

CONCOURSE VILLAS BY-LAWS

1.00 PRELIMINARY

1.01 CITATION

These by-laws may be cited as the 'Concourse Villas' 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:

- i) words importing the singular include the plural and vice versa and words importing a gender include other genders;
- ii) in the interpretation of these by-laws, headings will be disregarded;
- iii) references to any person includes reference to any individual, company, body corporate, association, partnership, firm, joint venture, trust and governmental agency; and
- iv) 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*;

'Body Corporate' means the body corporate incorporated on registration of the 'Concourse Villas' Group Titles Plan No 107409 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;

'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 Group Titles Plan which is not comprised in any lot in the Group Titles Plan and includes all improvements, fixtures and fittings erected or constructed on the common property;

'Company' means Whittsvilla Pty Ltd ACN 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 vehicle 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 on 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;

‘Development’ means any one or more of the following on any Lot or on any existing improvements on any Lot:

- (a) construction, alteration, addition, modification, decoration, redecoration, painting, repainting or reconstruction of any improvements;
- (b) excavation, filling or landscaping;
- (c) planting or removal of any vegetation, trees or shrubs; or
- (d) civil infrastructure, such as water supply, electricity lines, sewerage services, gas, the Intercom System and Telstra Velocity System.

‘Development Control By-Laws’ means the Development Control By-Laws for the Scheme approved under the *Integrated Resort Development Act 1987*.

‘Development Control Deed’ means the deed of that name (if any) entered into between a Proprietor of a Lot and the Company which governs the development of the Proprietor’s Lot.

‘Dwelling’ means a residential dwelling constructed on a Lot;

‘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;

‘Group Titles Plan’ means the Group Titles Plan 107409;

‘Insurance Levy’ means the amount determined by the Body Corporate in accordance with by-law 7.10.6;

‘Insured Lots’ means each of Lots 1 to 12, 21 to 26, 32 to 34, 35 to 40, 51 to 54, 55 to 57, 58 to 63, 64 to 66, 67 to 72, 73 to 75 and 76 to 81;

‘Intercom System’ means the audio intercom system approved by the Company under clause 4.29 of the Development Control Deed;

‘Lot’ means a lot in the Group Titles Plan;

‘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 Group Titles 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*;

‘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 parts 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;

'Sections Plan' means the plan contained in Annexure A; and

'Site' means the integrated resort development known as Royal Pines Resort.

2.00 USE OF LOTS

2.01 RESIDENTIAL PURPOSES ONLY

Subject to clause 2.02, each Lot shall be used for residential purposes only.

2.02 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.

2.03 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:

- i) carry out structural alterations to the Dwelling upon his or her Lot;
- ii) alter gas, water, drainage, sewerage or electrical connections and services on or to his or her Lot.
- iii) alter the external colour scheme or other improvements upon his or her Lot;
- iv) alter in any way the external appearance of the Dwelling upon his or her Lot except in the ordinary course of maintenance and upkeep of the Dwelling and in compliance with any other relevant by-laws;
- v) carry out any Development upon his or her Lot or the Parcel.

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:

- i) alter gas, water, drainage, sewerage or electrical connections and services on or to his or her Lot or any other Lot;
- ii) 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 option, 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:

- i) the reasons for the partial or total removal of any tree, trees or landscaping;
- ii) the real property description of the land on which the tree, trees or landscaping is or are situated;
- iii) the location of the tree, trees or landscaping proposed to be removed; and
- iv) 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:

- i) the applicant must obtain the written consent of the Proprietor of the affected Lot agreeing to the application;
- ii) the applicant must supply the Proprietor's consent to the proposal at the time of application to the Body Corporate;
- iii) 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
- iv) 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:

- i) approve the application;

- ii) attach conditions to the approval as considered appropriate; or
- iii) 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:

- i) damage any lawn, garden, tree, shrub, plant or flower being part of or situated upon the Common Property; or
- ii) except with the prior written consent of the Body Corporate, use for his own purpose as a garden any portion of the Common Property.

5.00 REPAIR AND MAINTENANCE

Every Proprietor or Occupier of a Lot will:

- i) maintain in good condition and repair the exterior of his Dwelling including without limitation all fences, walls, windows, gates, sidewalls, walkways and driveways within his or her Lot;
- ii) maintain in a clean condition the interior of his or her Dwelling and take all practicable steps to prevent infestation by vermin or insects;
- iii) maintain in good condition and repair all yard landscaping, irrigation facilities, drainage facilities, spas, fountains and other surrounds within his or her Lot;
- iv) have the duty and obligation to make any necessary arrangements for sufficient water required for the maintenance and irrigation of all yard landscaping; and
- v) keep 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 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 own acts or those of members of his household or his servants or agents or guests.

6.04 WATER SUPPLY

- i) The Body Corporate shall be entitled by their representatives to install a water meter in or on a Lot at the cost of the Proprietor or Occupier for the purpose of measuring water consumption in or on a Lot.

- ii) A Proprietor or Occupier of a Lot must arrange for the Body Corporate or the representative of the Body Corporate to install a water meter in or on their Lot before any water is consumed in or on their Lot. A Proprietor or Occupier will be responsible to repair at the cost of the Proprietor or Occupier any damage, howsoever caused, to the water meter in or on their Lot.
- iii) 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.
- iv) A Proprietor or Occupier shall allow a representative of the Body Corporate access to their Lot at reasonable times to inspect water meters and to take readings of water consumption.
- v) 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:

- i) erect any external blinds or covers to his or her Dwelling provided that the Body Corporate may permit non-compliance with this By-law upon written request;
- ii) 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
- iii) permit any clothing bedding or other articles to be hung on the balconies or on the outside of his or her Dwelling or from the windows of his Dwelling 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 Dwelling upon his Lot or the Common Property, nor do anything to vary the external appearance of such Dwelling 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:

- i) 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;

- ii) 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;
- iii) their guests leaving after 11.00pm leave quietly and that quietness is also observed when returning to their Dwelling late at night or in the early morning hours; and
- iv) in the event of any unavoidable noise in their Dwelling at any time take all practical measures to minimise annoyance to other Proprietors and Occupiers including closing all doors, windows, and curtains to their Dwelling;

PROVIDED THAT this By-law will not prevent the Company from using any Dwelling or 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 a Lot or any Common Property any motor vehicle (which will for the purposes herein include a motor cycle and a motorised buggy, being an electric or motorised cart or buggy used to transport persons, luggage or golf clubs), boats, trailers and caravans other than:

- i) in garages;
- ii) in the case of motor vehicles only, on driveways in front of garages; and
- iii) on other parts of a Lot that are screened so that the thing parked cannot be seen from outside the Lot.

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 garage 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 garage will be used as a garage and for general storage purposes only and that it shall not be converted to any other use.

7.05 ANIMALS

7.05.1 A Proprietor or Occupier may keep a dog or a cat (but not both) in or on a Lot without the prior written approval of the Body Corporate on the basis that it:

- i) is a domestic dog or cat; and
- ii) weighs (or will weigh when mature) not more than 15 kilograms.

7.05.2 A Proprietor or Occupier must not:

- i) keep an animal for breeding or commercial purposes; or
- ii) allow a female dog or cat outside the Dwelling if it is on heat; or
- iii) allow a cat outside the relevant Dwelling after 6.00pm and before 6.00am; or
- iv) allow its dog or cat to wander on the Common Property; or
- v) allow its dog to chase cars; or

- vi) take an animal onto the Common Property unless it is carried or kept on a leash; or
 - vii) keep a dog that is noisy or dangerous.
- 7.05.3 All pets must wear identification tags which clearly specify the address and telephone number of the Proprietor or Occupier who owns the pet. