which the initial lots being amalgamated could have been subdivided.

### **Registration of plan of amalgamation of initial lots**

- 41.** The registrar of titles may register a plan of amalgamation only if—
- (a) in the case of the amalgamation of initial lots that are not within a residential precinct—it is accompanied by a schedule setting out the voting entitlement that is to apply to the new initial lot; and
  - (b) in the case of the amalgamation of initial lots that are within a residential precinct—it is accompanied by a schedule setting out the maximum number of lots into which the new initial lot may be subdivided; and
  - (c) the plan and schedule have been approved by the local government.

### **Notice of amalgamation to primary thoroughfare body corporate**

**42.** On registration of a plan amalgamating initial lots that are not within a residential precinct, the proprietor of the new initial lot must give written notice to the primary thoroughfare body corporate of—

- (a) the proprietor's full name and address for service; and
- (b) the date of registration of the plan; and
- (c) the description of the initial lots amalgamated; and
- (d) the description of the new initial lot; and
- (e) the voting entitlement that applies to the new initial lot.

### **Notice of amalgamation to principal body corporate**

**43.** On registration of a plan amalgamating initial lots that are within a residential precinct, the proprietor of the new initial lot must give written notice to the principal body corporate of—

- (a) the proprietor's full name and address for service; and
- (b) the date of registration of the plan; and

- (c) the description of the initial lots amalgamated; and
- (d) the description of the new initial lot; and
- (e) the maximum number of lots into which the new initial lot may be subdivided.

***Subdivision D—Subdivision of initial lots by building units or group titles plan***

**Subdivision by building units or group titles plan**

**44.(1)** An initial lot that is not within a residential precinct may be subdivided by a building units or group titles plan.

**(2)** A building units or group titles plan must be lodged with the local government.

**(3)** A group titles plan must be accompanied by a statement by the proprietor of the initial lot—

- (a) indicating whether or not it is proposed to subdivide any lot created by the group titles plan by the registration of a building units plan; and
- (b) if it is proposed to do so—identifying the lot.

**(4)** If—

- (a) a group titles plan creates lots; and
- (b) at least 1 of the lots is proposed to be further subdivided by the registration of a building units plan;

the group titles plan must be accompanied by a schedule setting out, in relation to each lot proposed to be further subdivided, the maximum number of lots into which the lot may be subdivided.

**(5)** Each lot on a group titles plan must have access to a dedicated road whether directly or through—

- (a) the primary thoroughfare on which there is, or is to be, a road; or
- (b) the common property.

**Approval of building units or group titles plan**

**45.(1)** A local government may approve a group titles plan and schedule only if—

- (a) the plan is accompanied by—
  - (i) the statement mentioned in section 44(3); and
  - (ii) if applicable—the schedule mentioned in section 44(4); and
- (b) it is satisfied that each lot created has the access mentioned in section 44(5).

**(2)** A local government may approve a building units plan that subdivides a group title lot only if it is satisfied that the group title lot has the access mentioned in section 44(5).

**(3)** If the schedule accompanying a group titles plan indicates that it is proposed to further subdivide any lot created, the local government must endorse that fact on the plan.

**Registration of building units or group titles plan**

**46.(1)** The registrar of titles may register a building units or a group titles plan only if the plan, and, if applicable, the schedule accompanying the plan, have been approved by the local government.

**(2)** In determining whether a lot has access to a dedicated road, the registrar of titles is not obliged to make inquiries but may rely on the local government's approval of the plan.

**Subdivision of group title lot by building units plan**

**47.(1)** If the statement accompanying a group titles plan identifies a group title lot that is proposed to be subdivided by way of a building units plan, the building units plan may be—

- (a) approved by the local government; and
- (b) registered by the registrar of titles.

**(2)** Section 10(1A) of the *Building Units and Group Titles Act 1980* does not apply to a subdivision by a building units plan mentioned in subsection (1).

(3) Despite the *Building Units and Group Titles Act 1980*, the registration of a building units plan under subsection (1) has effect as if the subdivision by the plan were a subdivision of the original group titles plan.

(4) If a building units plan subdivides a lot created by a group titles plan, a further body corporate is not created by registration of the building units plan.

(5) For the purposes of the *Building Units and Group Titles Act 1980*, the body corporate created by registration of the group titles plan is taken to be the body corporate created by the registration of the building units plan.

(6) Subsections (4) and (5) apply despite section 27 of the *Building Units and Group Titles Act 1980*.

### **Subdivision of group title lot by group titles plan**

**48.(1)** Before a group title lot is subdivided by a building units plan, it may be subdivided by a group titles plan.

(2) Section 44(3) and (4) apply to the subdivision of a group title lot by a group titles plan as if it were the subdivision of an initial lot by a group titles plan.

(3) The number of lots created by the subdivision of the group title lot by a further group titles plan, and then by a building units plan, must not exceed the number of lots indicated on the schedule mentioned in section 44(4) in relation to the subdivision of the initial lot by the group titles plan.

(4) Sections 45 and 46 relating to approval by a local government and registration by the registrar of titles apply to a plan mentioned in this section.

### **Lot entitlement if group title lot to be subdivided by a building units plan**

**49.(1)** If a group titles plan creates a lot that is to be subdivided by a building units plan, then, in specifying the lot entitlement of the lot, regard must be had to the maximum number of lots into which the lot may be subdivided by the building units plan.

(2) Section 19(2) and (3) of the *Building Units and Group Titles Act 1980* does not apply to a group titles plan if a lot on the plan is to be subdivided by a building units plan.

### **Application of Building Units and Group Titles Act to subdivisions**

**50.(1)** The following provisions of the *Building Units and Group Titles Act 1980* do not apply to a subdivision under this division—

- (a) section 10(1B);
- (b) section 10(6)(b).

(2) For the purposes of section 9(7) of the *Building Units and Group Titles Act 1980*, a plan of subdivision is taken to comply with the requirements mentioned in the subsection in relation to the subdivision if the plan complies with those requirements as modified by this Act.

### ***Division 2—Subsequent subdivision of and dealing with land in residential precincts***

#### **Plan of subdivision of initial lots**

**51.(1)** A plan of subdivision subdividing an initial lot within a residential precinct shall be lodged with the local government.

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

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

#### **Approval by local government**

**52.(1)** A local government shall not approve a plan of subdivision of an initial lot lodged with it pursuant to section 51 unless it is satisfied that—

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- (a) section 32 has been complied with; and
- (b) each secondary lot has access to—
  - (i) a dedicated road outside the site; or
  - (ii) the primary thoroughfare, whether directly or through a lot or lots shown in the plan as constituting a secondary thoroughfare; and
- (c) the aggregate of the maximum number of lots specified in the schedule accompanying the plan into which all the secondary lots thereby created may be subdivided does not exceed, and is not less than 85% of, the maximum number of lots into which the initial lot may be subdivided.

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

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

**Registration of plan of subdivision of initial lot**

**53.(1)** The registrar of titles shall not register a plan of subdivision referred to in section 51 unless it is accompanied by the schedule referred to in section 51 each of which has been endorsed with the approval of the local government under its seal.

(2) Notwithstanding any other Act, for the purposes of the registration of a plan of subdivision referred to in section 51, a lot shall be taken to have access to a dedicated road if that lot adjoins—

- (a) a dedicated road; or
- (b) the primary thoroughfare, on which there is, or is to be a road; or
- (c) a secondary thoroughfare, on which there is, or is to be a road.

(3) In determining whether a lot has access to a dedicated road, the registrar of titles is not obliged to make enquiries but may rely on the endorsement of the local government on the plan and the schedule under subsection (1).

**Transfer of lots comprising secondary thoroughfare to principal body corporate**

**54.(1)** Immediately upon registration of a plan of subdivision subdividing an initial lot or part of an initial lot, the registered proprietor of any lot shown on the plan as a secondary thoroughfare shall lodge with the registrar of titles all documents necessary to transfer free of mortgage that lot to the principal body corporate.

**(2)** The principal body corporate shall not be required to make any payment or provide any consideration for such transfer.

**(3)** Nothing in this section shall operate to relieve the applicant of the applicant's obligation to effect at the applicant's expense the initial construction of the secondary thoroughfare to the standard prescribed pursuant to section 89.

**Amalgamation of secondary lot**

**55.(1)** The proprietor of 2 or more secondary lots within a residential precinct may amalgamate the lots by a plan of amalgamation.

**(2)** The plan of amalgamation must—

- (a) be lodged with the local government; and
- (b) be accompanied by a schedule setting out the maximum number of lots into which the new secondary lot may be subdivided.

**Approval of local government**

**56.** A local government may approve a plan of amalgamation that amalgamates secondary lots only if it is satisfied that the maximum number of lots into which the new secondary lot may be subdivided equals the total of the maximum number of lots into which the secondary lots being amalgamated could have been subdivided.

**Registration of plan of amalgamation of secondary lots**

**57.** The registrar of titles may register a plan of amalgamation only if—

- (a) it is accompanied by a schedule setting out the maximum number

- of lots into which the new secondary lot may be subdivided; and
- (b) the plan and schedule have been approved by the local government.

### **Notice of amalgamation to principal body corporate**

**58.** On registration of a plan amalgamating secondary lots that are within a residential precinct, the proprietor of the new secondary lot must give written notice to the principal body corporate of—

- (a) the proprietor's full name and address for service; and
- (b) the date of registration of the plan; and
- (c) the description of the secondary lots amalgamated; and
- (d) the description of the new secondary lot; and
- (e) the maximum number of lots into which the new secondary lot may be subdivided.

### **Subdivision of secondary lots within residential precincts**

**59.(1)** Except as provided by subsections (2) and (3), a secondary lot within a residential precinct may only be subdivided by way of a building units plan or a group titles plan.

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

**(3)** The provisions of this Act relating to the subdivision of initial lots and to the effect of such subdivision shall apply in respect of a subdivision pursuant to subsection (2) as if a secondary lot being subdivided were an initial lot and each lot, other than a lot constituting a secondary thoroughfare, so created shall become a secondary lot.

**(4)** A plan of subdivision of a secondary lot within a residential precinct pursuant to subsection (1) shall be lodged with the local government.

**(5)** A group titled plan of subdivision lodged pursuant to subsection (4) shall be accompanied by a statement by or on behalf of the proprietor of the



secondary lot whether or not it is proposed to subdivide any lot thereby created by the registration of that plan by the registration of a building units plan and, if so, identifying that lot.

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

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

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

### **Notice of subdivision to principal body corporate**

**60.** On registration of a plan subdividing a secondary lot that is within a residential precinct into secondary lots or secondary lots and secondary thoroughfare, the proprietor of the new secondary lots must give written notice to the principal body corporate of—

- (a) the proprietor's full name and address for service; and
- (b) the date of registration of the plan; and
- (c) the description of the secondary lot subdivided; and
- (d) the description of the new secondary lots; and
- (e) the maximum number of lots into which each new secondary lot may be subdivided.

### **Approval by local government**

**61.(1)** A local government shall not approve a group titles plan lodged with it pursuant to section 59 unless—

- (a) it is accompanied by the statement prescribed by section 59(5); and

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

(2) A local government shall not approve a building units plan lodged with it pursuant to section 59 unless—

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

(3) Upon compliance with the provisions of subsections (1) and (2), the local government may approve of a building units plan or a group titles plan and, where a group titles plan was accompanied by a schedule referred to in section 59(6), that schedule.

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

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

### **Registration of building units plan or group titles plan over secondary lot**

**62.(1)** The registrar of titles shall not register a building units plan or a group titles plan referred to in sections 59 and 61 unless the plan has been endorsed with the approval of the local government under its seal and, in the case of a group titles plan that has endorsed thereon the fact that it is proposed to subdivide a lot thereby created, unless it is accompanied by a schedule referred to in section 59(6) duly endorsed with the local government's approval under its seal.

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

section 59 a lot shall be taken to have access to a dedicated road if that lot has the access prescribed in section 59(7).

### **Subdivision of group titles lot by way of building units plan**

**63.(1)** Where a statement accompanying a group titles plan lodged with the local government pursuant to section 59 indicates that a lot thereby created is proposed to be subdivided by way of a building units plan, such a building units plan may be approved by the local government and may be registered by the registrar of titles and for that purpose section 10(1A) of the *Building Units and Group Titles Act 1980* shall not apply.

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

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

### **Subdivision of group title lot by way of a group titles plan**

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

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

**Application of Building Units and Group Titles Act to subdivisions**

**65.(1)** The *Building Units and Group Titles Act 1980*, section 10(1B) and (6)(b),<sup>1</sup> does not apply to a subdivision under this division.

**(2)** For the purposes of section 9(7) of the *Building Units and Group Titles Act 1980*, a plan of subdivision shall be taken to have complied with the requirements of the *Local Government Act 1936* as modified by the *Building Units and Group Titles Act 1980* in regard to the subdivision if the plan has complied with those requirements as modified by this Act.

**Lot entitlements under Building Units and Group Titles Act 1980**

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

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

***Division 3—Dealing with land outside residential precincts*****Primary thoroughfare deemed to be dedicated road**

**67.** For the purposes of the subdivision of or other dealing with land within a precinct other than a residential precinct the primary thoroughfare, on which there is, or is to be a road, shall be deemed to be a dedicated road.

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<sup>1</sup> *Building Units and Group Titles Act 1980*, section 10 (Resubdivision)

***Division 4—Matters applying to subdivision generally******Subdivision A—Extinguishment of plans*****Extinguishment of plan**

- 68.** A plan registered under this Act may be extinguished—
- (a) after unanimous resolution of the relevant body corporate; or
  - (b) if the Supreme Court makes an order extinguishing the plan.

**Order of Supreme Court to extinguish plan**

**69.(1)** An application to extinguish a plan may be made to the Supreme Court by—

- (a) the relevant body corporate; or
- (b) a proprietor of a lot; or
- (c) a registered mortgagee of a lot.

**(2)** In considering an application to extinguish a plan, the Supreme Court must have regard to the rights and interests of the proprietors as a whole.

**(3)** Subsection (2) does not limit the matters to which the Supreme Court may have regard.

**(4)** If the Supreme Court makes an order extinguishing a plan, it must also order—

- (a) that the relevant body corporate be wound up; and
- (b) that the land comprised in the extinguished plan, and any property of the body corporate, be vested in the proprietors of the lots in the shares that the Supreme Court considers appropriate.

**Registration**

**70.(1)** If the Supreme Court makes an order under section 69, the registrar of titles must take the action necessary to give effect to the order on lodgment for registration of a request to register the order.

(2) If the relevant body corporate resolves to extinguish a plan, it must lodge with the registrar of titles—

- (a) a request to extinguish the plan; and
- (b) a copy of the unanimous resolution.

(3) A request under subsection (1) or (2) may be registered only if every registered interest in the land the subject of the plan has been discharged, surrendered, withdrawn or otherwise disposed of.

(4) On registration of a request under subsection (1) or (2)—

- (a) the plan is extinguished; and
- (b) the relevant body corporate is wound up; and
- (c) the land comprised in the extinguished plan is vested—
  - (i) in the case of a building units plan—in the proprietors in shares proportional to the lot entitlements of the proprietors' respective lots; or
  - (ii) in the case of a group titles plan or plans that create initial lots or secondary lots—in the proprietors in the shares agreed by the proprietors by unanimous resolution or in the shares ordered by the Supreme Court; and
- (d) all property of the body corporate is vested in the proprietors in the same shares as the land comprised in the plan is vested under paragraph (c).

### **Notification of local government**

71. The registrar of titles must notify the relevant local government on registration under section 70 of the request to extinguish the plan.

### ***Subdivision B—Boundary adjustment plans***

#### **Boundary adjustment plan**

72.(1) The boundary of an initial lot or a secondary lot within the site of an approved scheme may be adjusted by a boundary adjustment plan if—

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- (a) the adjustment is minor and necessary to resolve a problem in relation to the management, development or subdivision of the site; and
- (b) each proprietor, mortgagee and registered lessee of a lot the boundary of which is to be adjusted consents to the adjustment; and
- (c) if the adjustment alters the boundary of primary thoroughfare or secondary thoroughfare—the adjustment is approved by the primary thoroughfare body corporate, or principal body corporate, by special resolution.

(2) A proprietor mentioned in subsection (1)(b) may lodge the boundary adjustment plan with the local government.

(3) The local government may approve a boundary adjustment plan only if it is satisfied that—

- (a) the adjustment is minor and necessary to resolve a problem in relation to the management, development or subdivision of the site; and
- (b) the consents mentioned in subsection (1)(b) have been given; and
- (c) if applicable—the approval mentioned in subsection (1)(c) has been given.

(4) If the local government—

- (a) refuses to approve a boundary adjustment plan; or
- (b) fails to approve it within 40 days of receiving it;

the proprietor that lodged the plan may appeal to the Planning and Environment Court.

(5) The *Integrated Planning Act 1997* applies to an appeal under subsection (4) with any necessary modifications.

### **Registration of boundary adjustment plan**

**73.(1)** The registrar of titles may register a boundary adjustment plan only if the plan has been approved by the local government.

(2) The registrar of titles does not have to be satisfied of the matters

mentioned in section 72(1) but may rely on the local government's approval of the plan.

### **Effect of boundary adjustment plan**

**74.(1)** A boundary adjustment plan registered under this subdivision—

- (a) does not affect the voting entitlement that applied to any lot before registration of the plan; and
- (b) does not of itself give rise to any liability for stamp duty.

**(2)** A registered mortgage, lease or other registered interest in a lot adjusted by the registration of a boundary adjustment plan—

- (a) is not affected by the registration of the plan; and
- (b) is taken to relate to the adjusted lot.

### ***Subdivision C—Easements***

#### **Implied easements**

**75.(1)** Unless an easement is created for a particular service, there is implied—

- (a) as belonging to any lot or common property within the site—an easement for the passage or supply of the service through or by way of pipes, poles, wires, cables or ducts (to be laid down or erected or that are already existing) in or over the site to the extent to which the service is capable of being used in the enjoyment of the lots or common property; and
- (b) as affecting any lot or common property within the site—an easement for the passage or supply of the service through or by way of pipes, poles, wires, cables or ducts (to be laid down or erected or that are already existing) in or over the site to the extent to which the service is capable of being used in the enjoyment of lots or common property.

**(2)** Subsection (1) does not affect easements belonging to and affecting lots in a plan created under the *Building Units and Group Titles Act 1980*.



(3) If a multiple occupancy building is situated on 2 or more group title lots, the proprietor of a lot on which there is situated a part of the building that is intended for separate occupation is entitled to the right conferred by subsection (4).

(4) In relation to any roofs, eaves, gutters, downpipes or foundations (the “**building parts**”) situated (wholly or partly) over, on or under any adjoining lot, the proprietor is entitled to any shelter, drainage or support capable of being provided by the building parts in relation to the proprietor’s lot.

(5) The right created by subsection (4) is an easement to which the adjoining lot is subject.

(6) The easement entitles the proprietor of the dominant tenement to enter the servient tenement and to maintain or replace any of the building parts.

