

NORTHERN TERRITORY OF AUSTRALIA
YULARA TOURIST VILLAGE MANAGEMENT ACT
No. 1 of 1984
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NORTHERN TERRITORY OF AUSTRALIA

No. 1 of 1984

AN ACT

To provide for the municipal governance of the town
of Yulara, and for other purposes

[Assented to 23 March 1984]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

PART I - PRELIMINARY

1. SHORT TITLE

This Act may be cited as the *Yulara Tourist Village Management Act 1984*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. INTERPRETATION

(1) In this Act, unless the contrary intention appears -

"development company" means The Yulara Development Company Limited incorporated under the *Companies Act* or, where the Minister declares another company to be the development company for the purposes of this Act, that other company;

"management company" means Yulara Corporation Pty. Ltd. incorporated on 18 May 1983 under the *Companies Act*;

"Yulara" means the town of Yulara constituted, and the boundaries of which are established, by proclamation in *Australian Government Gazette* No. G32 of 10 August 1976, or the area of the town as from time to time amended.

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(2) The Minister may, for the purposes of the definition of "development company" in sub-section (1), by notice in the *Gazette*, declare a company incorporated under the *Companies Act* to be the development company.

PART II - ADMINISTRATION

4. CONTROL OF MANAGEMENT COMPANY

(1) The Minister may direct the management company in the exercise of its powers and in the performance of its functions under this Act or its memorandum and articles of association, and the management company shall comply with all directions so given.

(2) Without limiting the generality of sub-section (1) and notwithstanding anything expressly or impliedly to the contrary in its memorandum or articles of association, the management company may carry out in and in relation to Yulara only those functions for which it has the approval in writing of the Minister or his delegate.

5. DISCLOSURE OF INTEREST

(1) A director of the management company who is directly or indirectly interested in -

(a) a contract made or proposed to be made by the company; or

(b) an existing or proposed project of the company, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of directors of the company.

(2) A disclosure under sub-section (1) shall be recorded in the minutes of meetings of directors of the management company and, unless the company otherwise directs, the director shall -

(a) not take part after the disclosure in any deliberation or decision of the company relating to the contract or project; and

(b) be disregarded for the purpose of constituting the quorum for any such deliberation or decision.

(3) A director who has made a disclosure under sub-section (1) shall not vote on a question relating to the giving to him of a direction under sub-section (2).

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6. PERSONAL LIABILITY OF DIRECTOR OR EMPLOYEE OF MANAGEMENT COMPANY

A director or employee of the management company is not personally liable to an action, claim or demand arising from a matter or thing done or a contract entered into -

- (a) by the company, in good faith, in pursuance of and for the purposes of this Act; or
- (b) by a director or an employee of the company, in good faith, in pursuance of and for the purposes of this Act and for and on behalf of the company.

PART III - LOCAL GOVERNMENT

7. LOCAL GOVERNMENT FUNCTIONS

(1) The Minister may, by notice in the *Gazette*, declare that such sections of such Acts as are specified in the notice shall apply to and in relation to the management company or Yulara as though the management company were a council, and Yulara were a municipality or a community government area, within the meaning of the *Local Government Act*, and those sections shall, with the necessary changes, apply accordingly.

(2) A declaration made under sub-section (1) may, where there is a reference in a section to the exercise of a power or the performance of a function by a particular officer or employee of a council, specify the employee of the management company who shall exercise that power or perform that function on behalf of the management company.

8. RATES AND CHARGES

(1) The management company may levy a rate or charge, or an annual rate or annual charge, on a person who resides in or carries on business in Yulara or has an interest in land in Yulara, or on a class of such persons, or on any land in Yulara, for -

- (a) the provision of a specific work or service undertaken or provided by the management company either in its own right or as agent for the development company; or

- (b) the funding of works and services generally, including the annual cost of operating the town.

