



Queensland

# Building Units and Group Titles and Other Legislation Amendment Bill 2022

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# Draft for consultation purposes

Building Units and Group Titles and Other Legislation Amendment Bill 2022

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**2022**

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**A Bill**

for

**An Act to amend the *Building Units and Group Titles Act 1980* and the *Mixed Use Development Act 1993* for particular purposes**

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**Draft for consultation purposes**

[s 1]

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**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Building Units and Group Titles and Other Legislation Amendment Act 2022*.

### **2 Commencement**

[to be advised]

## **Part 2 Amendment of Building Units and Group Titles Act 1980**

### **3 Act amended**

This part amends the *Building Units and Group Titles Act 1980*.

*Note—*

See also the amendments in schedule 1.

### **4 Amendment of s 7 (Interpretation)**

Section 7(1)—

*insert—*

*associate*, of a person, for part 4, division 2, see section 41A.

*associated body corporate*, for a body corporate, for part 4, division 2, see section 41A.

*body corporate manager*, for a body corporate

incorporated under a specified Act, for part 4, division 2, see section 41A.

**development site**, for a body corporate, for part 4, division 2, see section 41A.

**electable person**, for part 4, division 2, see section 41B.

**individual nominee**, in relation to a proprietor who is an individual, means an individual who is not a proprietor but is nominated for election to a committee by the proprietor.

**letting arrangement**, for part 4, division 2, see section 41A.

**relevant body corporate debt**, for part 4, division 2, see section 41A.

**service arrangement**, for part 4, division 2, see section 41A.

**specified Act** see section 5A(3).

**voting member**, of a committee, means a member of the committee who is entitled to vote at meetings of the committee.

## 5 Amendment of s 27 (Constitution of bodies corporate)

(1) Section 27—

*insert—*

(3A) The body corporate must act reasonably in anything it does under subsection (3), including making, or not making, a decision under the subsection.

(2) Section 27(6)(a) and (b), after ‘;’—

*insert—*

and

(3) Section 27(3A) to (7)—

[s 6]

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*renumber* as section 27(4) to (8).

**6 Amendment of s 32 (Levies by body corporate on proprietors)**

(1) Section 32(6)(c)—

*omit, insert—*

(c) must be paid to the body corporate as a monetary amount;

(2) Section 32—

*insert—*

(8) Despite subsection (6)(c), a contribution levied by a body corporate in relation to a lot is taken to be paid in full or part if it is satisfied in full or part by an offset arrangement between the body corporate and the proprietor of the lot.

(9) Subsection (8) applies only if—

(a) the satisfaction of the contribution in full or part by the offset arrangement was approved by resolution of the body corporate; and

(b) the proprietor did not vote on the motion for the resolution; and

(c) the fair value of land, goods or services provided as an offset under the offset arrangement equals the value of the contribution sought to be satisfied in full or part by the offset arrangement.

**7 Insertion of new s 32A**

After section 32—

*insert—*

**32A Recovery of body corporate debts**

(1) If a contribution levied by a body corporate is not



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paid by the date for payment, the body corporate may recover the amount of the contribution as a debt.

- (2) If the amount of a contribution levied by a body corporate has been outstanding for 2 years, the body corporate must, within 2 months after the end of the 2-year period, start proceedings to recover the amount.

**8 Amendment of s 38D (Duty of body corporate as to keeping records, convening meetings etc.)**

- (1) Section 38D(1)(a), (b) and (c) and (2)(a) and (b), after ‘;’—

*insert—*

and

- (2) Section 38D(1)—

*insert—*

(ca) give a copy of the minutes of each of its meetings to each proprietor and first mortgagee of a lot within 21 days after the meeting is held; and

- (3) Section 38D(1)(ca) and (d)—

*renumber* as section 38D(1)(d) and (e).

- (4) Section 38D—

*insert—*

- (5) Subsection (1)(d) does not apply in relation to a person who—

(a) has given the secretary of the body corporate a written notice instructing the secretary that the person does not wish to be given copies of the minutes; and

(b) has not withdrawn the instruction.

[s 9]

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**9 Insertion of new pt 4, div 2, sdiv 1 and sdiv 2 hdg**

Part 4, division 2—

*insert—*

**Subdivision 1 Interpretation**

**41A Definitions for division**

In this division—

*associate*, of a person, means someone else with whom the person is associated under section 41C.

*associated body corporate*, for a body corporate, means another body corporate, including a body corporate incorporated under a specified Act, for a lot within the development site for the body corporate.

*body corporate manager*, for a body corporate incorporated under a specified Act, means a body corporate manager for the body corporate under that Act.

*development site*, for a body corporate, means a site developed under a specified Act that includes lots for which the body corporate is constituted.

