

## MARINA RESIDENCES BY-LAWS

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### 1.00 PRELIMINARY

#### 1.01 CITATION

These by-laws may be cited as Marina Residences' By-Laws.

#### 1.02 SEVERABILITY

In the event of any provision of these by-laws being or becoming void or unenforceable, then that provision will be severed from these by-laws to the intent that all parts that shall not be or become void or unenforceable will remain in full force and effect and be unaffected by any severance.

#### 1.03 INTERPRETATION

In these by-laws except to the extent that the context otherwise requires:

- a) words importing the singular include the plural and vice versa and words importing a gender include other genders;
- b) in the interpretation of these by-laws, headings will be disregarded;
- c) references to any person includes reference to any individual, company, body corporate, association, partnership, firm, joint venture, trust and governmental agency; and
- d) reference to an act of Parliament or to any regulation will be read as if the words 'and any statutory modification or re-enactment of it or substitution of it' were added to the reference.

#### 1.04 DEFINITIONS

In these by-laws unless the contrary intention appears:

**'Act'** means the *Building Units and Group Titles Act 1980*;

**'Associate'** – means if the Manager is: (a) a corporation - a director, secretary or shareholder of that corporation; (b) in the case of an individual - a corporation in which the individual is a director, secretary, or shareholder; and (c) in the case of a partnership - the partners and management staff of the partnership;

**'Body Corporate'** means the body corporate incorporated on registration of the 'Marina Residences' Building Units Plan No 107408 and includes, where the context allows, the Committee, the agents, servants or representatives of the body corporate;

**'Building'** means any fixed structure that is wholly or partly enclosed by walls and is roofed and includes any part of a building;

**'Building Units Plan'** means the Building Units Plan 107408;

**'Committee'** means the committee of the Body Corporate appointed under the Act;

**'Committee's Representative'** means a member of the Committee appointed from time to time for the purpose of representing the Committee and in the absence of any such appointment will be the chairman;

**'Common Property'** means that area in the Building Units Plan which is not comprised in any lot in the Building Units Plan and includes all improvements, fixtures and fittings erected or constructed on the common property;

**'Company'** means Whittsvilla Pty Ltd CAN 128 716 549 its successors, assigns or nominee and includes, where the context allows, the servants and agents of the company;

**'Construction Vehicles'** means any vehicles of, or driven by someone who is, an officer, employee, agent, consultant, contractor, sub-contractor (or officer or employee of a contractor or sub-contractor) of the Company or of another owner of land in the Marina Precinct, while engaged in anything proposed to be done, or being done, by the Company or such other owner in and about planning for, laying out or completing any works required (as the Company or such other owner determines) to complete the development of any land in the Marina Precinct, construction of improvements or any such land, subdivision of any such land and sale of any lot resulting from the subdivision;

**'Contractor'** means any contractor engaged from time to time by the Body Corporate;

**'Council'** means Gold Coast City Council;

**'Easement Management Committee'** means the committee established for the management of easements (granted for the use of roads, parks and services) within the Marina Precinct;

**'Lot'** means a lot in the Building Units Plan 107408;

**'Manager'** means the service contractor and letting agent engaged by the Body Corporate for Marina Residence BUP 107488 under by-law 43.00 and the relevant caretaking agreement and letting agreement from time to time;

**‘Manager’s Lot’** means the Lot agreed in writing between the Body Corporate and the manager and/or letting agent appointed by the Body Corporate to provide property management and/or letting services for the Parcel as being the Lot to be occupied by that manager and/or letting agent;

**‘Marina Precinct’** means that part of the site situated to the west of Ross Street being the land described as Lot 13 on SP 164211 and Lot 700 on SP 220057 or any subsequent reconfiguration thereof;

**‘Occupier’** means the legal occupant from time to time of a Lot;

**‘Golf Course’** means the golf course that forms part of the Scheme land, and includes each part of it;

**‘Parcel’** means all the land referred to in the Building Units Plan;

**‘Primary Thoroughfare’** means all the parts of the Resort Land which are, or are able to be, primary thoroughfare under the Resort Act and the Scheme;

**‘Primary Thoroughfare (Body Corporate) By-Laws’** means the Primary Thoroughfare (Body Corporate) By-Laws for the Site;

**‘Proprietor’** means any proprietor of a Lot and includes where the context allows, the proprietor’s tenants, guests, invitees, servants and agents;

**‘Registered Covenant’** means the covenant, if any, registered over a Lot in favour of the Council pursuant to section 97A(b) of the *Land Title Act 1994*.

**‘Resort Act’** means the *Integrated Resort Development Act 1987*;

**‘Resort Land’** means the land in the County of Ward Parish of Nerang originally described as Lot 2 on Registered Plan 222145, Lot 1 on Plan 810230, Lot 1 on Registered Plan 156869 and Lots 1 and 2 on Registered Plan 86069 or any subsequent reconfiguration thereof;

**‘Scheme’** means the scheme called Royal Pines Resort Gold Coast Scheme of Integrated Resort Development approved under the Resort Act;

**‘Secondary Thoroughfare’** means all the part of the Resort Land which are, or are able to be, secondary thoroughfare under the Resort act and the Scheme;

**‘Secondary Thoroughfare (Body Corporate) By-Laws’** means the Secondary Thoroughfare (Body Corporate) By-Laws for the Site; and

**‘Site’** means the integrated resort development known as Royal Pines Resort.

## **2.00 USE OF LOTS**

### **2.01 RESIDENTIAL PURPOSES**

Subject to clause 2.02 and 2.03, each of the Lots shall be used for residential purposes only.

### **2.02 MANAGER'S LOT**

2.02.1 To the extent permitted under the Scheme from time to time, the Manager's Lot may be used for the purpose of:

- a) the residence of the appointed manager and/or letting agent for the Parcel;
- b) management of the Parcel consistent with any management and letting agreement; and
- c) providing letting services to Proprietors and Occupiers of lots within the Parcel.

### **2.03 COMPANY EXEMPTION – DISPLAY, SALES AND MARKETING PURPOSES**

While the Company remains a Proprietor or lessee of any Lot (or improvements) within the Marina Precinct, it will be entitled to use for display, sales and marketing purposes any Lot (and its improvements) for which it is the registered proprietor or lessee and will be entitled to allow prospective purchasers of any Lot to inspect such Lot (and any improvements) and further to use such signs, advertising, display, sales and marketing material in or about the Lot and Common Property as it thinks fit.

### **2.04 COMPANY EXEMPTION – CONSTRUCTION**

Notwithstanding any provision in these by-laws, the Company may construct buildings or other structures within the Parcel or Marina Precinct in such style, shape and size at the discretion of the Company from time to time.

## **3.00 STRUCTURAL ALTERATIONS PROHIBITED**

### **3.01 CONSENT REQUIRED – BODY CORPORATE**

A Proprietor or Occupier of a Lot must not without the prior written consent of the Body Corporate;

- a) carry out structural alterations to any part of the Building;
- b) alter gas, water, drainage, sewerage or electrical connections and services on or to his or her Lot.

- c) alter the external colour scheme or other improvements upon his or her Lot; or
- d) alter in any way the external appearance of the Building.

### **3.02 CONSENT REQUIRED – EASEMENT MANAGEMENT COMMITTEE**

A Proprietor or Occupier of a Lot must not without the prior written consent of the Easement Management Committee:

- a) alter gas, water, drainage, sewerage or electrical connections and services on or to his or her Lot or any other Lot;
- b) alter any improvements located on parts of the Common Property which are the subject of the easements granted for use of road and parks within the Marina Precinct.

### **3.03 CONTRAVENTION OF REGISTERED COVENANT**

The Body Corporate will not consent to any request to undertake alterations of the nature set out in clause 3.01 where such alterations would be in conflict with or contravene the Registered Covenant or if any consent required pursuant to such Registered Covenant will not have been granted for any such alterations.

## **4.00 TREE AND LANDSCAPE PRESERVATION**

### **4.01 REGISTER**

The Body Corporate may, at its options, maintain an up-to-date register of trees and landscaping and any associated plants within the Parcel.

### **4.02 PROHIBITION AGAINST WILFUL DESTRUCTION**

A Proprietor or Occupier must not injure, ring bark, cut down, top, lop, remove or wilfully destroy any trees or landscaping identified in the register.

### **4.03 APPLICATION TO REMOVE**

Should any trees or landscaping identified in the register require partial or total removal, the Body Corporate may give its written approval to an application for removal provided that no Proprietor or Occupier will partially or totally remove any trees or landscaping unless it has received the prior written approval of the Body Corporate and provided further that the application (and approval) is in accordance with these by-laws.

### **4.04 APPLICATION DETAILS**

A Proprietor may make an application to the Body Corporate to partially or totally remove any tree or landscaping identified on the register. The application will be made in writing to the Body Corporate setting out the following particulars:

- a) the reasons for the partial or total removal of any tree, trees or landscaping;
- b) the real property description of the land on which the tree, trees or landscaping is or are situated;
- c) the location of the tree, trees or landscaping proposed to be removed; and
- d) any other information the applicant considers relevant.