(7) If a building is on the boundary of a lot or so close to the boundary of a lot that maintenance or replacement in relation to the building is not able to be carried out without entering an adjoining lot, the proprietor of the lot on which the building is situated is entitled to enter the adjoining lot to carry out the maintenance or replacement.

(8) The right created by subsection (7) is an easement to which the adjoining lot is subject.

(9) The easement entitles the proprietor of the dominant tenement—

(a) to enter the servient tenement; and

(b) to maintain or replace any part of the proprietor’s building.

(10) An easement under this section must not be exercised by a proprietor in a way that unreasonably prevents another proprietor from enjoying the use and occupation of the other proprietor’s lot or the common property.

(11) If an easement under this section entitles a proprietor to enter an adjoining lot to effect maintenance or replacement work, the proprietor must give reasonable notice to the proprietor of the adjoining lot before entering to effect the work.

(12) Subsection (11) does not apply if the work to be carried out is urgent.

**Ancillary rights**

**76.** All ancillary rights and obligations that are necessary and reasonable to make an easement under this subdivision effective are conferred by this section.

**Creation of easements by special resolution**

**77.** A primary thoroughfare body corporate or principal body corporate may by special resolution—

- (a) execute a grant of easement; or
- (b) accept a grant of easement; or
- (c) surrender a grant of easement; or
- (d) accept the surrender of a grant of easement.

***Subdivision D—Sequential plans*****Approval of sequential plans by local government**

**78.(1)** If a number of plans are lodged with a local government at the same time, the local government may approve the plans if it is satisfied that access and other matters of which it must be satisfied will be effected if the plans are registered in the appropriate order.

**(2)** In approving the plans the local government must give a certificate that specifies the number of plans approved by it and the date of approval of the plans.

**(3)** In subsection (1)—

“**plan**” includes a plan creating initial lots or secondary lots and a group titles and a building units plan.

**Registration of sequential plans by registrar of titles**

**79.** The registrar of titles may register the plans in the appropriate order only if the plans—

- (a) are accompanied by the certificate mentioned in section 78(2); and
- (b) have been approved by the local government.

## **PART 6—LAND SUBJECT TO TIDAL INFLUENCE**

### **Estate or interest in submerged land continues**

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

### **Subdivision of land**

**81.(1)** A parcel of land within the site that—

- (a) includes land that is submerged or subject to tidal influence and to which section 80 applies; and
- (b) does not extend from the shore beyond the quay line, may be subdivided by way of a building units plan or a group titles plan.

**(2)** However, permanent above water access is provided from each lot on the plan of subdivision to the primary thoroughfare, on which there is, or is to be a road, or to a secondary thoroughfare, on which there is, or is to be a road, either directly or through common property of the parcel.

**(3)** For the purposes of subsection (2), above water access need not be access by road.

### **Construction of floating buildings and special buildings**

**82.** The construction of a floating building or a special building within the site is not—

- (a) the construction of a vessel, harbour works or other works of any kind; or
- (b) the placing of a pile or any other structure;

in, on, over, through or across land that is submerged or subject to inundation or tidal influence.

### **Tidal waters within jurisdiction of authorities**

**83.** If an area of the site becomes inundated with tidal water or subject to tidal influence, the banks and foreshores of the area are, to the extent that the area is beyond the quay line, taken to be within the jurisdiction of the authority that has jurisdiction over the adjacent banks and foreshores.

### **Obligation of authorities to maintain or undertake works**

**84.** An authority having jurisdiction over banks and foreshores of tidal waters is obliged to maintain or undertake works (including dredging) in relation to land within the site of an approved scheme, or tidal waters above land within the site of an approved scheme, only to the extent (if any) that it agrees in writing to accept the obligation.

### **Movement of vessels on tidal waters**

**85.(1)** The proprietor of land within the site of an approved scheme has the right to restrict, regulate or prohibit the use or movement of vessels on, over, through or beneath tidal waters above the land if the waters are not beyond the quay line.

**(2)** If the proprietor of land within the site permits the mooring of a vessel in waters above the land, the proprietor of other land within the site must not restrict or prohibit the movement of the vessel over the proprietor's land that is beyond the quay line to—

- (a) the mooring; or
- (b) another place in relation to which permission to moor the vessel has been given; or
- (c) tidal waters outside the site.

### **Application of laws relating to design and construction etc.**

**86.(1)** Laws relating to the design and construction, and standard of construction or materials, of buildings and other structures apply to floating

buildings and special buildings, so far as the law may be sensibly applied, as if floating buildings or special buildings were constructed on land.

(2) If the relevant joint committee established for the purposes of the Standard Sewerage Law or the Standard Water Supply Law considers that a standard determined under the Law cannot sensibly be applied to a floating building, the committee may determine a different standard that is to apply having regard to the existing standard.

### **Statutory charges and valuation of land**

**87.** For the purpose of—

- (a) the assessment of rates, land tax and other statutory charges payable in relation to land; and
- (b) determining the unimproved value of land;

any land within the site of an approved scheme that is or may be inundated by water or subject to tidal influence is to be taken to be land that is not, and never has been, inundated by water or subject to tidal influence.

### **Modification of powers of authorities**

**88.(1)** An authority having jurisdiction over the banks and foreshores of tidal waters within the site of an approved scheme may not grant—

- (a) a lease in relation to a relevant area of the site; or
- (b) a licence to use and occupy a relevant area of the site; or
- (c) a permit to use and occupy a relevant area of the site.

(2) Subsection (1) has effect despite any other Act.

(3) In subsection (1)—

“**relevant area**” of a site means any foreshore, tidal lands or tidal waters within the site.

## **PART 7—ROADS AND CANALS ON THOROUGHFARES**

### **Construction of roads**

**89.(1)** Roads constructed on the primary thoroughfare or on the secondary thoroughfare shall be constructed to a design and standard approved by the local government at the time of construction.

**(2)** However, the Minister may direct that the local government approve of the design and standard.

**(3)** All roads on the primary thoroughfare and all roads on the secondary thoroughfare shall initially be constructed by the applicant at the applicant's cost in accordance with the requirements of the local government and to the satisfaction of that local government.

### **Construction of canals**

**90.(1)** A canal may be constructed within the site of an approved scheme by the applicant at the applicant's expense.

**(2)** A canal may be constructed only on—

- (a)** primary thoroughfare or secondary thoroughfare; or
- (b)** part of the site that will become primary thoroughfare or secondary thoroughfare.

**(3)** The *Canals Act 1958* (other than the provisions of the Act prescribed by regulation for the purposes of this section) applies to the construction, operation and maintenance of a canal within the site.

**(4)** The registrar of titles may register instruments of title dealing with land in any plan of subdivision to which section 9 of the *Canals Act 1958* applies even though a transfer surrendering to the State all land defined in the plan as the land on which the canal is to be constructed has not been registered in the land registry.

### **Maintenance of roads and thoroughfares**

**91.(1)** The primary thoroughfare body corporate shall be responsible for

the maintenance and reconstruction (including construction on relocation) of roads within the primary thoroughfare and of any other improvements on the primary thoroughfare.

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

### **Maintenance of canals**

**92.(1)** The primary thoroughfare body corporate is responsible for—

- (a) the dredging and other maintenance of canals on the primary thoroughfare; and
- (b) the maintenance of improvements relating to the canals on the primary thoroughfare.

(2) The principal body corporate is responsible for—

- (a) the dredging and other maintenance of canals on the secondary thoroughfare; and
- (b) the maintenance of improvements relating to the canals on the secondary thoroughfare.

### **Additional works on primary thoroughfare**

**93.(1)** At the request in writing of any member of the primary thoroughfare body corporate, the primary thoroughfare body corporate may undertake works on any part of the primary thoroughfare with a view to enhancing the amenity of land or the profitability of any business undertaking within the site.

(2) Works that restrict vehicular access that is available immediately prior to the commencement of the undertaking of the works, to any part of the site shall not be undertaken unless each proprietor of the land comprising that part consents in writing to that restriction.

(3) Works shall not be undertaken pursuant to this section unless—

- (a) the local government approves those works; and

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

(4) However, the Minister may direct that the local government approve those works.

(5) The primary thoroughfare body corporate shall recover all costs of undertaking works pursuant to this section (including the costs incurred in obtaining the approval of the local government and any other approvals required by law) from the member or members of the primary thoroughfare body corporate at whose request the works were undertaken.

(6) Where 2 or more members of the primary thoroughfare body corporate are liable to pay the costs of undertaking works each shall pay an amount that bears to the total costs incurred the same proportion that the member's voting entitlements attributable to the land the amenity of which is sought to be enhanced or on which the business undertaking sought to be enhanced is carried on bears to the aggregate of such voting entitlements of all persons liable to contribute towards those costs.

(7) The primary thoroughfare body corporate shall levy contributions in accordance with subsection (6) to recover the costs of undertaking the works and the provisions of section 109 with such modifications as may be necessary apply to and with respect to contributions levied under this subsection in the same way as those provisions apply to contributions levied under that section.

(8) Nothing in subsections (5) and (6) shall prevent the primary thoroughfare body corporate from requiring the persons specified in those subsections to pay to the primary thoroughfare body corporate the whole or part of the expected costs of the completed works before the works are commenced or completed.

(9) Any member of the primary thoroughfare body corporate who feels aggrieved by any levy imposed upon the member pursuant to this section may apply in writing to the Minister for a review of the levy.

(10) The Minister after considering all the relevant information shall determine that member's liability and may adjust other members' liability accordingly.

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



**Leasing of land comprising primary thoroughfare**

**94.** No part of a primary thoroughfare may be leased without the prior approval of—

- (a) the primary thoroughfare body corporate given by special resolution within the meaning of section 101; and
- (b) the Minister.

**Dedication of thoroughfare as road**

**95.(1)** The primary thoroughfare body corporate, with the prior approval of—

- (a) the principal body corporate determined by special resolution within the meaning of section 138; and
- (b) 75% of members of the primary thoroughfare body corporate who are members by reason of being proprietors of land within the site that is not within the residential precincts which members have voting rights at meetings of the primary thoroughfare body corporate that aggregate not less than 75% of the aggregate voting rights of those members; and
- (c) the local government; and
- (d) the Governor in Council;

and subject to any reasonable conditions that the local government imposes, may dedicate in accordance with the *Land Act 1994* any part of the primary thoroughfare, that is a road, that adjoins a dedicated road to public use as a road.

**(2)** The local government may impose a condition pursuant to subsection (1) that the primary thoroughfare body corporate pay to the local government an amount of money fixed by the local government with a view to the cost of constructing or maintaining the road.

**(3)** A part of the primary thoroughfare that is dedicated to public use as a road pursuant to subsection (1) shall thereupon cease to be a part of the primary thoroughfare.

**(4)** The principal body corporate, with the prior approval of—

- (a) the principal body corporate determined by special resolution

within the meaning of section 138; and

- (b) the local government; and
- (c) the Governor in Council;

and subject to any reasonable conditions that the local government imposes, may dedicate in accordance with the *Land Act 1994* any part of the secondary thoroughfare, that is a road, that adjoins a dedicated road to public use as a road.

(5) The local government may impose a condition pursuant to subsection (4) that the principal body corporate pay to the local government an amount of money fixed by the local government with a view to the cost of constructing or maintaining the road.

(6) A part of a secondary thoroughfare that is dedicated to public use as a road pursuant to subsection (4) shall thereupon cease to be part of that secondary thoroughfare.

### **Surrender of canal to the Crown**

**96.(1)** The primary thoroughfare body corporate, with the prior approval of—

- (a) the principal body corporate determined by special resolution within the meaning given by section 138; and
- (b) 75% of members of the primary thoroughfare body corporate who—
  - (i) are members because they are proprietors of land within the site, that is not within the residential precincts; and
  - (ii) have voting rights at meetings of the primary thoroughfare body corporate that aggregate not less than 75% of the aggregate voting rights of those members of the primary thoroughfare body corporate; and
- (c) the local government; and
- (d) the Governor in Council;

and subject to any reasonable conditions that the local government imposes, may execute a transfer surrendering to the Crown land on which a canal is constructed.

(2) The local government may impose a condition under subsection (1) that the primary thoroughfare body corporate pay to the local government an amount fixed by the local government for the preservation and maintenance of the canal.

(3) A part of the primary thoroughfare that is surrendered to the Crown under this section ceases to be a part of the primary thoroughfare on its surrender.

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

- (a) the principal body corporate determined by special resolution within the meaning given by section 138; and
- (b) the local government; and
- (c) the Governor in Council;

and subject to any reasonable conditions that the local government imposes, may execute a transfer surrendering to the Crown land on which a canal is constructed.

(5) The local government may impose a condition under subsection (4) that the principal body corporate pay to the local government an amount fixed by the local government for the preservation and maintenance of the canal.

(6) A part of a secondary thoroughfare that is surrendered to the Crown under this section ceases to be part of the secondary thoroughfare on its surrender.

(7) If land on which a canal is constructed is surrendered, the provisions of the *Canals Act 1958* prescribed for the purposes of section 90 again apply.

### **Thoroughfares are roads under certain Acts**

**97.(1)** For the purposes of the *Motor Accident Insurance Act 1994*, the roads on the primary thoroughfare and the roads on the secondary thoroughfare shall be roads.

(2) For the purposes of the *Transport Operations (Road Use Management) Act 1995* (other than part 6) the roads on the primary

thoroughfare and the roads on the secondary thoroughfare shall be roads within the meaning of that Act.

### **Powers etc. of inspectors and others on thoroughfares**

**98.(1)** Notwithstanding any other provision of this Act or of any by-law or other decision made by the primary thoroughfare body corporate or the principal body corporate, any inspector or officer employed by the Crown or a statutory body (including the local government) or any other person authorised by a statutory body may enter and be upon any part of the primary thoroughfare or the secondary thoroughfare for the purpose of exercising the powers or authorities or performing the functions or duties as such inspector, officer or other person.

**(2)** In respect of the primary thoroughfare and the secondary thoroughfare, the inspector, officer or other person, in addition to any powers, authorities, functions and duties vested in him or her by or under this or any other Act or law, shall have such powers, authorities, functions and duties that he or she would have under any Act or law if the primary thoroughfare and the secondary thoroughfare was a public place.

**(3)** A person shall not obstruct the inspector, officer or other person, in his or her access to any part of the primary thoroughfare or of the secondary thoroughfare as provided in subsection (1).

### **Primary and secondary thoroughfares are public places for certain purposes**

**98A.** A primary thoroughfare or secondary thoroughfare is a public place for the purposes of any law conferring powers or imposing functions on a police officer.

### **Temporary closure of thoroughfares**

**99.(1)** Subject to subsection (3), if the primary thoroughfare body corporate or the principal body corporate determines that any work is to be carried out on a primary thoroughfare or, as the case may be, a secondary thoroughfare which work is of such a nature as will or would require the temporary closure to some or all traffic on any road, the primary thoroughfare body corporate or, as the case may be, the principal body

corporate shall give notice of intention to temporarily close the road at least 7 days prior to the closure by—

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

(2) The notice shall—

- (a) identify the lots within the site access to which is likely to be affected by the closure; and
- (b) specify the classes of traffic to be excluded; and
- (c) identify the location of the road to be closed; and
- (d) specify the period or periods of the closure; and
- (e) specify the nature of the work being carried out.

(3) The provisions of subsection (1) do not apply where the work to be carried out is of an emergent nature.

### **Occupier's right to use thoroughfares**

**100.(1)** Subject to the application of any primary thoroughfare by-law or any secondary thoroughfare by-law, every person who lawfully occupies any land within the site has a right of way over the primary thoroughfare and that part of the secondary thoroughfare that is within the stage occupied by the person.

(2) A primary thoroughfare by-law or a secondary thoroughfare by-law that, but for this subsection, would have the effect of unreasonably restricting access to or access from any land within the site shall in respect of that land have no force or effect unless the person for the time being entitled to occupy that land consents in writing to that restriction.

## **PART 8—BODIES CORPORATE**

### *Division 1—Primary thoroughfare body corporate*

#### **Interpretation**

**101.** In this division—

**“executive committee”** means the executive committee of the primary thoroughfare body corporate constituted under this division.

**“primary thoroughfare body corporate roll”** means the roll referred to in section 117 to be maintained by the primary thoroughfare body corporate.

**“proprietor”**, in relation to land, means the person for the time being registered, or entitled to be registered, under the *Land Title Act 1994* as the owner of the land; and

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

**“special resolution”** means a resolution which is passed at a duly convened general meeting of the primary thoroughfare body corporate by the members whose voting entitlements aggregate not less than 75% of the aggregate of all voting entitlements recorded in the primary thoroughfare body corporate roll.

#### **Primary thoroughfare body corporate**

**102.(1)** Upon registration of the initial plan or plans of subdivision, the proprietor or proprietors of the land within the site (excluding land within each residential precinct and land comprising the primary thoroughfare) and the principal body corporate shall by virtue of this Act be a body corporate under the name ‘(insert name of development specified in the approval of the scheme) Primary Thoroughfare Body Corporate’.

**(2)** Until the incorporation of the principal body corporate, the proprietors of the land within the residential precincts shall be members of the primary

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thoroughfare body corporate in place of the principal body corporate.

(3) When land, within the site (excluding land within the residential precincts) is subdivided by way of a group titles plan or a building units plan, the proprietor of that land—

- (a) shall give notice in writing to the primary thoroughfare body corporate of the name and address for service of notices of the body corporate incorporated by the registration of that plan; and
- (b) shall cease to be a member of the primary thoroughfare body corporate in so far as the proprietor was a member by virtue of being the proprietor of that land;

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

(4) The Corporations Law does not apply to or in respect of the primary thoroughfare body corporate.

(5) The primary thoroughfare body corporate shall have the powers, authorities, duties and functions conferred or imposed on it by or under this Act and shall do all things reasonably necessary for the control, management and administration of the primary thoroughfare.

(6) The primary thoroughfare body corporate shall have perpetual succession and a common seal and shall be capable of suing and being sued in its corporate name and shall be regulated in accordance with the primary thoroughfare by-laws for the time being in force.

(7) The primary thoroughfare body corporate may—

- (a) sue and be sued on any contract made by it;
- (b) sue for and in respect of any damage or injury to the primary thoroughfare caused by any person;
- (c) be sued in respect of any matter connected with the primary thoroughfare which as proprietor it is so liable;
- (d) take such legal action as may be necessary to enforce the primary thoroughfare by-laws.

(8) In any case in which work is carried out for the purpose of constructing or preparing the primary thoroughfare, upon registration of the initial plan of subdivision, the primary thoroughfare body corporate shall be

deemed to have been a party to an enforceable contract for the carrying out of such work, and may sue in respect of that contract.

(9) Nothing in subsection (8) shall relieve the applicant from the applicant's obligation to pay for the initial construction of the primary thoroughfare to the standard prescribed pursuant to section 89.