(2) A rate or charge levied under sub-section (1) may -

- (a) include a component for the repayment of a loan;

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- (b) include a component for payment of interest on a loan;
- (c) be levied on a person whether or not that person uses the service;
- (d) apply in respect of a period that commenced before the date on which the rate or charge is levied; and
- (e) be levied at different rates or amounts for different persons or classes of persons.

(3) A rate or charge levied under sub-section (1) may provide for the payment by a person, on whom the rate or charge is levied, of an amount in advance in respect of a period agreed upon between the management company and the person, and a payment so made shall relieve the person from liability to pay the rate or charge in respect of that period.

(4) The management company may exempt or partly exempt a person or class of persons from payment of a rate or charge levied under sub-section (1).

9. PAYMENT OF RATES AND CHARGES

A rate or charge levied under section 8 becomes due and payable by a person 28 days after the date on which notice of the rate or charge is served on that person.

10. EXCLUSIVE PROVISION OF SERVICES

Except with the approval in writing of the management company, no person shall provide, for himself or any other person, in Yulara a service provided in its own account or as agent for the development company by the management company or which the management company has, by notice in the *Gazette*, declared that it is willing and able to provide in and in relation to Yulara.

Penalty: \$500 and \$50 for each day during which the offence continues.

11. PUBLIC PLACE

(1) The Minister may, by notice in the *Gazette*, declare a road, park or other area of land in Yulara to which the public is admitted or has access to be a public place.

(2) Land declared under sub-section (1) to be a public place is a public place for the purposes of the laws of the Territory.

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12. BY-LAWS

(1) The management company may make by-laws, not inconsistent with this Act, prescribing all things required or permitted to be prescribed, or necessary or convenient to be prescribed, for or in relation to the exercise of its powers and the performance of its functions.

(2) Without limiting the generality of sub-section (1), the management company may make by-laws in accordance with that sub-section for or in relation to -

- (a) the control and management of land declared under section 11 to be a public place;
- (b) the levying and collection of rates, charges or fees;
- (c) the authorizing of persons to demand the names and addresses of persons who are believed, on reasonable grounds, to have contravened or failed to comply with a by-law and requiring persons to comply with such a demand made by a person so authorized;
- (d) the imposing of a penalty not exceeding \$200 for a contravention of or a failure to comply with a by-law;
- (e) the enabling of a person who is alleged to have contravened a by-law to pay to the management company, as an alternative to prosecution, a fixed penalty in lieu of the penalty by which a contravention of that provision is otherwise punishable; and
- (f) the conferring on a person authorized by the management company of a right of entry onto private land and a right to take such action as is necessary or convenient to inspect, repair, protect or remove the property of the development company or management company on private land.

(3) By-laws made under this section which provide for the imposition of a fixed penalty shall specify -

- (a) the amount of the fixed penalty;
- (b) subject to sub-section (4), the form of a notice of infringement;
- (c) the person or persons who may issue a notice of infringement; and

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- (d) the period within which the fixed penalty shall be paid in order to avoid prosecution.

(4) A notice of infringement referred to in subsection (3) shall indicate -

- (a) the name of the alleged offender or a description of the property creating or the subject of the alleged offence sufficient to identify that property;
- (b) in general terms, the nature of the offence alleged to have been committed;
- (c) the date, time and place of the alleged offence;
- (d) the amount of the fixed penalty;
- (e) the period within which, and the place where, the fixed penalty may be paid; and
- (f) that the alleged offender may, if he so wishes, be dealt with by a court of competent jurisdiction.

13. PROCEEDINGS TAKEN BY MANAGEMENT COMPANY

The management company or its directors, or a person authorized by the management company in that behalf, may direct, either generally or in a particular case, that proceedings be taken for the recovery of -

- (a) a rate, charge, fee or money owing under this Act; or
- (b) a penalty in respect of an offence against by-laws made under section 12.

14. FINES TO BE PAID TO MANAGEMENT COMPANY

All fines and monetary penalties recovered for offences against by-laws made under section 12 shall be paid to the management company.