#### 4.05

#### APPLICATION AFFECTING ADJOINING LOTS

Where trees or landscaping are proposed to be partially or totally removed from a Lot which is within a Lot not owned by the applicant:

- a) the applicant must obtain the written consent of the Proprietor of the affected Lot agreeing to the application;
- b) the applicant must supply the Proprietor's consent to the proposal at the time of application to the Body Corporate;
- c) if the applicant has endeavoured to contact the Proprietor of the affected Lot, but has received no response, the applicant must supply this information with the application to the Body Corporate; and
- d) the Body Corporate may or may not approve the application if the applicant has received no response from the registered Proprietor. Any approval by the Body Corporate where the approval of the Proprietor has not or cannot be obtained will not render the Body Corporate liable to any action for damages by the Proprietor following removal of the tree or landscaping.

#### 4.06

#### DECISION OF THE BODY CORPORATE

The Body Corporate will advise the applicant of its decision within 30 days of receipt of the application. The Body Corporate may:

- a) approve the application;
- b) attach conditions to the approval as considered appropriate; or
- c) refuse the application.

#### 4.07

#### RIGHTS OF THE BODY CORPORATE

The Body Corporate, or its nominated agent, reserves the right at its discretion to maintain or if necessary lop, top, cut down or remove any trees or landscaping.

#### 4.08 DAMAGE TO LANDSCAPING ON THE COMMON PROPERTY

A Proprietor or Occupier of a Lot shall not:

- a) damage any lawn, garden, tree, shrub, plant or flower being part of or situated upon the Common Property or exclusive use terrace/courtyard areas to all ground floor Lots; or
- b) except with the prior written consent of the Body Corporate, use for his or her own purpose as a garden any portion of the Common Property.

#### 5.00 REPAIR AND MAINTENANCE

The Body Corporate will:

- a) maintain in good condition and repair the exterior of the Building including without limitation all fences, walls, windows, gates, sidewalls, walkways and driveways;
- b) maintain in a clean condition the interior of the Building other than the interior of a Lot, and take all practicable steps to prevent infestation by vermin or insects;
- c) maintain in good condition and repair all yard landscaping, irrigation facilities, drainage facilities, spas, fountains and other surrounds within the Building;
- d) have the duty and obligation to make any necessary arrangements for sufficient water required for the maintenance and irrigation of all yard landscaping; and
- e) keep the exterior of all windows clean and promptly replace with fresh glass of the same kind, colour and weight as at present if broken or cracked.

#### 6.00 WATER APPARATUS AND WATER SUPPLY

##### 6.01 TAPS TO BE TURNED OFF

A Proprietor or Occupier of a Lot will ensure that all water taps in his or her Lot are properly turned off after use.

##### 6.02 USE OF WATER CLOSETS

The water closets, conveniences and other water apparatus including water pipes and drains in each Lot will not be used for any purpose other than those for which they were constructed and no sweepings, rubbish or other unsuitable substances will be deposited therein.

## **6.03 DAMAGE FROM MISUSE**

Any costs or expenses resulting from damage or blockage to such water closets, conveniences, water apparatus, waste pipes and drains from misuse or negligence will be borne by such Proprietor or Occupier whether the same is caused by his or her own acts or those of members of his or her household or his or her servants or agents or guests.

## **6.04 WATER SUPPLY**

- a) The Body Corporate may from time to time by written notice to a Proprietor or Occupier require the Proprietor or Occupier to pay to the Body Corporate an amount for water consumption in or on their Lot where the water consumption exceeds the annual allowable consumption of Council. The amount shall be calculated at the same rate as that determined for excess water consumption by Council. The amount, if any, to be paid by a Proprietor or Occupier shall be paid to the Body Corporate within 14 days of receipt of the notice given pursuant to this By-Law. Any amounts not paid by a Proprietor or Occupier within that period shall be recoverable by the Body Corporate against the Proprietor or Occupier as a liquidated debt.
- b) A Proprietor or Occupier may only use sprinklers and other watering devices in or on their Lot in accordance with Council's restrictions and requirements for the use of sprinklers and other watering devices.

## **7.00 USE LIMITATIONS**

### **7.01 LIMITATIONS**

A Proprietor or Occupier of a Lot will not:

- a) erect any external blinds or covers to any part of the Building;
- b) obstruct any way provided for the carriage of vehicles within the Parcel, so as to prevent the passage of any vehicles over any such way; or
- c) permit any clothing, bedding or other articles to be hung on the balconies or on the outside of his or her Lot or from the windows of the Building or on any Common Property.

### **7.02 PAINTING AND AFFIXING OF SIGNS PROHIBITED**

A Proprietor or Occupier of a Lot will not paint or affix any signs, advertisements, notices or posters to or on any part of the Building upon his or her Lot or the Common Property nor do anything to vary the external appearance of the Building or the Common Property without the prior written consent of the Body Corporate. This consent will not be given if any such proposal would be in conflict with or in contravention of the provisions of any Registered Covenant or if any consent required pursuant to any such Registered Covenant shall not have been granted thereto.



## 7.03

### NUISANCE

A Proprietor or Occupier of a Lot will not carry on any noxious or offensive trade or activity on or upon any Lot in the Parcel nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Parcel or which may in any way interfere with the quiet enjoyment of any of the Proprietors of their respective Lots or which will in any way increase the rate of insurance in respect of the Parcel. Without limiting the generality of the foregoing provision each Proprietor or Occupier of a Lot must ensure that:

- a) no auction sale, loud noise or noxious odour, exterior speaker, horn, whistle, bell or other sound device (other than security or warning devices used exclusively for such purpose) noisy or smoky vehicle, large power equipment or large power tool, unlicensed off-road vehicle or item which may unreasonably interfere with television or radio reception to any Lot will be conducted, located, used or placed on any portion of the Parcel, or exposed to the view of any other Proprietor or Occupier without the prior written consent of the Body Corporate;
- b) all musical instruments, wirelesses, radiograms, television sets and the like are controlled so that the sound emanating therefrom is at a reasonable level so as not to cause annoyance to other Proprietors and Occupiers of Lots within the Parcel;
- c) their guests leaving after 11.00pm leave quietly and that quietness is also observed when returning to the Lot late at night or in the early morning hours; and
- d) in the event of any unavoidable noise in the Lot at any time take all practical measures to minimise annoyance to other Proprietors and Occupiers including closing all doors, windows, and curtains to the Lot;

**PROVIDED THAT** this By-law will not prevent the Company from using any Lot of which it is a Proprietor for display purposes.

## 7.04

### VEHICLES

#### 7.04.1

A Proprietor or Occupier will not park, store or keep upon the Common Property any motor vehicle (which will for the purposes herein include a motorcycle, boats, trailers and caravans) other than in the Proprietor's or Occupier's designated car space.

#### 7.04.2

A Proprietor or Occupier of a Lot will not park, store or keep a vehicle of a commercial type (including but not limited to a dump truck, cement mixer truck, delivery truck, coach, bus or inoperable vehicle equipment whether mobile or otherwise) within the Parcel other than for the purpose of commercial deliveries.

- 7.04.3 A Proprietor or Occupier will not conduct repairs or restorations to any motor vehicle, boat trailer, aircraft or other vehicle upon any portion of any Lot or upon any Common Property except wholly within the Proprietor's or Occupier's designated car space provided that such activity does not interfere with the quiet enjoyment of any other Proprietor or Occupier of a Lot and provided further that such activity will at no time be permitted if it is determined by the Body Corporate at its sole discretion to be a nuisance. The Proprietor or Occupier will ensure that his designated car space will be used as a designated car space and for general storage purposes only (in the approved storage locker) and that it shall not be converted to any other use.
- 7.05 ANIMALS
- 7.05.1 For the purpose of this By-Law 7.05 the term "Animal" means all types of animals.
- 7.05.2 A Proprietor or Occupier of a Lot is entitled to bring or keep an Animal on their Lot on the condition that the Proprietor or Occupier obtains the prior written approval of the Committee.
- 7.05.3 Not less than fourteen (14) days prior to bringing an Animal on their Lot, the Proprietor or Occupier must provide to the Committee:
- a) evidence of ownership of the Animal;
  - b) particulars of the Animal, including name, sex, weight, description, breed and two photographs, one showing the face and one the side of the Animal;
  - c) if any regulation requires the Animal to be registered with Council, evidence of registration;
  - d) where applicable, written confirmation that the Animal has been de-sexed; and
  - e) where the Lot is tenanted, written and signed approval from the Proprietor of the Lot consenting to the Animal being kept in that Lot.
- 7.05.4 A person mentioned in section 5 of the Guide Dogs Act 1972 who has the right to be on a Lot or on the Common Property has the right to be accompanied by a guide dog while on the Lot or the Common Property.
- 7.05.5 The written approval provided by the Committee applies to the approved Animal only and does not authorise the keeping of additional, replacement or substitute Animals.
- 7.05.6 This By-Law takes effect from its recording in the Department of Natural Resources, Mines and Energy and does not apply to any approval that may have been given by the Committee prior to the passing of this By-Law.

7.05.7 Any approval given prior to the passing of this By-Law shall only operate until the death of that Animal so approved or the Proprietor or Occupier moving from the Scheme.

7.05.8 If the Committee gives written approval for the keeping of an Animal under this By-Law 7.05, the Proprietor or Occupier must ensure that:

a) save for instances where the Animal is required to be walked, the Animal is kept within the Lot;

b) the Animal is not kept for breeding or commercial purposes;

c) the Animal carries a name tag identifying the name, address and telephone details of the Animal's owner;

d) if the Animal is a cat, that the cat wears collar bells and is not left outside after 6.00pm and before 6.00am;

e) the Animal only enters or traverses Common Property for the purpose of being brought onto or leaving the Scheme;

f) the Animal is not taken onto the Common Property unless it is carried or kept on a leash which is no longer than one (1) meter in length - for the avoidance of doubt, the Animal is not permitted to wander or roam on the Common Property unsupervised under any circumstances;

g) any droppings or waste material deposited by the Animal is promptly removed and disposed of in an appropriately sealed garbage receptacle with appropriate wrapping to avoid spillage or odour;

h) the Animal must not be permitted to urinate, defecate, or otherwise cause any mess on Common Property –

Any cleaning required on Common Property because of an Animal must be immediately carried out by the Proprietor or Occupier responsible for that Animal. The Proprietor or Occupier must use enzymatic cleaners designed for neutralising odours (not household detergents) when attending to any cleaning requirements on Common Property. The Proprietor or Occupier will be required to pay all reasonable costs incurred by the Body Corporate due to the Proprietor's or Occupier's failure to immediately attend to any cleaning requirements in breach of this By-Law;

i) the Animal is kept clean, quiet, flea and parasite free and controlled at all times so as to not cause a nuisance that unreasonably interferes with any other Proprietor's or Occupier's use or enjoyment of their Lot or the Common Property;

j) all reasonable steps are taken to keep the Animal in good health and vaccinated - up to date veterinarian certificates, showing that the Animal is current with all recommended vaccinations, must be made available for inspection by the Committee upon request; and

k) the Animal is fed in the interior of their Lot premises only and that no food is placed or left on balconies or other outside areas.

7.05.10 Any breach of this By-Law 7.05 may result in the Committee withdrawing its consent and ordering that the Animal be removed from the Scheme. The Animal's owner must comply with such an order within three (3) days of being received;

7.05.11 If an animal is found loose on the Common Property, the Committee may arrange for the Animal to be restrained, delivered to a pound or otherwise removed from the Common Property by an authority that has the power to deal with wandering animals. All costs associated with the restraint and/or removal of the Animal are to be paid by the Proprietor or Occupier to the Body Corporate;

7.05.12 Each Proprietor housing an Animal indemnifies and shall keep fully indemnified the Body Corporate against any loss, damage, injury, compensation or claim whatsoever made against the Body Corporate regarding any act on the part of that Animal.

#### 7.06 ANTENNAE

A Proprietor or Occupier will not allow any television radio or other electronic antenna or device of any type to be erected, constructed or placed or permitted to remain on any Lot or on the Common Property unless and until the same has been approved in writing by the Body Corporate which approval will not be given if any such alteration would be in conflict with or in contravention of the provisions of the Registered Covenant or unless the same is contained within the Lot and not visible from outside the Lot.

#### 7.07 SECURITY SYSTEMS

7.07.1 A Proprietor or Occupier will not erect, place, or permit to be placed any security system on any Lot or the Common Property without first obtaining the written consent of the Body Corporate.

7.07.2 A Proprietor or Occupier will securely fasten on all occasions all doors and windows to his or her Lot is left unoccupied and the Body Corporate reserves the right to enter and fasten the same if left unfastened.

7.07.3 The Body Corporate or appointed Caretaker, Manager shall have the authority to disable any remote control or security fob for any vacant apartment or any apartment where such device may have been duplicated or believed lost.

7.07.4 Such remote or fob may also be disabled if there is any concern for the security of the parcel or the safety of the residents therein. Any person who is troublesome, nuisance or prohibited from the parcel and in possession of a remote control or security fob, such device shall be disabled for such period as determined by the Body Corporate, Caretaker or Manager.

7.08 WINDOW COVERS

7.08.1 A Proprietor or Occupier will not cover any window with aluminium foil or similar material.

7.08.2 A Proprietor or Occupier may only install window covers (including curtains and blinds but excluding shear materials) with dark grey or black backings.

7.09 TEMPORARY BUILDINGS

A Proprietor or Occupier will not place upon any Lot or Common Property any outbuilding tent, shack, shed or other temporary building or improvement, without Body Corporate approval.

7.10 LEASING

A Proprietor may be permitted to lease his or her Lot by means of a written lease or rental agreement for permanent letting provided that such lease obliges the lessee thereunder to comply with these By-laws and provided further that the lease be in writing and any Proprietor who shall lease his or her Lot shall be responsible for ensuring compliance with such lease particularly so far as that lease relates to the By-laws.

7.11 DRILLING

7.11.1 A Proprietor or Occupier may only drill on any part of the Parcel with the prior written approval of the Body Corporate.

7.11.2 A Proprietor or Occupier acknowledges that the Company may drill on any part of the Parcel as part of ongoing development of the Parcel. A Proprietor or Occupier will not raise any objection nor make any claim with respect to any dust, noise, damage or debris in, on or about the Parcel arising out of or in connection with drilling on any part of the Parcel by the Company.

7.12 REGISTERED COVENANT

A Proprietor or Occupier of a Lot must comply with the Registered Covenant (if any) applying to that Lot.

7.13 IDENTIFICATION OF OCCUPIER AND PROPRIETOR

The full names, residential address, email address, telephone number(s) and vehicle details of each Proprietor and Occupier are to be recorded with the Body Corporate.

## **8.00 SECURITY CONTROLS**

8.01 A Proprietor or Occupier will (and will ensure its guests and invitees) comply with all security arrangements established and prescribed in accordance with either of the Primary Thoroughfare (Body Corporate) By-Laws in respect of access to the Parcel and security generally in respect of the Parcel. The said security arrangements may, at the discretion of the relevant body corporate, include (but will not be limited to) the following:

- a) the issuing of security cards upon conditions including the paying of a deposit;
- b) the right to refuse admission to any person unless prior notice of the identity of the person is given;
- c) the right (upon complaint) to remove any person from the Parcel or to refuse admission to any person they consider is likely to be a nuisance; and
- d) to enter upon any part of the Parcel for the purpose of maintaining the security,

**PROVIDED THAT** the security personnel will not be liable for any damage caused by them to any person or property in carrying out their responsibilities in accordance with their appointment.

8.02 A Proprietor or Occupier will, and will ensure his or her guests and invitees, comply with all security arrangements established by the Body Corporate in respect of access to the Building and security generally in respect of the Building. The security arrangements may, at the discretion of the Body Corporate, include a lift security system allowing access to a person invited by the Proprietor or Occupier.

## **9.00 NOTICE OF ACCIDENTS/DAMAGE TO PROPERTY**

### **9.01 NOTIFICATION OF ACCIDENTS**

A Proprietor or Occupier will give to the Body Corporate prompt notice of any accident to or defect in any water pipes, gas pipes, electric installations or fixtures which comes to his or her knowledge and which may affect or affects the supply of services to any part of the Site, the Common Property or to another Lot and the Body Corporate and its servants and agents will have authority in the circumstances having regard to the urgency involved to examine or make such repairs or renovations as they may deem necessary for the safety and preservation of any Buildings on the Parcel and any Lot as often as may be necessary.

## **9.02                    DAMAGE TO THE COMMON PROPERTY**

A Proprietor or Occupier will not mark, paint, drive nails or screw or the like into, or otherwise damage or deface, any structure that forms part of the Common Property or the exterior of his or her Lot except with the consent in writing of the Body Corporate, which consent will not be given if any such proposed works would be in conflict with the provisions of any Registered Covenant.

## **10.00                  INSPECTION OF LOT**

Upon one day's notice in writing the Body Corporate and its servants, agents and contractors will be permitted to enter any Lot to inspect the interior of any Lot for insurance or any other purpose, to test any electrical, gas or water installation or equipment therein and to trace and repair any leakage or defect in the said installations or equipment (at the expense of the Proprietor or Occupier concerned in the case where such leakage or defect is due to any actual default of such Proprietor or Occupier or his or her invitees). The Body Corporate, in exercising this power, will ensure that its servants, agents and employees cause as little inconvenience to such Proprietor or Occupier as is reasonable in the circumstances.