### **Member's nominee**

**103.(1)** A member of the primary thoroughfare body corporate—

- (a) being a body corporate created by the registration of a building units plan or a group titles plan—shall at its annual general meeting and may from time to time thereafter;
- (b) in any other case—may from time to time;

appoint a person to represent the member and to vote on behalf of the member at meetings of the primary thoroughfare body corporate.

(2) The appointment of a person pursuant to subsection (1) shall not be effective until notification in writing signed by the member or, in a case referred to in subsection (1)(a), by the chairperson and secretary of the body corporate is received by the secretary of the primary thoroughfare body corporate.

(3) The appointment of a person to represent a member at meetings of the primary thoroughfare body corporate shall continue until—

- (a) notice of the appointment of another person to represent that member; or
- (b) notice of the cancellation of the person's appointment;

is received by the secretary of the primary thoroughfare body corporate.

### **Seal of primary thoroughfare body corporate**

**104.(1)** The common seal of the primary thoroughfare body corporate shall be kept by such member of the primary thoroughfare body corporate or member of the executive committee as the primary thoroughfare body corporate determines or, in the absence of any such determination, by the secretary of the executive committee.



(2) The common seal of the primary thoroughfare body corporate shall only be affixed to an instrument or document in the presence of—

- (a) where the primary thoroughfare body corporate is constituted by 1 member or 2 members—that or those members as the case may be; or
- (b) where the primary thoroughfare body corporate is constituted by more than 2 members—such 2 persons, being members of the primary thoroughfare body corporate or members of the executive committee, as the primary thoroughfare body corporate determines or, in the absence of any such determination, the secretary and any other member of the executive committee;

who shall attest the fact and date of the affixing of the seal by their signatures.

(3) However, where a member is a body corporate, the common seal affixed in the presence of a person nominated in writing by the body corporate for that purpose and attested by that person as provided in subsection (2) shall be deemed to have been duly affixed in the presence of that body corporate.

### **Address of primary thoroughfare body corporate**

**105.** The address of the primary thoroughfare body corporate for service of notices on it shall upon its incorporation pursuant to section 102 be the address of the applicant for service of notices on the applicant.

### **Meetings of primary thoroughfare body corporate**

**106.(1)** Within 3 months after the incorporation of the primary thoroughfare body corporate, the applicant shall, in the prescribed manner, convene a meeting of the primary thoroughfare body corporate to be held within that period.

Maximum penalty—50 penalty units.

(2) The agenda for a meeting convened under subsection (1) shall consist of the following items—

- (a) to decide whether insurances effected by the primary thoroughfare body corporate should be confirmed, varied or extended;

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- (b) to decide whether any amounts determined under section 116(1)(h) or (2) should be confirmed or varied;
- (c) where there are more than 3 members of the primary thoroughfare body corporate—to determine the number of members of the executive committee;
- (d) to elect the chairperson, secretary and treasurer of the primary thoroughfare body corporate and other members of the executive committee;
- (e) to decide whether to make by-laws regulating, controlling or prohibiting the passage through and conduct and activities of persons on or within all or part of the primary thoroughfare.

(3) The meeting convened under subsection (1) shall be the first annual general meeting of the primary thoroughfare body corporate and at such meeting a chairperson, secretary and treasurer shall be elected.

(4) However, a person may be elected to 1 or more of those offices.

(5) The applicant shall not fail or neglect to deliver to the primary thoroughfare body corporate at its first annual general meeting—

- (a) all plans, specifications, drawings showing water pipes, electric cables and drainage, certificates (other than certificates of title for lots), diagrams and other documents (including policies of insurance) obtained or received by the applicant and relating to the primary thoroughfare;
- (b) if they are in the applicant's possession or under the applicant's control, the primary thoroughfare body corporate roll, books of account and any notices or other records relating to the primary thoroughfare;
- (c) the budget showing the estimated expenditure of the primary thoroughfare body corporate in relation to the primary thoroughfare on an annual basis;

other than documents which exclusively evidence rights or obligations of the applicant and which are not capable of being used for the benefit of the primary thoroughfare body corporate or any of the members of the primary thoroughfare body corporate, other than the applicant.

Maximum penalty for subsection (5)—50 penalty units.

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(6) Schedule 2, part 1 of the *Building Units and Group Titles Act 1980* in force at the commencement of this Act applies to and in respect of the first annual general meeting of the primary thoroughfare body corporate and voting at that meeting and schedule 2, part 2 to that Act in force at the commencement of this Act applies to and in respect of meetings of the primary thoroughfare body corporate, other than the first annual general meeting, and voting at those meetings.

(7) However, the provisions in those schedules relating to the rights and obligations of mortgagees and mortgagors shall not apply.

(8) The provisions of the schedules referred to in subsection (6) shall, for the purposes of subsection (7), be read and construed as if—

- (a) references therein to ‘aggregate lot entitlement’ were references to the aggregate of all voting entitlements specified in the approved scheme;
- (b) references therein to ‘body corporate’ were references to primary thoroughfare body corporate;
- (c) references therein to ‘by-laws’ were references to primary thoroughfare by-laws;
- (d) references therein to ‘council’ were references to executive committee;
- (e) references therein to a ‘lot’ were references to a parcel of land within the site;
- (f) references therein to ‘lot entitlement’ were references to the voting entitlement of a member;
- (g) references therein to the ‘original proprietor’ were references to the applicant;
- (h) references therein to a ‘proprietor’ were references to a member of the primary thoroughfare body corporate;
- (i) references therein to the ‘roll’ were references to the primary thoroughfare body corporate roll;
- (j) references to particular provisions of the *Building Units and Group Titles Act 1980* (other than the provisions in those schedules) were references to corresponding provisions of this Act;

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- (k) the principal body corporate were the proprietor of a parcel of land within the site and its voting entitlements where the voting entitlements of that parcel.

(9) When an expression is substituted for an expression used in the *Building Units and Group Titles Act 1980* and referred to in subsection (8), the substituted expression shall, for the purposes of subsection (8), be read and construed in the same manner as the expression for which it is substituted is required to be read and construed.

(10) If a meeting of the primary thoroughfare body corporate is not convened in accordance with subsection (1), the Minister may, pursuant to an application by the primary thoroughfare body corporate or any member of the primary thoroughfare body corporate appoint by order a person to convene a meeting of the primary thoroughfare body corporate within such time as may be specified in the order and the meeting convened by that person shall, for the purposes of subsection (3), be deemed to be the meeting convened under subsection (1).

(11) At any time after the meeting convened under subsection (1) has been held, the Minister may, pursuant to an application made to the Minister by a member of the primary thoroughfare body corporate, appoint by order a person, nominated by the member, who has consented to that nomination, if there is not an executive committee, to convene a meeting of the primary thoroughfare body corporate within such time as may be specified in the order and a meeting so convened shall, for the purpose of the election of the chairperson, secretary and treasurer of the primary thoroughfare body corporate and the other members of the executive committee, be deemed to be a first annual general meeting of the primary thoroughfare body corporate.

(12) An order made under subsection (10) or (11) may include such ancillary or consequential provisions as the Minister thinks fit.

(13) Notwithstanding subsections (6) to (9), where an order made under subsection (10) or (11) so provides—

- (a) the person appointed to convene a meeting of the primary thoroughfare body corporate by the order shall preside at the meeting and, while the person so presides, shall be deemed to be the chairperson of the primary thoroughfare body corporate; and

- (b) notice of that meeting may be given in the manner specified in the order.

(14) Notwithstanding that an order has been made under subsection (10) or that a meeting has been convened pursuant to any such order, the applicant remains liable to the penalty provided by subsection (1) for any failure to comply with that subsection.

### **Change of annual general meeting**

**107.(1)** The primary thoroughfare body corporate may apply in writing to the Minister for approval to change the date of its next annual general meeting.

(2) The primary thoroughfare body corporate may apply to the Minister to change the date of its next annual general meeting only if—

- (a) the change of date proposed has been set out in a motion given to its members; and
- (b) the motion for the proposed change of date has been carried by ordinary resolution of the body corporate.

(3) The application to the Minister must be accompanied by—

- (a) a copy of the motion; and
- (b) evidence that it has been carried by ordinary resolution.

(4) The Minister may approve or refuse the application and must advise the primary thoroughfare body corporate in writing of the approval or refusal.

(5) If the application is approved, the new date of the annual general meeting is taken to be the anniversary of the first annual general meeting of the primary thoroughfare body corporate.

### **Voting entitlements**

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

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

(3) When the land comprising a precinct, other than a residential precinct or the primary thoroughfare precinct, is subdivided the voting entitlement for that precinct shall be apportioned by notice in writing by the proprietor of the land given to the primary thoroughfare body corporate amongst parcels thereby created and a proprietor of a parcel shall as a member of the primary thoroughfare body corporate have the voting entitlement apportioned in respect of that parcel.

(4) In like manner the voting entitlement of a proprietor of land that is further subdivided shall be apportioned amongst the parcels thereby created and the proprietor of each parcel shall have the relevant voting entitlement so apportioned.

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

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

### **Levies by primary thoroughfare body corporate on members**

**109.(1)** The primary thoroughfare body corporate may levy the contributions determined by it in accordance with section 116(1)(h) and the amount (if any) determined pursuant to section 116(2) in respect thereof by serving on its members notice in writing of the contributions payable by them.

(2) Contributions levied by the primary thoroughfare body corporate shall be levied and shall be payable, subject to this section, by the members of the primary thoroughfare body corporate in shares proportional to the voting entitlements.

(3) In respect of a contribution levied under subsection (1), a proprietor of land is liable, jointly and severally with any person who was liable to pay that contribution when the proprietor became the proprietor of that land to pay such part of that contribution as was unpaid when the proprietor became the proprietor of that land.

(4) A contribution levied under this section—

- (a) becomes due and payable to the primary thoroughfare body corporate in accordance with the decision of the primary thoroughfare body corporate to make the levy; and
- (b) if paid within 30 days after the date when it becomes due and payable—shall be reduced by that part of the contribution attributable to the amount determined pursuant to section 116(2) (if any); and
- (c) may be recovered, as a debt, by the primary thoroughfare body corporate in any court of competent jurisdiction.

(5) Nothing in this section shall be construed to prevent the primary thoroughfare body corporate, in general meeting, either generally or in a particular case, determining that a contribution may be reduced as provided in subsection (4)(b) notwithstanding that the contribution is not paid as prescribed in that subsection.

### **Change of primary thoroughfare body corporate's address**

**110.** The primary thoroughfare body corporate may, in general meeting, decide that the address for the service of notices on the primary thoroughfare body corporate shall be changed.

(2) Upon giving notice in writing to the Minister and notification by the Minister in the gazette of the change of address, the address for service of notices on the primary thoroughfare body corporate shall, notwithstanding any other provision of this Act, be the address so notified.

### **Power of entry**

**111.(1)** For the purpose of carrying out—

- (a) any work required to be carried out by the primary thoroughfare body corporate by a notice served on it by a public authority or local government;
- (b) any work referred to in section 116(1)(b);

the primary thoroughfare body corporate may, by its agents, servants or contractors, enter upon any part of the primary thoroughfare for the purpose

of carrying out the work—

- (c) in the case of an emergency, at any time; or
- (d) in any other case, at any reasonable time on notice given to any occupier of a lot likely to be affected thereby.

(2) For the purposes of subsection (1)(d), an occupier of a lot, being a lot on a group titles plan or a building units plan, shall be taken to have been given notice if the notice is duly given to the body corporate incorporated by the registration of that plan.

(3) A person shall not obstruct or hinder the primary thoroughfare body corporate in the exercise of its power under subsection (1).

Maximum penalty for subsection (3)—50 penalty units.

### **Maintenance of services within lots or common property**

**112.(1)** If, because of an agreement with a local government, the primary thoroughfare body corporate is responsible for the maintenance and reconstruction (including construction on relocation) of any pipes, poles, wires, cables or ducts or anything that provides a service within the site, the primary thoroughfare body corporate may enter on any lot or common property—

- (a) to carry out works relating to the maintenance or reconstruction (including construction on relocation); or
- (b) to inspect for the purpose of deciding whether works relating to the maintenance or reconstruction are required.

(2) The primary thoroughfare body corporate must give notice of works to be carried out under subsection (1)—

- (a) if the works are on a lot—to the proprietor of the lot; or
- (b) if the works are on common property—to the body corporate responsible for the control, management and administration of the common property.

(3) If notice is given to a body corporate under subsection (2)(b), it must immediately notify the proprietors of lots who are entitled to use and enjoy the common property.



- (4) The notice must—
- (a) be in writing; and
  - (b) be given not less than 7 days before the works are to be carried out; and
  - (c) identify the part of the lot or common property to be affected by the works; and
  - (d) specify the nature of the works to be carried out; and
  - (e) specify the estimated time that it will take to carry out the works.
- (5) Subsection (2) does not apply—
- (a) if the works to be carried out are urgent; or
  - (b) to an inspection for the purpose of deciding whether works are required.

### **Miscellaneous powers of primary thoroughfare body corporate**

- 113.** The primary thoroughfare body corporate may—
- (a) invest any moneys held by it in any manner permitted by law for the investment of trust funds or in any prescribed investment;
  - (b) borrow moneys and secure the repayment thereof and of any interest in such manner as may be agreed upon by the primary thoroughfare body corporate and the lender;
  - (c) enter into an agreement for the provision of amenities or services by it or any other person to any land or to the proprietor or occupier thereof;
  - (d) enter into an agreement with the principal body corporate for the provision of amenities or services by the primary thoroughfare body corporate or any other person to any land within the residential precincts or to the proprietor or occupier thereof;
  - (e) acquire and hold any personal property to facilitate the carrying out of its duties.

**Leases to primary thoroughfare body corporate**

**114.(1)** For the purpose of providing access to the primary thoroughfare, the primary thoroughfare body corporate may take a lease—

- (a) of a road closed in strata that joins or is to join the primary thoroughfare; or
- (b) of a wharf or for the construction of a wharf that joins or is to join the primary thoroughfare.

**(2)** The primary thoroughfare body corporate may take a lease of land for any other prescribed purpose.

**Community facilities on primary thoroughfare**

**115.(1)** The primary thoroughfare body corporate may develop or construct facilities, for the use of persons who lawfully occupy land within the site, on—

- (a) the primary thoroughfare; or
- (b) land leased by the primary thoroughfare body corporate under section 114(2).

**(2)** The development or construction mentioned in subsection (1) must not start until authorised by the primary thoroughfare body corporate under a special resolution.

**(3)** The primary thoroughfare body corporate must maintain the facilities.

**Duties of primary thoroughfare body corporate**

**116.(1)** The primary thoroughfare body corporate shall—

- (a) control, manage and administer the primary thoroughfare for the benefit of its members; and
- (b) properly maintain and keep in a state of good and serviceable repair—
  - (i) the primary thoroughfare, including any improvements thereon;
  - (ii) any personal property vested in it; and

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- (c) effect insurance in accordance with section 120; and
- (d) cause proper records to be kept of notices given to the primary thoroughfare body corporate under this or any other Act and of any orders made by a court and served on the primary thoroughfare body corporate; and
- (e) cause to be kept and retained, for at least 10 years, minutes of its meetings, which shall include particulars of motions passed by it at those meetings, and proper books of account in respect of moneys received or expended by the primary thoroughfare body corporate showing the items in respect of which the moneys were received or expended; and
- (f) cause to be prepared, from the books mentioned in paragraph (e), a proper statement of accounts of the primary thoroughfare body corporate in relation to each period—
  - (i) starting on the date of its incorporation or the day immediately after the date up to which the last statement was prepared; and
  - (ii) ending on the last day of the month that is 3 months before the start of the month in which the anniversary of the first annual general meeting happens; and
- (g) cause an annual general meeting of the primary thoroughfare body corporate to be held each year on or after the anniversary of the first annual general meeting but not later than 2 months after the anniversary; and
- (h) not later than 14 days after its incorporation and from time to time thereafter, determine the amounts necessary in its opinion to be raised by way of contributions for the purpose of meeting its actual or expected liabilities incurred or to be incurred under paragraph (b) or for the payment of insurance premiums, rates or any other liability of the primary thoroughfare body corporate, other than amounts referred to in paragraph (l); and
- (i) upon first determining the amounts referred to in paragraph (h), establish a fund into which shall be paid all amounts received by it, including the proceeds of the sale or other disposal of any personal property of the primary thoroughfare body corporate and

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any fees received by it under section 119 and into which may be paid any amounts paid to the primary thoroughfare body corporate by way of discharge of insurance claims; and

- (j) from time to time, levy, in accordance with section 109, on each person liable therefor a contribution to raise the amounts referred to in paragraph (h); and
- (k) pay any moneys referred to in paragraph (i) that are received by it and are not otherwise invested in accordance with section 113(a) into an account established in a financial institution in the name of the primary thoroughfare body corporate; and
- (l) if the primary thoroughfare body corporate—
  - (i) becomes liable to pay any moneys that it is unable to pay forthwith; and
  - (ii) is not required under paragraph (j), to levy contributions to meet the liability;levy, in accordance with section 109, contributions to raise those moneys; and
- (m) implement the decisions of the primary thoroughfare body corporate.

**(2)** The primary thoroughfare body corporate from time to time may in respect of contributions determined in accordance with subsection (1)(h) or contributions referred to in subsection (1)(l) determine by special resolution, for the purposes of section 109, an amount being not greater than 10% of those contributions.

**(3)** The primary thoroughfare body corporate shall not disburse any moneys from its fund, otherwise than for the purpose of carrying out its powers, authorities, duties and functions under this Act or the primary thoroughfare by-laws or meeting any liability referred to in subsection (1)(l).

**(4)** A determination made by the primary thoroughfare body corporate under subsection (1)(h) may specify that the amounts to be raised shall be raised by such regular periodic contributions as may be specified in the determination.

**Primary thoroughfare body corporate roll**

**117.(1)** The primary thoroughfare body corporate shall prepare and maintain a roll in accordance with this section.

**(2)** The primary thoroughfare body corporate shall record in the primary thoroughfare body corporate roll the following information—

- (a) the voting entitlements of the proprietor of each parcel of land within the site (excluding land within the residential precincts);
- (b) the voting entitlements of the principal body corporate;
- (c) the total of the voting entitlements referred to in paragraphs (a) and (b);
- (d) the name and address for service of notices on each member of the primary thoroughfare body corporate;
- (e) the name and address of any person appointed (in writing addressed to the primary thoroughfare body corporate) by any member of the primary thoroughfare body corporate to represent that member at meetings of the primary thoroughfare body corporate.

**(3)** The primary thoroughfare body corporate shall record and maintain in the primary thoroughfare body corporate roll a copy of the primary thoroughfare by-laws for the time being in force.

**Notices to be given by proprietors**

**118.(1)** The applicant and any person who, under this section, has given notice of an address for the service of notices on the applicant or other person must give notice in writing to the primary thoroughfare body corporate of an address or change of address for the service of notices on the applicant or other person.

Maximum penalty—4 penalty units.

**(2)** After delivery to a transferee of any land within the site (excluding land within the residential precincts) of an instrument or instruments of transfer in the name of the transferee duly executed and capable of immediate registration, the transferor shall give to the primary thoroughfare body corporate written notice which shall identify the land and—

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- (a) specify the name of the transferee in full, the address for the service of notices on the transferee, the address for the service of notices on the transferor and the date upon which the instrument was or instruments were so delivered; and
- (b) bear written confirmation by the transferee of the accuracy of the information contained in the notice.

(3) Where a transferor of any land fails to comply with subsection (2), the transferee of that land may give to the primary thoroughfare body corporate written notice which shall identify the land and specify the transferee's name in full, address for service of notices and the date upon which the instrument was or instruments were delivered to the transferee.

(4) After a person becomes, otherwise than as a transferee, the proprietor of land within the site (excluding land within the residential precincts) the person shall give to the primary thoroughfare body corporate written notice, in the form of a statutory declaration, which shall identify the lot and specify—

- (a) by what right the person became entitled to the land; and
- (b) the person's name, in full, the address for the service of notices on the person and the date upon which the person became entitled to the land.

(5) Where—

- (a) the primary thoroughfare body corporate believes that a person may, under this section, give a notice to it; and
- (b) the primary thoroughfare body corporate has not received that notice;

the primary thoroughfare body corporate may serve a notice on that person specifying the capacity in which it believes the person is entitled to give the notice and requiring the person—

- (c) to state, within 14 days, whether or not the person is a person entitled to give a notice in that capacity; and
- (d) if the person is such a person, to give that notice.

(6) Where the primary thoroughfare body corporate has served a notice under subsection (5) on a person whom it believes to be a person entitled to give a notice to the primary thoroughfare body corporate under this section

that person is not entitled to cast a vote at any meeting of the primary thoroughfare body corporate until the person gives the required notice.

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

(8) A notice referred to in subsection (7) may be included in any other notice that the member of the primary thoroughfare body corporate to which it relates is entitled under this section to give to the primary thoroughfare body corporate.

### **Supply of information, certificates and copies by primary thoroughfare body corporate**

**119.(1)** The primary thoroughfare body corporate shall, upon application made to it in writing by a member of the primary thoroughfare body corporate, by a member of the principal body corporate or by a proprietor of any lot on a group titles plan or building units plan or by a person authorised in writing by such member or proprietor and on payment of such sum as the primary thoroughfare body corporate may fix by resolution but not exceeding the reasonable cost to the primary thoroughfare body corporate, do such 1 or more of the following things as are required of it in the application—

- (a) inform the applicant of the name and address of each person who is the chairperson, secretary or treasurer of the primary thoroughfare body corporate or a member of the executive committee;
- (b) make available for inspection by the applicant or the applicant's agent—
  - (i) the primary thoroughfare body corporate roll;
  - (ii) the notices and orders referred to in section 116(1)(d);
  - (iii) the plans, specifications, drawings showing water pipes, electric cables or drainage, certificates, diagrams and other documents held by it relating to the primary thoroughfare;

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- (iv) the minutes of general meetings of the primal thoroughfare body corporate and of the executive committee;
  - (v) the books of account of the primary thoroughfare body corporate;
  - (vi) a copy of the statement of accounts of the primary thoroughfare body corporate last prepared by the primary thoroughfare body corporate in accordance with section 116(1)(f);
  - (vii) every current policy of insurance effected by the primary thoroughfare body corporate and the receipt for the premium last paid. in respect of each such policy;
  - (viii) any other record or document in the custody or under the control of the primary thoroughfare body corporate;
  - (ix) the primary thoroughfare by-laws for the time being in force; at such time and place as may be agreed upon by the applicant or the applicant's agent and the primary thoroughfare body corporate and, failing agreement, at the office of the primary thoroughfare body corporate at a time and on a date fixed by the primary thoroughfare body corporate under subsection (2);
- (c) certify, as at the date of the certificate, in respect of any land in respect of which the application is made—
- (i) the amount of any regular periodic contributions determined by the primary thoroughfare body corporate under section 116(1)(h) and (4) and the periods in respect of which those contributions are payable; and
  - (ii) whether there is any amount unpaid of any contribution determined under section 116(1)(h) and, if so, the amount thereof; and
  - (iii) whether there is any amount unpaid of any contribution levied under section 116(1)(l) and, if so, the amount thereof and the date on which it was levied; and
  - (iv) whether there is any amount unpaid of any contribution levied under section 131 and, if so, the amount thereof and the date on which it was levied; and



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- (v) the amount (if any) determined under section 116(2) in respect of any unpaid contribution referred to in this paragraph; or
- (d) furnish to the applicant or the applicant's agent a copy of the primary thoroughfare by-laws for the time being in force or any part thereof within a period of 21 days commencing on the day next after the date on which the application is received by the primary thoroughfare body corporate.

(2) Where an applicant and the primary thoroughfare body corporate fail to reach an agreement referred to in subsection (1)(b) within 3 days after the receipt of the application by the primary thoroughfare body corporate, the primary thoroughfare body corporate shall forthwith send by post to the applicant a notice fixing a time, specified in the notice, between 9 a.m. and 8 p.m. on a date so specified, being a date not later than 10 days after the receipt of the application by the primary thoroughfare body corporate for the making of the inspection referred to in subsection (1)(b).

(3) The primary thoroughfare body corporate shall permit any person to whom the primary thoroughfare by-laws are made available for inspection to make copies of or take extracts from those by-laws.

**Insurance by primary thoroughfare body corporate**

**120.(1)** The primary thoroughfare body corporate shall effect insurance—

- (a) in respect of any occurrence against which it is required by law to insure, including any insurance required to be effected because of the *WorkCover Queensland Act 1996*; and
- (b) in respect of damage to property, death or bodily injury happening on or in relation to—
  - (i) the primary thoroughfare; or
  - (ii) a road closed in strata leased under section 114(1); or
  - (iii) a wharf leased under section 114(1); or
  - (iv) land leased under section 114(2) and any improvements on the land;

or the consequences resulting from such damage; and

- (c) against the possibility of the members becoming jointly liable by reason of a claim arising in respect of any other occurrence against which the primary thoroughfare body corporate, pursuant to a special resolution, decides to insure.

(2) Insurance effected pursuant to subsection (1)(b) shall be for a cover of the amount prescribed by regulation or, if not prescribed, \$5 000 000.

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

### **Power for individuals to act for corporate members**

**121.(1)** A body corporate (including the principal body corporate) may authorise an individual to exercise or perform on its behalf any power, authority, duty or function conferred by or under this Act on the body corporate as member of the primary thoroughfare body corporate and may revoke the authority of an individual so authorised.

(2) Where an individual exercises or performs a power, authority, duty or function that the individual is, by a member of the primary thoroughfare body corporate, authorised pursuant to subsection (1) to exercise or perform, the power, authority, duty or function shall be deemed to be exercised or performed by the member.

(3) Nothing in subsection (1) or (2) affects any liability or obligation imposed by or under this Act on a body corporate which is a member.

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

### **Voting rights**

**122.(1)** Any powers of voting conferred by or under this division may be exercised—

- (a) in the case of a member who is an infant—by the infant's guardian;

- (b) in the case of a member who is for any reason unable to control the member's property—by the person who for the time being is authorised by law to control that property;
- (c) in the case of a member which is a body corporate—by the person nominated pursuant to section 121 by that member.

(2) Where the Supreme Court upon the application of the primary thoroughfare body corporate or of any member is satisfied that there is no person able to vote in respect of any voting entitlement or that the person able to vote cannot be found, the Court in its discretion may appoint the Public Trustee or some other fit and proper person for the purpose of exercising such powers of voting under this division as the Court shall determine.

(3) The Court may order service of notice of an application under subsection (2) on such persons as it thinks fit or may dispense with service of such notice.

(4) On making an appointment under subsection (2) the Court may make such order as it thinks necessary or expedient to give effect to the appointment including an order as to the payment of costs of the application, and may vary an order so made.

(5) The powers of the Court under this section may be exercised by the registrar in the first instance, who may refer the application to a judge and who shall so refer it at the request of the applicant or any respondent.

(6) In this section—

“**registrar**” means the registrar of the Supreme Court at Brisbane, Rockhampton or Townsville, as the case may be, and includes a deputy registrar.

### **Constitution of executive committee**

**123.(1)** After the first annual general meeting of the primary thoroughfare body corporate, there shall be an executive committee consisting of a chairperson, secretary and treasurer and such other members as may be elected or appointed pursuant to this section.

(2) The chairperson, secretary and treasurer of the primary thoroughfare body corporate shall be members of, and be also respectively the

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chairperson, secretary and treasurer of, the executive committee.

(3) However, a person may be elected to 1 or more of those offices.

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

(5) Where there are more than 3 members of the primary thoroughfare body corporate, the executive committee shall consist of such number of persons, being not less than 3 nor more than the number of members of the primary thoroughfare body corporate or 7, whichever is the less, as is determined by the primary thoroughfare body corporate.

(6) The members of an executive committee referred to in subsection (5) (if any) and the chairperson, secretary and treasurer shall be elected at each annual general meeting of the primary thoroughfare body corporate or, if the number of members of the primary thoroughfare body corporate increases to more than 3, at an extraordinary general meeting convened for the purpose.

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

- (a) an individual who is a member of the primary thoroughfare body corporate; or
- (b) a nominee of a body corporate which is a member of the primary thoroughfare body corporate; or
- (c) an individual who is not a member of the primary thoroughfare body corporate but who is nominated for election by such a member.

(8) Notwithstanding the provisions of this section, the primary thoroughfare body corporate may determine that the holder of the office of secretary or treasurer of the primary thoroughfare body corporate shall not be a member of the executive committee whereupon, upon election to that office a person shall be the secretary or, as the case may be, treasurer of the primary thoroughfare body corporate and of the executive committee but shall not be a member of the executive committee.

(9) A member of the executive committee may, with the consent of the executive committee, appoint a member of the primary thoroughfare body corporate or nominee of a body corporate which is a member of the primary thoroughfare body corporate to act in the member's place as a member of the executive committee at any meeting of the executive committee and any member or nominee so appointed shall, when the member or nominee is so acting, be deemed to be a member of the executive committee.

(10) A member of the primary thoroughfare body corporate or a nominee of a body corporate may be appointed under subsection (9) whether or not the member is a member of the executive committee.

(11) If a person appointed under subsection (9) is a member of the executive committee the person may, at any meeting of the executive committee, separately vote in the person's capacity as such a member and on behalf of the member in whose place the person has been appointed to act.

(12) Notwithstanding any other provision of this section, the executive committee may be constituted before the first annual general meeting of the primary thoroughfare body corporate.

(13) The members of the executive committee constituted under subsection (12) (if any) and the chairperson, secretary and treasurer of the primary thoroughfare body corporate shall be elected at a general meeting of the primary thoroughfare body corporate and the provisions of subsection (7) and such of the provisions of schedule 2, part 1 of the *Building Units and Group Titles Act 1980* in force at the commencement of this Act as applied by section 106 as they relate to the election of the chairperson, secretary and treasurer of the primary thoroughfare body corporate and of members of the executive committee apply to and in respect of the election of the chairperson, secretary and treasurer and of those members of the executive committee to be so constituted.

(14) Schedule 2, part 2 of the *Building Units and Group Titles Act 1980* other than section 16(1) as applied by section 106 does not apply to or in respect of the election of the chairperson, secretary and treasurer of the primary thoroughfare body corporate and the members of the executive committee to be constituted under subsection (12).

(15) The provisions of this division (other than subsections (1) to (6)) apply to and in respect of an executive committee constituted under subsection (12) and the members thereof.

(16) Where there is no executive committee, the primary thoroughfare body corporate shall exercise and perform the powers, authorities, duties and functions of the executive committee.

### **Vacation of office of member of executive committee**

**124.(1)** A person elected as chairperson, secretary or treasurer of the primary thoroughfare body corporate or as a member of the executive committee vacates the person's office—

- (a) if, where the person was a member of the primary thoroughfare body corporate at the time of the person's election, the person ceases to be a member of the primary thoroughfare body corporate; or
- (b) upon the receipt by the primary thoroughfare body corporate from the person of notice in writing of the person's resignation; or
- (c) upon the election at a general meeting of the primary thoroughfare body corporate of another person to that office or as a member of the executive committee; or
- (d) where the person is a member referred to in section 123(4) and the number of members of the primary thoroughfare body corporate increases to more than 3—upon the election of the chairperson, secretary and treasurer of the primary thoroughfare body corporate and the other members of the executive committee at the annual general meeting, or the extraordinary general meeting referred to in section 123(6); or
- (e) if the person is absent without prior leave granted by the executive committee from 3 consecutive meetings of the executive committee of which due notice has been given to the person; or
- (f) if the person becomes bankrupt or compounds with the person's creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
- (g) if the person is convicted in Queensland of an indictable offence

or, elsewhere than in Queensland, is convicted of an offence which would be an indictable offence if committed in Queensland; or

- (h) if the person dies or becomes a patient within the meaning of the *Mental Health Act 1974*; or
- (i) if the primary thoroughfare body corporate, pursuant to a special resolution, determines that the person's office is vacated.

(2) Upon the occurrence of a vacancy in the office of chairperson, secretary or treasurer of the primary thoroughfare body corporate or another member of the executive committee, otherwise than by reason of the operation of subsection (1)(d) or (e), the primary thoroughfare body corporate shall appoint a person eligible for election as such to fill the vacancy, and a person so appointed shall, subject to this section, hold office for the balance of the person's predecessor's term of office.

### **Chairperson, secretary and treasurer of executive committee**

**125.(1)** The chairperson shall preside at all meetings of the executive committee at which the chairperson is present and, if the chairperson is absent from any meeting, the members of the executive present at that meeting shall appoint one of their number to preside at that meeting during the absence of the chairperson.

(2) A person shall not exercise or perform any of the powers, authorities, duties, or functions of the primary thoroughfare body corporate or of the treasurer of the primary thoroughfare body corporate, being powers, authorities, duties or functions relating to the receipt or expenditure of, or accounting for, moneys, or the keeping of the books of account, of the primary thoroughfare body corporate, unless the person is—

- (a) the treasurer of the primary thoroughfare body corporate; or
- (b) a person with whom the treasurer of the primary thoroughfare body corporate is required by an order of the executive committee to exercise or perform jointly that power, authority, duty or function, or who is enabling the treasurer to comply with the order.

Maximum penalty—50 penalty units.

(3) The treasurer of the primary thoroughfare body corporate may delegate the exercise or performance of any of the treasurer's powers (other than this power of delegation), authorities, duties or functions as treasurer, the delegation of which is specifically approved by the executive committee, to another member of the executive committee so approved, subject to such limitations as to time or otherwise as are so approved and, while a delegate is acting in accordance with the terms of a delegation under this subsection, the delegate shall be deemed to be the treasurer of the primary thoroughfare body corporate.

(4) The executive committee may, by a notice in writing, served on the treasurer of the primary thoroughfare body corporate, order that the treasurer shall not exercise or perform any of the treasurer's powers, authorities, duties or functions that are specified in the notice, unless the treasurer does so jointly with another person so specified.

(5) A person who has possession or control of—

- (a) any records, books of account or keys belonging to the primary thoroughfare body corporate; or
- (b) the primary thoroughfare body corporate roll; or
- (c) any other property of the primary thoroughfare body corporate;

shall, within 7 days after service on the person of notice of a resolution of the executive committee requiring the person to do so, deliver those records, books of account and keys and that roll and other property to a member of the executive committee specified in the notice.

Maximum penalty for subsection (5)—20 penalty units.

### **Meetings of executive committee**

**126.(1)** At a meeting of the executive committee more than half of the members of the executive committee constitutes a quorum.

(2) Subject to this Act, the decision on any matter of the majority of the members voting on that matter shall be the decision of the executive committee at any meeting at which a quorum is present.

(3) A decision of the executive committee has no force or effect if, before that decision is made, notice in writing is given to the secretary of the executive committee by not less than half of the total number of members



of the primary thoroughfare body corporate, the sum of whose voting entitlements exceed half of the aggregate of all voting entitlements recorded in the primary thoroughfare body corporate roll, that the making of the decision is opposed by those members.

(4) The executive committee shall cause to be kept a record of its decisions, of any notices given to its secretary under subsection (3) and full and accurate minutes of its meetings.

### **Executive committee's decisions to be decisions of primary thoroughfare body corporate**

**127.(1)** In this section—

**“restricted matter”** means—

- (a) any matter relating to the striking of a special monetary levy on all members of the primary thoroughfare body corporate; and
- (b) any matter which seeks to alter the rights, privileges or obligations of members of the primary thoroughfare body corporate; and
- (c) any matter which seeks to alter the annual monetary contribution of members of the primary thoroughfare body corporate; and
- (d) any matter a decision on which may, in accordance with any provision of this Act, only be made by the primary thoroughfare body corporate pursuant to a special resolution or in general meeting of the primary thoroughfare body corporate; and
- (e) any matter referred to in section 129 and specified in a resolution of the primary thoroughfare body corporate passed for the purposes of that section.

(2) Subject to this Act, the decision of the executive committee on any matter, other than a restricted matter, shall be the decision of the primary thoroughfare body corporate.

(3) Notwithstanding that the executive committee holds office, the primary thoroughfare body corporate may in general meeting continue to exercise or perform all or any of the powers, authorities, duties and functions conferred or imposed on the body corporate by this Act.

**Statutory restrictions on powers of executive committee**

**128.(1)** Unless—

- (a) otherwise determined pursuant to a special resolution of the primary thoroughfare body corporate; or
- (b) authorised by the Minister in an emergency; or
- (c) consented to by such persons entitled to vote at a general meeting of the primary thoroughfare body corporate who represent an aggregate voting entitlement of not less than 75% of the aggregate of all voting entitlements recorded in the primary thoroughfare body corporate roll;

the executive committee shall not undertake expenditure.

**(2)** In respect of any proposed expenditure which, under subsection (1), the executive committee is not entitled to undertake, the executive committee shall—

- (a) submit the proposal for determination at an extraordinary general meeting of the primary thoroughfare body corporate convened for the purpose of, or for purposes which include, consideration of the proposal; and
- (b) if the proposed expenditure is in respect of work to be performed or the purchase of personal property submit at least 2 tenders to that meeting with the proposal.

**(3)** Subsection (1) does not apply to the expenditure of moneys—

- (a) in payment of any premium of insurance effected by or on behalf of the primary thoroughfare body corporate; or
- (b) to comply with a notice or order served on the primary thoroughfare body corporate by any public authority or local government; or
- (c) in discharge of any liability incurred in respect of an obligation of the primary thoroughfare body corporate authorised by the primary thoroughfare body corporate in general meeting.

**Restrictions imposed on executive committee by primary thoroughfare body corporate**

**129.** The primary thoroughfare body corporate may in general meeting decide what matters or class of matters (if any) shall be determined only by the primary thoroughfare body corporate in general meeting.

**Primary thoroughfare body corporate manager**

**130.(1)** Subject to subsection (3), the primary thoroughfare body corporate may in general meeting and by instrument appoint a body corporate manager on such terms and conditions the primary thoroughfare body corporate determines.