*electable person* see section 41B.

*letting arrangement* means an agreement or arrangement (including an arrangement set out in a by-law under this Act) for the conduct of a business of a kind mentioned in section 7(1), definition *prescribed arrangement*, paragraph (g).

*Example of a letting arrangement—*

An arrangement for the conduct of a letting agent business by a letting agent under the *Mixed Use Development Act 1993*.

*relevant body corporate debt* means any of the following amounts relating to a lot that are unpaid and have been due for payment for at least 30

days—

- (a) a contribution;
- (b) a penalty for not paying a contribution by the date for payment;
- (c) another amount associated with the ownership of a lot.

*Examples of another amount—*

- 1 an annual payment for the exclusive use and enjoyment of a car park under a by-law made by a body corporate
- 2 an amount for lawn mowing services arranged by a body corporate on behalf of an owner of a lot

***service arrangement*** means an agreement or arrangement (including an arrangement set out in a by-law under this Act) for carrying out duties of a kind mentioned in section 7(1), definition *prescribed arrangement*, paragraph (d).

*Example of a service arrangement—*

An arrangement for the supply of services by a service contractor under the *Mixed Use Development Act 1993*.

#### **41B Meaning of *electable person***

A person is an ***electable person*** for a body corporate if—

- (a) the person is an individual—
  - (i) who is a proprietor; or
  - (ii) who is a company nominee of a corporation that is a proprietor; or
  - (iii) who is not a proprietor but is nominated for election by a proprietor who is an individual; and
- (b) neither the person nor an associate of the person—

[s 9]

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- (i) owes a relevant body corporate debt to the body corporate or an associated body corporate; or
- (ii) is a body corporate manager for the body corporate or an associated body corporate; or
- (iii) is a party to a service arrangement or letting arrangement (however called) with the body corporate or an associated body corporate.

#### **41C Associates**

- (1) For section 41B, a person is associated with someone else if—
  - (a) a relationship of a type mentioned in subsection (2) exists between them; or
  - (b) a series of relationships of a type mentioned in subsection (2) can be traced between them through another person or other persons.
- (2) For subsection (1), the relationships are as follows—
  - (a) marriage or de facto partnership;
  - (b) the relationship of ascendant and descendant (including the relationship of parent and child) or the relationship of persons who have a parent or grandparent in common;
  - (c) business partnership;
  - (d) the relationship of employer and employee;
  - (e) a fiduciary relationship;
  - (f) the relationship of persons, one of whom is accustomed, or under an obligation (whether formal or informal), to act in accordance

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with the directions, instructions or wishes of the other;

- (g) the relationship of a corporation and executive officer of the corporation;
  - (h) the relationship of a corporation and a person who is in a position to control or substantially influence the corporation's conduct.
- (3) However, despite subsection (2)(e) and (f), the proprietor of a lot and a person who is a party to a letting arrangement are not associated merely because of services provided to the proprietor by the person under the arrangement.
- (4) Also, for a person mentioned in section 41B(a)(iii), the proprietor who nominates the person for election is associated with the person.
- (5) In this section—

*executive officer*, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

## Subdivision 2 Other provisions

### 10 Amendment of s 42 (Constitution of committees)

- (1) Section 42(5)(a), after 'occur;'—

*insert—*

and

- (2) Section 42(6)—

*omit, insert—*

- (6) A person is eligible for election as chairperson,

[s 11]

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secretary or treasurer of the body corporate or as a member of a committee of the body corporate only if the person is an electable person for the body corporate at the time of the meeting of the body corporate at which the person's election is proposed.

**11 Insertion of new s 42A**

After section 42—

*insert—*

**42A Non-voting members of committees**

- (1) This section applies to a person who is—
  - (a) a body corporate manager of a body corporate; or
  - (b) a party to both a letting arrangement and service arrangement with a body corporate.
- (2) The person is, without further election or appointment, a member of the committee of the body corporate.
- (3) Subsection (2) applies even though the person is not an electable person for the body corporate.
- (4) A person who is a member of a committee under this section is not entitled to vote at a meeting of the committee or vote in writing on a resolution under schedule 4, section 7.
- (5) Subsection (4) applies even if the person is a person of the type mentioned in section 41B(a).
- (6) A person who is a member of a committee under this section is not to be counted—
  - (a) under section 42(4) for determining the number of members of the committee; or

- (b) under section 45(1) for determining whether a quorum is constituted at a meeting of the committee.