## **11.00                  OBSERVANCE OF BY-LAWS**

The duties and obligations imposed by these By-Laws on a Proprietor or Occupier will be observed not only by such Proprietor or Occupier but by the tenants, guests, servants, employees, agents, children, invitees and licensees of such Proprietor or Occupier. A Proprietor or Occupier will take all reasonable steps to ensure that his or her invitees do not behave in a manner likely to interfere with the quiet enjoyment of any Proprietor or Occupier of another Lot or of any person lawfully using the Common Property.

## **12.00                  REPAIRS BY THE BODY CORPORATE**

Where the Body Corporate expends money to make good the damage caused by a breach of the Act or of these By-Laws by A Proprietor or Occupier or the guests, servants, employees, agents, invitees of such Proprietor or Occupier or of any of them, the Body Corporate will be entitled to recover the amount so expended as a debt in an action from the Proprietor at the time the breach occurred.

## **13.00                  CONTRACTORS**

A Proprietor or Occupier will not directly instruct or interfere with any Contractors or workmen employed by the Body Corporate unless so authorised, and all requests for consideration of any particular matter to be referred to the Body Corporate will be directed to the Committee's Representative, who will in turn refer the same to the Body Corporate for determination.

#### **14.00 NOTIFICATION OF INFECTIOUS DISEASES**

In the event of any infectious disease which may require notification by virtue of any statute, regulation or ordinance affecting any person in any Lot, the Proprietor or Occupier of such Lot will give, or cause to be given, notice thereof and any other information which may be required relative thereto the Body Corporate and will pay to the Body Corporate the expenses of disinfecting the Lot where necessary and replacing any articles or things the destruction of which may be rendered necessary by such disease.

#### **15.00 RELATING TO THE COMMON PROPERTY**

The Body Corporate may make rules relating to the Common Property not inconsistent with these By-Laws and the same will be observed by the Proprietor or Occupier of each Lot unless and until they are disallowed or revoked by a majority resolution at a general meeting of the Proprietors.

#### **16.00 NOTICES TO BE OBSERVED**

A Proprietor or Occupier will observe the terms of any notice displayed on any part of the Common Property by authority of the Body Corporate or of any statutory authority.

#### **17.00 BY-LAWS TO BE EXHIBITED**

A copy of these By-Laws (or a precis thereof approved by the Body Corporate) will be exhibited in a prominent place in any Lot made available for letting.

#### **18.00 POWER OF BODY CORPORATE TO ENTER AGREEMENTS**

The Body Corporate has the power to enter into agreements by ordinary resolution at a general meeting of its members convened in accordance with the provisions of the Act for the:

- a) purchase of electricity;
- b) provision of telephone services;
- c) provision of mail delivery services;
- d) provision of emergency services;
- e) maintenance of any security systems on or crossing the Common Property and the provision of other security services;
- f) management, maintenance and repair of the Common Property to ensure that the Common Property is maintained to a quality design and standard consistent and compatible with the quality design and standard generally of the Parcel;



g) letting of Lots in the Parcel; and

h) supply of air-conditioning and hot water to Lots.

**PROVIDED THAT** any agreement entered into or any alteration or variation thereto will be subject to the prior written approval of the Primary Thoroughfare Body Corporate which approval will be given where the provision of service is consistent with the service provided to the Site generally.

## **19.00 LIGHTING AND HEATING OF LOTS**

A Proprietor or Occupier will not use any chemicals, burning fluids, acetylene gas or alcohol in lighting or heating a Lot nor in any other way cause or increase a risk of fire or explosion in such Lot.

## **20.00 STORING OF FLAMMABLE LIQUIDS**

A Proprietor or Occupier will not, except with the prior written consent of the Body Corporate, use or store in his or her Lot or upon the Common Property any flammable chemical, liquid, gas or other flammable material, other than chemicals, liquids, gasses or other material used or intended to be used for domestic purposes, or any such chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

## **21.00 OBSTRUCTION**

A Proprietor or Occupier will not obstruct the lawful use of the Common Property by any person. In addition, pathways and driveways on the Common Property and any easement, Primary Thoroughfare or Secondary Thoroughfare giving access to the Common Property will not be obstructed by any such Proprietor or Occupier or used by them for any other purpose than the reasonable ingress and egress to and from their Lot.

## **22.00 DEPOSITING RUBBISH AND UNSIGHTLY ITEMS**

### **22.01 DEPOSITING OF RUBBISH**

A Proprietor or Occupier will not:

- a) deposit or throw upon the Common Property any rubbish, dirt, dust or other material likely to interfere with the peaceful use and quiet enjoyment of another Proprietor or Occupier or of any person lawfully using the Common Property;
- b) throw or allow to fall or permit or suffer to be thrown or to fall any paper, rubbish, refuse, cigarette butts or other substance whatsoever out of any window, door, skylight or balcony of his or her Lot;

- c) accumulate on any part of the Parcel any rubbish, refuse garbage or other waste material except in containers located in appropriate areas screened and concealed from view and which will be maintained so that odours do not emanate from such containers so as to render the Parcel or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property within the Parcel. A Proprietor or Occupier will not place any such container on Common Property except for a reasonable period of time not exceeding twenty-four (24) hours before and after scheduled garbage collection hours;
- d) accumulate trees, grass, shrub or tree clippings or plant waste, metals, bulk material or scrap or refuse or garbage on any part of the Parcel except within his or her Lot in any enclosed structure or appropriately screened from view;
- e) bring upon, grow or maintain upon any part of the Parcel any plant or seed infected with noxious insects or plant disease; or
- f) cause to be lit or light fires on any part of the Parcel except for barbecues within the confines of suitable receptacles for same so as not to create a fire hazard.

## 22.02 DAMAGE

Any damage or costs for cleaning or repair caused resulting from a breach of By-law 22.01 will be borne by the Proprietor or Occupier so in breach.

## 23.00 MAINTENANCE AND UPGRADING OF SERVICES

The Body Corporate may from time to time arrange for the maintenance and upgrading of telecommunication services provided to a Lot or a series of Lots. Any Proprietor that receives the benefit of the services will pay on demand by the Body Corporate the cost of providing those services. Where a Proprietor does not pay his or her proportion of the charges for the maintenance and upgrading of the services, the Body Corporate may authorise the disconnection of any or all of the services provided to the Lot and sue the Proprietor for the amount of the charges not paid.

## 24.00 BREACHES AND PENALTIES

### 24.01 BREACH OF BY-LAWS

A person who contravenes or fails to comply with any provision of these By-Laws or any lawful direction given thereunder will be guilty of a breach of these By-Laws.

**24.02 REMEDY REQUIRED**

A person guilty of a breach of these By-Laws will remedy that breach within seven (7) days of receiving written notice.

**24.03 RIGHT TO EJECT**

A drunken or disorderly person found in or upon the Common Property may be summarily ejected and removed from the Parcel by the On-site Manager, a security officer or a member of the police force.

**25.00 PEST CONTROL**

The Body Corporate by itself, its agents, servants or contractors is authorised to enter onto each Lot (after giving reasonable notice), for the purpose of treating with the intent of eradication insects and vermin.

**26.00 OBSERVANCE OF OTHER LAWS**

A Proprietor or Occupier will at all times observe and comply with:

- a) the Primary Thoroughfare (Body Corporate) By-Laws;
- b) the Secondary Thoroughfare (Body Corporate) By-Laws; and
- c) the Registered Covenant applying to that Lot,

and further, a breach of any of those documents will constitute a breach of these By-Laws.

**27.00 MONIES DUE TO BODY CORPORATE**

27.01 All costs and expenses (including solicitor and own client costs incurred by the Body Corporate whether or not court proceedings were undertaken) in the recovery of monies payable are to be a liquidated debt due to the Body Corporate by the Proprietor or mortgagee in possession and which is payable on demand.

27.02 In respect of any interest or costs and expenses incurred in the recovery of moneys payable to the Body Corporate under this by-law, a Proprietor is, subject to paragraph 3 of this by-law liable, jointly and severally with any person who was liable to pay that amount when the Proprietor became the Proprietor of that Lot, to pay such part of that amount as was unpaid when that Proprietor became Proprietor of that Lot.

27.03 The Body Corporate must furnish to any person requesting a certificate under Section 40(1) of that Act, a certificate of the amount of any interest or costs and expenses incurred in the recovery of moneys payable to the Body Corporate then due and owing by the Proprietor or mortgagee in possession of the Lot in question.

**28.00 INTERCOM SYSTEM**

**28.01 DEFINITIONS**

In these By-Laws unless the contrary intention appears:

**'Intercom System'** means the audio intercom system approved by the Body Corporate;

**'Prescribed Charge'** means the amount determined by the Body Corporate under Clause 28.04.1.

## 28.02 AGREEMENT WITH PROPRIETOR OF LOT

This By-Law, to the extent that it may be necessary to validate it, constitutes an Agreement between each Proprietor and each Occupier and the Body Corporate pursuant to Sections 30(5) and 37(2)(a) of the Act for provision of the Service by the Body Corporate, and which obliges each Proprietor of a Lot to pay the Prescribed Charge.

