

**[SCHEDULE C BY-LAWS****1 Preliminary****1.1 Severability**

If any By-Law or part of a By-Law is or becomes void or unenforceable then that By-Law or part will be severed from these By-Laws, to the intent that all parts of these By-Laws that are not or do not become void or unenforceable will remain in full force and effect unaffected by any severance.

**1.2 Interpretation**

(a) In these By-Laws, except where the context otherwise requires:

- (i) plurals include the singular and singular the plural. References to either gender shall include a reference to the other gender;
- (ii) reference to the whole includes any part of the whole;
- (iii) references to any 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 for it" were added to the reference; and
- (iv) reference to any person includes reference to any individual, company, body corporate, association, partnership, firm, joint venture, trust and governmental agency.

(b) Headings are for guidance only and are not to be used as an aid in the interpretation of these By-Laws;

**1.3 Definitions**

In these By-Laws:

- (a) "Act" means the Body Corporate and Community Management Act 1997;
- (b) "Boat" will include sailboard, jet ski and similar pleasure craft;
- (c) "Body Corporate" means the Body Corporate established upon the registration of the Scheme;
- (d) "Body Corporate's Representative" means a member of the Body Corporate appointed by it from time to time to represent it;
- (e) "Building" means any fixed structure that is wholly or partly enclosed by walls and is roofed and includes any part of such a structure;
- (f) "By-Laws" means these By-Laws or any specified part of them;
- (g) "Common Property" has the same meaning as defined in the Act as applied to the Scheme;
- (h) "Company" means Pearls Edgewater Pty Ltd ACN 147 143 673 its successors, assigns and nominees and includes, where the context allows, the servants and agents of that company;
- (i) "Contractor" means any contractor engaged from time to time by the Body Corporate, including (without limitation) the person engaged to collect and dispose of the garbage;

- (j) "GST" means any value added, consumption, turnover or similar tax, impost or duty on goods and/or services which is introduced by the Commonwealth or any State or Territory;
- (k) "Heavy Vehicle" means a vehicle weighing in excess of two tonnes;
- (l) "Lake Homes" means lots in stages 1A, 10, 2D and 2E as referred to in the Staging Plan attached to Schedule B of this Community Management Statement;
- (m) "Lot" means a lot in the Scheme;
- (n) "Manager" means the person or corporation appointed by the Body Corporate from time to time to, amongst other things, keep the Common Property in good order
- (o) "Motor Vehicle" includes motor bikes but does not include motor vehicles in excess of 2 tonnes weight, caravans, camper-vans or mobile homes;
- (p) "Occupier" means the legal occupant from time to time of a Lot;
- (q) "Original Owner" has the meaning given to it in the Act;
- (r) "Owner" means any owner of a Lot and includes where the context allows, that person's tenants, guests, invitees, servants and agents;
- (s) "Recreation Areas" includes any pool, barbeque area or other area generally used for recreation purposes within the Scheme Land;
- (t) "Regulation Module" means the Regulation Module applicable to the Scheme under the Act;
- (u) "Scheme" means the community titles scheme identified in Item 1 of this Community Management Statement;
- (v) "Scheme Land" means all the land contained in the Scheme; and
- (w) "Speed Limit" means the speed of 1 Okms per hour or any other reasonable speed nominated by the Body Corporate.

## 2 Use of Lot

### 21 Residential use only

A Lot can be used for residential purposes only.

### 22 Original Owner Exception (Display Lot)

- (a) While the Company is the Owner of any Lot it may:
  - (i) use that Lot for display purposes;
  - (ii) allow prospective purchasers of any Lot to inspect such display Lot; and
  - (iii) use any signs, advertising or display material in or about the display Lot and Common Property in accordance with By-Law 38.1(a)(i) as it thinks fit.
- (b) A development lot may be used by its owner for lawful development purposes.

### **3 Appearance of Lots and Common Property**

#### **3.1 Appearance of Lots**

- (a) A Owner or Occupier must not hang washing, towels, bedding, clothing or other articles (except on clothes lines in designated areas provided by the Body Corporate (if any)) or display any sign, advertisement, placard, banner, pamphlet or like matter on the Common Property or on any part of a Lot in such a way as to be visible from outside the Lot without the prior written consent of the Body Corporate.**
- (b) Despite By-Law 3.1, the Manager is permitted to display reasonable signs or notices on the Scheme Land offering any Lot for sale or lease provided that the signs or notices do not detract from the overall appearance of the Scheme.**

#### **3.2 Structural Alterations to Exterior**

- (a) An Owner or Occupier of a Lot must not do anything to vary the external appearance of the Lot or vary the Common Property without the prior written consent of the Body Corporate.**
- (b) An Owner or Occupier must not make any structural alterations to any Lot which includes, without limitation, any alteration to gas, water, electrical installations or work for the purpose of enclosing any balcony of any Lot.**
- (c) An Owner or Occupier must not enclose (including, but to limited to, louvers and shutters) balconies which are visible from the road frontage.**

#### **3.3 Windows**

- (a) The windows of each Lot must be kept clean by the Occupier of the Lot and, if broken or cracked, promptly replaced by the Occupier of the Lot with fresh glass of the same kind colour and weight.**
- (b) Windows must not be covered with aluminium foil or similar reflective material or tinted and shutters, awnings or other window covers must not be affixed externally to any Building.**
- (c) This By-Law will not prevent security screens being installed over windows provided the Body Corporate has provided its prior written consent as to the type, quality, colour and style of security screen.**
- (d) An Owner must not hang curtains that are visible from outside the Lot unless those curtains have a white backing, or unless the colour and design have been approved by the Body Corporate**
- (e) An Owner must not install, renovate or replace a curtain backing or window treatment without obtaining the prior written consent from the Body Corporate in relation to the colour and design of the intended window furnishing or treatment unless the curtain backing or window treatment complies with 3.3 (d).**

#### **3.4 Structural Alterations to the Interior of Lots**

- (a) The manner and style of any structural fit out or structural alteration to the interior of any Lot must have the prior written approval of the Body Corporate which may be granted with or without conditions.**

- (b) In making a determination in relation to By-Law 3.4(a), the Body Corporate will be entitled to request copies of relevant plans, specifications and certifications.
- (c) All reasonable costs of the Body Corporate considering any fit outs or alterations under this By-Law will be payable by the relevant Owner on demand.
- (d) This By-Law shall not apply to the Original Owner.

### 3.5 Body Corporate to paint etc

The Body Corporate will:

- (a) paint the exterior of all Buildings at such times as are determined by the Body Corporate in uniform colour scheme approved by the Body Corporate;
- (b) maintain in good condition and repair all vegetation and yard landscaping (except where same is the responsibility of an Owner under these By-Laws); and
- (c) maintain all fences and gates attached to or forming part of the fences erected or constructed by or on behalf of the Company as developer on Common Property.

## 4 Maintenance of Lots

### 4.1 Owner's Obligations

- (a) An Owner or Occupier of a Lot will:
  - (i) be responsible for the proper maintenance and decoration of the Lot;
  - (ii) maintain in good condition and repair any improvements constructed or installed on the Lot (including where necessary, renewal or replacement of the whole or any part of the Lot) and, where appropriate, will not use building materials and external finishes other than of the same colour and type as those comprised in such improvements without the prior written consent of the Body Corporate;
  - (iii) maintain the interior of the Lot in a clean condition and take all practical steps to prevent infestation by vermin or insects; and
  - (iv) maintain in good condition and repair and keep clean any part of the Common Property which the Owner has the exclusive use of including any hot water system or air conditioning condenser unit servicing the Owner's Lot which may be located in that area, but excluding any fences located on the Common Property.
- (b) The Body Corporate may give written notice to an Owner or Occupier of a Lot requiring that:
  - (i) the Improvements be put in a state of good condition and repair (including where necessary, renewal or replacement of the whole or any part of the Lot); and
  - (ii) the obligations under By-Law 4.1 must be complied with, and if such notice has not been complied with to the reasonable satisfaction of the Body Corporate within 14 days of the date of that notice, the Body Corporate may, in its absolute discretion, cause the obligations under By-Law 4.1 to be carried out in accordance with the notice and the Owner or Occupier (as the case may be) must pay the costs incurred or payable by the Body Corporate on demand.
- (c) An Owner or Occupier of a Lot will allow the Body Corporate and the servants and contractors of the Body Corporate access to the Lot and the Improvements at all reasonable times for the

purpose of inspection and carrying out works under By-Law 4.1(b)(ii) provided that the Body Corporate gives the Owner or Occupier reasonable notice of its intention to enter upon the relevant Lot and carry out works.