**12 Amendment of s 43 (Vacation of office of member of committee)**

- (1) Section 43(1)(a) and (b)—

*omit, insert—*

- (a) if the person ceases to be an electable person for the body corporate under section 41B(a) or (b)(ii) or (iii); or
- (b) if the person is an individual nominee for a proprietor who is an individual or a company nominee of a proprietor that is a corporation—the proprietor notifies the body corporate, in writing, that the person's office, as a member of the committee, is vacated; or

- (2) Section 43—

*insert—*

- (1A) However, if a person elected as secretary or treasurer of the body corporate is not a member of the committee under section 42(6A)—

- (a) the person does not vacate the person's office under subsection (1)(a) if the person ceases to be an electable person only because—
  - (i) at the time of the person's election, the person was an individual nominee for a proprietor who is an individual or a company nominee for a proprietor that is a corporation; and
  - (ii) the individual or corporation ceases to be a proprietor; and

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- (b) the person's office cannot be vacated under subsection (1)(b).
- (3) Section 43(2), after 'as such'—  
*insert—*  
at the time of the appointment
- (4) Section 43(5), (6) and (7), 'subsection (4)'—  
*omit, insert—*  
subsection (5)
- (5) Section 43(1A) to (7)—  
*renumber* as section 43(2) to (8).

**13 Amendment of s 45 (Meetings of committees)**

Section 45—

*insert—*

- (5) The secretary of a committee must give a copy of the following to each proprietor and first mortgagee of a lot—
  - (a) the minutes of each of its meetings;
  - (b) the minutes of resolutions passed under schedule 4, section 7.
- (6) Subsection (5) does not apply in relation to a person who—
  - (a) has given the secretary a written notice instructing the secretary that the person does not wish to be given copies of the minutes; and
  - (b) has not withdrawn the instruction.
- (7) A copy of minutes given to a person under subsection (5) must be given—



- (a) for minutes mentioned in subsection (5)(a)—within 21 days after the meeting is held; or
- (b) for minutes mentioned in subsection (5)(b)—within 21 days after the resolution is passed.

**14 Insertion of new ss 45A–45C**

After section 45—

*insert—*

**45A When voting member ineligible to vote at committee meetings**

- (1) For this section, a voting member of a committee is a *debtor member* for a meeting of the committee if—
  - (a) the member is a proprietor and—
    - (i) when the notice of intention to hold the meeting was displayed, the member owed a relevant body corporate debt to the body corporate; and
    - (ii) at the time of the meeting, the member still owes part or all of the relevant body corporate debt; or
  - (b) the member is an individual nominee of a proprietor who is an individual or a company nominee of a proprietor that is a corporation and—
    - (i) when the notice of intention to hold the meeting was displayed, the proprietor owed a relevant body corporate debt to the body corporate; and
    - (ii) at the time of the meeting, the proprietor still owes part or all of the relevant body corporate debt.

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- (2) A debtor member for a meeting of a committee must not vote at the meeting—
  - (a) in the member’s own right; or
  - (b) as a person appointed under section 42(7) to act in another committee member’s place.
- (3) Also, a person appointed under section 42(7) to act in the place of a debtor member for a meeting of a committee must not exercise a vote on behalf of the debtor member at the meeting.
- (4) However, nothing in this section prevents a debtor member for a meeting of a committee from being counted, under section 45, for deciding whether there is a quorum for the meeting.

**45B Conflict of interest**

- (1) A member of a committee must disclose to a meeting of the committee the member’s direct or indirect interest in an issue being considered, or about to be considered, by the committee if the interest could conflict with the appropriate performance of the member’s duties about the consideration of the issue.
- (2) If a member of a committee required under subsection (1) to disclose an interest in an issue is a voting member, the member is not entitled to vote on a motion involving the issue.
- (3) A person who is appointed under section 42(7) to act in a committee member’s place must disclose to a meeting of the committee the person’s direct or indirect interest in an issue being considered, or about to be considered, by the committee if the interest could conflict with the appropriate performance of the person’s duties about the consideration of the issue.
- (4) A person required under subsection (3) to disclose

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an interest in an issue must not vote as the person appointed under section 42(7) to act in the committee member's place on a motion involving the issue.

- (5) A person who is appointed under section 42(7) to act in a committee member's place must disclose to a meeting of the committee the member's direct or indirect interest in an issue being considered, or about to be considered, by the committee if the person is aware that the member, if present, would be required under subsection (1) to disclose the interest.
- (6) A person required under subsection (5) to disclose an interest in an issue must not vote as the person appointed under section 42(7) to act in the committee member's place on a motion involving the issue.

