



Queensland

# **Mt. Gravatt Showgrounds Act 1988**

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# Mt. Gravatt Showgrounds Act 1988

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# Mt. Gravatt Showgrounds Act 1988

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

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Mt. Gravatt Showgrounds Act 1988*.

#### 4 Interpretation

In this Act—

*recreational purposes* includes sporting events and sporting activities of every description, whether or not participants therein receive reward.

*showground purposes* includes the conduct of—

- (a) any agricultural, horticultural or industrial show; or
- (b) any exhibition or display; or
- (c) any carnival, fair or fete; or
- (d) any procession or gathering for any religious, charitable, educational or cultural purpose;

and any activity incidental to any of the foregoing activities.

*showgrounds* means the land described in the schedule and all other land acquired by the trust to achieve its objects, and all improvements on such lands.

*society* means the Mount Gravatt Agricultural, Horticultural and Industrial Society, a body corporate incorporated under

the *Religious Educational and Charitable Institutions Act 1861* (now repealed).

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

## Part 2 Constitution of trust

### 5 The trust

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

### 6 Membership of trust

- (1) The trust shall consist of—
  - (a) the person elected for the time being as councillor of Brisbane City Council who represents the electoral ward in which the showgrounds are situated, who shall be a member of the trust ex officio; and
  - (b) 1 person nominated by Brisbane City Council; and
  - (c) 3 persons nominated by the society; and
  - (d) 2 persons selected by the Minister as representatives of the community that in the Minister’s opinion is advantaged by the showgrounds.
- (2) The names and particulars of all persons nominated for appointment to the trust shall be furnished to the Minister.
- (3) For the purpose of the Minister making a selection pursuant to subsection (1)(d) the Minister may, if the Minister considers it

appropriate, invite any 1 or more associations or groups representative of community interest to nominate persons for appointment to the trust.

## **7 Appointment of members of trust**

- (1) The Governor in Council may appoint members of the trust, other than the member ex officio.
- (2) The trust shall be taken to be constituted from time to time upon the publication of a gazette notice of the whole number of members of the trust, other than the member ex officio.

## **8 Period of appointment**

- (1) The period of membership of the trust shall be 3 years commencing on the last constitution of the trust.
- (2) A person appointed as a member of the trust—
  - (a) shall, subject to this Act, hold office for the period of membership; and
  - (b) shall, subject to this Act, be eligible to be nominated and appointed from time to time for a further term of office.

## **9 Refusal of nominees for appointment**

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

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

## **10 Disqualification for membership of trust**

- (1) A person who is a party to or concerned directly or indirectly in a contract with the trust or the society is disqualified for appointment to or from continuing as a member of the trust.
- (2) A person shall not be taken to be concerned in a contract with the trust or the society by reason only that the person is a shareholder in a corporation that consists of more than 20 members and that is a party to or concerned in such a contract for the benefit of the corporation.
- (3) A person shall not be taken to be disqualified under subsection (1) for appointment to or from continuing as a member of the trust by reason only that the person is a party to or concerned in a contract with the trust or the society under which the person is or is to be an exhibitor, a stall holder or a judge at any show conducted or to be conducted upon the showgrounds.
- (4) A person who acts or attempts to act as a member of the trust when the person is disqualified for membership thereof commits an offence against this Act and is liable to a penalty of 4 penalty units.
- (5) If after conviction of that offence a person continues to commit the offence the person commits a continuing offence against this Act and is liable to a penalty of 1 penalty unit for each day of the period alleged in the complaint of the offence on which the offence is shown to have been continued.

## **11 Vacating member's office**

The office of a member of the trust shall become vacant if—

- (a) in the case of the member *ex officio*—the member ceases to be a councillor of Brisbane City Council for



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the electoral ward in which the showgrounds are situated;

- (b) in the case of any other member—
  - (i) the member dies; or
  - (ii) the member resigns office by signed notice given to the Minister; or
  - (iii) the member is duly removed from office by the Governor in Council; or
  - (iv) being a member nominated by Brisbane City Council or by the society—another person is duly nominated by the council or, as the case may be, the society for appointment to the trust in the member's stead.

## 12 Removal from office

- (1) The Governor in Council may remove a member of the trust, other than the member ex officio, from office if—
  - (a) in the opinion of the Governor in Council the member is incapable of discharging office adequately or is incompetent or unfit to hold office; or
  - (b) the member becomes bankrupt or otherwise takes advantage of the laws relating to bankruptcy; or
  - (c) the member becomes disqualified for membership of the trust as provided by section 10; or
  - (d) the member is absent, without leave of the trust first obtained, from 3 consecutive meetings of the trust of which notice has been duly given to the member.
- (2) For the purposes of subsection (1)—
  - (a) non-attendance of a member at the time and place appointed for a meeting of the trust shall not constitute absence from a meeting of the trust unless a meeting of the trust at which a quorum is present is actually held at that time and place;

- (b) attendance of a member at the time and place appointed for a meeting of the trust shall be deemed to constitute attendance at a meeting of the trust notwithstanding that because of the lack of a quorum a meeting is not actually held at that time and place.

### **13 Casual vacancies**

- (1) Where a vacancy occurs in the office of a member of the trust, other than the member *ex officio*, another person who is not disqualified for membership under section 10 may be nominated or selected as prescribed and appointed as prescribed to fill the vacancy.
- (2) A person appointed to fill the vacancy shall, subject to this Act, hold office for the balance of the period of membership of the trust subsisting at the time the vacancy occurred.