#### 4.2 **Improvements**

For the purposes of this By-Law '**Improvements**' includes walls, windows, garage roller doors, doors, floor coverings, fly screens, gates, patios, walkways, paths, driveways, yard, lawn, landscaping, garden, plants, pergolas, shade structures and irrigation and drainage facilities located within the Lot or in any exclusive use area.

#### 5 **Vegetation**

##### 5.1 **Register**

The Body Corporate may, at its option, maintain a register of and describing trees, landscaping and any associated plants within the Scheme Land.

##### 5.2 **Prohibition against destruction**

An Owner or Occupier must not:

- (a) wilfully injure, ring bark, cut down, top, lop, remove or destroy any trees, plants or other growing thing or landscaping (collectively "Landscape") on the Scheme Land (whether or not identified in the register);
- (b) use any part of the Common Property as a garden;
- (c) damage any of the Landscape on the Common Property; or
- (d) otherwise partially or totally remove any of the Landscape (whether or not entered in the register) except with the prior written approval of the Body Corporate given in accordance with these By-Laws.

##### 5.3 **Application requirements**

- (a) An Owner may apply to the Body Corporate for approval to partially or totally remove part of the Landscape,
- (b) The application must be made in writing and set out:
  - (i) the reason(s) why the partial or total removal is sought;
  - (ii) the description of the land on which the relevant part of the Landscape is situated to enable it to be reasonably capable of identification; and
  - (iii) any other information the applicant considers relevant.

##### 5.4 **Decision of the Body Corporate**

- (a) The Body Corporate may:
  - (i) approve the application;
  - (ii) attach such conditions to the approval as it considers appropriate; or

(iii) refuse the application.

(b) The Body Corporate must make, and notify the applicant of, its decision within 30 days after receipt of the application.

#### 5.5 **Right of the Body Corporate**

The Body Corporate has the right at its discretion to maintain and (if necessary) lop, top, cut down or remove any trees or other vegetation in the Scheme Land.

#### 5.6 **Exemption — Staged development works**

By-Laws 5.1 to 5.5 do not apply to the Company in the course of its developing a Lot or Lots in stages, until all Lots created (or proposed by the Company to be created) in the Scheme have been sold.

### 6 **Water Apparatus**

(a) An Owner or Occupier must properly turn off all water taps in the Lot after use.

(b) The water closets, conveniences and other water apparatus including water pipes and drains in each Lot must not be used for any purpose other than those for which they were constructed and sweepings, rubbish or other unsuitable substances must not be deposited in them.

(c) 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 the Owner or Occupier of the Lot on which the damage or blockage occurred, whether it was caused by his own acts or omissions or those of members of his household or his servants, agents or guests.

### 7. **Temporary Buildings**

An Owner or Occupier cannot place upon any Lot or Common Property any outbuilding, tent, shack, shed or other temporary building or improvement.

### 8. **Lighting and Heating of Lots**

The Owner or Occupier must not use any chemicals, burning fluids, acetylene gas or alcohol in lighting or heating in a Lot nor in any other way cause or increase a risk of fire or explosion in a Lot.

### 9 **Storage of Flammable Liquids, etc**

An Owner or Occupier must not, except with the prior written consent of the Body Corporate, use or store upon a Lot or Common Property any flammable chemical, liquid, gas or other flammable material, other than chemicals, liquids, gases or other material used or intended to be used for domestic purposes, in a fuel tank of a motor vehicle or an internal combustion engine.

### 10. **Pets**

(a) Subject to the Act and the Guide Dogs Act 1972, an Owner or Occupier must not bring an animal on to, or keep an animal on, the Lot or the Common Property; or permit an invitee to bring an animal on to, or keep an animal on, the Lot or the Common Property without the prior written consent of the Body Corporate.

(b) The Body Corporate may give consent under By-Law 10(a):

(i) provided the following conditions are included in the approval;

- A. where the animal is on Common Property, it is kept on a leash (or is otherwise appropriately restrained, having regard to the animal);
- B. the animal does not interfere with other persons lawfully using Common Property;
- C. the Owner or Occupier is in complete control of the animal;
- D. the Owner or Occupier cleans up after the animal; and
- E. the animal wears a form of identification and, where the animal is a cat, it wears at least one bell;
- F. the Owner or Occupier complies with the requirements of the Gold Coast City Council Local Laws; and
- G. the Owner or Occupier acknowledges that he is absolutely liable to each other Owner and Occupier and their respective guests and invitees, for any unreasonable nuisance, noise or injury to any person or damage to property caused by that animal; and

Ⓜ with any other conditions it reasonably deems necessary.

- (c) If the Body Corporate is satisfied that there is a persistent contravention of this By-Law in relation to a particular animal, the Body Corporate may give notice in writing to the Owner or Occupier that the animal must be permanently removed from the Common Property,
- (d) Whilst the Original Owner owns a Lot, the Original Owner may give notice to the Body Corporate that an Occupier or Owner is permitted to have an animal on Scheme Land and notwithstanding the terms of this By-Law the approval from the Original Owner is deemed to be approval of the Body Corporate under By-Law 10(a).

## 11. Antennae

- (a) The Original Owner may install an individual antennae to the roof of each Building in the Scheme.
- (b) An Owner or Occupier must not erect, construct or place any television, radio or other electronic antenna or device of any type on any Lot or Common Property unless the Owner or Occupier obtains the prior written consent of the Committee. The Owner and Occupier of the Lot will be responsible for maintenance and operating costs of any such device.
- (c) An Owner or Occupier may erect or place a satellite dish on their Lot provided that:
  - the Owner or Occupier first advises the Committee of its intention to do so;
  - (ii) the satellite dish is of a reasonable size and does not detract from the overall amenity and appearance of the Scheme taking into account its colour and general appearance; and
  - (iii) the appropriate utility infrastructure exists for that purpose and the Owner or Occupier connects the satellite dish to the existing utility infrastructure in the location advised by the Committee.

The Occupier of the Lot will be responsible for the maintenance and operating costs of any such satellite dish.

**12 Security**

- (a) An Owner or Occupier must:
- (i) not install, or permit to be installed, any security system on any Lot or on Common Property without the prior written consent of the Body Corporate; and
  - (ii) -securely fasten all doors and windows to their Lot on all occasions when the Lot is left unoccupied.
- (b) The Body Corporate has the right to enter the Lot to fasten any door or window that is insecurely fastened,

**13. Insurance**

- (a) The Body Corporate will;
- (i) effect insurance that is required by the Act or Regulation Module on behalf of the Owner and keep insured all buildings and any improvements within the Scheme Land under a damage policy to their reinstatement or replacement value; and
  - (ii) levy the Owners from time to time for funds to pay the premiums.

Upon written request from the Body Corporate, Owners must immediately provide to the Body Corporate with any information required by it to allow it to take out, renew or update any insurance policy under By- Law 13(a).

- (c) An Owner or Occupier of a Lot must not bring to, do or keep anything on his Lot which may increase the rate of fire insurance on a Lot or any other part of the Scheme Land or which may conflict with the laws and/or regulations relating to fires or any insurance policy for such Lot or Scheme Land or the regulations or ordinances of any public authority for the time being in force.