#### **45C When committee member may receive particular benefits**

- (1) A member of a committee may receive a direct or indirect benefit from a party to a service arrangement with the body corporate only if—
  - (a) the benefit is the supply of, or payment for—
    - (i) a service that the body corporate has engaged the party to provide; or
    - (ii) a service that a proprietor has engaged the party to provide at market price; or

*Example for subparagraph (ii)—*

    - a gardening or maintenance service provided by a person to proprietors
  - (b) subsection (3) applies.
- (2) A member of a committee may receive a direct or indirect benefit from a party to a letting

[s 15]

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arrangement with the body corporate only if—

- (a) the benefit is the supply of, or payment for, a letting agent business service conducted by the party; or
  - (b) subsection (3) applies.
- (3) A member of a committee may receive a direct or indirect benefit from a party mentioned in subsection (1) or (2) if the body corporate has authorised the member, by ordinary resolution, to receive the benefit.

**15 Insertion of new s 73A**

After section 73—

*insert—*

**73A How referee must act**

When investigating an application for an order under this part, a referee—

- (a) must observe natural justice; and
- (b) must act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the application; and
- (c) is not bound by the rules of evidence.

**16 Amendment of s 121A (Limited right of action by body corporate)**

Section 121A—

*insert—*

- (2) This section does not apply to an application by a body corporate under section 72 for an order under part 5, division 3.

**17 Insertion of new s 132A**

After section 132—

*insert—*

**132A Education and information service**

- (1) The chief executive may provide an education and information service for helping—
  - (a) proprietors, bodies corporate and other persons who have rights and obligations under this Act or a schedule 2 applied provision to become aware of the rights and obligations; and
  - (b) proprietors, bodies corporate and other persons who have rights and obligations under part 5 or a part 5 applied provision to become aware of the processes for dispute resolution under part 5 or a part 5 applied provision; and
  - (c) members of the public to become aware of—
    - (i) the rights and obligations mentioned in paragraph (a); and
    - (ii) the processes for dispute resolution mentioned in paragraph (b); and
  - (d) referees to increase their proficiency.

- (2) In this section—

***part 5 applied provision*** means a provision of part 5 as applied by any of the following provisions—

- (a) the *Integrated Resort Development Act 1987*, section 179A;
- (b) the *Mixed Use Development Act 1993*, section 214A;
- (c) the *Sanctuary Cove Resort Act 1985*, section 104A.

[s 18]

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*schedule 2 applied provision* means a provision of schedule 2 as applied by any of the following provisions—

- (a) the *Integrated Resort Development Act 1987*, section 106(6);
- (b) the *Mixed Use Development Act 1993*, section 172(8) and (9);
- (c) the *Sanctuary Cove Resort Act 1985*, section 27(5).

**18 Replacement of s 133B (Approved forms)**

Section 133B—

*omit, insert—*

**133B Approved forms**

- (1) The registrar of titles may approve forms for use under this Act in relation to a titles registry function performed under this Act.
- (2) The chief executive may approve forms for use under this Act other than in circumstances mentioned in subsection (1).

**19 Insertion of new pt 7, div 5**

Part 7—

*insert—*

**Division 5**

**Transitional provisions for  
Building Units and Group  
Titles and Other  
Legislation Amendment  
Act 2022**

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#### **144 Application of s 32A**

Section 32A(2) applies only to a contribution levied by a body corporate that becomes due for payment after the commencement.

#### **145 Application of s 38D**

Section 38D(1)(d) applies only in relation to a meeting of a body corporate held after the commencement.

#### **146 Elected persons who are not electable persons**

- (1) This section applies if a person elected as chairperson, secretary or treasurer of a body corporate, or as a member of a committee, immediately before the commencement is not an electable person for the body corporate.
- (2) On the commencement, the person vacates the person's office.
- (3) Section 43(3) to (8) applies in relation to the vacancy.
- (4) In this section—  
*electable person*, for a body corporate, see section 41B.

#### **147 Application of s 45**

- (1) Section 45(5)(a) applies only in relation to a meeting of a committee held after the commencement.
- (2) Section 45(5)(b) applies only in relation to a resolution passed after the commencement.

[s 20]

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**148 Existing applications for orders under part 5**

- (1) This section applies in relation to an application for an order under part 5 made, but not decided, before the commencement.
- (2) The referee may continue to deal with the application under this Act as in force before the commencement as if the *Building Units and Group Titles and Other Legislation Amendment Act 2022* had not been enacted.

**149 Approved forms**

- (1) This section applies to a form approved under section 133B(1) as in force before the commencement if the form is in force immediately before the commencement.
- (2) From the commencement, the form is taken to be a form approved by the chief executive under section 133B(2).

**20 Amendment of sch 4 (Provisions applying to committees and office bearers)**

- (1) Schedule 4, section 3(a), after ‘;’—

*insert—*

or

- (2) Schedule 4, section 7—

*insert—*

- (2) Sections 45A and 45B apply in relation to a voting member of a committee voting under this section in the same way as they apply in relation to a voting member of a committee voting at a meeting of the committee that is held.