15. APPLICATION OF MONEYS

The moneys of the management company shall be applied only -

- (a) in payment or discharge of the expenses and other obligations of the company; and
- (b) for such other purposes as directed by the Minister.

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PART IV - SUBDIVISION AND EASEMENTS

16. LAND SUBJECT TO THIS PART

(1) In an application under the *Planning Act* for consent to the subdivision of land in Yulara, the applicant may request that the consent be subject to the condition that particular parcels of land in the proposed subdivision are to be subject to this Part.

(2) Where the consent authority determines under section 94 of the *Planning Act* a subdivision application by granting consent subject to the condition that a particular parcel of land in the proposed subdivision is to be subject to this Part, the Registrar-General shall not issue a certificate of title under the *Real Property Act* in respect of that parcel of land unless it has noted on it that the land is subject to this Part, and the Registrar-General has, by virtue of this section, power to make that notation.

17. EASEMENTS RELATING TO CERTAIN LAND

(1) In this section "proprietor" includes, in relation to a parcel of land in respect of which the *Unit Titles Act* applies, the registered proprietor of each unit and the corporation, within the meaning of that Act.

(2) This section applies to and in relation to land the certificate of title under the *Real Property Act* in respect of which bears the notation that the land is subject to this Part.

(3) The proprietor of each parcel of land to which this section applies (in this section called "the dominant tenement") shall be deemed to have over each other parcel of land to which this section applies (in this section called "the servient tenement") such of the following rights as are necessary for the reasonable use and enjoyment of the dominant tenement:

- (a) rights of support, shelter and protection afforded by the servient tenement;
- (b) rights of access across or through the servient tenement;
- (c) rights for the collection, passage and provision of water, sewerage, drainage, garbage, gas, electricity and air, and other services of whatsoever nature (including telephone, radio and television services), through or by means of pipes, wires, cables, ducts, corridors (including line of sight corridors) or other reasonable means; and

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(d) such ancillary rights as are necessary to make the rights referred to in paragraphs (a), (b) and (c) effective, including rights of entry by the proprietor of the dominant tenement and his agents, servants and workmen at all reasonable times on the servient tenement for the purpose of -

(i) inspecting, maintaining or repairing the servient tenement; or

(ii) inspecting, maintaining, repairing, replacing, renewing or restoring pipes, wires, cables, ducts or other material or clearing corridors.

(4) A right created by this section shall be deemed to be an easement annexed to the dominant tenement in relation to which it is enjoyed.

(5) A right created by this section subsists notwithstanding that the same person is the proprietor of both the dominant and servient tenements.

(6) A person exercising a right created by subsection (3)(c) or (d) is liable to make good any damage done in the course of exercising that right.

18. POWER IN ADDITION

Nothing in this Part shall be construed as derogating from the power of the proprietor of a parcel of land to grant an easement over, or obtain an easement annexed to, that land.

PART V - MISCELLANEOUS

19. PARTNERSHIPS, &c.

Where the Minister certifies to the Administrator that he is satisfied that a partnership, joint venture or other association has been formed principally for purposes connected with the establishment, development or management of Yulara, the Administrator may, by notice in the *Gazette*, declare that this section applies to the partnership, joint venture or association, and from the date of that gazettal of the notice the partnership, joint venture or association -

(a) shall not, throughout the period from the date of its formation until the date that is 6 months after the date of its formation or, where some other date is prescribed, the prescribed date, be dissolved by reason of any person becoming a member of the partnership, joint venture or association; and

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- (b) shall, as from the expiration of that period, be deemed to have consisted, throughout that period, of those persons who, at the expiration of that period, are members of the partnership, joint venture or association, in accordance with the interest of each of those members at the expiration of that period, but not so as to affect the liability of any person who ceased to be a member of the partnership during that period.

20. REGULATIONS

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.