**14. Nuisance**

- (a) An Owner or Occupier of a Lot must not carry on any noxious or offensive trade or activity on the Scheme Land or in any Lot nor may anything be done which may be, or may become, an annoyance or nuisance to the Scheme Land or any other Owner or Occupier or which may be likely to interfere with the quiet enjoyment of another Lot by any other Owner or Occupier or which in any way increases the rate of insurance in respect of the Scheme Land.
- (b) Without limiting the generality of By-Law 14(a), each Owner or Occupier must ensure that:
- (i) no auction sale is conducted on his Lot, or elsewhere in the Scheme Land but relative to his Lot or anything in it, without the prior written consent of the Body Corporate;
  - (ii) no sound device (except security or warning devices used exclusively for such purposes) power equipment, power tool or any item which may unreasonably interfere with television or radio reception to any Lot within the Scheme Land, is used on the Scheme Land and no noisy or smoky vehicle or unlicensed off-road vehicle is used or placed on the Scheme Land, or exposed to the view of any other Owner or Occupier, without the prior written consent of the Body Corporate;
  - (iii) all musical instruments, radio receivers, record, cassette or disc players, television sets and the like are controlled so that the sound emanating from them is at a reasonable level and will not cause annoyance to Owners and Occupiers of other Lots;

- (iv) their guests or invitees leaving after 11.00pm are requested to leave quietly;
  - (v) they are quiet when returning to their Lot late at night or in the early morning hours; and
  - (vi) if unavoidable noise will occur in his Lot, take all practical measures (including closing all doors, windows and curtains to his Lot) to minimise annoyance to other Owners and Occupiers.
- (c) unless otherwise specified in another By-Law or a rule properly made by the Body Corporate, the outdoor recreational areas in the Scheme are not used, or allowed to be used, between the hours of 9.00pm and 7.00am.

## 15 Obstruction

An Owner or Occupier of a Lot must not obstruct:

- (a) the lawful use of the Common Property by any person; or
- (b) use for any other purpose than the reasonable access to and from his Lot, pathways and driveways on the Common Property and any easement giving access to the Common Property.

## 16 Depositing Rubbish on Common Property

- (a) An Occupier or Owner must not:
- (i) deposit or throw upon the Common Property or the exterior of a Lot any rubbish, dirt, dust or other material likely to interfere with the use and enjoyment of the Common Property or Lot of another Occupier or Owner;
  - (ii) 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 (if any) of a Lot.
- (b) Any damage or costs for cleaning or repair caused by breach of this By-Law will be borne by the Occupier or Owner concerned.

## 17. Garbage Disposal

- (a) Each Owner or Occupier must:
- (i) except where the Body Corporate provides some other means of disposal of garbage, maintain on his Lot or on such part of the Common Property the Body Corporate designates, in a clean and dry condition and adequately covered, a receptacle for garbage;
  - (ii) use the recycle bins and garbage receptacles (if any) that may be provided by the Body Corporate and/or the relevant local authority in the area designated by the Body Corporate for that purpose (and must ensure that recycle bins and garbage receptacles are stored in the area designated by the Body Corporate for that purpose (if any));
  - (iii) at all times protect garbage deposited in the receptacle against the attraction of flies by wrapping the garbage in paper or other suitable material;
  - (iv) at least once every fortnight thoroughly cleanse and deodorise the receptacle;

- (v) at all times keep the proper lid (of correct fit) on the receptacle, except when the lid is removed to deposit garbage into the receptacle, to have its contents removed or so he may clean it;
  - NO not place or cause to be placed in the receptacle any refuse, or other thing which is aflame, smouldering, sludge, alive or not garbage;
  - (vii) ensure that receptacle is not overloaded to more than the maximum weight for the receptacle;
  - (viii) ensure the receptacle is placed at the nominated collection point on collection days;
  - (ix) comply with all local authority by-laws and ordinances relating to the disposal of garbage and ensure the receptacle is returned to the lot on the same day after collection;
  - (x) ensure that the health, hygiene and comfort of the Owner or Occupier of any other Lot is not adversely affected by his disposal of garbage; and
  - (xi) comply with any reasonable directions issued by the Body Corporate or Committee in relation to the proper and efficient use of any recycle bin or garbage receptacle.
- (b) For the purpose of By-Law 17(a)(vi), "sludge" means any matter or thing, whether solid or liquid or a combination of solids or liquids, which have been removed from a septic tank, septic closet, chemical closet, sullage pit, grease trap or any holding tank or other container forming part of or used in connection with a septic tank, septic closet, chemical closet, sullage pit or grease trap.

#### 18. Damage to the Common Property or Lot

An Owner or Occupier must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the Common Property or the exterior of his Lot or any Common Property asset, except with the consent in writing of the Body Corporate.

#### 19. Body Corporate to be Notified of Accidents etc.

- (a) An Owner or Occupier must promptly notify the Body Corporate of any accident to, or defect in, any water pipes, gas pipes, electric installations or fixtures which comes to his knowledge.
- (b) The Body Corporate and its servants and agents have authority in the circumstances having regard to the urgency involved to examine the defective item and to make such repairs or renovations as they consider necessary for the safety and preservation of any Lot or any Buildings on the Scheme Land as often as may be necessary.

#### 20. Use of Commercial Vehicles, Caravans etc and Heavy Vehicles

- (a) An Owner or Occupier must not:
  - (i) permit any caravan, campervan, mobile home, Boat or trailer upon the Common Property or upon a Lot unless it is housed in a garage and is not visible from any part of the Common Property;
  - (ii) permit any occupation of a caravan, campervan or mobile home upon the Scheme Land;
  - (iii) park or keep a vehicle of a commercial type (which includes, but without limitation, a dump truck, cement mixer truck, delivery truck, coach, bus or operable vehicle equipment, whether mobile or otherwise) within the Scheme Land except for the purpose and in the course of commercial deliveries; or

- (iv) drive or permit to be driven any Heavy Vehicle into or over the Common Property other than such Heavy Vehicles necessary to complete the construction of Improvements on the Scheme Land, and any Heavy Vehicles entitled to come on the Common Property by any statute and/or local authority ordinances.
- (b) For the purposes of this By-Law 'Improvements' includes Lots, buildings, swimming pools, outdoor recreation areas, entertainment areas, walkways, paths, driveways, landscaping, irrigation, drainage facilities and any other structures.

## 21. Motor Vehicles

### 21.1 Owner's and Occupier's Parking

An Owner or Occupier must not park or keep on his Lot any Motor Vehicle other than wholly within the parking area designated for it.

### 21.2 Visitor's Carparking

- (a) An Owner or Occupier of a Lot must use his best endeavours to ensure that any invitees do not park or stand any Motor Vehicle upon the Scheme Land except within a car parking space which the Body Corporate has nominated for visitor parking.
- (b) Any Motor Vehicle of an Owner or Occupier's invitee must not *be* permitted to park on the Scheme Land except within a car parking space which the Body Corporate has nominated for visitor parking for more than four hours without the prior written consent of the Body Corporate.
- (c) Visitor car parking spaces are to remain accessible for visitors, and are not to be occupied by Owners or Occupiers.
- (d) The Body Corporate has the right to tow any Motor Vehicle parking on the Scheme Land that contravenes this By-Law 21.2 at the Motor Vehicle owner's expense.

### 21.3 Direction by the Body Corporate

- (a) The Body Corporate may in its absolute discretion by written notice from time to time to the Owners and Occupiers of Lots within the Scheme Land, nominate which car parking spaces situated on Common Property may *be* used by the invitees of Occupiers or Owners of Lots,
- (b) The Body Corporate may from time to time issue written directions for parking of vehicles on the Common Property and each Owner or Occupier will observe those directions.
- (c) The Body Corporate may delegate the function of enforcement of the rules and regulations or directions given by the Body Corporate or the Committee pursuant to By-Law 21.3 to the Manager or other service provider duly appointed by the Body Corporate to maintain Common Property and, where so delegated, the delegate has all the powers and duties of the Body Corporate with respect to parking of Motor Vehicles as the Body Corporate has under the Act, the Module or these By-laws.