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**Part 3**                      **Amendment of Mixed Use  
Development Act 1993**

**21 Act amended**

This part amends the *Mixed Use Development Act 1993*.

*Note—*

See also the amendments in schedule 1.

**22 Insertion of new pt 9, div 1, subdiv 1 hdg**

Before section 166—

**Subdivision 1 General**

**23 Amendment of s 166 (Definitions)**

Section 166—

*insert—*

*electable person* see section 166C.

**24 Insertion of new s 166A and pt 9, div 1, subdiv 2**

After section 166—

*insert—*

**166A References to bodies corporate created by  
the registration of a building units or group  
titles plan**

In this part, a reference to the following terms in relation to a body corporate created by the registration of a building units or group titles plan, has the meaning the term has under the *Building Units and Group Titles Act 1980*—

- (a) body corporate manager of the body corporate;

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- (b) committee of the body corporate;
- (c) voting member of a committee of the body corporate.

## Subdivision 2 Electable persons

### 166B Definitions for subdivision

In this subdivision—

*associated body corporate*, for a body corporate, means another body corporate incorporated or created for the mixed use scheme for which the body corporate was incorporated.

*letting agent* means—

- (a) for a body corporate under this Act—a letting agent for the site or precinct of the body corporate; or
- (b) for a body corporate created by the registration of a building units or group titles plan—a party to an arrangement with the body corporate of a type mentioned in the *Building Units and Group Titles Act 1980*, section 7(1), definition *prescribed arrangement*, paragraph (g).

*service provider* means—

- (a) for a body corporate under this Act—a service contractor for the site or precinct of the body corporate; or
- (b) for a body corporate created by the registration of a building units or group titles plan—a party to an arrangement with the body corporate of a type mentioned in the *Building Units and Group Titles Act 1980*, section 7(1), definition *prescribed arrangement*, paragraph (d).

**166C Meaning of *electable person***

A person is an *electable person* for a body corporate if—

- (a) the person is an individual who is—
  - (i) a member of the body corporate; or
  - (ii) a nominee of a corporation that is a member of the body corporate; and
- (b) neither the person nor an associate of the person—
  - (i) owes a relevant body corporate debt to the body corporate or an associated body corporate; or
  - (ii) is a body corporate manager for the body corporate or an associated body corporate; or
  - (iii) is a service provider or letting agent for the body corporate or an associated body corporate.

**25 Amendment of s 167 (Community body corporate)**

- (1) Section 167—

*insert—*

(9A) The body corporate must act reasonably in anything it does under subsection (9), including making, or not making, a decision under the subsection.

- (2) Section 167(11), ‘subsection (10)’—

*omit, insert—*

subsection (11)

- (3) Section 167(9A) to (12)—

*renumber* as section 167(10) to (13).

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**26 Amendment of s 168 (Precinct body corporate)**

(1) Section 168—

*insert—*

(9A) The precinct body corporate must act reasonably in anything it does under subsection (9), including making, or not making, a decision under the subsection.

(2) Section 168(11), ‘subsection (10)’—

*omit, insert—*

subsection (11)

(3) Section 168(9A) to (12)—

*renumber* as section 168(10) to (13).

**27 Amendment of s 169 (Members’ nominees)**

(1) Section 169(2) and (3)—

*omit, insert—*

(2) If the member is a subsidiary body corporate, the member must—

(a) appoint a person under subsection (1) at its first annual general meeting; and

(b) ensure that at all times there is a person appointed under subsection (1) for the member.

(3) For any period that, despite subsection (2)(b), no person is appointed under subsection (1) for a member that is a subsidiary body corporate, the chairperson of the executive committee, or committee, of the body corporate is taken to be appointed under subsection (1) for the member.

(3A) A nominee appointed by a subsidiary body corporate must be—



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(10C) If subsection (10B) applies in relation to a member of a body corporate voting at a meeting of the body corporate, the member's voting entitlement for the meeting is worked out by—

- (a) calculating the percentage of the member's owed amounts that are overdue amounts at the time of the meeting; and
- (b) reducing the member's actual voting entitlement by that percentage.

(3) Section 172—

*insert—*

(21) In this section—

***no fault debt***, for a member of a body corporate that is a subsidiary body corporate, means an overdue amount that is reasonably attributable to non-payment by 1 or more undeveloped lot members of the subsidiary body corporate of contributions levied on them by the subsidiary body corporate.

***overdue amount***, for a member of a body corporate, means—

- (a) an amount of a contribution levied by the body corporate on the member that is unpaid and has been due for payment for 30 or more days; or
- (b) any other amount recoverable from the member by the body corporate that is unpaid.