## 28.03 INSTALLATION AND MAINTENANCE OF INTERCOM SYSTEM

28.03.1 Each Proprietor of a Lot shall keep installed the Intercom System ('Service') approved by the Body Corporate and installed on that Lot. The Body Corporate may at any time require the Proprietor or Occupier of a Lot to move the Service or any part of it to an alternate position within the Lot determined by the Body Corporate.

28.03.2 A Proprietor or Occupier of a Lot must not keep within the Lot any system similar to the Service other than the Service without the written consent of the Body Corporate.

28.03.3 The consent given under this By-Law is to be revocable for breach of this By-Law or any of the conditions or for any other cause which the Body Corporate deems sufficient or may be suspended for such period of time as the Body Corporate may determine.

28.03.4 Each Proprietor or Occupier of a Lot must permit the Body Corporate to enter upon that Lot, after giving reasonable notice (except in cases of emergency) to inspect and maintain the Service and to inspect equipment connected to it.

28.03.5 A Proprietor or Occupier must not or knowingly allow any person, other than the Body Corporate to maintain, repair or install the Service in a Lot.

28.03.6 A Proprietor, Occupier or Visitor may only use the intercom systems for the purpose of gaining access to the parcel or required apartment.

## 28.04 PAYMENT OF PRESCRIBED CHARGE

28.04.1 The Body Corporate may by ordinary resolution at a general meeting determine the amount which is reasonable to be raised from each Proprietor of a Lot for the purpose of meeting its actual or expected liabilities incurred or to be incurred by the Body Corporate within the period specified in the determination.

- 28.04.2 A Proprietor of a Lot is liable jointly and severally, with any person who was liable to pay the Prescribed Charge when the Proprietor become the proprietor of a Lot, and to pay such part of the Prescribed Charge as was unpaid when the Proprietor became the Proprietor of that Lot.
- 28.04.3 The Prescribed Charge shall be deemed to have been duly imposed on a Proprietor of a Lot notwithstanding that notice of the Prescribed Charge payable was not served on that Proprietor.
- 28.04.4 A notice of the Prescribed Charge payable by a Proprietor of a Lot shall:
- a) state the amount of any Prescribed Charge payable;
  - b) state the date when the Prescribed Charge becomes payable, and
  - c) be served or deemed to have been served on a Proprietor of a Lot before the date when the Prescribed Charge becomes due and payable.
- 28.04.5 If the year over which the Service is provided commences on a day other than the first day of the period to which the Prescribed Charge relates or determines on a day other than the last day of the period to which the Prescribed Charge relates, the Proprietor or Occupier of a Lot shall pay to the Body Corporate in respect to the broken period prior to the first complete period to which the Prescribed Charge relates, a proportionate part of the Prescribed Charge for the Service provided for the broken period.
- 28.04.6 The Body Corporate may, by ordinary resolution at a general meeting, determine that a late payment of the Prescribed Charge shall be subject to an interest charge and fix:
- a) a time by which a Proprietor or Occupier of a Lot must pay the Prescribed Charge and
  - b) the interest rate for the purpose of calculating the interest charge to which the payment of the Prescribed Charge shall be subject.
- 28.04.7 SECTION 40 CERTIFICATE
- Where, pursuant to an application made pursuant to Section 40(1) of the Act, the Body Corporate must supply a certificate in respect of a Lot, the Body Corporate must supply, when supplying that certificate, a supplementary certificate which certifies, as the date of the certificate, in respect of that Lot:
- a) the amount of any Prescribed Charge and the period in respect of which that Prescribed Charge is payable; and
  - b) whether there is any amount unpaid of the Prescribed Charge, and, if so, the amount thereof and the date on which such Prescribed Charge was due and payable.

## **29.00 REGISTRATION OF MOTORISED VEHICLES**

29.01 Motorised designated vehicles ('Vehicle') must not be operated on the Roads or Buggy Paths unless that vehicle is first registered with the Body Corporate.

29.02 The Body Corporate may register a Vehicle:

- a) if an application to register the Vehicle is lodged with the Body Corporate;
- b) the applicant pays the application fee determined by the Body Corporate; and
- c) the Vehicle complies with the requirements of clause 29.03.

29.03 To obtain registration, a Vehicle must be in good workable condition and be equipped with:

- a) lighting equipment including headlamps, rear lamps, reflectors and break lamps;
- b) mudguards;
- c) an efficient braking system;
- d) an efficient steering design and turning circle capacity;
- e) a transparent safety glass windscreen or other form of screen which will provide a reasonable means of protection to the driver and any passenger, where the vehicle is designed to contain such a screen;
- f) an audible warning device;
- g) appropriate signalling devices/indicators; and
- h) appropriate tyre fittings and tread.

29.04 The Body Corporate may:

- a) register the Vehicle; and
- b) issue the applicant with a registration certificate and adhesive registration label.

29.05 A fresh application may be made under clause 29.2 where the Body Corporate does not register a vehicle under 29.4. In that case, a fresh application fee may be waived by the Body Corporate.

29.06 Vehicles must display the adhesive registration label issued by the Body Corporate in a clearly visible place on the windscreen.

- 29.07 Vehicle registration remain current for 12 months from the date of issue of the registration certificate.
- 29.08 Vehicle registrations may be renewed by making application to the Body Corporate prior to the expiry date and paying the renewal fee determined by the Body Corporate.
- 29.09 If a person operates a Vehicle on a Road or Buggy Path in breach of this clause 29.00, the Body Corporate may:
- a) impose a fine being such amount determined by the Body Corporate from time to time;
  - b) remove and store the Vehicle at the cost of the Proprietor or Occupier until the Vehicle is registered under this clause.
- 29.10 The Body Corporate may from time to time determine:
- a) application registration fees;
  - b) renewal fees; and
  - c) fines for non-compliance.
- 29.11 For the purpose of this clause 'Roads' and 'Buggy Paths' have the same meaning as the meaning given to those terms in the Primary Thoroughfare (Body Corporate) By-Laws and the Secondary Thoroughfare (Body Corporate) By-Laws and also includes the Common Property.

## **30.00 TELECOMMUNICATIONS SYSTEM**

### **30.01 DEFINITIONS**

In these By-Laws unless the contrary intention appears:

**'Telecommunications System'** means any system that provides telephone, internet, television (free-to-air or subscription), data, video services, broadband or data services, other than cellular mobile telephone;

**'Prescribed Charge'** means the amount determined by the Body Corporate under Clause 30.04.1.

### **30.02 AGREEMENT WITH PROPRIETOR OF LOT**

This By-Law, to the extent that it may be necessary to validate it, constitutes an agreement between each Proprietor and each Occupier of a Lot and the Body Corporate pursuant to Sections 30(5) and 37(2)(a) of the Act for provision of the Service by the Body Corporate, and which obliges each Proprietor of a Lot to pay the Prescribed Charge.

### 30.03 TELECOMMUNICATIONS SYSTEM

- 30.03.1 Each Proprietor of a Lot may connect to the Telecommunications System ('Service') approved by the Body Corporate but the Body Corporate may at any time require the Proprietor or Occupier of a Lot to move the Service or any part of it to an alternate position within the Lot determined by the Body Corporate.
- 30.03.2 A Proprietor, or Occupier of a Lot must not keep within the Lot any system similar to the Service other than the Service without the written consent of the Body Corporate.
- 30.03.3 The consent given under this By-Law is to be revocable for breach of this By-Law or any of the conditions or for any other cause which the Body Corporate deems sufficient or may be suspended for such period of time as the Body Corporate may determine.
- 30.03.4 Each Proprietor and Occupier of a Lot must permit the Body Corporate to enter upon that Lot, after giving reasonable notice (except in cases of emergency) to inspect and maintain the Service and to inspect equipment connected to it.
- 30.03.5 A Proprietor or Occupier must not or knowingly allow any person, other than the Body Corporate to maintain, repair or install the Service in a Lot.

### 30.04 PAYMENT OF PRESCRIBED CHARGE

- 30.04.1 The Body Corporate may by ordinary resolution at a general meeting determine the amount which is reasonable to be raised from each Proprietor of a Lot for the purpose of meeting its actual or expected liabilities incurred or to be incurred by the Body Corporate within the period specified in the determination.
- 30.04.2 A Proprietor of a Lot is liable, jointly and severally, with any person who was liable to pay the Prescribed Charge when the Proprietor become the Proprietor of a Lot, and to pay such part of the Prescribed Charge as was unpaid when the Proprietor became the Proprietor of that Lot.
- 30.04.3 The Prescribed Charge shall be deemed to have been duly imposed on a Proprietor of a Lot notwithstanding that notice of the Prescribed Charge payable was not served on that Proprietor.
- 30.04.4 A notice of the Prescribed Charge payable by a Proprietor of a Lot shall:
- a) state the amount of any Prescribed Charge payable;
  - b) state the date when the Prescribed Charge becomes payable; and
  - c) be served or deemed to have been served on a Proprietor of a Lot before the date when the Prescribed Charge becomes due and payable.