### 21.4 Repairs

- (a) An owner or Occupier must not conduct repairs or restorations to any motor vehicle, boat, trailer, aircraft or other vehicle on a Lot or Common Property except:
  - (i) wholly within the Owner's or Occupier's garage (if any); and
  - (ii) if such activity does not interfere with the quiet enjoyment of other Lots by their Owners or Occupiers,

but such activity is at no time permitted if it is determined by the Body Corporate in its sole discretion to be a nuisance.

### **21.5 Use of Garage**

- (a) The Owner or Occupier must use his garage only as a garage and for general storage purposes and may not convert it to any other use unless the written consent of the Body Corporate is first obtained and then only in accordance with the terms of such consent.
- (b) Lake Home owners shall be responsible for the costs and maintenance associated with the operating mechanisms associated with the garage roller doors.

### **22. Insect and Pest Control**

The Body Corporate is authorised to enter, by its agents, servants or contractors, onto each Lot (after giving reasonable notice) and collect and expend Body Corporate funds for the purpose of treating it with the intent of eradicating insects and pests.

### **23. Inspection of Lots**

- (a) The Body Corporate and its servants, agents and contractors may, on one day's written notice to the Owner or Occupier, enter any Lot:
  - (i) to inspect the interior of any Lot and to test any electrical, gas or water installation or equipment in it; and
  - (ii) to trace and repair any leakage or defect in any installations or equipment (at the expense of the Owner or Occupier of the Lot concerned in the case where such leakage or defect is due to any actual default of such Owner or Occupier or his invitees).
- (b) In exercising the power in By-Law 23(a), the Body Corporate will ensure that its servants, agents and employees cause as little inconvenience to the Owner or Occupier as is reasonable in the circumstances.

### **24. Leasing**

- (a) An Owner may let his Lot but only:
  - (i) by means of a written lease or tenancy agreement; and
  - (ii) if that lease or agreement obliges the lessee or tenant to comply with these By-Laws.
- (b) Each Owner who lets his Lot is to be responsible for ensuring compliance with the lease or tenancy agreement generally, but particularly as it relates to compliance with these By-Laws.

### **25. Drilling**

An Owner or Occupier cannot drill anywhere on the Scheme Land except as part of geological testing on the foundation design of any Building within the Scheme Land comprising his Lot

### **26. Fences**

An Owner cannot without the written consent of the Body Corporate erect any fence.

**27. Pergolas, Shade Structures, Screens, External Blinds or Awnings**

- (a) An Owner shall not construct or permit the construction or erection of any pergola, screen, external blind or awning or other structure or outbuilding of any kind within or upon a lot or on the Common Property except with the written approval of the Body Corporate. Any work, alteration, improvement or structure carried out or erected in breach of this by-law may be forthwith removed with or without notice by the Body Corporate and each of its employees, agents and contractors and -any entry onto the lot pursuant to this By-law shall not constitute trespass. All costs incurred in such removal may be recovered from the Owner of the lot as a liquidated debt. This by-law shall not apply to the Original Owner.
- (b) The Body Corporate will not unreasonably withhold its consent to an Owner erecting a permanent or temporary pergola or shade structure ("a Shade Improvement") provided that the following conditions are complied with:
- (i) the Shade Improvement must be erected in the location in the exclusive use courtyard area approved by the Committee;
  - (ii) the Shade Improvement to be constructed must comply in all respects with the design guidelines ("Design Guidelines") adopted by the Body Corporate relevant to the Owner's Lot. Upon request in writing and payment of any reasonable fee required by the Body Corporate, the Body Corporate will provide a copy of the Design Guidelines to an Owner;
  - (iii) the Owner must at its cost obtain and comply with all approvals, consents and licences required for, or that relate to, the construction and use of the Shade Improvement;
  - (iv) the style, design and colour of the Shade Improvement shall be (to the greatest extent possible);
    - A. be as advised (or approved) by the Body Corporate (acting reasonably) provided that what is advised or approved is not inconsistent with the Design Guidelines; and
    - B. is consistent with the Lot to which the exclusive use courtyard area attaches and shall not detract from the amenity of the Scheme.
  - (v) the Shade Improvement to be constructed must be of high quality workmanship and carried out by appropriately qualified tradespeople; and
  - (vi) the Owner and/or Occupier of the Lot must comply with any reasonable direction by the Body Corporate in respect of the Shade Improvement and must comply with all local authority laws and regulations that relate to the construction and use of the Shade Improvement.
- (c) The Owner and Occupier of a Lot are responsible for the repair and maintenance of any Shade Improvement or other improvement constructed in any exclusive use courtyard area allocated to the Lot (so that any part of the improvements visible from outside the Lot or Common Property is kept in an attractive state). An Owner or Occupier shall not, except with the consent in writing of the Body Corporate, change the size, type or colour of the improvement once properly constructed.
- (d) In the event that the Shade Improvement results in any additional cost or expense to the Body Corporate in respect of repair or maintenance, the Owner of the Lot which has the benefit of the Shade Improvement shall reasonably contribute towards the additional cost incurred due to the Shade Improvement.

**28. Air Conditioners**

- (a) An Owner must not install an air conditioner (and air conditioning condenser) in a Lot or on Common Property without the approval in writing of the Body Corporate and any air conditioner (and air conditioning condenser) installed pursuant to this By-Law must not be on a roof of a Building and must not be visible from another Lot, Common Property or other land surrounding the Scheme Land.
- (b) The Body Corporate must not unreasonably withhold consent to approval under By-Law 28(a) if the air conditioner (and air conditioning condenser) does not detract from the overall amenity and appearance of the Scheme taking into account the size, colour, noise level, capacity, general appearance and place for installation of the air conditioner and any existing air conditioners.
- (c) The Owner of each air conditioner (and air conditioning condenser) will be responsible for the maintenance and operation of the air conditioner (and air conditioning condenser) installed under this By-Law or already installed for the benefit of the Lot including the maintenance of the condenser unit or any other part of the air conditioning unit which is located on a part of common property which the Owner or Occupier has use of. For the avoidance of doubt, the owner and occupier of a Lot is responsible for the repair and maintenance of any air conditioner (and air conditioning condenser) and associated equipment in respect of any air conditioner (and air conditioning condenser) which services their Lot whether that air conditioner (and air conditioning condenser) and associated equipment is situated within their Lot or on any part of the Common Property (including on any exclusive use area).
- (d) Whilst the Original Owner owns a Lot, the Original Owner may give notice to the Body Corporate that an Occupier or Owner is permitted to install an air conditioner (and air conditioning condenser) and notwithstanding the terms of this By-Law the approval from the Original Owner is deemed to be approval of the Body Corporate under By-Law 28(a).

**29. Contractors**

- (a) An Owner or Occupier must not directly instruct any contractor or workmen employed by the Body Corporate unless specifically authorised to do so.
- (b) All requests for the Body Corporate to consider giving directions on a particular matter to a contractor or workman must be directed to the Body Corporate's representative, who will in turn refer the request to the Body Corporate for determination.

**30. Notification of Infectious Diseases**

If any infectious disease, which may require notification by virtue of any statute, regulation or ordinance, affects any person in any Lot, the Owner or Occupier of that Lot must;

- (a) give or cause to be given, notice of that fact and any other information relative to the disease which may be required to the Body Corporate; and
- (b) pay to the Body Corporate the expenses of disinfecting the Lot or any part of the Common Property (if that is necessary) and replacing any article or thing the destruction of which may be rendered necessary by such disease.

**31. Notices to be Observed**

An Owner or Occupier of a Lot must 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.

## **32 Rules Relating to Common Property**

The Body Corporate may make rules relating to the Common Property that are not inconsistent with these By-Laws and those rules must be observed by each Owner and Occupier unless and until they are disallowed or revoked by a resolution at a general meeting of the Body Corporate.

## **33. Recreation Areas**

### **33.1 Availability**

The Recreation Areas must not be used between the hours of 9.00 pm and 7.00 am or such other hours as agreed to by the Body Corporate and the Manager and notified to the Owners and Occupiers.