**(2)** The primary thoroughfare body corporate may delegate all or any of its powers to the body corporate manager.

**(3)** The primary thoroughfare body corporate must not delegate to the body corporate manager its power to make—

- (a) a delegation mentioned in subsection (2); or
- (b) a decision on a restricted matter within the meaning of section 127.

**(4)** If the instrument of appointment provides, a body corporate manager may exercise all or any of the powers of the chairperson, secretary or treasurer of the primary thoroughfare body corporate and the executive committee.

**(5)** The primary thoroughfare body corporate must not, within 3 years of its incorporation, appoint a body corporate manager for a term of more than 3 years.

**(6)** Nothing in this section prevents the reappointment of a body corporate manager after the term of appointment has expired.

**Costs in proceedings by members against primary thoroughfare body corporate**

**131.(1)** In any proceedings brought by any member against the primary thoroughfare body corporate, the court before which the proceedings are brought may order that any moneys (including costs) payable by the

primary thoroughfare body corporate pursuant to an order of the court made in those proceedings shall be paid, only in respect of such members as are specified in the order and in such proportions as may be so specified, by the primary thoroughfare body corporate out of contributions levied for the purpose.

(2) Where a court makes an order under subsection (1) the primary thoroughfare body corporate shall, for the purpose of paying the moneys ordered to be paid by it, levy contributions in accordance with the terms of the order and shall pay the moneys out of the contributions paid pursuant to that levy.

(3) The provisions of section 109 with such modifications as may be necessary apply to and in respect of contributions levied under subsection (2) in the same way as those provisions apply to contributions levied under that section.

### **Service of documents on primary thoroughfare body corporate, members and others**

**132.(1)** A summons or other legal process may be served on the primary thoroughfare body corporate by leaving it with the chairperson or secretary of the primary thoroughfare body corporate or with any member of the executive committee.

(2) A document other than a document referred to in subsection (1) may be served on the primary thoroughfare body corporate—

- (a) by leaving it with any person referred to in subsection (1); or
- (b) by post on the primary thoroughfare body corporate at its last address notified in the gazette.

(3) Subject to this Act, a notice or other document required or authorised by this Act to be served by the primary thoroughfare body corporate, the executive committee or the secretary of the executive committee or a member or proprietor, lessee or occupier of land or of a lot may be served—

- (a) by leaving it with some person apparently of or above the age of 16 years—

- (i) where the person to be served is an occupier of land or a lot—at the land or lot; or
  - (ii) where an address for the service of notices on the person to be served is recorded in the primary thoroughfare body corporate roll—at the address so recorded; or
- (b) by post on the person to be served, where an address for the service of notices on that person is recorded in the primary thoroughfare body corporate roll, at the address so recorded; or
- (c) in the case of a member—in any manner authorised by the primary thoroughfare by-laws for the service of notices on members.
- (4) Notice under section 125(5) may be served on a person—
- (a) personally or by post; or
  - (b) by leaving it with a person apparently of or above the age of 16 years at the place of residence or place of business of the first mentioned person.

### **Power of primary thoroughfare body corporate to convene community meetings**

**133.(1)** The primary thoroughfare body corporate may, at the request of any proprietor or occupier of land or of a lot within the site, convene a meeting in respect of any matter of interest to proprietors or occupiers of land or lots within the site.

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

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

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

***Division 2—Increase in membership of primary thoroughfare body corporate***

**Effect of subdivision in subsequent stage**

**134.(1)** On registration of the initial plan or plans of subdivision in a subsequent stage mentioned in part 3—

- (a) the proprietor or proprietors of land within the subsequent stage (excluding land within each residential precinct and land comprising the primary thoroughfare); and
- (b) if a new principal body corporate is created in relation to the subsequent stage—the body corporate;

become additional members of the primary thoroughfare body corporate for the site.

(2) Until the incorporation of the principal body corporate, the proprietors of the land within the residential precincts are members of the primary thoroughfare body corporate instead of the principal body corporate.

(3) If the proprietors of lots within a subsequent stage become additional members of an expanded principal body corporate, the body corporate continues as a member of the primary thoroughfare body corporate.

(4) For the purposes of this division and part 8, division 1 on registration of the initial plan or plans of subdivision in a subsequent stage, the site comprises that stage and any earlier stage.

**Meeting of primary thoroughfare body corporate**

**135.(1)** The primary thoroughfare body corporate must, within 3 months of registration of the initial plan or plans of subdivision in a subsequent stage, convene and hold a meeting of the primary thoroughfare body corporate.

(2) Except to the extent that it is inconsistent with this division, section 106 applies to the meeting mentioned in subsection (1) as if it were the first annual general meeting.

(3) For the purposes of setting the date for subsequent annual general meetings after the meeting mentioned in subsection (1), the meeting is taken to be the first annual general meeting.

### **Levies and funds**

**136.(1)** The primary thoroughfare body corporate must, within 14 days after registration of the initial plan or plans of subdivision in a subsequent stage, determine the amounts mentioned in section 116(1)(h).

(2) The fund of the primary thoroughfare body corporate existing at the time of registration of the initial plan or plans of subdivision in a subsequent stage, continues in existence.

### **Application of other division**

**137.** Except where inconsistent with this division, part 8, division 1 applies in relation to the primary thoroughfare body corporate after the registration of the initial plan or plans of subdivision in a subsequent stage.

## ***Division 3—Principal body corporate***

### **Interpretation**

**138.** In this division—

**“executive committee”** means the executive committee of the principal body corporate constituted under this division.

**“initial lot”** means an initial lot within a residential precinct.

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

**“principal body corporate roll”** means the roll referred to in section 152 to be maintained by the principal body corporate.

**“proprietor”**, in relation to an initial lot or a secondary lot, means the person for the time being registered, or entitled to be registered, under the *Land Title Act 1994* as the owner of the land; and

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

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

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

**“special resolution”** means a resolution which is passed at a duly convened general meeting of the principal body corporate by the members whose lots (whether initial lots, secondary lots, group title lots or building unit lots) have an aggregate lot entitlement of not less than 75% of the aggregate of all lot entitlements recorded in the principal body corporate roll.

### **Principal body corporate**

**139.(1)** Upon registration of the first plan of subdivision creating a lot or lots within a residential precinct, the proprietor or proprietors of all the land within the residential precincts shall by virtue of this Act be a body corporate under the name ‘(insert name of development specified in the approval of the scheme) Principal Body Corporate’.

**(2)** When an initial lot is subdivided into secondary lots (whether or not lots for secondary thoroughfares are thereby created), the proprietor of the initial lot shall cease to be a member of the principal body corporate and the proprietor or proprietors of the secondary lots shall become a member or, as the case may be, members of the principal body corporate.

**(3)** When a secondary lot is subdivided by way of a group titles plan or a building units plan, the proprietor of the secondary lot—

(a) shall give notice in writing to the principal body corporate of the



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name and address for service of notices of the body corporate incorporated by the registration of that plan; and

- (b) shall cease to be a member of the principal body corporate in so far as the proprietor was a member by virtue of being proprietor of that secondary lot;

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

(4) Subdivision or resubdivision of a lot or of a lot and common property on a group titles plan by way of a building units plan or a group titles plan does not affect the membership of the principal body corporate.

(5) The Corporations Law does not apply to or in respect of the principal body corporate.

(6) Subject to this Act, the principal body corporate shall have the powers, authorities, duties and functions conferred or imposed on it by or under this Act or the development control by-laws and shall do all things reasonably necessary for the enforcement of the development control by-laws, the secondary thoroughfare by-laws and the control, management and administration of the secondary thoroughfares.

(7) The principal body corporate shall have perpetual succession and a common seal and shall be capable of suing and being sued in its corporate name and shall be regulated in accordance with the principal body corporate by-laws (if any) for the time being in force.

(8) The principal body corporate may—

- (a) sue and be sued on any contract made by it;
- (b) sue for and in respect of any damage or injury to the secondary thoroughfares caused by any person;
- (c) be sued in respect of any matter connected with the secondary thoroughfares for which as proprietor it is so liable;
- (d) take such legal action as may be necessary to enforce the development control by-laws and the secondary thoroughfare by-laws.

(9) In any case in which work is carried out for the purpose of constructing or preparing a secondary thoroughfare, upon registration of the initial plan or plans of subdivision, the principal body corporate shall be

deemed to have been a party to an enforceable contract for the carrying out of such work, and may sue in respect of that contract.

(10) Nothing in subsection (9) shall relieve the applicant from the applicant's obligation to pay for the initial construction of secondary thoroughfares to the standard prescribed pursuant to section 89.

### **Member's nominee**

**140.(1)** A member of the principal body corporate—

- (a) being a body corporate created by the registration of a building units plan or a group titles plan—shall at its annual general meeting and may from time to time thereafter;
- (b) in any other case—may from time to time;

appoint a person to represent the member and to vote on behalf of the member at meetings of the principal body corporate.

(2) The appointment of a person pursuant to subsection (1) shall not be effective until notification in writing signed by the member or, in a case referred to in subsection (1)(a), by the chairperson and secretary of the body corporate is received by the secretary of the principal body corporate.

(3) The appointment of a person to represent a member of the principal body corporate at meetings of the principal body corporate shall continue until—

- (a) notice of the appointment of another person to represent that member; or
- (b) notice of the cancellation of the person's appointment;

is received by the secretary of the principal body corporate.

### **Seal of principal body corporate**

**141.(1)** The common seal of the principal body corporate shall be kept—

- (a) where the principal body corporate is constituted by the applicant alone—by the applicant;
- (b) where the principal body corporate is constituted by 2 or more members—by such member of the principal body corporate or

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member of the executive committee as the principal body corporate determines or, in the absence of any such determination, by the secretary of the executive committee.

(2) The common seal of the principal body corporate shall only be affixed to an instrument or document in the presence of—

- (a) where the principal body corporate is constituted by 1 or 2 members—that member or those members, as the case may be; or
- (b) where the principal body corporate is constituted by more than 2 members—such 2 persons, being members of the principal body corporate or members of the executive committee, as the principal body corporate determines or, in the absence of any such determination, the secretary and any other member of the executive committee;

who shall attest the fact and date of the affixing of the seal by their signatures.

(3) However, where a member is a body corporate, the common seal affixed in the presence of a person nominated in writing by the body corporate for that purpose and attested by that person as provided in subsection (2) shall be deemed to have been duly affixed in the presence of that body corporate.

**Address of principal body corporate**

**142.** The address of the principal body corporate for the service of notices on it shall upon its incorporation pursuant to section 139 be the address of the applicant for service of notices on the applicant.

**Meetings of principal body corporate**

**143.(1)** Within 3 months after the incorporation of the principal body corporate, the applicant shall, in the prescribed manner, convene a meeting of the principal body corporate to be held within that period.

Maximum penalty—50 penalty units.

(2) The agenda for a meeting convened under subsection (1) shall consist of the following items—

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- (a) to decide whether insurances effected by the principal body corporate should be confirmed, varied or extended;
- (b) to decide whether any amounts determined under section 151(1)(h) or (2) should be confirmed or varied;
- (c) where there are more than 3 members of the principal body corporate—to determine the number of members of the executive committee;
- (d) to elect the chairperson, secretary and treasurer of the principal body corporate and other members of the executive committee;
- (e) to decide whether to make by-laws regulating, controlling or prohibiting the passage through and conduct and activities of persons on or within all or part of the secondary thoroughfares;
- (f) to decide whether to make development control by-laws.

**(3)** The meeting convened under subsection (1) shall be the first annual general meeting of the principal body corporate and at such meeting a chairperson, secretary and treasurer shall be elected.

**(4)** However, a person may be elected to 1 or more of those offices.

**(5)** The applicant shall not fail or neglect to deliver to the principal body corporate at its first annual general meeting—

- (a) all plans, specifications, drawings showing water pipes, electric cables and drainage, certificates (other than certificates of title for lots), diagrams and other documents (including policies of insurance) obtained or received by the applicant and relating to the secondary thoroughfare;
- (b) if they are in the applicant's possession or under the applicant's control, the principal body corporate roll, books of account and any notices or other records relating to the secondary thoroughfare;
- (c) the budget showing the estimated expenditure of the principal body corporate in relation to the secondary thoroughfare on an annual basis;

other than documents which exclusively evidence rights or obligations of the applicant and which are not capable of being used for the benefit of the principal body corporate or any of the members of the principal body

corporate, other than the applicant.

Maximum penalty—50 penalty units.

(6) Schedule 2, part 1 of the *Building Units and Group Titles Act 1980* in force at the commencement of this Act applies to and in respect of the first annual general meeting of the principal body corporate and voting at that meeting and schedule 2, part 2 of that Act in force at the commencement of this Act applies to and in respect of meetings of the principal body corporate, other than the first annual general meeting, and voting at those meetings.

(7) However, the provisions in those schedules relating to the rights and obligations of mortgagees and mortgagors shall not apply.

(8) The provisions of the schedules referred to in subsection (6) shall, for the purposes of subsection (6), be read and construed as if—

- (a) references therein to ‘aggregate lot entitlement’ were references to the total of the initial lot entitlements of the initial lots which have not been subdivided into secondary lots and the secondary lot entitlements of the secondary lots;
- (b) references therein to ‘body corporate’ were references to principal body corporate;
- (c) references therein to ‘by-laws’ were references to principal body corporate by-laws or development control by-laws;
- (d) references therein to ‘council’ were references to executive committee;
- (e) references therein to a ‘lot’ were references to an initial lot or a secondary lot;
- (f) references therein to ‘lot entitlement’ were references—
  - (i) in the case where a ‘lot’ is an initial lot—to the initial lot entitlement of that lot;
  - (ii) in the case where a ‘lot’ is a secondary lot—to the secondary lot entitlement of that lot;
- (g) references therein to the ‘original proprietor’ were references to the applicant;
- (h) references therein to a ‘proprietor’ were references to a proprietor

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within the meaning of this division;

- (i) references therein to the 'roll' were references to the principal body corporate roll;
- (j) references to particular provisions of the *Building Units and Group Titles Act 1980* (other than the provisions in those schedules) were references to corresponding provisions of this Act.

**(9)** When an expression is substituted for an expression used in the *Building Units and Group Titles Act 1980* and referred to in subsection (8), the substituted expression shall, for the purposes of subsection (8), be read and construed in the same manner as the expression for which it is substituted is required to be read and construed.

**(10)** If a meeting of the principal body corporate is not convened in accordance with subsection (1), the Minister may, pursuant to an application by the principal body corporate or any member of the principal body corporate, appoint by order a person to convene a meeting of the principal body corporate within such time as may be specified in the order and the meeting convened by that person shall, for the purposes of subsection (3), be deemed to be the meeting convened under subsection (1).

**(11)** At any time after the meeting convened under subsection (1) has been held, the Minister may, pursuant to an application made to the Minister by a member of the principal body corporate, appoint by order a person, nominated by the member, who has consented to that nomination, if there is not an executive committee, to convene a meeting of the principal body corporate within such time as may be specified in the order and a meeting so convened shall, for the purpose of the election of the chairperson, secretary and treasurer of the principal body corporate and the other members of the executive committee, be deemed to be a first annual general meeting of the principal body corporate.

**(12)** An order made under subsection (10) or (11) may include such ancillary or consequential provisions as the Minister thinks fit.

**(13)** Notwithstanding subsections (6) to (9), where an order made under subsection (10) or (11) so provides—

- (a) the person appointed to convene a meeting of the principal body corporate by the order shall preside at the meeting and, while the

person so presides, shall be deemed to be the chairperson of the principal body corporate; and

- (b) notice of that meeting may be given in the manner specified in the order.

(14) Notwithstanding that an order has been made under subsection (10) or that a meeting has been convened pursuant to any such order, the applicant remains liable to the penalty provided by subsection (1) for any failure to comply with that subsection.

### **Change of annual general meeting**

**144.(1)** The principal body corporate may apply in writing to the Minister for approval to change the date of its next annual general meeting.

(2) The principal body corporate may apply to the Minister to change the date of its next annual general meeting only if—

- (a) the change of date proposed has been set out in a motion given to its members; and
- (b) the motion for the proposed change of date has been carried by ordinary resolution of the body corporate.

(3) The application to the Minister must be accompanied by—

- (a) a copy of the motion; and
- (b) evidence that it has been carried by ordinary resolution.

(4) The Minister may approve or refuse the application and must advise the principal body corporate in writing of the approval or refusal.

(5) If the application is approved, the new date of the annual general meeting is taken to be the anniversary of the first annual general meeting of the principal body corporate.

### **Levies by principal body corporate on members**

**145.(1)** The principal body corporate may levy the contributions determined by it in accordance with section 151(1)(h) and the amount (if any) determined pursuant to section 151(2) in respect thereof by serving on its members notice in writing of the contributions payable by them.

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(2) Contributions levied by the principal body corporate shall be levied in respect of—

- (a) each initial lot which has not been subdivided into secondary lots; and
- (b) each secondary lot;

and shall be payable, subject to this section, by the proprietors of those initial lots and secondary lots in shares proportional to the initial lot entitlements or, as the case may be, secondary lot entitlements of their respective lots.

(3) In respect of a contribution levied under subsection (1), a proprietor of an initial lot or a secondary lot is liable, jointly and severally with any person who was liable to pay that contribution when that proprietor became the proprietor of that initial lot or, as the case may be, that secondary lot, to pay such part of that contribution as was unpaid when the person became the proprietor of that lot.

(4) A contribution levied in respect of an initial lot or a secondary lot under this section—

- (a) becomes due and payable to the principal body corporate in accordance with the decision of the principal body corporate to make the levy; and
- (b) if paid within 30 days after the date when it becomes due and payable shall be reduced by that part of the contribution attributable to the amount determined pursuant to section 151(2) (if any); and
- (c) may be recovered, as a debt, by the principal body corporate in any court of competent jurisdiction.

(5) Nothing in this section shall be construed to prevent the principal body corporate, in general meeting, either generally or in a particular case, determining that a contribution may be reduced as provided in subsection (4)(b) notwithstanding that the contribution is not paid as prescribed in that subsection.



**Change of principal body corporate's address**

**146.(1)** The principal body corporate may, in general meeting, decide that the address for the service of notices on the principal body corporate shall be changed.

**(2)** Upon giving notice in writing to the Minister and notification by the Minister in the gazette of the change of address, the address for service of notices on the principal body corporate shall, notwithstanding any other provision of this Act, be the address so notified.

**Power of entry**

**147.(1)** For the purpose of carrying out—

- (a) any work required to be carried out by the principal body corporate by a notice served on it by a public authority or local government; or
- (b) any work referred to in section 151(1)(b);

the principal body corporate may, by its agents, servants or contractors, enter upon any part of the secondary thoroughfare for the purpose of carrying out the work—

- (c) in the case of an emergency—at any time; or
- (d) in any other case—at any reasonable time on notice given to any occupier of a lot likely to be affected thereby.