30.04.5 If the year over which the Service is provided commences on a day other than the first day of the period to which the Prescribed Charge relates or determines on a day other than the last day of the period to which the Prescribed Charge relates, the Proprietor or Occupier of a Lot shall pay to the Body Corporate in respect of the broken period prior to the first complete period to which the Prescribed Charge relates, a proportionate part of the Prescribed Charge for the Service provided for the broken period.

30.04.6 The Body Corporate may, by ordinary resolution at a general meeting, determine that a late payment of the Prescribed Charge shall be subject to an interest charge and fix:

- a) a time by which a Proprietor or Occupier of a Lot must pay the Prescribed Charge; and
- b) the interest rate for the purpose of calculating the interest charge to which the payment of the Prescribed Charge shall be subject.

30.04.7 **SECTION 40 CERTIFICATE**

Where, pursuant to an application made pursuant to Section 40(1) of the Act, the Body Corporate must supply a certificate in respect of a Lot, the Body Corporate must supply, when supplying that certificate, a supplementary certificate which certifies, as the date of the certificate, in respect of that Lot:

- a) the amount of any Prescribed Charge and the period in respect of which that Prescribed Charge is payable; and
- b) whether there is any amount unpaid of the Prescribed Charge and, if so, the amount thereof and the date on which such Prescribed Charge was due and payable.

## **31.00 RIGHT TO ENTER LOTS AND DO WORKS**

31.01 The Body Corporate (or its contractors) may enter a Lot after giving one day's notice to the Occupier (or Proprietor if there is no Occupier) for any of the following purposes:

- a) to inspect for insurance purposes; and
- b) to inspect for compliance with these by-laws; and
- c) to find and repair problems and defects in gas or water pipes and equipment, electrical cables and equipment, the Intercom System and the Telecommunications System; and
- d) to treat the Lot for pests, insects and vermin; and

- e) to do anything that a Proprietor or Occupier of a Lot should have done under these by-laws but did not do within 7 days after notice from the Body Corporate to do that thing.

If the Body Corporate exercises its power under this by-law then it must use its best endeavours to minimise interference or inconvenience to the occupant of the Lot.

**31.02 Recovery of costs**

If the Body Corporate incurs costs to repair damage caused by a breach of these by-laws by a Proprietor or Occupier of a Lot or a guest of such a person, then the Body Corporate may recover those costs as a liquidated debt from the Proprietor or Occupier of the Lot at the time of the breach.

**31.03 Body Corporate may act through agents and employees.**

If the Body Corporate may or must do anything under these by-laws, then it may employ people or appoint agents for that purpose. However, the Body Corporate may not delegate its functions beyond the extent permitted by law.

**31.04 No interference with Body Corporate employees and Contractors**

A Proprietor or Occupier must not instruct the employees or Contractors of the Body Corporate to do any work or other thing on a Lot or the Common Property. Requests or suggestions for work must be made to the Body Corporate.

**31.05 By-laws to be shown in leased Lots**

A copy of these by-laws (or any shorter version approved by the Body Corporate) must be displayed in a prominent place in any Lot that is leased.

**32.00 INTEREST**

**32.01** If a contribution levied under Section 32 of the Building Units and Group Titles Act is unpaid 30 days after it falls due for payment then the amount of the unpaid contributions will attract penalty interest at a monthly rate of 2% or at a rate as determined by the Committee of the Body Corporate from time to time unless otherwise determined by Ordinary Resolution at a general meeting.

**32.02** If at the time a person becomes the proprietor of a lot, another person is liable in respect of the lot to pay interest on a contribution, the proprietor is jointly and severally liable with the other person for the payment of the interest.

**32.03** The amount of any interest is recoverable by the Body Corporate as a liquidated debt.

**33.00 STAGING OF DEVELOPMENT**

33.01 Proprietor and Occupiers acknowledge that:

- a) the Company proposes to systematically develop the Marina Precinct;
- b) the development might not be sequential from the nearest point of access from a relevant part of the Primary Thoroughfare or a public road (for example, part of the Marina Precinct furthest from the Primary Thoroughfare or a public road might be developed before a part nearest or nearer the Primary Thoroughfare or a public road).

33.02 Proprietors and Occupiers must not:

- a) do anything which could; or
- b) omit to do anything if the omission could,

prevent or delay grant or affect the conditions, of any approval or permit relevant to development or subdivision of the Marina Precinct or prevent or delay sale of lots in the Marina Precinct.

33.03 Proprietors and Occupiers also acknowledge that in the course of development of the Marina Precinct work that includes, but is not limited to, clearing of vegetation undertaking of earthworks for installation of services and other construction work, construction of roadways, driveways, residential and other buildings, landscaping, redevelopment of the retail and commercial area of the Marina Precinct (including marina berths), Proprietors and Occupiers of the Lot will suffer nuisance disturbance by virtue of, but not necessarily limited to:

- a) dust;
- b) noise (from, amongst other things, passage along the Secondary Thoroughfare of Construction Vehicles, and use of power tools and other plant and equipment); and
- c) traffic disturbance resulting from passage and re-passage of Construction Vehicles.

33.04 Proprietors and Occupiers

- a) must not object to any such nuisance (whether to the company, the local government or any other body or authority, including any body corporate);
- b) must ensure that any other person who is the proprietor and occupier of the Lot at a relevant time does not do so; and
- c) indemnify the Company against any claim, demand or proceeding made or instituted against, loss or damage suffered and costs and expenses incurred by the Company as a result, directly or indirectly, of breach by the Proprietors or Occupier of any obligation of the Proprietor or Occupier, positive or negative, under this by-law.

**34.00****ACCESS AND SECURITY**

34.01

Proprietors and Occupiers acknowledge:

- a) that the Lot may not be contained within a 'gated community' (as that term is commonly understood);
- b) that security gates have been installed at the Ross Street side entry to the Marina Precinct which restricts vehicular access only, but not pedestrian access to the Marina Precinct;
- c) the provision of access from any part of the Marina Precinct to and from the Residential (Western) Precinct may or may not coincide with the timing of creation of an instrument of title for the Lot.

**35.00****DEVELOPERS ACCESS OVER COMMON PROPERTY**

35.01

The following provisions of this By-law have effect while the Company is a Proprietor and has not given to the Body Corporate written notice to the effect that all development works the Company proposes to undertake on any Lot or on Common Property are complete.

35.02

In this By-law, the following definitions apply:

- a) 'Construction Functions' means anything to be done by the Company or a Development Lot Purchaser or the Construction Personnel of either of them in or about planning for, laying out or completing any works required (as they determine) to complete development of any of the Parcel, subdivision (after the registration of the Building Units Plan) of a lot to create further lots or lots and common property and sale of any lot;
- b) 'Construction Personnel' means all of the officers, employees, agents, consultants, contractors and subcontractors of the Company and each Development Lot Purchaser and the officers and employees of each contractor and subcontractor;
- c) 'Construction Vehicles' means any vehicle of or driven by someone who is within the definition of Construction Personnel, while he or her is engaged in a Construction Function;
- d) 'Development Lot Purchaser' means a person who purchases from the Company any lot (including any part of a lot which the Company has notified the Body Corporate will become a lot on registration of a relevant building units plan of subdivision) with the intent that it be developed consistently with the general theme of development of the then developed part of the Parcel.

35.03

The current intention of the Company being to develop the Marina Precinct in stages and that in doing so various recreational or relaxation facilities will be constructed on land that is or will be Common Property, and recognising rights of access and freedoms of other kinds the Company reasonably must have to enable it to do, and in the doing of, those things:

- a) the Company is to have access rights as provided in By-law 35.04 and may maintain those rights;
- b) the gates at the entrance of the Marina Precinct will at the Company's request, be immobilised during periods in which the Construction Vehicles and Construction Personnel require freedom of access through them to perform, or do things necessary in the performance of, Construction Functions.

35.04 The Company's rights are to use, free of charge:

- a) the Common Property as an access way from and to the balance Marina Precinct for anything preliminary to or anything required to be done, in the course of completion of development on and sale of the Company of any lot in the Marina Precinct; and
- b) any of the Common Property as an accessway to any other part of it from and to the balance of the Marina Precinct for a purpose envisaged by By-law 35.03

35.05 The right granted by By-law 35.04 is for the Construction Personnel to go over and across the Common Property with or without Construction Vehicles to perform Construction Functions.