### **33.2 Rules for Use**

All Owners and Occupiers when making use of the Recreation Areas must ensure:

- (a) that any invitees and guests do not use the Recreation Areas unless a Owner or Occupier accompanies them;
- (b) that children below the age of 13 years are not in or around the Recreation Areas unless accompanied by an adult Owner or Occupier exercising effective control over them;
- (c) that the invitees exercise caution at all times and not behave in any manner that is likely to interfere with the use and enjoyment of the same by other persons;
- (d) if congestion is experienced in the use of the Recreation Areas, the Manager may arrange for the implementation of systems for the mutual benefit of all Owners and Occupiers in the Scheme Land; and
- (e) all users of the Recreation Areas must be suitably attired and must observe a dress code suitable for the occasion.

## **34. Swimming Pool and/or Spa**

### **34.1 Use of Facilities**

Occupiers and any other authorised users may use the swimming pool and/or spa and associated facilities ("the Facilities") on the Common Property subject to compliance with the following:

- (a) that any invitees and guests do not use the Facilities unless an Owner or Occupier accompanies them;
- (b) that children below the age of 13 years are not in or around the Facilities unless accompanied by an adult Owner or Occupier exercising effective control over them;
- (c) alcoholic beverages must not be consumed in or around the Facilities;
- (d) running, rough play in or about the Facilities, excessive splashing, improper or unsafe diving in the pool are prohibited;
- (e) food, glass, breakable items and pets must not be brought in or around the Facilities;
- (f) the Facilities must only be used between the hours of 7:00am and 9.00pm or such other time as the Body Corporate may determine;
- (g) all users of the Facilities must be suitably attired and must observe an appropriate dress code;

- (h) after the Facilities are used, the relevant area must be left in a clean and tidy state and available to the next users; and
- (i) heating of any spa is at the discretion of the Committee.

## **35. Barbeques**

### **35.1 Designated Barbeque Area**

Occupiers and any other authorised users may use the barbeque area and associated facilities on the Common Property subject to compliance with the following rules:

- (a) the area is only to be used between the hours of 7:00am and 9.00pm or such other time as the Body Corporate may determine;
- (b) the area is not to be used so as to create a nuisance or disturbance to other Owners or Occupiers. in particular:
  - (i) all sound systems, musical instruments and the like are to be controlled so that the sound arising from them is reasonable and does not cause annoyance to others;
  - (ii) food, cigarette butts, papers and other items must be deposited in an appropriate rubbish receptacle and not be littered about the area;
  - (iii) there is to be no offensive language; and
  - (iv) all users of the barbeque area must be suitably attired and observe an appropriate dress code;
- (c) cooking appliances and appurtenances must be used in a proper manner and turned off according to the operating instructions and all such appliances and appurtenances are to be thoroughly cleaned after use; and
- (d) if the barbecue is not adequately cleaned after use, the Manager may, at his discretion, charge the Owner or Occupier who last used the barbecue the cost of cleaning the barbecue. Such charge is payable on demand to the Manager by the relevant Owner or Occupier.

### **35.2 Other Barbeques**

Despite any By-Law to the contrary, Owners and Occupiers are permitted to keep and use a barbeque on their Lot (including any balcony (if any)) on the condition that the use of the barbeque does not detract from the overall amenity and appearance of the Scheme and the usage and operation of such barbeque complies with fire department regulations and any applicable laws relating to the storage of combustible substances.

## **36. Community Room and Recreation Room**

The community room and recreation room (if any) located on the Scheme Land is to be for the use of Owners, Occupiers and their guests only.

## **37. Booking of Common Property**

- (a) The Manager may, at its discretion, operate a booking system to enable Owners or Occupiers of the Scheme Land to reserve any part of the Common Property for functions or other uses from time to time. This includes, the barbecue and any other part of Common Property which may be used for functions of any kind or a meeting room.

- (b) in operating such booking system the Manager:
- (i) will allocate bookings on a 'first come first served' basis;
  - (ii) may require a deposit of \$100 (or other amount the Body Corporate deems appropriate from time to time) to cover the costs of cleaning and repair of Common Property. If, in the reasonable opinion of the Manager, the Common Property has not been adequately cleaned after the function, or damage has occurred to the Common Property as a result of the function, then the Manager may withhold the deposit and apply it to such cleaning or repair; and
  - (iii) must comply with the reasonable requirements of the Body Corporate in relation to the management and operation of the booking system, as notified to the Manager from time to time.
- (c) The Manager is authorised to refuse to accept a booking if, in the reasonable opinion of the Manager, the person placing the booking:
- (i) has previously failed to adequately clean the function area after a function;
  - (ii) has previously failed to honour a booking where the Manager has refused to accept a later booking as a result of the person's booking; or
  - (iii) has been using the function area frequently, and the repeated prior booking of the area is denying access to other owners or occupiers who have a genuine reason for using the area and seeking a booking; or
  - (iv) is likely to cause a disturbance to the Scheme Land as a result of the booking.

### 38. Construction of Lots

#### 38.1 Rights of Original Owner

- (a) While the Original Owner (and any person the Original Owner assigns its rights to under this By-Law) remains an owner of any Lot in the Scheme Land, it and its contractors, agents and those authorised by it, will be entitled:
- (i) to place such signs and other advertising and display material in and about a Lot and about the Common Property which signs will in all respects be attractive and tasteful having regard to the visual privacy of other Lots and the general aesthetics and amenity of the Scheme Land, and will not at any time, and from time to time be more, in terms of number and size, than is reasonably necessary;
  - (ii) to carry out any building (including construction) of any improvements, or any other things done on the Scheme Land and no objection will be made to the noise, nuisance or other inconvenience which might arise from that; and
  - (iii) to use the Common Property or other lots, in the Scheme to:-
    - A. together with persons authorised by it, to pass over the Common Property (with or without Motor Vehicles, Heavy Vehicles or equipment) to gain (or give) access to and egress from any part of the Scheme Land; and
    - B. store building materials, Motor Vehicles, Heavy Vehicles, equipment or fill on the Scheme Land.

### **38.2 Directions by original owner during construction**

**While any construction or building operations are occurring on the Scheme Land, Owners, Occupiers and invitees to the Scheme Land must comply with the reasonable direction of the Original Owner (and persons authorised by it). In particular, they must comply with any altered traffic (vehicle and pedestrian) flow directions.**

### **38.3 Exercise of rights by Original Owner**

- (a) The Original Owner is permitted to use and damage the Common Property for the purpose of developing the Scheme Land. If any damage is caused to the Common Property or anything on the Common Property, the Original Owner will make good the damage at its expense.**
- (b) In exercising its rights under this By-Law, the Original Owner will use reasonable endeavours to prevent undue interference with the enjoyment, by lot owners, of their lots and the Common Property.**
- (c) Any By-Law that requires Body Corporate or Committee approval or permission to carry out works within the Scheme shall not apply to any rectification works or further works being carried out or to be carried out by the Original Owner in the course of finishing all works on the Scheme Land.**
- (d) The Original Owner may bring equipment and materials on to the Common Property and access shall be restricted for safety and security reasons to the Original Owner and its contractors for those areas of Common Property and lots where works are being carried out. The Original Owner may lock off or put up barricades to areas for the safety and security of people on Scheme Land.**
- (e) The Original Owner may interrupt or use the supply of utility services when carrying out works.**
- (f) If there is any inconsistency between the terms of this by-law and any other by-law, the terms of this by-law shall prevail to the extent of any such inconsistency.**
- (g) The Occupier shall not instruct any contractors or workmen engaged by the Body Corporate or the Original Owner unless so authorised.**

### **39. By-Laws to be made available**

**In respect of any Lot which is made available for letting, a copy of these By-Laws must be made available to an Occupier of the Lot upon request by that Occupier.**

### **40. Speed Limit**

**An Owner or Occupier must not exceed the Speed Limit while driving any Motor Vehicle or Heavy Vehicle on the Common Property and must use its best endeavours to ensure that any invitees do not exceed the Speed Limit.**

### **41. Letter Boxes**

- (a) The Body Corporate will provide a separate letter box for each Owner in an area on the Common Property adjacent to the Building containing recreation facilities (or in such other location as determined by the Body Corporate).**
- (b) The Body Corporate will be responsible for the maintenance of the letter boxes and will ensure that each letter box clearly identifies the Lot number of the Owner for whose use it is provided.**

- (c) An Occupier must regularly clear the letter box for his or her Lot.
- (d) The Company is not required to contribute to maintenance of any such letter box designated for a Lot of which it is the Original Owner.