***owed amounts***, for a member of a body corporate, means the sum of—

- (a) the contributions levied and due and payable by the member to the body corporate; and
- (b) any other amounts recoverable from the member by the body corporate.

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*undeveloped lot member*, in relation to a subsidiary body corporate, means a member of the subsidiary body corporate who is an owner of a lot that has not been improved by a building or other facility that is reasonably capable of being used for a purpose intended for the lot under a plan applying to the lot.

**29 Amendment of s 174 (Levies by bodies corporate on members)**

- (1) Section 174(1)(a), ‘section 177(1)(h)’—

*omit, insert—*

section 177(1)(i)

- (2) Section 174(4)—

*insert—*

- (d) must be paid to the body corporate as a monetary amount.

- (3) Section 174—

*insert—*

- (6) Despite subsection (4)(d), a contribution levied by a body corporate in relation to a lot is taken to be paid in full or part if it is satisfied in full or part by an offset arrangement between the body corporate and the proprietor of the lot.

- (7) Subsection (6) applies only if—

- (a) the satisfaction of the contribution in full or part by the offset arrangement was approved by resolution of the body corporate and the proprietor did not vote on the motion for the resolution; and

- (b) the fair value of land, goods or services provided as an offset under the offset arrangement equals the value of the

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contribution sought to be satisfied in full or part by the offset arrangement.

**30 Amendment of s 177 (Duties of bodies corporate)**

(1) Section 177(1)(a)(i), ‘; or’—

*omit, insert—*

; and

(2) Section 177(1)(a)(ii), ‘164.’—

*omit, insert—*

164; and

(3) Section 177(1)(b)(iii), after ‘;’—

*insert—*

and

(4) Section 177(1)—

*insert—*

(fa) give a copy of the minutes of each of its meetings to each member of the body corporate and mortgagee of a lot within 21 days after the meeting is held; and

(5) Section 177(1)(h)(ii), ‘paragraph (l)’—

*omit, insert—*

paragraph (m)

(6) Section 177(1)(i) and (j), ‘paragraph (h)’—

*omit, insert—*

paragraph (i)

(7) Section 177(1)(k), ‘paragraph (i)’—

*omit, insert—*

paragraph (j)

(8) Section 177(1)(l)(ii), ‘paragraph (j)’—



*omit, insert—*

paragraph (k)

(9) Section 177(1)—

*insert—*

(la) if the body corporate has entered into an agreement under section 176(c) or (d) for the provision, by it or another person, of an amenity or service that is an essential utility service—take all reasonable steps to ensure continuity of the amenity or service; and

*Example of taking reasonable steps to ensure continuity of an amenity or service—*

- carrying out repairs to an amenity or service
- ensuring that a service contractor carries out repairs to an amenity or service

(10) Section 177(1)(fa) to (m)—

*renumber* as section 177(1)(g) to (o).

(11) Section 177(2), ‘subsection (1)(h) or (l)’—

*omit, insert—*

subsection (1)(i) or (m)

(12) Section 177(3)(b), ‘subsection (1)(l)’—

*omit, insert—*

subsection (1)(m)

(13) Section 177(4), ‘subsection (1)(h)’—

*omit, insert—*

subsection (1)(i)

(14) Section 177(5), ‘subsection (1)(g)’—

*omit, insert—*

subsection (1)(h)

(15) Section 177—

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*insert—*

- (6) Subsection (1)(g) does not apply in relation to a person who—
  - (a) has given the secretary of the body corporate a written notice instructing the secretary that the person does not wish to be given copies of the minutes; and
  - (b) has not withdrawn the instruction.
- (7) In this section—

*essential utility service* means the provision of sewerage services, electricity, gas or water.

**31 Amendment of s 183 (Delegation by corporate members of bodies corporate)**

Section 183, ‘A’—

*omit, insert—*

Subject to section 169(5), a

**32 Amendment of s 185 (Constitution of executive committee)**

Section 185(7A)—

*omit, insert—*

- (7A) A person is eligible for election as chairperson, secretary or treasurer, or as another member of the executive committee of the body corporate only if the person is an electable person for the body corporate at the time of the meeting of the body corporate at which the person’s election is proposed.

**33 Insertion of new s 185B**

After section 185A—

*insert—*

**185B Non-voting members of executive committee**

- (1) The following persons are, without further election or appointment, members of the executive committee of a body corporate—
  - (a) a body corporate manager appointed by the body corporate;
  - (b) a caretaking service contractor engaged by the body corporate.
- (2) Subsection (1) applies even though the person is not an electable person for the body corporate.
- (3) A person who is a member of an executive committee under this section is not entitled to vote at a meeting of the executive committee.
- (4) Subsection (3) applies even if the person is a member of the body corporate or a nominee of a corporation that is a member of the body corporate.
- (5) A person who is a member of an executive committee under this section is not to be counted—
  - (a) under section 185(4) for determining the number of members of the executive committee; or
  - (b) under section 188(1) for determining whether a quorum is constituted at a meeting of the executive committee.

**34 Amendment of s 186 (Vacation of office of member of executive committee)**

- (1) Section 186(1)(a) and (b)—

*omit, insert—*

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- (a) if the person ceases to be an electable person for the body corporate under section 166C(1)(a) or (b)(ii) or (iii); or
- (b) if the person is a nominee of a corporation that is a member of the body corporate—the corporation notifies the body corporate, in writing, that the person’s office, as a member of the executive committee, is vacated; or

(2) Section 186(2)—

*omit, insert—*

(2) However, if a person elected as secretary or treasurer of the body corporate is not a member of the executive committee under section 185(9)—

- (a) the person does not vacate the person’s office under subsection (1)(a) if the person ceases to be an electable person only because—
  - (i) at the time of the person’s election, the person was a nominee of a corporation that was a member of the body corporate; and
  - (ii) the corporation ceases to be a member of the body corporate; and
- (b) the person’s office cannot be vacated under subsection (1)(b).

**35 Amendment of s 188 (Meetings of executive committee)**

Section 188—

*insert—*

(5) The secretary of the executive committee must give a copy of the minutes of each of its meetings to each member of the body corporate and mortgagee of a lot.

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- (6) Subsection (5) does not apply in relation to a person who—
    - (a) has given the secretary a written notice instructing the secretary that the person does not wish to be given copies of the minutes; and
    - (b) has not withdrawn the instruction.
  - (7) A copy of minutes given to a person under subsection (5) must be given within 21 days after the meeting is held.

**36 Insertion of new ss 188AA and 188AB**

After section 188—

*insert—*

**188AA When voting member ineligible to vote at executive committee meetings**

- (1) For this section, a voting member of an executive committee is a *debtor member* for a meeting of the executive committee if—
  - (a) the member is a member of the body corporate and—
    - (i) when the notice of intention to hold the meeting was displayed, the member owed a relevant body corporate debt to the body corporate; and
    - (ii) at the time of the meeting, the member still owes part or all of the relevant body corporate debt; or
  - (b) the member is the nominee of a corporation that is a member of the body corporate and—
    - (i) when the notice of intention to hold the meeting was displayed, the corporation

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- owed a relevant body corporate debt to the body corporate; and
  - (ii) at the time of the meeting, the corporation still owes part or all of the relevant body corporate debt.
- (2) A debtor member for a meeting of an executive committee must not vote at the meeting—
    - (a) in the member’s own right; or
    - (b) as a person appointed under section 185(10) to act in another executive committee member’s place.
  - (3) Also, a person who is appointed under section 185(10) to act in the place of a debtor member for a meeting of an executive committee must not exercise a vote on behalf of the debtor member at the meeting.
  - (4) However, nothing in this section prevents a debtor member for a meeting of an executive committee from being counted, under section 188, for deciding whether there is a quorum for the meeting.

**188AB When executive committee member may receive particular benefits**

A member of an executive committee may receive a direct or indirect benefit from a service contractor only if—

- (a) the benefit is the supply of, or payment for—
  - (i) a service that the body corporate has engaged the contractor to provide; or
  - (ii) a service that an owner of a lot has engaged the contractor to provide at market price; or

*Example for subparagraph (ii)—*

- a gardening or maintenance service provided by a service contractor to lot owners
- (b) for a service contractor that is a caretaking service contractor—the benefit is the supply of, or payment for, a letting agent business service conducted by the contractor; or
  - (c) the body corporate has authorised the member, by ordinary resolution, to receive the benefit.

**37 Insertion of new pt 15**

After part 14—

*insert—*

**Part 15**

**Transitional provisions  
for Building Units and  
Group Titles and Other  
Legislation  
Amendment Act 2022**

**231 Application of s 169**

- (1) This section applies if a nominee appointed by a subsidiary body corporate under section 169(1) immediately before the commencement does not meet the requirements of section 169(4).
- (2) On the commencement, the appointment of the nominee ends.

*Note—*

See section 169(3) in relation to any time during which no person is appointed under section 169(1) for a member.

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### **232 Application of s 177**

Section 177(1)(g) applies only in relation to a meeting of a body corporate held after the commencement.

### **233 Elected persons who are not electable persons**

- (1) This section applies if a person elected as chairperson, secretary or treasurer, or another member of the executive committee of a body corporate, immediately before the commencement is not an electable person for the body corporate.
- (2) On the commencement, the person vacates the person's office.
- (3) Section 186(3) to (11) applies in relation to the vacancy.
- (4) In this section—  
*electable person*, for a body corporate, see section 166C.

### **234 Application of s 188**

Section 188(5) applies only in relation to a meeting of an executive committee held after the commencement.

## **38 Amendment of sch 1 (Election of executive committee members of bodies corporate)**

Schedule 1, section 3(2)(b), from 'owes' to 'by the person'—  
*omit, insert—*

or an associate of the person owes a relevant body corporate debt to—

- (a) the body corporate; or



- (b) an associated body corporate within the meaning of section 166B

**39 Amendment of sch 5 (Dictionary)**

- (1) Schedule 5, definition *relevant body corporate debt*—  
*omit.*
- (2) Schedule 5—  
*insert—*

*associated body corporate*, for part 9, division 1, subdivision 2, see section 166B.

*electable person*, for part 9, see section 166.

*letting agent*, for part 9, division 1, subdivision 2, see section 166B.

*relevant body corporate debt* means any of the following amounts relating to a lot that are unpaid and have been due for at least 30 days—

- (a) a contribution;
- (b) a penalty for not paying a contribution by the date for payment;
- (c) another amount associated with the ownership of a lot.

*Examples of another amount—*

- 1 an annual payment for the exclusive use and control of a car park under a by-law made by a body corporate
- 2 an amount for lawn mowing services arranged by a body corporate on behalf of an owner of a lot

*service provider*, for part 9, division 1, subdivision 2, see section 166B.

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## **Part 4                      Other amendments**

### **40        Acts amended**

Schedule 1 amends the Acts it mentions.

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## Schedule 1      Other amendments

section 40

### Building Units and Group Titles Act 1980

- 1      **Section 7(1), definition *original plan*, paragraphs (a) and (b), after ‘;’—**

*insert—*

or

- 2      **Sections 15(a), 17(a), 19(1)(a) and (b) and 21(2)(a), after ‘;’—**

*insert—*

and

- 3      **Section 22(1)(a), after ‘;’—**

*insert—*

or

- 4      **Section 22(7)(a) and (b), after ‘;’—**

*insert—*

and

- 5      **Section 23(1)(a), (b) and (c), after ‘;’—**

*insert—*

or

**6 Section 25(3), ‘including’—**

*omit, insert—*

including, for example, conditions about

**7 Section 25(3)(a), (7)(a) and (7A)(a), (b) and (c), after ‘;’—**

*insert—*

or

**8 Sections 26(9)(a), 30(7B)(a) and (b) and 37(1)(c)(i), (ii), (iii) and (iv), after ‘;’—**

*insert—*

and

**9 Section 38(2) and (5), after ‘pay’—**

*insert—*

the following amounts

**10 Section 40(1)(b), after ‘make’—**

*insert—*

the following

**11 Section 40(5), definition *prescribed person*, paragraph (a), after ‘;’—**

*insert—*

or

**12 Section 53(8)(b)(i), after ‘;’—**

*insert—*

and

- 
- 13 Sections 67(a) and (b) and 78(1)(a) and (b), after ‘;’—**  
*insert—*  
or
- 14 Section 95(1), after ‘referee on’—**  
*insert—*  
each of the following persons
- 15 Sections 103, penalty, paragraph (a) and 130(1)(a) and (b) and 131(a), after ‘;’—**  
*insert—*  
or
- 16 Schedule 2, part 1, section 3(1)(a), after ‘;’—**  
*insert—*  
and
- 17 Schedule 2, part 2, section 1(6)(a)(ii), ‘section 43(4)’—**  
*omit, insert—*  
section 43(5)
- 18 Schedule 3, section 10(a) and (b), after ‘;’—**  
*insert—*  
and
- 19 Schedule 3, section 11, after ‘section 30(12)’—**  
*insert—*  
of this Act

**Mixed Use Development Act 1993**

- 1 Section 172A(5), example, ‘section 177(1)(g)’—**  
*omit, insert—*  
section 177(1)(h)
- 2 Section 181(1)(c)(i) and (ii), ‘section 177(1)(h)’—**  
*omit, insert—*  
section 177(1)(i)
- 3 Section 181(1)(c)(iii), ‘section 177(1)(l)—**  
*omit, insert—*  
section 177(1)(m)
- 4 Section 200(1), ‘section 177(1)(h)’—**  
*omit, insert—*  
section 177(1)(i)
- 5 Section 201N(2)(a), ‘section 177(1)(i) and the account established under section 177(1)(k)’—**  
*omit, insert—*  
section 177(1)(j) and the account established under section 177(1)(l)
- 6 Section 201N(2)(b), ‘section 177(1)(h) and (l)’—**  
*omit, insert—*  
section 177(1)(i) and (m)