## 36.00 RECREATIONAL FACILITIES

### 36.01 DEFINITIONS

In this By-Law unless the contrary intention appears:

**'Barbeque'** means the barbeques, if any, on the Common Property and not subject to any right of exclusive use.

**'Recreational Facilities'** means the amenities room and any entertainment area of other recreational facilities on the Common Property, excluding the Barbecue.

**'Swimming Pool'** means the swimming pool located on the Common Property and adjacent areas.

36.02 A Proprietor or Occupier may use the Recreational Facilities in compliance with any rules from time to time determined by the Body Corporate, including, but without limitation, the following rules:

- a) a Proprietor or Occupier must not allow their guests and invitees to use or enter the Recreational Facilities or Barbecue unless accompanied by a Proprietor or Occupier;
- b) children below the age of 13 years using the Recreational Facilities must be accompanied by an adult, exercising effective control over them at all times;

- c) the Recreational Facilities may only be used during such hours as may be determined from time to time by the Committee of the Body Corporate;
- d) if the Body Corporate has implemented a system of booking for use of the Recreational Facilities, each person must comply with that system;
- e) alcohol is not to be consumed in or around the Swimming Pool without the prior approval of the Committee of the Body Corporate;
- f) food and glass are prohibited in the Swimming Pool;
- g) excessive splashing or dangerous diving in and around the Swimming Pool is prohibited;
- h) no substance may be added to the water in the Swimming Pool;
- i) running around the Swimming Pool is prohibited;
- j) swimming naked is prohibited;
- k) interference with any electrical or other equipment on or around the Recreational Facilities is prohibited;
- l) the Recreational Facilities must not be damaged in any manner;
- m) the Recreational Facilities must be left clean and tidy after use.

36.03 For the purpose of the Body Corporate's contractors, servants, agents or employees cleaning and maintaining the Recreational Facilities, the Body Corporate may at such times as it from time to time determines suspend use of the Recreational Facilities for the duration of such cleaning or maintenance.

#### 36.04 BARBEQUE FACILITIES

The Barbeques, if any, (and not subject to any rights of exclusive use) are to be used in accordance with the following rules:

- a) a booking or reservation system will apply to the use of the facilities;
- b) if a Barbeque is in use, the persons already using the Barbeque must make reasonable efforts to accommodate their use (particularly the cooking facilities) by those who arrive later, on a shared basis if reasonably practicable but otherwise as soon as possible;
- c) children below the age of 18 may not in any circumstances operate the Barbeque;

**37.00 AIR CONDITIONING CONDENSERS**  
**37.01 DEFINITIONS**

**‘Air Conditioner Condenser’** means the air conditioning condenser for each Lot located on the Common Property.

**‘Prescribed Charge’** means the annual amount determined by the Body Corporate under By-law 37.02.

37.02 The Body Corporate may arrange for the repair and maintenance of the Air Conditioning Condenser (‘the Service’). This By-law, to the extent that it may be necessary to validate it, constitutes an agreement between each Proprietor and each Occupier of a Lot and the Body Corporate pursuant to sections 30(5) and 37(2)(a) of the Act for the provision of the Service to the Body Corporate, and which obliges each Proprietor of a Lot to pay the Prescribed Charge.

**37.03 PAYMENT OF PRESCRIBED CHARGE**

37.03.1 The Body Corporate may by ordinary resolution at a general meeting determine the amount which is reasonable to be raised from each Proprietor or a Lot for the purpose of meeting its actual or expected liabilities incurred or to be incurred by the Body Corporate within the period specified in the determination.

37.03.2 A Proprietor of a Lot is liable, jointly and severally, with any person who was liable to pay the Prescribed Charge when the Proprietor becomes the proprietor or a Lot, and to pay such part of the Prescribed Charge as was unpaid when the Proprietor became the Proprietor of that Lot.

37.03.3 The Prescribed Charge shall be deemed to have been duly imposed on a Proprietor of a Lot notwithstanding that notice of the Prescribed Charge payable was not served on that Proprietor.

37.03.4 A notice of the Prescribed Charge payable by a Proprietor of a Lot shall:  
a) state the amount of any Prescribed Charge;  
b) state the date when the Prescribed Charge becomes payable; and  
c) be served or deemed to have been served on a Proprietor of a Lot before the date when the Prescribed Charge becomes due and payable.

37.03.5 If the year over which the Service is provided commences on a day other than the first day of the period to which the Prescribed Charge relates or determines on a day other than the last day of the period to which the Prescribed Charge relates, the Proprietor or Occupier of a Lot shall pay to the Body Corporate in respect of the broken period prior to the first complete period to which the Prescribed Charge relates, a proportionate part of the Prescribed Charge for the Service provided for the broken period.

- 37.03.6 The Body Corporate may by ordinary resolution at a general meeting, determine that a late payment of a Prescribed Charge shall be subject to an interest charge and fix:
- a) a time which a Proprietor of a Lot must pay the Prescribed Charge;
  - b) a percentage for the purpose of calculating the discount to which the Prescribed Charge shall be subject; and
  - c) the interest rate for the purpose of calculating the interest charge to which the payment of the Prescribed Charge shall be subject.

37.03.7 **SECTION 40 CERTIFICATE**

Where, pursuant to an application made pursuant to Section 40(1) of the Act the Body Corporate must supply a certificate in respect of a Lot, the Body Corporate must supply, when supplying that certificate, a supplementary certificate which certifies, as at the date of the certificate, in respect of that Lot:

- a) the amount of any Prescribed Charge and the period in respect of which that Prescribed Charge is payable; and
- b) whether there is any amount unpaid of the Prescribed Charge and, if so, the amount thereof and the date on which such Prescribed Charge was due and payable.

**38.00 ELECTRICITY**

- 38.01 Electricity meters for each Lot are located on the Common Property and are separately metered to each Proprietor or Occupier.

**39.00 HOT WATER**

39.01 **DEFINITIONS**

**‘Hot Water System’** means the system for the heating of water for the Parcel located on the Common Property.

- 39.02 Subject to By-laws 18.00 and 40.00, the Body Corporate will enter into an agreement with a service provider of its choice (generally in accordance with the agreement contained in Annexure A) for the supply of hot water to the Lot.

- 39.03 Hot water charges will be separately metered by the service provider to each Lot for the consumption of hot water by the Proprietor or Occupier of a Lot.

**40.00 SUPPLY OF SERVICES**

40.01 **DEFINITIONS**

**‘Prescribed Charge’** means the annual amount determined by the Body Corporate under By-law 37.02.



**‘Services’** means all gas, electricity, telephone, water (including hot water), sewerage, drainage, fire prevention, air conditioning, hydraulic elevator, refuse disposal system, security systems, communications systems and all other services or systems provided in the Parcel or available for a Lot; and

**‘Service Infrastructure’** means any infrastructure for the provision of Services to the Parcel.

40.02 If permitted by the relevant legislation governing the supply of Services, the Body Corporate may:

- a) establish and maintain systems for the supply of Services (‘System’) for the Parcel; and
- b) as an on-supplier:
  - i. purchase the relevant Service from a supplier; and
  - ii. on-supply that Service to Proprietors and Occupiers (collectively called ‘Receivers’).

This By-law, to the extent that it may be necessary to validate it, constitutes an agreement between each Proprietor and each Occupier of a Lot and the Body Corporate pursuant to sections 30(5) and 37(2)(a) of the Act for the provision of the Services to the Body Corporate, and which obliges each Proprietor of a Lot to pay the Prescribed Charge.

40.03 The Body Corporate may enter into agreements, contracts, licenses, leases or other arrangements of any nature in connection with:

- a) the supply of Services to the Body Corporate by a Service supplier;
- b) the on-supply of Services to Receivers; and
- c) Service Infrastructure used in connection with the System;

including arrangements setting out the basis on which charges are made for the supply of the relevant Service and the recovery of the costs to the Body Corporate of supplying that Service.

40.04 The Body Corporate must calculate charges for supply of Services to Receivers only as permitted under the relevant legislation governing on-supply by the Body Corporate (if any) and in any case, levy charges only to the extent required to ensure that the Body Corporate complies with its obligations to recover the costs of supplying the Service to Receivers.

40.05 If the Body Corporate charges Receivers a tariff rate for the supply of the relevant Service which is higher than the rate at which the Body Corporate purchases that Service from the Service supplier, any surplus funds generated in the hands of the Body Corporate as a result must be applied by the Body Corporate to its administrative fund in reduction of liabilities of the Body Corporate and, in this way, for the benefit of Proprietors and Occupiers.