## **42 Exclusive Use Areas**

### **42.1 Grant of Exclusive Use**

- (a) The Owners of lots identified in Schedule E are entitled to exclusive use areas indicated in that schedule and as identified on sketch plan which is attached to this Community Management Statement.
- (b) The Original Owner may allocate Common Property to Owners for exclusive use purposes and any allocation will be effective if:-
  - (i) the allocation is made within 12 months of the date of recording of the CMS that first included this By-Law; and
  - (ii) details of the allocation are notified to the Body Corporate.

### **42.2 Maintenance of Exclusive Use**

The Owner or Occupier must maintain and keep any area of common property that they have exclusive use of in a neat and tidy condition including keeping all plants or grass properly tendered and watered. If the Owner or Occupier fails in this duty, By-Laws 4.1(b) and (c) and 48 apply.

### **42.3 Conditions of the grant**

- (a) This grant of exclusive use and enjoyment is made subject to the Owner allowing the Body Corporate, the Body Corporate and its properly appointed agents access at all reasonable times to the exclusive use space for any proper purpose.
- (b) An Owner or Occupier of a Lot must not park any Motor Vehicle upon the Common Property unless the exclusive use of that part of the Common Property has been allocated or licensed to the Owner or Occupier respectively of the Lot for that purpose.
- (c) An Owner or Occupier must not fence or otherwise obstruct access to any exclusive use area.

### **42.4 Revocation of Allocation**

The Original Owner or its agent may revoke an allocation of an exclusive use area provided the revocation is accompanied by the consent of the Owner of the Lot having the benefit of the exclusive use area.

## **43 Allocation of Exclusive Use — Carpark**

**43.1** This exclusive use By-Law authorises the Original Owner, or an agent of the Original Owner, to allocate parts of the Common Property to which this exclusive use By-Law shall apply ("an authorised allocation"). The parts of the Common Property to be allocated under this exclusive use By-Law shall be allocated for the purposes of car parking.

**43.2** This By-Law may attach to a Lot on the basis of an authorised allocation. The Occupier of each Lot for the time being to which this By-Law attaches, shall have exclusive use to the rights and enjoyment of the area of Common Property allocated by way of an authorised allocation, the details of which have been given to the Body Corporate by the Original Owner or an agent of the Original Owner.

- 43.3 The Body Corporate shall ensure that details of the areas of Common Property over which exclusive use has been granted and the applicable Lot shall be recorded in Schedule E and defined on a plan in a Community Management Statement.
- 43.4 The car space exclusive use areas granted under this By-Law are to be used for car parking only and shall not create or allow a nuisance to be created upon such area.
- 43.5 Each Owner shall be responsible for keeping their exclusive use car space clean from litter, residues marks and oil. However the Body Corporate shall otherwise remain responsible for the maintenance, operating costs and upkeep of the exclusive use car space areas.
- 43.6 The Body Corporate, the Caretaker and each of their respective employees, agents and contractors may, with or without notice to an Occupier, enter upon such exclusive use car space area (or part thereof) for the purpose of inspecting the same or for carrying out works or effecting repairs and maintenance to the Building, the Common Property, the Lot or an adjoining Lot, including but not limited to, carrying out works or effecting repairs and maintenance on mains, pipes, wires or connections of any utility service or utility infrastructure.
- 43.7 An *Owner of a Lot* may grant to another *person who is not an Owner or Occupier of a Lot in the Community Titles Scheme* a licence to use that Owners exclusive use car space provided that:
- (a) the relevant Owner engages the party who undertakes the management and letting services in respect of the Community Titles Scheme to manage and control the use of the relevant Owners exclusive use car space by the licensee; and
  - (b) the relevant licensee agrees to be bound by the By-Laws of the Community Titles Scheme (as they are amended from time to time).
- 43.8 The Original Owner or the Original Owner's agent (whichever authorised the allocation) may revoke the allocation, but only with the written consent of the Lot Owner with the benefit of the allocation.

#### 44. Allocation of Exclusive Use — Courtyard Areas

- (a) This exclusive use by-law authorises the Original Owner, or an agent of the Original Owner, to allocate parts of the Common Property to which this exclusive use by-law shall apply ("an authorised allocation").
- (b) This by-law may attach to a lot on the basis of an authorised allocation. The Occupier of each lot for the time being to which this bylaw attaches, shall have exclusive use to the rights and enjoyment of the area of Common Property allocated by way of an authorised allocation, the details of which have been given to the Body Corporate by the original owner or an agent of the Original Owner.
- (c) The details of the areas of Common Property over which exclusive use has been granted and the applicable lot are recorded in Schedule E and defined on a plan attached to this Community Management Statement.
- (d) The courtyard exclusive use areas granted under this by-law are to be used by the occupiers of each lot as a courtyard and patio area only. The Owners and Occupiers of each lot must maintain the design theme of the area and must not change the design theme or the plants (if any) without the written approval of the Committee.
- (e) Each Owner shall be responsible for the maintenance, operating costs and upkeep of their exclusive use area. The Occupier of the lot shall maintain any garden (including the lawn) and shall keep the exclusive use courtyard area in a neat and tidy condition. The Owner and

occupier of each lot shall allow access to the courtyard area to allow the Body Corporate, caretaker or their sub-contractors to inspect the front courtyard area to ensure that the area is being properly maintained and the garden and lawn are in a neat and tidy condition.

- (f) If a lot has a spa or pool in its exclusive use area, the owner of the lot shall be responsible for the maintenance, operating costs and upkeep of the spa or pool. The Occupier of the Lot shall repair and maintain any spa or pool so that any part of the spa or pool visible from outside the lot is kept in an attractive state and the spa or pool does not create undue noise or leakage which may affect the Common Property or other Owners or Occupiers. An Owner or Occupier shall not except with the consent in writing of the Body Corporate, change the size or type of spa or pool.
- (g) If an Owner or Occupier does not comply with this by-law, the Body Corporate may issue a written notice to remedy to the Owner and/or Occupier. If the Owner or Occupier does not remedy the breach of this *bylaw* within 7 days of being given the notice, *the* Body Corporate may engage a contractor to take remedial action. The Body Corporate and any contractor shall have the right to enter the exclusive use courtyard area (and enter the lot to access such area) to carry out the remedial action. The Owner and the Occupier of the lot are jointly and severally liable to pay the costs of remedial action incurred by the Body Corporate (including legal costs).
- (h) Lot Owners acknowledge that the exclusive use area to which this by-law relates may be burdened by a drainage or other service easement. Lot Owners must not build any structure over the area benefited (or burdened) by any such easement and must otherwise comply with the terms of the easement.
- (i) Subject to by-law 27, Owners of Lots which have the right to an exclusive use courtyard area under this by-law may only make an improvement to that exclusive use area if approval to such improvement is given by the Committee in writing and all local government requirements in respect of any such improvement are complied with. The style, design and colour of any improvements shall be (to the greatest extent possible) consistent with the lot to which the exclusive use area attaches and shall not detract from the amenity of the Scheme. The Owner of the lot shall ensure that any improvements match the colour and style of the dwelling and are of a high quality of design and workmanship. The Occupier shall repair and maintain the improvements so that any part of the improvements visible from outside the lot is kept in an attractive state. An Occupier shall not, except with the consent in writing of the Body Corporate, change the size, type or colour of the improvement once constructed.
- ⓪ The Original Owner or its agent may revoke an allocation of an exclusive use area provided the revocation is accompanied by the consent of the Owner of the Lot having the benefit of the exclusive use area.