**(2)** For the purposes of subsection (1)(d), an occupier of a lot, being a lot on a group titles plan or a building units plan, shall be taken to have been given notice if the notice is duly given to the body corporate incorporated by the registration of that plan.

**(3)** A person shall not obstruct or hinder the principal body corporate in the exercise of its power under subsection (1).

Maximum penalty for subsection (3)—50 penalty units.

**Miscellaneous powers of principal body corporate**

**148.** The principal body corporate may—

- (a) invest any moneys held by it in any manner permitted by law for

- the investment of trust funds or in any prescribed investment;
- (b) borrow moneys and secure the repayment thereof and of any interest in such manner as may be agreed upon by the principal body corporate and the lender;
  - (c) enter into an agreement for the provision of amenities or services by it or any other person to any lot or to the proprietor or occupier thereof or to any parcel comprised in a building units plan or a group titles plan;
  - (d) acquire and hold any personal property to facilitate the carrying out of its duties.

### **Leases to principal body corporate**

**149.(1)** For the purposes of providing access to the secondary thoroughfare, the principal body corporate may take a lease of—

- (a) a road closed in strata that joins, or is to join, the secondary thoroughfare; or
- (b) a wharf that joins, or is to join, the secondary thoroughfare.

**(2)** The principal body corporate may take a lease of land for any other purpose prescribed by regulation.

### **Community facilities on secondary thoroughfare**

**150.(1)** A principal body corporate may develop or construct facilities, for the use of persons who lawfully occupy land within a residential precinct, on—

- (a) the secondary thoroughfare; or
- (b) land leased by the principal body corporate under section 149.

**(2)** The development or construction must not start until authorised by the principal body corporate by a special resolution.

**(3)** The principal body corporate must maintain the facilities.

**Duties of principal body corporate**

**151.(1)** The principal body corporate shall—

- (a) control, manage and administer the secondary thoroughfare for the benefit of its members; and
- (b) properly maintain and keep in a state of good and serviceable repair—
  - (i) the secondary thoroughfare, including any improvements thereon;
  - (ii) any personal property vested in it; and
- (c) effect insurance in accordance with section 155; and
- (d) cause proper records to be kept of notices given to the principal body corporate under this or any other Act and of any orders made by a court and served on the principal body corporate; and
- (e) cause to be kept and retained, for at least 10 years, minutes of its meetings, which shall include particulars of motions passed by it at those meetings, and proper books of account in respect of moneys received or expended by the principal body corporate showing the items in respect of which the moneys were received or expended; and
- (f) cause to be prepared, from the books mentioned in paragraph (e), a proper statement of accounts of the principal body corporate in relation to each period—
  - (i) starting on the date of its incorporation or the day immediately after the date up to which the last statement was prepared; and
  - (ii) ending on the last day of the month that is 3 months before the start of the month in which the anniversary of the first annual general meeting happens; and
- (g) cause an annual general meeting of the principal body corporate to be held each year on or after the anniversary of the first annual general meeting but not later than 2 months after the anniversary; and
- (h) not later than 14 days after its incorporation and from time to time

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thereafter, determine the amounts necessary in its opinion to be raised by way of contributions for the purpose of meeting its actual or expected liabilities incurred or to be incurred under paragraph (b) or for the payment of insurance premiums, rates or any other liability of the principal body corporate, other than amounts referred to in paragraph (l); and

- (i) upon first determining the amounts referred to in paragraph (h), establish a fund into which shall be paid all amounts received by it, including the proceeds of the sale or other disposal of any personal property of the principal body corporate and any fees received by it under section 154 and into which may be paid any amounts paid to the principal body corporate by way of discharge of insurance claims; and
- (j) from time to time, levy, in accordance with section 145, on each person liable therefor a contribution to raise the amounts referred to in paragraph (h); and
- (k) pay any moneys referred to in paragraph (i) that are received by it and are not otherwise invested in accordance with section 148(a) into an account established in a financial institution in the name of the principal body corporate; and
- (l) if the principal body corporate—
  - (i) becomes liable to pay any moneys that it is unable to pay forthwith; and
  - (ii) is not required, under paragraph (j), to levy contributions to meet the liability;
 levy, in accordance with section 145, contributions to raise those moneys; and
- (m) implement the decisions of the principal body corporate.

(2) The principal body corporate from time to time may in respect of contributions determined in accordance with subsection (1)(h) or contributions referred to in subsection (1)(l) determine by special resolution, for the purposes of section 145, an amount being not greater than 10% of those contributions.

(3) The principal body corporate shall not disburse any moneys from its fund, otherwise than for the purpose of carrying out its powers, authorities,

duties and functions under this Act, the development control by-laws or secondary thoroughfare by-laws or meeting any liability referred to in subsection (1)(l).

(4) A determination made by the principal body corporate under subsection (1)(h) may specify that the amounts to be raised shall be raised by such regular periodic contributions as may be specified in the determination.

### **Principal body corporate roll**

**152.(1)** The principal body corporate shall prepare and maintain a roll in accordance with this section.

(2) The principal body corporate shall record in the principal body corporate roll the following information—

- (a) in respect of each initial lot which has not been subdivided into secondary lots—the initial lot entitlement;
- (b) in respect of each secondary lot—the secondary lot entitlement;
- (c) the total of the initial lot entitlements and secondary lot entitlements referred to in paragraphs (a) and (b);
- (d) the name and address for service of notices on each member of the principal body corporate;
- (e) the name and address of any person appointed (in writing addressed to the principal body corporate) by any member of the principal body corporate to represent that member at meetings of the principal body corporate.

(3) The principal body corporate shall record and maintain in the principal body corporate roll—

- (a) a copy of the development control by-laws for the time being in force; and
- (b) a copy of the secondary thoroughfare by-laws for the time being in force.

**Notices to be given by proprietors**

**153.(1)** The applicant and any person who, under this section, has given notice of an address for the service of notices on the applicant or other person shall give notice in writing to the principal body corporate of an address or change of address for the service of notices on the applicant or other person.

Maximum penalty—4 penalty units.

**(2)** After delivery to a transferee of an initial lot or a secondary lot of an instrument or instruments of transfer in the name of the transferee duly executed and capable of immediate registration, the transferor shall give to the principal body corporate written notice which shall identify the lot and—

- (a) specify the name of the transferee in full, the address for the service of notices on the transferee, the address for the service of notices on the transferor and the date upon which the instrument was or instruments were so delivered; and
- (b) bear written confirmation by the transferee of the accuracy of the information contained in the notice.

**(3)** Where a transferor of an initial lot or a secondary lot fails to comply with subsection (2), the transferee of that lot may give to the principal body corporate written notice which shall identify the lot and specify the transferee's name in full, address for service of notices and the date upon which the instrument was or instruments were delivered to the transferee.

**(4)** After a person becomes, otherwise than as transferee, the proprietor of an initial lot or a secondary lot, the person shall give to the principal body corporate written notice, in the form of a statutory declaration, which shall identify the lot and specify—

- (a) by what right the person became entitled to the lot; and
- (b) the person's name, in full, the address for the service of notices on the person and the date upon which the person became entitled to the lot.

**(5)** Where—

- (a) the principal body corporate believes that a person is required, under this section, to give a notice to it; and
- (b) the principal body corporate has not received that notice;

the principal body corporate may serve a notice on that person specifying the capacity in which it believes the person is required to give the notice and requiring the person—

- (c) to state, within 14 days, whether or not the person is required to give a notice in that capacity; and
- (d) if the person is so required, to give that notice.

(6) Where the principal body corporate has served a notice under subsection (5) on a person whom it believes is required to give a notice to the principal body corporate under this section that person is not entitled to cast a vote at any meeting of the principal body corporate until the person gives the required notice.

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

(8) A notice referred to in subsection (7) may be included in any other notice that the body corporate to which it relates or any other person is entitled under this section to give to the principal body corporate.

### **Supply of information, certificates and copies by principal body corporate**

**154.(1)** The principal body corporate shall, upon application made to it in writing by a member of the principal body corporate or by a member of a body corporate constituted by the registration of a group titles plan or building units plan (which last mentioned body corporate is a member of the principal body corporate) or by a person authorised in writing by such member and on payment of such sum as the principal body corporate may fix by resolution but not exceeding the reasonable cost to the principal body corporate, do such 1 or more of the following things as are required of it in the application—

- (a) inform the applicant of the name and address of each person who is the chairperson, secretary or treasurer of the principal body corporate or a member of the executive committee;
- (b) make available for inspection by the applicant or the applicant's agent—

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- (i) the principal body corporate roll;
- (ii) the notices and orders referred to in section 151(1)(d);
- (iii) the plans, specifications, drawings showing water pipes, electric cables or drainage, certificates, diagrams and other documents held by it relating to any secondary thoroughfare;
- (iv) the minutes of general meetings of the principal body corporate and of the executive committee;
- (v) the books of account of the principal body corporate;
- (vi) a copy of the statement of accounts of the principal body corporate last prepared by the principal body corporate in accordance with section 151(1)(f);
- (vii) every current policy of insurance effected by the principal body corporate and the receipt for the premium last paid in respect of each such policy;
- (viii) any other record or document in the custody or under the control of the principal body corporate;
- (ix) the development control by-laws or the secondary thoroughfare by-laws for the time being in force;

at such time and place as may be agreed upon by the applicant or the applicant's agent and the principal body corporate and, failing agreement, at the office of the principal body corporate at a time and on a date fixed by the principal body corporate under subsection (2);

- (c) certify, as at the date of the certificate, in respect of the initial lot or secondary lot in respect of which the application is made—
  - (i) the amount of any regular periodic contributions determined by the principal body corporate under section 151(1)(h) and (4) and the periods in respect of which those contributions are payable; and
  - (ii) whether there is any amount unpaid of any contribution determined under section 151(1)(h) and, if so, the amount thereof; and
  - (iii) whether there is any amount unpaid of any contribution



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- levied under section 151(1)(l) and, if so, the amount thereof and the date on which it was levied; and
- (iv) whether there is any amount unpaid of any contribution levied under section 166 and, if so, the amount thereof and the date on which it was levied; and
  - (v) the amount (if any) determined under section 151(2) in respect of any unpaid contribution referred to in this paragraph;
- (d) furnish to the applicant or the applicant's agent a copy of the development control by-laws or the secondary thoroughfare by-laws for the time being in force or any part thereof within a period of 21 days commencing on the day next after the date on which the application is received by the principal body corporate.

(2) Where an applicant and the principal body corporate fail to reach an agreement referred to in subsection (1)(b) within 3 days after the receipt of the application by the principal body corporate, the principal body corporate shall forthwith send by post to the applicant a notice fixing a time, specified in the notice, between 9 a.m. and 8 p.m. on a date so specified, being a date not later than 10 days after the receipt of the application by the principal body corporate for the making of the inspection referred to in subsection (1)(b).

(3) The principal body corporate shall permit any person to whom the development control by-laws or the secondary thoroughfare by-laws are made available for inspection to make copies of or take extracts from those by-laws.

**Insurance by principal body corporate**

**155.(1)** The principal body corporate shall effect insurance—

- (a) in respect of any occurrence against which it is required by law to insure, including any insurance required to be effected because of the *WorkCover Queensland Act 1996*; and
- (b) in respect of damage to property, death or bodily injury occurring upon the secondary thoroughfare or the consequences resulting therefrom; and

- (c) against the possibility of the proprietors becoming jointly liable by reason of a claim arising in respect of any other occurrence against which the principal body corporate, pursuant to a special resolution, decides to insure.

(2) Insurance effected pursuant to subsection (1)(b) shall be for a cover of the amount prescribed by regulation or, if not prescribed, \$5 000 000.

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

### **Power for individuals to act for corporate proprietors**

**156.(1)** A body corporate may authorise an individual to exercise or perform on its behalf any power, authority, duty or function conferred by or under this Act on the body corporate as a member of the principal body corporate and may revoke the authority of an individual so authorised.

(2) Where an individual exercises or performs a power, authority, duty or function that the individual is, by a member of the principal body corporate, authorised pursuant to subsection (1) to exercise or perform, the power, authority, duty or function shall be deemed to be exercised or performed by the member.

(3) Nothing in subsection (1) or (2) affects any liability or obligation imposed by or under this Act on a body corporate which is a member of the principal body corporate.

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

### **Voting rights**

**157.(1)** Any powers of voting conferred by or under this division may be exercised—

- (a) in the case of a proprietor who is an infant—by the proprietor's guardian;
- (b) in the case of a proprietor who is for any reason unable to control

the person's property—by the person who for the time being is authorised by law to control that property;

- (c) in the case of a proprietor which is a body corporate—by the person nominated pursuant to section 156 by that body corporate.

(2) Where the Supreme Court upon the application of the principal body corporate or of any proprietor is satisfied that there is no person able to vote in respect of an initial lot or a secondary lot or that the person able to vote in respect of the lot cannot be found, the Court in its discretion may appoint the Public Trustee or some other fit and proper person for the purpose of exercising such powers of voting under this division as the Court shall determine.

(3) The Court may order service of notice of an application under subsection (2) on such persons as it thinks fit or may dispense with service of such notice.

(4) On making an appointment under subsection (2) the Court may make such order as it thinks necessary or expedient to give effect to the appointment including an order as to the payment of costs of the application, and may vary an order so made.

(5) The powers of the Court under this section may be exercised by the registrar in the first instance, who may refer the application to a judge and who shall so refer it at the request of the applicant or any respondent.

(6) In this section—

**“registrar”** means the registrar of the Supreme Court at Brisbane, Rockhampton or Townsville, as the case may be, and includes a deputy registrar.

### **Constitution of executive committee**

**158.(1)** After the first annual general meeting of the principal body corporate, there shall be an executive committee consisting of a chairperson, secretary and treasurer and such other members as may be elected or appointed pursuant to this section.

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

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(3) However, a person may be elected to 1 or more of those offices.

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

(5) Where there is 1 member only of the principal body corporate, the member may make any decision that a duly convened executive committee may make under this Act and such decision shall be deemed to be a decision of the executive committee.

(6) Where there are more than 3 members of the principal body corporate, the executive committee shall consist of such number of persons, being not less than 3 nor more than the number of members of the principal body corporate or 7, whichever is the less, as is determined by the principal body corporate.

(7) The members of an executive committee referred to in subsection (6) (if any) and the chairperson, secretary and treasurer shall be elected at each annual general meeting of the principal body corporate or, if the number of members of the principal body corporate increases to more than 3, at an extraordinary general meeting convened for the purpose.

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

- (a) an individual who is a member of the principal body corporate; or
- (b) a nominee of a body corporate which is a member of the principal body corporate; or
- (c) an individual who is not a member of the principal body corporate but who is nominated for election by such a member.

(9) Notwithstanding the provisions of this section, the principal body corporate may determine that the holder of the office of secretary or treasurer of the principal body corporate shall not be a member of the executive committee whereupon, upon election to that office a person shall be the secretary or, as the case may be, treasurer of the principal body corporate and of the executive committee but shall not be a member of the executive committee.

(10) A member of the executive committee may, with the consent of the executive committee, appoint a member of the principal body corporate or nominee of a body corporate which is a member of the principal body corporate to act in the member's place as a member of the executive committee at any meeting of the executive committee and any member or nominee so appointed shall, when the member or nominee is so acting, be deemed to be a member of the executive committee.

(11) A member of the principal body corporate or a nominee of a body corporate may be appointed under subsection (10) whether or not the member or nominee is a member of the executive committee.

(12) If a person appointed under subsection (10) is a member of the executive committee the person may, at any meeting of the executive committee, separately vote in the person's capacity as such a member and on behalf of the member in whose place the person has been appointed to act.

(13) Notwithstanding any other provision of this section, the executive committee may be constituted before the first annual general meeting of the principal body corporate.

(14) The members of the executive committee constituted under subsection (13) (if any) and the chairperson, secretary and treasurer of the principal body corporate shall be elected at a general meeting of the principal body corporate and the provisions of subsection (8) and such of the provisions of schedule 2, part 1 of the *Building Units and Group Titles Act 1980* in force at the commencement of this Act as applied by section 143 and as relate to the election of the chairperson, secretary and treasurer of the principal body corporate and of members of the executive committee apply to and in respect of the election of the chairperson, secretary and treasurer and of those members of the executive committee to be so constituted.

(15) Schedule 2, part 2 of the *Building Units and Group Titles Act 1980* other than section 16(1) as applied by section 143 does not apply to or in respect of the election of the chairperson, secretary and treasurer of the principal body corporate and the members of the executive committee to be constituted under subsection (13).

(16) The provisions of this division (other than subsections (1) to (7)) apply to and in respect of an executive committee constituted under subsection (1) and the members thereof.

(17) Where there is no executive committee of the principal body corporate, the principal body corporate shall exercise and perform the powers, authorities, duties and functions of the executive committee.

### **Vacation of office of member of executive committee**

**159.(1)** A person elected as chairperson, secretary or treasurer of the principal body corporate or as a member of the executive committee vacates the person's office—

- (a) if, where the person was a member of the principal body corporate at the time of the person's election—the person ceases to be such a member; or
- (b) upon the receipt by the principal body corporate from the person of notice in writing of the person's resignation; or
- (c) upon the election at a general meeting of the principal body corporate of another person to that office or as a member of the executive committee; or
- (d) where the person is a member referred to in section 158(4) or (5) and the number of members of the principal body corporate increases to more than 3, upon the election of the chairperson, secretary and treasurer of the principal body corporate and the other members of the executive committee at the annual general meeting, or the extraordinary general meeting referred to in section 158(7); or
- (e) if the person is absent without prior leave granted by the executive committee from 3 consecutive meetings of the executive committee of which due notice has been given to the person; or
- (f) if the person becomes bankrupt or compounds with the person's creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
- (g) if the person is convicted in Queensland of an indictable offence or, elsewhere than in Queensland, is convicted of an offence which would be an indictable offence if committed in Queensland; or

- (h) if the person dies or becomes a patient within the meaning of the *Mental Health Act 1974*; or
- (i) if the principal body corporate, pursuant to a special resolution, determines that the person's office is vacated.

(2) Upon the occurrence of a vacancy in the office of chairperson, secretary or treasurer of the principal body corporate or another member of the executive committee, otherwise than by reason of the operation of subsection (1)(d) or (e), the principal body corporate shall appoint a person eligible for election as such to fill the vacancy, and a person so appointed shall, subject to this section, hold office for the balance of the person's predecessor's term of office.

### **Chairperson, secretary and treasurer of executive committee**

**160.(1)** The chairperson shall preside at all meetings of the executive committee at which the chairperson is present and, if the chairperson is absent from any meeting, the members of the executive committee present at that meeting shall appoint one of their number to preside at that meeting during the absence of the chairperson.

(2) A person shall not exercise or perform any of the powers, authorities, duties or functions of the principal body corporate or of the treasurer of the principal body corporate, being powers, authorities, duties or functions relating to the receipt or expenditure of, or accounting for, moneys, or the keeping of the books of account, of the principal body corporate, unless the person is—

- (a) the treasurer of the principal body corporate; or
- (b) a person with whom the treasurer of the principal body corporate is required by an order of the executive committee to exercise or perform jointly that power, authority, duty or function, or who is enabling the treasurer to comply with the order.