40.06 If the Body Corporate operates and maintains a System under this By-Law, it may:

- a) enter into agreements with Receivers for the supply of Services through the System, setting out the terms on which the Body Corporate will charge for the provision of Services under the System and recover the costs of providing that Service (as required by the Act) including charges for:
  - i. Service supply
  - ii. installation and connection to the System;
  - iii. servicing and maintenance of the System to the extent it is utilised in the provision of the Service to a particular Receiver;
  - iv. disconnection and reconnection fees; and
  - v. advance payments or security deposits to be provided in connection with Service supply through the System.
- b) establish the basis of Service charges for those Receivers which are not supplied by separate meter (if any) and for Common Property based on an estimate of Service consumption taking into account the number and type of Service fittings, points, installations plant and equipment, and appliances and the use to which those are put by the relevant Receivers or the Body Corporate.
- c) establish a system of accounts and invoices in connection with the supply of Services through the System and render those accounts to Receivers as appropriate; and
- d) recover any amounts when due and payable from any Receiver under applicable accounts rendered and if an account is unpaid by the due date:
  - i. recover any unpaid amount as a liquidated debt;
  - ii. recover interest on any unpaid account;
  - iii. disconnect the supply of Services to the relevant Receiver;
  - iv. charge a reconnection fee to restore Services to that Receiver; or
  - v. increase the advance payment or security deposit for Service supply to the relevant Receiver.

40.07 The Body Corporate is not liable for any loss or damage suffered by any Receiver as a result of any failure of the supply of Services due to breakdowns, repairs, maintenance, strikes, accidents or any other causes affecting the System.

- 40.08 The Body Corporate is not required to supply any Receiver with any Service to a greater extent than the relevant authority or supplier from which the Body Corporate obtains supply could provide at any given time.
- 40.09 Each Proprietor and Occupier must:
- a) allow the Body Corporate and its agents, contractors, or employees access to any Service Infrastructure used in connection with the System;
  - b) comply with all requirements of the Body Corporate imposed in connection with Service supply through the System; and
  - c) maintain any Service Infrastructure used in connection with the System and which is located in or on a Lot and which is used in connection with Service supply under the System.
- 40.10 Nothing in this By-Law obliges a Receiver to purchase Services from the Body Corporate or limits or restricts the rights of any Receiver to utilise Service Infrastructure under any implied easement or other right contained in the Act or other applicable legislation.
- 40.11 PAYMENT OF PRESCRIBED CHARGE
- 40.11.1 The Body Corporate may by ordinary resolution at a general meeting determine the amount which is reasonable to be raised from each Proprietor or a Lot for the purpose of meeting its actual or expected liabilities incurred or to be incurred by the Body Corporate within the period specified in the determination.
- 40.11.2 A Proprietor of a Lot is liable, jointly and severally, with any person who was liable to pay the Prescribed Charge when the Proprietor becomes the proprietor or a Lot, and to pay such part of the Prescribed Charge as was unpaid when the Proprietor became the Proprietor of that Lot.
- 40.11.3 The Prescribed Charge shall be deemed to have been duly imposed on a Proprietor of a Lot notwithstanding that notice of the Prescribed Charge payable was not served on that Proprietor.
- 40.11.4 A notice of the Prescribed Charge payable by a Proprietor of a Lot shall:
- a) state the amount of any Prescribed Charge;
  - b) state the date when the Prescribed Charge becomes payable; and
  - c) be served or deemed to have been served on a Proprietor of a Lot before the date when the Prescribed charge becomes due and payable.

40.11.5 If the year over which the Service is provided commences on a day other than the first day of the period to which the Prescribed Charge relates or determines on a day other than the last day of the period to which the Prescribed Charge relates, then Proprietor or Occupier of a Lot shall pay to the Body Corpora in respect of the broken period prior to the first complete period to which the Prescribed Charge relates, a proportionate part of the Prescribed Charge for the Service provided for the broken period.

40.11.6 The Body Corporate may by ordinary resolution at a general meeting, determine that a late payment of a Prescribed Charge shall be subject to an interest charge and fix:

- a) a time which a Proprietor of a Lot must pay the Prescribed Charge;
- b) a percentage for the purpose of calculating the discount to which the Prescribed Charge shall be subject; and
- c) the interest rate for the purpose of calculating the interest charge to which the payment of the Prescribed Charge shall be subject.

#### 40.11.7 SECTION 40 CERTIFICATE

Where, pursuant to an application made pursuant to Section 40(1) of the Act, the Body Corporate must supply a certificate in respect of a Lot, the Body Corporate must supply, when supplying that certificate, a supplementary certificate which certifies, as at the date of the certificate, in respect of that Lot:

- a) the amount of any Prescribed Charge and the period in respect of which that Prescribed Charge is payable; and
- b) whether there is any amount unpaid of the Prescribed Charge and, if so, the amount thereof and the date on which such Prescribed Charge was due and payable.

### **41.00 RESTRICTED ACCESS AREAS**

41.01 Any parts of the Common Property used for:

- a) electrical substations, switch rooms or control panels;
- b) fire service control panels;
- c) telephone exchanges;
- d) Air Conditioner Condensers; or
- e) other services to the lots or Common Property,

may be kept locked by the Committee (or its appointed representative) unless otherwise required by law, and Proprietors (or their appointed representatives) may not enter or open such locked areas without the prior consent of the Committee.

41.02 The Committee may use appropriate areas of the Common Property to store plant and equipment used for the performance of the Body Corporate duties in respect of the Common Property.

41.03 Any such areas may be locked an access is prohibited without the prior consent of the Committee.

41.04 On the request of a Proprietor to enter a locked area of the Common Property, the Committee must act reasonably and without delay give consent and arrange for access to any such area for the Proprietor (or its appointed representative).

## **42.00 EXCLUSIVE USE**

42.01 The Company or the Company's agent is authorised to allocate to Proprietors of Lots, exclusive use of any parts of the Common Property shown on the plan contained in Schedule A for car parking spaces, storage areas and/or terrace/courtyard areas, as identified by the Company or the Company's agent for the purposes of car parking, storage and/or terrace/courtyard areas only.

42.02 Each Proprietor must:

a) keep the exclusive use areas in a clean and tidy condition and undertake all maintenance required by the Body Corporate

b) use the:

i. car parking space for car parking purposes only;

ii. the terrace/courtyard areas as part of the ordinary residential living areas of the Lot only and must comply with By-law 42.07 in respect of the terrace/courtyard area; and

iii. the storage space for storage only.

c) Not use the exclusive use areas to create a nuisance or disturbance to other Proprietors.

42.03 Proprietors may install closed storage containers in or on the car parking space exclusive use area granted by the By-Law with the prior written approval of the Body Corporate. Each Proprietor to whom approval has been given to install a storage contained must maintain the storage container to the satisfaction of the Body Corporate. The Body Corporate may issue standard specifications for storage containers and may change the standard specifications from time to time.

- 42.04 Proprietors of Lots may at any time by agreement swap the exclusive use of a car parking space or storage space with another Proprietor of a Lot. The relevant Proprietor must notify the Body Corporate of the swap in which case the Body Corporate will cause a Form 13 under the Regulations of the Act to be prepared and lodged with the Department of Environment and Resource Management.
- 42.05 Each Proprietor is responsible, at the Proprietor's cost, for the performance of the duties of the Body Corporate pursuant to Section 37(1)(b) and (c) of the Act in respect of the area which the Proprietor has exclusive use and enjoyment for car parking.
- 42.06 The Company or the Company's agent is authorised to allocate to the Proprietor or Occupier of the Manager's Lot, special rights and exclusive use of any parts of the Common Property shown on the plan contained in Schedule B as an office and storage areas. The exclusive use is allocated on the basis that exclusive use rights will cease when the Proprietor or Occupier of the Manager's Lot ceases to be authorised to provide caretaking and or letting services from the Parcel.
- 42.07 The Body Corporate will for all exclusive use terraces/courtyard areas:
- a) be responsible to undertake maintenance and repair of the exclusive use terrace/courtyard areas, limited to trees, shrubs, common ground cover and other soft landscapes (not including lawn or hard stand areas); and
  - b) a representative of the Body Corporate will be permitted to have access in, on or across the applicable Lot the exclusive use terrace/courtyard area to undertake maintenance and repair referred to in the previous by-law.
- 42.08 To enable the Body Corporate to comply with its obligations under By-Law 5 to clean and maintain windows of the Building, the Body Corporate will be entitled to have access through an applicable lot to the exclusive use terrace/courtyard area and to place ladders and other equipment in or on the exclusive use terrace/courtyard area to carry out its duties.

#### **43.00 CARETAKING AND LETTING SERVICES**

- 43.01 The Body Corporate will have the power to grant to a person or entity who may be the Proprietor or Occupier or an Associate of the Proprietor of the Manager's Lot in the Parcel, the right to provide management and/or letting services and for that purpose to enter into agreements with the Proprietor or Occupier or an Associate of the Proprietor of the Manager's Lot on such terms and conditions as the Body Corporate deems fit.

**44.00 LETTER BOXES**

44.01 All Letter Boxes, their locks and keys remain the property of the Body Corporate. The Body Corporate maintain responsibility and serviceability of all letter boxes.

44.02 Letter boxes are to be kept locked at all times.