#### 45. Special Rights for use of Car Courts

45.1 This By-Law authorises the Original Owner, or an agent of the Original Owner, to allocate special rights over parts of the Common Property to which this By-Law shall apply ("an authorised allocation"). The parts of the Common Property to be allocated under this special rights By-Law shall be allocated for the purposes of garage access to the applicable Lot.

45.2 This By-Law may attach to a Lot on the basis of an authorised allocation. The Occupier of each Lot for the time being to which this By-Law attaches, shall have special rights and enjoyment of the area of Common Property allocated by way of an authorised allocation, the details of which have been given to the Body Corporate by the Original Owner or an agent of the Original Owner.

- 45.3 The Body Corporate shall ensure that details of the areas of Common Property over which special rights have been granted and the applicable Lot shall be recorded in Schedule E and defined on a plan in a Community Management Statement.
- 45.4 The car court special rights areas granted under this By-Law are to be used for access to the Lot Owner's garage only and the Owner or Occupier shall not create, or allow a nuisance to be created upon such area and shall not permit other to park their Motor Vehicles on the car court area.
- 45.5 Each Owner shall be responsible for keeping their special rights car court area clean from litter, residues marks, and oil and will be responsible for maintenance costs and upkeep of the special rights car court area..
- 45.6 If an Owner or Occupier does not comply with this By-law, the Body Corporate may issue a written notice to remedy to the Owner and/or Occupier. If the Owner or Occupier does not remedy the breach of this by-law within 7 days of being given the notice, the Body Corporate may engage a contractor to take remedial action. The Body Corporate and any contractor shall have the right to enter the special rights area (and enter the lot to access such area) to carry out the remedial action. The Owner and the Occupier of the lot are jointly and severally liable to pay the costs of remedial action incurred by the Body Corporate (including legal costs).
- 45.7 The Body Corporate, the Caretaker and each of their respective employees, agents and contractors may, with or without notice to an Occupier, enter upon such special rights car court area (or part thereof) for the purpose of inspecting the same or for carrying out works or effecting *repairs and maintenance* to the Building, the Common Property, the Lot or an adjoining Lot, including but not limited to, carrying out works or effecting repairs and maintenance on mains, pipes, wires or connections of any utility service or utility infrastructure.
- 45.8 The Original Owner or the Original Owner's agent (whichever authorised the allocation) may revoke the allocation, but only with the written consent of the Lot Owner with the benefit of the allocation.

#### 46. Special Right for Use of Hallways

- 46.1 This By-law authorises the Original Owner, or an agent of the Original Owner to allocate special rights (an "authorised allocation") over parts of the Common Property for the purpose of access for Owners, Occupiers or invitees through common hallways to their lots.
- 46.2 This By-law may attach to a Lot on the basis of an authorised allocation. The Occupier and invitees of Occupiers of each Lot from the time being to which this By-Law attaches, shall have a special right for the use and enjoyment of the Common Property allocated by way of an authorised allocation, the details of which have been given to the Body Corporate by the Original Owner or an agent of the Original Owner.
- 46.3 Details of the areas of Common Property over which special rights have been granted and the applicable lot are recorded in Schedule E and defined on a plan attached to this Community Management Statement.
- 46.4 The special rights areas granted under this By-Law *are to be used by the Lot Owners, their Occupiers and invitees* for access to their Lot. The use by the Owner, Occupier or invitee of the special right area pursuant to this By-law shall not create or allow a nuisance to be created upon such area. The Owner to whom has been allocated this special right area shall be responsible for the maintenance, cleaning and upkeep and shall be responsible for the costs and maintenance for operating the security system and must comply with any other reasonable conditions put forward by the Body Corporate in maintain the area.

46.5 If an Owner or Occupier does not comply with this By-law, the Body Corporate may issue a written notice to remedy to the Owner and/or Occupier. If the Owner or Occupier does not remedy the breach of this by-law within 7 days of being given the notice, the Body Corporate may engage a contractor to take remedial action. The Body Corporate and any contractor shall have the right to enter the exclusive use courtyard area (and enter the lot to access such area) to carry out the remedial action. The Owner and the Occupier of the lot are jointly and severally liable to pay the costs of remedial action incurred by the Body Corporate (including legal costs).

#### 47. **Observance of these By-Laws**

##### 47.1 **Duties of Owner or Occupier**

- (a) The duties and obligations imposed by these By-Laws on an Owner or Occupier must be observed not only by the Owner or Occupier but also by the tenants, guests, servants, employees, agents, children, invitees and licensees of at) Owners or Occupiers.
- (b) Each Owner or Occupier of a Lot must take all reasonable steps to ensure that his invitees do not behave in a manner likely to interfere with the quiet enjoyment of the Owner or Occupier of another Lot or of any person lawfully using the Common Property.

##### 47.2 **Breach of By-Laws**

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

##### 47.3 **Remedy Required**

A person guilty of a breach of these By-Laws must remedy that breach immediately he becomes aware of it and in any event within seven days after notice from the Body Corporate requiring him to do so.

##### 47.4 **Right to Eject**

A drunken, idle or disorderly person found in or upon the Common Property may be summarily ejected and removed from the Scheme Land by a security officer or a member of the police force.

#### 48. **Recovery of monies by Body Corporate**

##### 48.1 **Amount to rectify breaches of Act or By-Laws**

If the Body Corporate expends money to make good damage caused by a breach of the Act or of these By-Laws by an Owner or Occupier or the guests, servants, employees, agents, invitees of a Owner or Occupier or of any of them, the Body Corporate is entitled to recover the amount so expended as an on-demand debt in an action in any court of competent jurisdiction from the Owner of the Lot at the time the breach occurred.

##### 48.2 **Costs allowed to be recovered**

- (a) An Owner must pay on demand the whole of the Body Corporate's costs and expenses (including solicitor and own client costs plus any GST in respect of the costs and expenses) in connection with:-
  - (i) recovering contributions including Body Corporate costs or monies payable to the Body Corporate pursuant to the Act or these By-Laws duly levied upon the Owner by the Body Corporate, or otherwise pursuant to these By-Laws;

- (ii) all legal or other proceedings concluded by way of settlement or Court determination in favour of the Body Corporate taken by or against the Owner or Occupier of a lot.
- (b) The amount of any such costs shall be deemed to be a liquidated debt due by the Owner to the Body Corporate.
- (c) The Body Corporate may include any costs payable to it under this By-Law on any certificate issued in respect of the lot under the Act, -including but not limited to a notation of unpaid insurance premiums, telephone charges, excess water charges or any other utility charge.

#### 48.3 Failure to pay

If the Owner or Occupier fails to pay any such costs upon demand, the Body Corporate:

- (a) may take action for the recovery of those costs in a Court of competent jurisdiction, and/or
- (b) enter such costs and expenses against the contribution account of the Owner.

#### 48.4 Mortgagee in Possession Included

In this By-Law, references to an Owner shall be deemed to include a reference to a mortgagee in possession of any Owner's Lot.

#### 49. Power to enter into agreements

The Body Corporate has the power (and it is the function of the Body Corporate) to enter into agreements or arrangements in relation to the following:

- (a) supply of communication services (including services relating to negotiation with broadband Internet access suppliers for the provision of computer data and data transmission and related communications, supply of broadband cable, movies on demand, internet access and other related technology services that may evolve over time);
- (b) an agreement with a letting agent that the letting agent has the exclusive right to carry out a Letting Service from the Scheme Land;
- (c) an agreement with an energy provider to provide equipment for a central reticulated hot water supply;
- (d) an agreement with the Manager to engage the Manager to carry out caretaking duties;
- (e) service facility agreements
- (f) the maintenance of park land located within the area of the Scheme Land;
- (g) sub-metering agreements with the Local Government for water meters;
- (h) agreements with the Local Government to carry out gardening, landscaping, repair, maintenance and administration obligations and/or to operate utility infrastructure;
- (i) an easement with the Chief Executive of the Department of Transport for and on behalf of the State of Queensland in respect of land (or part of land) adjoining the Scheme Land;
- (j) purchase of electricity;
- (k) maintenance of any security systems on or crossing the Common Property;

- 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 Scheme Land as a whole; and
- (m) deeds and agreements to vary any of the agreements referred to above.