Maximum penalty—50 penalty units.

(3) The treasurer of the principal body corporate may delegate the exercise or performance of any of the treasurer's powers (other than this power of delegation), authorities, duties or functions as treasurer, the delegation of which is specifically approved by the executive committee, to another member of the executive committee so approved, subject to such

limitations as to time or otherwise as are so approved and, while a delegate is acting in accordance with the terms of a delegation under this subsection, the delegate shall be deemed to be the treasurer of the principal body corporate.

(4) The executive committee may, by a notice in writing served on the treasurer of the principal body corporate, order that the treasurer shall not exercise or perform any of the treasurer's powers, authorities, duties or functions that are specified in the notice, unless the treasurer does so jointly with another person so specified.

(5) A person who has possession or control of—

- (a) any records, books of account or keys belonging to the principal body corporate; or
- (b) the principal body corporate roll; or
- (c) any other property of the principal body corporate;

shall, within 7 days after service on the person of notice of a resolution of the executive committee requiring the person to do so, deliver those records, books of account and keys and that roll and other property to a member of the executive committee specified in the notice.

Maximum penalty for subsection (5)—20 penalty units.

### **Meetings of executive committee**

**161.(1)** At a meeting of the executive committee more than half of the members of the executive committee constitutes a quorum.

(2) Subject to this Act, the decision on any matter of the majority of the members voting on that matter shall be the decision of the executive committee at any meeting at which a quorum is present.

(3) A decision of the executive committee has no force or effect if, before that decision is made, notice in writing is given to the secretary of the executive committee by not less than half of the total number of members of the principal body corporate, the sum of whose initial lot entitlements and secondary lot entitlements exceed half of the aggregate of all entitlements recorded in the principal body corporate roll, that the making of the decision is opposed by those members.



(4) The executive committee shall cause to be kept a record of its decisions, of any notices given to its secretary under subsection (3) and full and accurate minutes of its meetings.

### **Executive committee's decisions to be decisions of principal body corporate**

**162.(1)** In this section—

**“restricted matter”** means—

- (a) any matter relating to the striking of a special monetary levy on all members of the principal body corporate; and
- (b) any matter which seeks to alter the rights, privileges or obligations of members of the principal body corporate; and
- (c) any matter which seeks to alter the annual monetary contribution of members of the principal body corporate; and
- (d) any matter a decision on which may, in accordance with any provision of this Act, only be made by the principal body corporate pursuant to a special resolution or in general meeting of the principal body corporate; and
- (e) any matter referred to in section 164 and specified in a resolution of the principal body corporate passed for the purposes of that section.

(2) Subject to this Act, the decision of the executive committee on any matter, other than a restricted matter, shall be the decision of the principal body corporate.

(3) Notwithstanding that the executive committee holds office, the principal body corporate may in general meeting continue to exercise or perform all or any of the powers, authorities, duties and functions conferred or imposed on the principal body corporate by this Act.

### **Statutory restrictions on powers of executive committee**

**163.(1)** Unless—

- (a) otherwise determined pursuant to a special resolution of the principal body corporate; or

- (b) authorised by the Minister in an emergency; or
- (c) consented to by such persons entitled to vote at a general meeting of the principal body corporate who represent an aggregate lot entitlement of not less than 75% of the aggregate of all lot entitlements recorded in the principal body corporate roll;

the executive committee shall not undertake expenditure.

(2) In respect of any proposed expenditure which, under subsection (1), the executive committee is not entitled to undertake the executive committee shall—

- (a) submit the proposal for determination at an extraordinary general meeting of the principal body corporate convened for the purpose of, or for purposes which include, consideration of the proposal; and
- (b) if the proposed expenditure is in respect of work to be performed or the purchase of personal property—submit at least 2 tenders to that meeting with the proposal.

(3) Subsection (1) does not apply to the expenditure of moneys—

- (a) in payment of any premium of insurance effected by or on behalf of the principal body corporate; or
- (b) to comply with a notice or order served on the principal body corporate by any public authority or local government; or
- (c) in discharge of any liability incurred in respect of an obligation of the principal body corporate authorised by the principal body corporate in general meeting.

### **Restrictions imposed on executive committee by principal body corporate**

**164.** The principal body corporate may in general meeting decide what matters or class of matters (if any) shall be determined only by the principal body corporate in general meeting.

**Principal body corporate manager**

**165.(1)** Subject to subsection (3), the principal body corporate may—

- (a) in general meeting; and
- (b) by instrument;

appoint a body corporate manager on such terms and conditions as the principal body corporate determines.

**(2)** The principal body corporate may delegate all or any of its powers and functions to the body corporate manager.

**(3)** The principal body corporate must not delegate to the body corporate manager its power to make—

- (a) a delegation mentioned in subsection (2); or
- (b) a decision on a restricted matter within the meaning of section 162.

**(4)** If the instrument of appointment provides, a body corporate manager may exercise all or any of the powers and functions of the chairperson, secretary or treasurer of the principal body corporate and the executive committee.

**(5)** The principal body corporate must not, within 3 years of its incorporation, appoint a body corporate manager for a term of more than 3 years.

**(6)** Nothing in this section shall prevent the reappointment of a body corporate manager after the term of appointment has expired.

**Costs in proceedings by members against principal body corporate**

**166.(1)** In any proceedings brought by any member against the principal body corporate, the court before which the proceedings are brought may order that any moneys (including costs) payable by the principal body corporate pursuant to an order of the court made in those proceedings shall be paid, only in respect of such lots as are specified in the order and in such proportions as may be so specified, by the principal body corporate out of contributions levied for the purpose.

**(2)** Where a court makes an order under subsection (1) the principal body corporate shall, for the purpose of paying the moneys ordered to be paid by

it, levy contributions in accordance with the terms of the order and shall pay the moneys out of the contributions paid pursuant to that levy.

(3) The provisions of section 145 with such modifications as may be necessary apply to and in respect of contributions levied under subsection (2) in the same way as those provisions apply to contributions levied under that section.

### **Service of documents on principal body corporate, members and others**

**167.(1)** A summons or other legal process may be served on the principal body corporate by leaving it with the chairperson or secretary of the principal body corporate or with any member of the executive committee.

(2) A document other than a document referred to in subsection (1) may be served on the principal body corporate—

- (a) by leaving it with any person referred to in subsection (1); or
- (b) by post on the principal body corporate at its last address notified in the gazette.

(3) Subject to this Act, a notice or other document required or authorised by this Act to be served by the principal body corporate, the executive committee or the secretary of the executive committee or a member or proprietor, lessee or occupier of a lot may be served—

- (a) by leaving it with some person apparently of or above the age of 16 years—
  - (i) where the person to be served is an occupier of the lot—at the lot; or
  - (ii) where an address for the service of notices on the person to be served is recorded in the principal body corporate roll—at the address so recorded; or
- (b) by post on the person to be served, where an address for the service of notices on that person is recorded in the principal body corporate roll, at the address so recorded; or

- (c) in the case of a member—in any manner authorised by the by-laws for the service of notices on members.
- (4) Notice under section 160(5) may be served on a person—
- (a) personally or by post; or
  - (b) by leaving it with a person apparently of or above the age of 16 years at the place of residence or place of business of the first mentioned person.

### **Establishment of committees**

**168.** Nothing in this Act shall prevent the principal body corporate from establishing by resolution in general meeting a committee to consider any matter referred to it by the principal body corporate and to report thereon to the principal body corporate or the executive committee.

### *Division 4—Additional principal bodies corporate or increase in membership of existing principal body corporate*

### **Effect of subdivision of residential precinct in subsequent stage**

**169.** On registration of the first plan of subdivision creating a lot or lots within a residential precinct in a subsequent stage, the proprietors of all land within the residential precincts in that subsequent stage become either—

- (a) a body corporate under the name ‘(insert name of subsequent stage specified in the approval of the scheme) Principal Body Corporate’; or
- (b) additional members of an existing principal body corporate.

### **Procedure for increase in membership of existing principal body corporate**

**170.(1)** The proprietor of land within the residential precincts in a subsequent stage may become additional members of an existing principal body corporate only if—

- (a) details of the addition of members to an existing principal body

corporate have been set out in a motion given to the members of the body corporate to which it is proposed to add members; and

- (b) the motion for the proposed addition of members has been carried by special resolution of the existing principal body corporate to which it is proposed to add members; and
- (c) the proposal to add members to an existing principal body corporate is—
  - (i) included in the application for approval of a subsequent stage; and
  - (ii) is approved as part of the approval of the subsequent stage.

(2) If an application under section 26 that relates to a subsequent stage includes a proposal to add members to an existing principal body corporate, the application must be accompanied by—

- (a) a copy of the motion for the addition of members; and
- (b) evidence that it has been carried by special resolution of the existing principal body corporate; and
- (c) details of the effect the addition of members to an existing principal body corporate is likely to have on existing members of the body corporate.

### **Meeting of expanded principal body corporate**

**171.(1)** Within 3 months after registration of the first plan of subdivision creating a lot or lots within a residential precinct in a subsequent stage, the principal body corporate must convene a meeting.

(2) Section 143 applies to the meeting with any necessary modifications.

(3) For the purposes of setting the date for subsequent annual general meetings after the meeting mentioned in subsection (1), the meeting is taken to be the first annual general meeting.

### **Levies and funds of expanded principal body corporate**

**172.(1)** Within 14 days after registration of the first plan of subdivision creating a lot or lots within a residential precinct in a subsequent stage, an

expanded principal body corporate must determine the amounts mentioned in section 151(1)(h).

(2) On registration of the first plan of subdivision creating a lot or lots within a residential precinct in a subsequent stage, the fund of the principal body corporate that is being expanded continues in existence.

### **Application of div 3 to expanded principal body corporate**

**173.** Division 3 applies, with any necessary modifications, to the expanded principal body corporate after the registration of the first plan of subdivision creating a lot or lots within a residential precinct in a subsequent stage.

### **Application of Act to new principal body corporate**

**174.** If a new principal body corporate is created in relation to a subsequent stage, this Act applies to the body corporate in relation to the subsequent stage for which it was incorporated.

### **Agreements with another principal body corporate**

**175.** A principal body corporate may enter into an agreement with another principal body corporate in the site in relation to—

- (a) the secondary thoroughfare including the improvements on the secondary thoroughfare; and
- (b) any personal property vested in the other principal body corporate.

## **PART 9—BY-LAWS**

### ***Division 1—Development control by-laws***

#### **Development control by-laws**

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

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

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

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

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

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

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

(8) Notwithstanding the provisions of the *Building Units and Group Titles Act 1980*, a by-law made by a body corporate incorporated by the registration of a building units plan or group titles plan in respect of land



within a residential precinct that is inconsistent with the development control by-laws shall to the extent of the inconsistency have no effect.

### **Minor non-compliance with development control by-laws**

**177.(1)** At the request in writing of a member of the principal body corporate, the principal body corporate may permit the non-compliance by that member of a development control by-law in respect of the land or lot specified in the request.

(2) However, the non-compliance is of a minor nature.

(3) Where non-compliance with a development control by-law has been permitted by the principal body corporate under subsection (1) there is not a failure to comply with that by-law by reason only of that non-compliance.

### ***Division 2—Primary thoroughfare by-laws***

#### **Primary thoroughfare by-laws**

**178.(1)** Subject to subsection (5), the primary thoroughfare body corporate, pursuant to a special resolution, for the purpose of the control, management, administration, use or enjoyment of the primary thoroughfare and any improvements thereon, may from time to time make by-laws and may in like manner amend or repeal those by-laws.

(2) A primary thoroughfare by-law has no force or effect until the Minister has approved the by-law and notification of the Minister's approval has been published in the gazette.

(3) A lease of any land where access to a dedicated road is by way of the primary thoroughfare shall be deemed to contain an agreement by the lessee that the lessee shall comply with the primary thoroughfare by-laws for the time being in force.

(4) Without limiting the operation of any other provision of this Act, the primary thoroughfare by-laws for the time being in force bind the primary thoroughfare body corporate, the principal body corporate and each proprietor and any mortgagee in possession (whether by himself or herself or any other person), lessee or occupier, of land, including lots, within the site to the same extent as if those by-laws had been signed and sealed by the

*Integrated Resort Development Act 1987*

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primary thoroughfare body corporate, the principal body corporate and each proprietor and each such mortgagee, lessee and occupier respectively and as if they contained mutual covenants to observe and perform all the provisions of those by-laws.

(5) No amendment of or addition to a primary thoroughfare by-law shall be capable of operating to prohibit, destroy or modify any easement, service right or service obligation implied or created by this Act.

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

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

*Division 3—Secondary thoroughfare by-laws***Secondary thoroughfare by-laws**

**179.(1)** Subject to subsection (5), the principal body corporate, pursuant to a special resolution, for the purpose of the control, management, administration, use or enjoyment of the secondary thoroughfare and any improvements thereon, may from time to time make by-laws and may in like manner amend or repeal those by-laws.

(2) A secondary thoroughfare by-law has no force or effect until the Minister has approved the by-law and notification of the Minister's approval has been published in the gazette.

(3) A lease of a lot or of any common property where access to the primary thoroughfare is through a secondary thoroughfare shall be deemed to contain an agreement by the lessee that the lessee shall comply with the secondary thoroughfare by-laws for the time being in force.

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

corporate and each proprietor and each such mortgagee, lessee and occupier respectively and as if they contained mutual covenants to observe and perform all the provisions of those by-laws.

(5) No amendment of or addition to a secondary thoroughfare by-law shall be capable of operating to prohibit, destroy or modify any easement, service right or service obligation implied or created by this Act.

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

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

## **PART 10—MISCELLANEOUS**

### **Applications to be accompanied by fees**

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

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

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

### **Penalties paid to general fund or operating fund**

**181.** All penalties or other amounts recovered for an offence against section 15(8) or 26(6) are to be paid into the general fund or operating fund of the relevant local government.

**Regulations**

**182.(1)** The Governor in Council may make regulations for the purposes of this Act.

**(2)** A regulation may be made with respect to any of the following matters—

- (a) the preparation and approval of plans and documents for the purposes of this Act;
- (b) the plans and documents that may be lodged under this Act in the land registry;
- (c) the registration in the land registry of plans and documents;
- (d) the fees to be paid in relation to the lodgment and registration in the land registry of plans and documents;
- (e) the nomination and election of—
  - (i) the chairperson, secretary and treasurer of primary thoroughfare bodies corporate and principal bodies corporate; and
  - (ii) other members of the executive committees of primary thoroughfare bodies corporate and principal bodies corporate;
- (f) the powers and functions of primary thoroughfare bodies corporate and principal bodies corporate.

**(3)** A regulation may create offences and prescribe penalties of not more than 4 penalty units for the offences.

**SCHEDULE**

section 4

**REQUIREMENTS FOR APPLICATION FOR  
APPROVAL OF SCHEME AND PROVISIONAL  
APPROVAL OF FUTURE DEVELOPMENT AREA****Part A**

1. The name of the proposed resort development.
2. The name, address and signature of each applicant.
3. The name, address, signature and written consent of each owner (other than the applicant) of land within the site and, if applicable, the future development area.
4. The name, address, signature and written consent of each owner of land (if any) outside the site that is proposed to be incorporated as part of the scheme.
5. The address of the site and other land (if any) proposed to be used as part of the scheme.
6. The real property description (including the area) of the land comprising the site and, if applicable, the future development area.
7. Confirmation that the land comprising the site and, if applicable, the future development area is freehold land or is intended to be freeholded.
8. The existing and proposed form of land tenure of land referred to in clause 4.
9. The local government area or areas in which is situated the site and, if applicable, the future development area and any other land proposed to be incorporated as part of the scheme.
10. Details of those matters or things for which approval or provision is required pursuant to any Act before approval of the scheme or, if applicable, provisional approval of the future development area, may be granted.

## SCHEDULE (continued)

**11.** Details of any canal or other artificial tidal waterway either constructed or proposed for construction within the site including details of applications and approvals (if any) under the *Canals Act 1958* or the *Harbours Act 1955* (including provisions of that Act as continued in effect under the *Transport Infrastructure Act 1994*).

**12.** Details of the financial capability of the applicant or proposed developer to implement the scheme and the method of funding the development.

**13.** A study report on the environmental impact of the scheme and, if applicable, the subsequent stages in the future development area.

**14.** A market feasibility study report of the scheme and, if applicable, the subsequent stages in the future development area.

**15.** Evidence of all undertakings given and agreements entered into by or between the applicant, the developer, the local government, a department of the Government or statutory authority and any other person whose interests would be affected by the proposed development and, if applicable, the proposed development within the future development area.

**16.** Details of a works program for implementation of the development together with an assessment of the number of people to be engaged in the carrying out of the works on the site and whether or not special provision is to be made to accommodate the construction workforce and permanent workforce in the locality.

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

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

- (a) a site plan and definition of the area including where appropriate metes and bounds descriptions and real property descriptions;
- (b) identification on the site plan of the location and area of each of the proposed precincts (including the primary thoroughfare precinct) and their component parts;
- (c) identification on the site plan of the relationship between the site and adjoining lands (if any);

## SCHEDULE (continued)

- (d) identification of lands (if any) outside the site which are proposed to be used in association with the establishment and operation of the proposed development together with evidence that those lands may be lawfully used for the purposes set out in the scheme;
- (e) identification of proposed roads within the site and the access points to the site from roads outside the site (if any);
- (f) existing and proposed easements and reserves;
- (g) watercourse lines, flood lines, storm surge lines, waterholes and similar features (if any).

**19.** A plan of the future development area that is to include—

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

**20.** Details of the maximum number of residential lots into which it is proposed to subdivide the future development area.

**21.** Such other information as the Minister requires.

## SCHEDULE (continued)

**Part B**

1. In respect of any part of the proposed development that includes or comprises the use of a building or structure or part thereof which has a gross floor area exceeding 4 000 m<sup>2</sup> primarily for the purpose of shops, a study report including an assessment of the public need and demand for that development and a statement of the likely economic impact upon existing development of a similar nature or involving similar activities in the locality and in the estimated area of influence of the proposed development if the proposal were implemented.

2. An engineering or geotechnical report on infrastructure requirements to service the development and, if applicable, the future development area.

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

4. Upon the plan of the scheme of development show—

- (a) the contours of the site;
- (b) adequate geographical information relating to the site and adjoining areas;
- (c) drainage catchment areas.

5. On the plan of the future development area show—

- (a) the contours of the future development area; and
- (b) adequate geographical information relating to the future development area and adjoining areas; and
- (c) drainage catchment areas.



**ENDNOTES****1 Index to endnotes**

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**2 Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 31 March 2000. Future amendments of the Integrated Resort Development Act 1987 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

**3 Key****Key to abbreviations in list of legislation and annotations**

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
amdt	=	amendment	prov	=	provision
ch	=	chapter	pt	=	part
def	=	definition	pubd	=	published
div	=	division	R[X]	=	Reprint No.[X]
exp	=	expires/expired	RA	=	Reprints Act 1992
gaz	=	gazette	reloc	=	relocated
hdg	=	heading	renum	=	renumbered
ins	=	inserted	rep	=	repealed
lap	=	lapsed	s	=	section
notfd	=	notified	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
om	=	omitted	SIA	=	Statutory Instruments Act 1992
orig	=	original	SIR	=	Statutory Instruments Regulation 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			
prev	=	previous			

**4 Table of earlier reprints****TABLE OF EARLIER REPRINTS**

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 11 of 1994	29 April 1994
1A	to Act No. 49 of 1994	27 August 1996
1B	to Act No. 28 of 1997	22 May 1997
2	to Act No. 81 of 1997	5 December 1997
2A	to Act No. 13 of 1998	7 June 1998
2B	to Act No. 30 of 1999	6 July 1999
2C	to Act No. 42 of 1999	15 December 1999

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1, 2
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

## 6 List of legislation

### **Integrated Resort Development Act 1987 No. 23**

date of assent 23 April 1987  
 commenced on date of assent  
 as amended by—

### **Integrated Resort Development Amendment Act 1991 No. 94**

date of assent 11 December 1991  
 commenced on date of assent

### **Statute Law (Miscellaneous Provisions) Act 1992 No. 36 ss 1–2 sch 2**

date of assent 2 July 1992  
 commenced on date of assent

### **Integrated Resort Development Amendment Act 1993 No. 46**

date of assent 30 September 1993  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 3 December 1993 (1993 SL No. 437)

### **Mixed Use Development Amendment Act 1993 No. 80 ss 1–2, 14**

date of assent 17 December 1993  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 11 February 1994 (1994 SL No. 39)

### **Land Title Act 1994 No. 11 ss 1–2, 194 sch 2**

date of assent 7 March 1994  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 24 April 1994 (1994 SL No. 132)

### **Transport Infrastructure Amendment (No. 2) 1994 No. 49 ss 1–2, 6 sch 2**

date of assent 14 September 1994  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 18 November 1994 (1994 SL No. 399)

**Building Units and Group Titles Act 1994 No. 69 ss 1–2, 229 sch 2**

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions never proclaimed into force and rep 1995 No. 58 s 5(1) sch 7

**WorkCover Queensland Act 1996 No. 75 ss 1–2, 535 sch 2**

date of assent 12 December 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 1997 (1996 SL No. 442)

**Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997 No. 17 ss 1–2, 74 sch**

date of assent 15 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1997 (1997 SL No. 163)

**Body Corporate and Community Management Act 1997 No. 28 ss 1–2, 295 sch 3**

date of assent 22 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 13 July 1997 (1997 SL No. 210)

**Statute Law (Miscellaneous Provisions) Act 1997 No 81 ss 1–3 sch**

date of assent 5 December 1997

commenced on date of assent

**Building and Integrated Planning Amendment Act 1998 No. 13 ss 1, 2(3), 191 sch**

date of assent 23 March 1998

ss 1–2 commenced on date of assent

remaining amdts commenced 30 March 1998 (1998 SL No. 55)

**Local Government and Other Legislation Amendment Act 1999 No. 30 ss 1, 2(4), 98 sch 3 pt 1**

date of assent 16 June 1999

commenced on date of assent (see s 2(4))

**Road Transport Reform Act 1999 No. 42 ss 1–2(1), 54(3) sch pt 3**

date of assent 16 June 1999

commenced on date of assent (see s 2(1))

**Police Powers and Responsibilities Act 2000 No. 5 ss 1–2(1)–(2), 373 sch 2**

date of assent 23 March 2000

commenced on date of assent (see s 2(1)–(2))

## **7 List of annotations**

**This reprint has been renumbered—see table of renumbered provisions in endnote 8.**

### **Interpretation**

- s 2** prev s 2 om 1993 No. 46 s 3 sch  
 pres s 2  
 def “**access**” ins 1991 No. 94 s 3  
 def “**building units plan**” sub 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)  
 def “**canal**” ins 1991 No. 94 s 3  
 def “**chief executive**” ins 1993 No. 46 s 4  
 def “**drainage**” ins 1993 No. 46 s 4  
 def “**future development area**” ins 1991 No. 94 s 3  
 def “**group titles plan**” sub 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)  
 def “**Local Authority**” om 1993 No. 46 s 3 sch  
 def “**Minister**” om 1993 No. 46 s 3 sch  
 def “**primary plan**” ins 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)  
 def “**service**” ins 1993 No. 46 s 4  
 def “**subsequent stage**” ins 1991 No. 94 s 3

### **Minimum requirements for an approved scheme**

- s 3** amd 1991 No. 94 s 4

### **Application for approval of scheme**

- s 4** amd 1997 No. 28 s 295 sch 3

### **Decision on application**

- s 7** sub 1993 No. 46 s 5

### **Notation of approved scheme**

- s 8** prev s 8 om 1993 No. 46 s 3 sch  
 pres s 8 amd 1991 No. 94 s 5  
 sub 1993 No. 46 s 6

### **Decision on application**

- s 13** sub 1993 No. 46 s 7

### **Approved scheme regulates development etc. of site**

- s 15** prev s 15 om 1993 No. 46 s 3 sch  
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### **Application of provisions of this Act**

- s 16** amd 1993 No. 46 s 9

**Application for revocation**

- s 17**      prev s 17 amd 1991 No. 94 s 6  
               om 1993 No. 46 s 3 sch  
               pres s 17 sub 1993 No. 46 s 10

**Revocation of approval**

- s 18**      sub 1993 No. 46 s 10

**Notation of revocation**

- s 19**      sub 1993 No. 46 s 10

**Effect of revocation**

- s 20**      amd 1991 No. 94 s 9  
               sub 1993 No. 46 s 10

**PART 3—STAGED INTEGRATED RESORT DEVELOPMENT**

- pt hdg**    ins 1991 No. 94 s 10

**Future development area**

- s 21**      ins 1991 No. 94 s 10

**Decision on application**

- s 22**      ins 1991 No. 94 s 10

**Revocation of provisional approval**

- s 23**      ins 1991 No. 94 s 10  
               amd 1993 No. 46 s 11

**Notification of revocation**

- s 23A**     ins 1991 No. 94 s 8  
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**Approval of revocation**

- s 24**      ins 1993 No. 46 s 12

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- s 25**      ins 1993 No. 46 s 12

**Application for subsequent stages**

- s 26**      ins 1991 No. 94 s 10  
               amd 1993 No. 46 s 13

**The site**

- s 27**      amd 1991 No. 94 s 11  
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**Grant of Crown Land**

- s 28**      sub 1993 No. 46 s 14

**Site forms part of local government area**

- s 29**      sub 1993 No. 46 s 14

**Subdivision A—Creation of initial lots and primary thoroughfare**

- sdiv hdg** ins 1993 No. 46 s 15

**Approval of local government**

- s 31**      amd 1993 No. 46 s 16

**Registration of initial plan of subdivision**

**s 32** amd 1991 No. 94 s 12; 1993 No. 46 s 17

**Subdivision B—Subdivision of initial lots**

**sdiv hdg** ins 1993 No. 46 s 18

**Subdivision of initial lot**

**s 34** ins 1993 No. 46 s 18

**Approval of local government**

**s 35** ins 1993 No. 46 s 18

**Registration of plan of subdivision of initial lot**

**s 36** ins 1993 No. 46 s 18

**Notice of subdivision to primary thoroughfare body corporate**

**s 37** ins 1993 No. 46 s 18

**Notice of subdivision to principal body corporate**

**s 38** ins 1993 No. 46 s 18

**Subdivision C—Amalgamation of initial lots**

**sdiv hdg** ins 1993 No. 46 s 18

**Amalgamation of initial lots**

**s 39** ins 1993 No. 46 s 18

**Approval of local government**

**s 40** ins 1993 No. 46 s 18

**Registration of plan of amalgamation of initial lots**

**s 41** ins 1993 No. 46 s 18

**Notice of amalgamation to primary thoroughfare body corporate**

**s 42** ins 1993 No. 46 s 18

**Notice of amalgamation to principal body corporate**

**s 43** prev s 43 amd 1991 No. 94 s 15  
om 1993 No. 94 s 21  
pres s 43 ins 1993 No. 46 s 18

**Subdivision D—Subdivision of initial lots by building units or group titles plan**

**sdiv hdg** ins 1993 No. 46 s 18

**Subdivision by building units or group titles plan**

**s 44** prev s 44 om 1993 No. 94 s 21  
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**Approval of building units or group titles plan**

**s 45** prev s 45 om 1993 No. 94 s 21  
pres s 45 ins 1993 No. 46 s 18

**Registration of building units or group titles plan**

**s 46** ins 1993 No. 46 s 18

**Subdivision of group title lot by building units plan**

- s 47** ins 1993 No. 46 s 18  
 sub 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995  
 No. 58 s 5(1) sch 7)

**Subdivision of group title lot by group titles plan**

- s 48** ins 1993 No. 46 s 18  
 om 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995  
 No. 58 s 5(1) sch 7)

**Lot entitlement if group title lot to be subdivided by a building units plan**

- s 49** ins 1993 No. 46 s 18  
 om 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995  
 No. 58 s 5(1) sch 7)

**Application of Building Units and Group Titles Act to subdivisions**

- s 50** ins 1993 No. 46 s 18  
 om 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995  
 No. 58 s 5(1) sch 7)

**Plan of subdivision of initial lots**

- s 51** amd 1991 No. 94 s 13; 1993 No. 46 s 3 sch

**Registration of plan of subdivision of initial lot**

- s 53** amd 1991 No. 94 s 14

**Amalgamation of secondary lot**

- s 55** ins 1993 No. 94 s 19

**Approval of local government**

- s 56** ins 1993 No. 94 s 19

**Registration of plan of amalgamation of secondary lots**

- s 57** ins 1993 No. 94 s 19

**Notice of amalgamation to principal body corporate**

- s 58** ins 1993 No. 94 s 19

**Subdivision of secondary lots within residential precincts**

- s 59** sub 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995  
 No. 58 s 5(1) sch 7)

**Notice of subdivision to principal body corporate**

- s 60** ins 1993 No. 94 s 20

**Registration of building units plan or group titles plan over secondary lot**

- s 62** amd 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995  
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**Subdivision of group titles lot by way of building units plan**

- s 63** om 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995  
 No. 58 s 5(1) sch 7)

**Subdivision of group title lot by way of a group titles plan**

- s 64** om 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995  
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**Application of Building Units and Group Titles Act to subdivisions**

**s 65** om 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995  
No. 58 s 5(1) sch 7)  
amd 1999 No. 30 s 98 sch 3

**Lot entitlements under Building Units and Group Titles Act 1980**

**s 66** om 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995  
No. 58 s 5(1) sch 7)

**Primary thoroughfare deemed to be dedicated road**

**s 67** amd 1991 No. 94 s 16

**Division 4—Matters applying to subdivision generally**

**div hdg** ins 1993 No. 46 s 22

**Subdivision A—Extinguishment of plans**

**sdiv hdg** ins 1993 No. 46 s 22

**Extinguishment of plan**

**s 68** ins 1993 No. 46 s 22

**Order of Supreme Court to extinguish plan**

**s 69** ins 1993 No. 46 s 22

**Registration**

**s 70** ins 1993 No. 46 s 22

**Notification of local government**

**s 71** ins 1993 No. 46 s 22

**Subdivision B—Boundary adjustment plans**

**sdiv hdg** ins 1993 No. 46 s 22

**Boundary adjustment plan**

**s 72** ins 1993 No. 46 s 22  
amd 1998 No. 13 s 191 sch

**Registration of boundary adjustment plan**

**s 73** ins 1993 No. 46 s 22

**Effect of boundary adjustment plan**

**s 74** ins 1993 No. 46 s 22

**Subdivision C—Easements**

**sdiv hdg** ins 1993 No. 46 s 22

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**s 75** ins 1993 No. 46 s 22  
amd 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995  
No. 58 s 5(1) sch 7)

**Ancillary rights**

**s 76** ins 1993 No. 46 s 22

**Creation of easements by special resolution**

**s 77** ins 1993 No. 46 s 22

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amd 1992 No. 36 s 2 sch 2; 1993 No. 46 s 26**Thoroughfares are roads under certain Acts****s 97** amd 1993 No. 46 s 3 sch; 1999 No. 42 s 54(3) sch pt 3**Powers etc. of inspectors and others on thoroughfares****prov hdg** amd 2000 No. 5 s 373 sch 2**s 98** amd 2000 No. 5 s 373 sch 2

**Primary and secondary thoroughfares are public places for certain purposes**

**s 98A** ins 2000 No. 5 s 373 sch 2

**Occupier's right to use thoroughfares**

**s 100** amd 1991 No. 94 s 22

**Interpretation**

**s 101** amd 1994 No. 11 s 194 sch 2

def "**proprietor**" sub 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)

**Primary thoroughfare body corporate**

**s 102** amd 1993 No. 46 s 3 sch

**Meetings of primary thoroughfare body corporate**

**s 106** amd 1993 No. 46 ss 27, 3 sch; 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)

**Change of annual general meeting**

**s 107** ins 1993 No. 46 s 28

**Change of primary thoroughfare body corporate's address**

**s 110** amd 1993 No. 46 s 3 sch

**Power of entry**

**s 111** prev s 111 om 1993 No. 46 s 3 sch

pres s 111 amd 1993 No. 46 s 29

**Maintenance of services within lots or common property**

**s 112** ins 1993 No. 46 s 30

**Leases to primary thoroughfare body corporate**

**s 114** ins 1991 No. 94 s 23

amd 1994 No. 49 s 6 sch 2

**Community facilities on primary thoroughfare**

**s 115** ins 1991 No. 94 s 23

amd 1993 No. 46 s 31

**Duties of primary thoroughfare body corporate**

**s 116** amd 1993 No. 46 s 32; 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7); 1997 No. 17 s 74 sch; 1999 No. 30 s 98 sch 3

**Notices to be given by proprietors**

**s 118** amd 1993 No. 46 s 33; 1994 No. 11 s 194 sch 2

**Insurance by primary thoroughfare body corporate**

**s 120** amd 1991 No. 94 s 24; 1993 No. 46 s 3 sch; 1996 No. 75 s 535 sch 2

**Constitution of executive committee**

**s 123** amd 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)

**Chairperson, secretary and treasurer of executive committee**

**s 125** amd 1993 No. 46 s 34

**Offences generally and penalty**

s 127 prev s 127 om 1993 No. 46 s 3 sch

**Proceedings for offences**

s 128 prev s 128 om 1993 No. 46 s 44

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s 129 orig s 129 om 1993 No. 46 s 3 sch  
prev s 129 ins 1993 No. 46 s 45  
om R1 (see RA s 37)

**Primary thoroughfare body corporate manager**

s 130 prev s 130 om 1993 No. 46 s 3 sch  
pres s 130 ins 1991 No. 94 s 25

**Regulations**

s 131 prev s 131 om 1993 No. 46 s 45

**Division 2—Increase in membership of primary thoroughfare body corporate**

div hdg ins 1991 No. 94 s 26

**Effect of subdivision in subsequent stage**

s 134 ins 1991 No. 94 s 26  
sub 1993 No. 46 s 35

**Meeting of primary thoroughfare body corporate**

s 135 ins 1991 No. 94 s 26

**Levies and funds**

s 136 ins 1991 No. 94 s 26

**Application of other division**

s 137 ins 1991 No. 94 s 26

**Interpretation**

s 138 amd 1994 No. 11 s 194 sch 2  
def “**proprietor**” sub 1994 No. 69 s 6 sch 2 (never proclaimed into force  
and om 1995 No. 58 s 5(1) sch 7)

**Principal body corporate**

s 139 amd 1993 No. 46 s 3 sch

**Meetings of principal body corporate**

s 143 amd 1993 No. 46 ss 36, 3 sch; 1993 No. 80 s 14(2); 1994 No. 69 s 6 sch 2  
(never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)

**Change of annual general meeting**

s 144 ins 1993 No. 46 s 37

**Change of principal body corporate’s address**

s 146 amd 1993 No. 46 s 3 sch

**Power of entry**

s 147 amd 1993 No. 46 s 38

**Leases to principal body corporate**

**s 149** ins 1993 No. 46 s 39  
amd 1994 No. 49 s 6 sch 2

**Community facilities on secondary thoroughfare**

**s 150** ins 1993 No. 46 s 39

**Duties of principal body corporate**

**s 151** amd 1993 No. 46 s 40; 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7); 1996 No. 75 s 535 sch 2; 1997 No. 17 s 74 sch; 1999 No. 30 s 98 sch 3

**Notices to be given by proprietors**

**s 153** amd 1993 No. 46 s 41; 1994 No. 11 s 194 sch 2

**Insurance by principal body corporate**

**s 155** amd 1993 No. 46 s 3 sch

**Constitution of executive committee**

**s 158** amd 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)

**Chairperson, secretary and treasurer of executive committee**

**s 160** amd 1993 No. 46 s 42

**Principal body corporate manager**

**s 165** ins 1991 No. 94 s 27

**Division 4—Additional principal bodies corporate or increase in membership of existing principal body corporate**

**div hdg** (prev div hdg 2A) ins 1991 No. 94 s 28  
sub 1993 No. 46 s 43

**Effect of subdivision of residential precinct in subsequent stage**

**s 169** ins 1991 No. 94 s 28  
sub 1993 No. 46 s 43

**Procedure for increase in membership of existing principal body corporate**

**s 170** ins 1991 No. 94 s 28  
sub 1993 No. 46 s 43

**Meeting of expanded principal body corporate**

**s 171** ins 1991 No. 94 s 28  
sub 1993 No. 46 s 43

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**s 172** ins 1993 No. 46 s 43

**Application of div 3 to expanded principal body corporate**

**s 173** ins 1993 No. 46 s 43

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**s 174** ins 1993 No. 46 s 43

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**s 175** ins 1993 No. 46 s 43

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s 176 amd 1994 No. 69 s 6 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7)

**Primary thoroughfare by-laws**

s 178 amd 1991 No. 94 s 29

**Secondary thoroughfare by-laws**

s 179 amd 1991 No. 94 s 30

**Penalties paid to general fund or operating fund**

s 181 sub 1993 No. 46 s 44

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s 182 prev s 182 om 1993 No. 46 s 44  
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**SCHEDULE—REQUIREMENTS FOR APPLICATION FOR APPROVAL OF SCHEME AND PROVISIONAL APPROVAL OF FUTURE DEVELOPMENT AREA**

amd 1991 No. 94 s 31; 1993 No. 46 s 3 sch; 1994 No. 49 s 6 sch 2

**8 Table of renumbered provisions**

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**Note—s 129 of the principal Act (as inserted by the Integrated Resort Development Amendment Act 1993 s 45) required renumbering of certain provisions of the Act. The opportunity has also been taken, under the Reprints Act 1992, to renumber other provisions—see table of renumbered provisions.**

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