### **14 Proceedings of trust**

- (1) The members of the trust shall from time to time elect one of their number to be chairperson of the trust and another of their number to be deputy chairperson.
- (2) At every meeting of the trust the chairperson, if present, shall preside or, if the chairperson is not present, the deputy chairperson, if present, shall preside or, if the deputy chairperson also is not present, a member of the trust appointed from and by those members who are present shall preside.
- (2A) A person, other than the chairperson, while the person is presiding at a meeting of the trust shall have all the powers and authorities of the chairperson.
- (3) At every meeting of the trust 4 members thereof shall constitute a quorum.
- (4) At every meeting of the trust at which a quorum is present—
  - (a) each member thereof who is present shall be entitled to 1 vote upon each question; and

- (b) any member thereof who is present and who abstains from voting upon a question shall be deemed to have voted in the negative; and
  - (c) in the event of an equality of votes upon any question it shall be deemed that the question has been resolved in the negative.
- (5) Except as is provided by this section, business of a meeting of the trust shall be conducted as determined by the members of the trust present at the meeting.

## **15 Custody and use of seal**

- (1) The common seal of the trust shall be in the custody of the chairperson of the trust and may be affixed to any document by the chairperson.
- (2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the trust and shall presume, until the contrary is proved, that it has been duly affixed to any document in question.

## **16 Declaration that trust is statutory body**

- (1) The trust is a statutory body for the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the trust's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

## **Part 3**                      **Provisions affecting Mt Gravatt lands**

### **18**      **Statutory trust**

The land described in the schedule is held by the trust upon trust to apply the lands and the improvements thereon, subject to this Act, for showgrounds, park and recreation purposes and such other purposes not inconsistent with those prescribed purposes as the trust may from time to time approve.

## **Part 4**                      **Performance of trusts**

### **20**      **Objects of trust**

The objects of the trust are—

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

## **21 Powers of trust**

For the purpose of pursuing its objects the trust shall have and may exercise the following powers—

- (a) subject to its obtaining any relevant approval, to erect or permit to be erected on land that is part of the showgrounds any building, fencing or other structure being, in any case, such that its purpose or use is consistent with all or any of the trust purposes;
- (b) to make or permit to be made on land that is part of the showgrounds any development, landscaping or beautification, such that its purpose or use is consistent with all or any of the trust purposes;
- (c) to acquire such additional land adjacent to land for the time being vested in the trust as the trust considers desirable to achieve its objects;
- (d) to let, lease or permit the use of the showgrounds or any part thereof on such terms and conditions as the trust thinks fit, whether for or without reward, but so as not to prejudice any right conferred by this Act on any person or association of persons;
- (f) to sell or otherwise dispose of assets of the trust other than the showgrounds;
- (g) to do all such acts as, in the opinion of the trust, are necessary to or incidental in the proper development, maintenance or management of the showgrounds or the achievement of the objects of the trust.

## **22 Trusts affecting land acquired**

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

## **23 Rights of society**

- (1) The trust shall permit the society to enjoy the sole occupation of the showgrounds, free of charge, for a period of 2 weeks in each calendar year at a time agreed between the trust and the society for the purpose of conducting an annual district show, and for such further period or periods as the trust considers necessary to prepare for the district show or to restore the showgrounds after the district show.
- (2) Persons authorised by the society are entitled to enter and be upon the showgrounds for the purpose of making improvements thereon for showground purposes at all other times but so as not to prejudice the rights of any other person conferred by the trust.

## **Part 5 General provisions**

### **24 Rule against perpetuities excluded**

No purpose trust upon which the showgrounds or any part thereof may be held for the time being pursuant to this Act shall be held to be invalid by reason of—

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

### **25 By-laws**

- (1) The trust may make by-laws under this Act.
- (1A) A by-law may be made about—
  - (a) the maintenance of; and
  - (b) entry upon; and
  - (c) use of; and

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- (d) behaviour within; and
  - (e) control of; and
  - (f) the protection of;
- the showgrounds.
- (2) A by-law may impose a penalty not exceeding 4 penalty units in respect of a breach of any by-law.
  - (3) A by-law must be approved by the Governor in Council.

*Editor's note—*

A by-law is subordinate legislation (see *Statutory Instruments Act 1992*, sections 7, 8(b)(i) and 9(1)(a)).

## **26 Enforcement of Act and by-laws**

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

## **27 Abatement of danger or annoyance**

Where it appears to—

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

that there are reasonable grounds for apprehending injury or annoyance to members of the public or damage to the showgrounds or any part thereof from any structure or thing that is on the showgrounds in breach of a by-law of the trust it is lawful for the trust or, as the case may be, such person, member, servant or agent to take all steps necessary to remove or dismantle such structure or thing and no liability shall be

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incurred on account of any such step taken without negligence.

## **28 Regulation-making power**

The Governor in Council may make regulations under this Act.



## **Schedule                      Trust land**

sections 4 and 18

- 1    Lot 1 on RP 140827, situated in the County of Stanley, Parish of Bulimba, City of Brisbane, and containing an area of 5.252ha
- 2    Lot 2 on RP 140827, situated in the County of Stanley, Parish of Bulimba, City of Brisbane, and containing an area of 5.792ha