**50. Bulk supply of electricity and reticulated hot water and other utilities**

- 50.1** The Body Corporate may obtain the supply of electricity for the Scheme (which may be in bulk) or the supply of reticulated hot water or other utilities for the Scheme ("utilities") and the Body Corporate may engage a third party provider to supply the utilities ("a Supplier"). The Body Corporate may enter into an agreement with a Supplier on terms decided by the Committee, or if the agreement is outside of the scope of the Committee's authority, the Body Corporate.
- 50.2** The Body Corporate may enter into an agreement with one or more utility managers who may facilitate *the* Body Corporate's purchase *and* administration of the utilities ("*Utilities Manager*").
- 50.3** The Body Corporate may install meters to monitor usage of the utilities supplied from the Supplier or the Body Corporate and supplied to Owners and Occupiers.
- 50.4** The Body Corporate may purchase, otherwise obtain or contract with an entity to provide an Energy Management System ("EMS") or services so as to allow for the bulk purchase of utility services and the efficient use of the utility services.
- 50.5** Owners and Occupiers must obtain their supply of utilities from or through the Body Corporate if the Body Corporate enters into a utility supply agreement with the Supplier or if the Body Corporate supplies the utilities. If requested by the Body Corporate, Owners must sign an agreement for the supply of the electricity on the Terms of Supply decided by the Body Corporate.
- 50.6** Owners or Occupiers who accept or use the utilities supplied by or through the Body Corporate ("Consumers") shall, in consideration of the supply of the utilities, comply with this By-Law and the terms and conditions of supply adopted by the Body Corporate ("the Terms of Supply"). A copy of the Terms of Supply adopted by the Body Corporate shall be made available by the Body Corporate to Consumers.
- 50.7** Upon the acceptance or use of the utilities supplied by or through the Body Corporate, the Terms of Supply shall constitute an agreement between the Consumer and the Body Corporate. The consideration for the *agreement shall be* the supply and continued *supply* of the utilities through the Body Corporate to the Consumer. The Terms of Supply form an agreement separate to this By-Law.
- 50.8** Upon request by a Consumer, the Body Corporate shall provide one copy of the Terms of Supply to a Consumer.
- 50.9** When a Consumer assigns or transfers the Consumer's interest in a Lot, the Assignee or Transferee becomes joined as a party to the agreement constituted by the Terms of Supply. The Assignor or Transferor Consumer *is released* from the obligations imposed *under* this By-Law and the Terms of Supply only when all obligations of the Consumer are satisfied and up to date.
- 50.10** The Body Corporate may include the costs for the supply of the utilities (whether to an owner or occupier of a lot) in Notices of Contributions payable to the Body Corporate by the owner of the lot to which the utilities are supplied.
- 50.11** The terms of this By-Law and the Terms of Supply are subject to any agreement entered into between the Body Corporate and the Supplier. The Body Corporate will have no obligation to provide utilities to a Consumer if:

- (a) the agreement with the Supplier is terminated;
- (b) the Supplier does not provide utilities to the Body Corporate for any reason; or
- (c) the Consumer does not pay for the supply of utilities by the due date.

**50.12** All enquiries regarding connection, disconnection and charges shall be directed to the Utilities Manager (or other person nominated by the Committee). Consumers shall follow the directions of the Utilities Manager (or other person nominated by the Committee) with respect to the supply and use of electricity provided that the directions must be consistent with this By-Law and the Terms of Supply.

**50.13** The Committee may make rules with respect to the supply of utilities provided they are consistent with this By-Law and the Terms of Supply.

**50.14** The Body Corporate will not, under any circumstances whatsoever, be *responsible or liable* for any loss, cost or damages that occur to any Consumer or anyone who relies upon the utilities supplied because of failure of the supply of utilities due to breakdowns, repairs, maintenance, strikes, accidents or causes of any class or description.

**50.15** All Consumers shall ensure that any electrical installation (as defined in the Electricity Act 1994) is maintained free of any defect which is likely to cause a fire or electrical shock. Subject to the Body Corporate and Community Management Act, the Body Corporate or the Utilities Manager shall be entitled to enter a Lot to inspect any electrical installations.

**50.16** For the purposes of ensuring the efficient and constant supply of electricity to the Lots during any limitation in the supply of electricity, the Body Corporate may impose restrictions in such a manner and to such an extent as it considers necessary, upon the use of electrical articles (as defined in the Electricity Act 1994), including the prohibition of the use of specified articles.

**50.17** The Body Corporate is not responsible for the accuracy or correct operation of any utility meter for a Lot, other than its obligations under the Body Corporate and Community Management Act. Consumers shall ensure that no person associated with the Consumer or their Lot interferes with any meter or equipment used for the supply or measure of supply of utilities to a Lot.

**50.18** An invoice or notice will have been validly given to a Consumer if the invoice or notice is sent to the last known address for the Consumer known to the Body Corporate

## **51. Authority for easement to the Company**

The Body Corporate is empowered to enter into and sign all documents reasonably necessary for the grant of the easements to facilitate progressive development of the Scheme Land.

### **SCHEDULE D OTHER DETAILS REQUIRED/PERMITTED TO BE INCLUDED**

#### **1 Utility Infrastructure**

- (a) To facilitate the progressive development of the Scheme (as identified in Schedule B of the Community Management Statement for the Scheme) the original owner may at any time enter on to the Scheme Land (or any part of it), the common property and any lot in the Scheme to undertake works of any kind necessary or incidental to establishing utility infrastructure and utility services (and connections thereto) including the following works:
  - (A) excavation and general earthworks;
  - (B) the construction of common property areas (including roads);

- (C) the construction on the common property of such improvements and facilities as may be considered necessary by the original owner to establish utility infrastructure and utility services and connections thereto; and
- (D) the construction of services infrastructure whether public or private including but without limiting the generality thereof connections for sewerage, gas, electricity, telephone, fibre optics or any other lawful service available to the public,

all of which are collectively called the Utility Infrastructure Works.

- (b) The original owner may bring upon the Scheme Land any machinery, tools, equipment, vehicles and workman to facilitate the carrying out of the Utility Infrastructure Works.
- (c) The original owner shall use reasonable endeavours to ensure that the Utility infrastructure Works will be carried out in a manner which minimises (so far as is practicable) the inconveniences (if any) caused to the Body Corporate or to the owners and occupiers of lots in this Scheme.
- (d) The Body Corporate and each owner and occupier of lots in this Scheme may not object or claim *compensation against the original owner in respect of any noise, dust, traffic or nuisance* of any type which may arise in connection with the Utility Infrastructure Works.
- (e) The Body Corporate and each owner and occupier of lots in this Scheme agrees that the original owner shall be entitled to free and uninterrupted access over and to the common property and to any lot to carry out and undertake the Utility Infrastructure Works.

The expressions "Utility Infrastructure" and "Utility Services" shall have the same meaning assigned to them in the *Body Corporate and Community Management Act 1997* as amended as time to time. The expression the "original owner" means the party identified in Item 5 of this Community Management Statement together with any successor or assign of any undeveloped part of the Scheme Land.

## 2. Statutory Easements

Each lot and common property in the Scheme is affected by the following statutory easements:

- (a) *easement for lateral or subjacent support under Section 115N of the Land Title Act 1994;*
  - (b) *easement for utility services and utility infrastructure in accordance with Section 115O of the Land Title Act 1994;*
  - (c) *easement for utility services and utility infrastructure in accordance with Section 115P of the Land Title Act 1994;*
  - (d) *easement for shelter in accordance with Section 115Q of the Land Title Act 1994;*
  - (e) *easement for projections in accordance with Section 115R of the Land Title Act 1994;*
- easement for maintenance of building close to boundary in accordance with Section 115S of the Land Title Act 1994.*

## 3 Service Location Diagrams

A Services Location Diagram is attached to this CMS and marked "SLD".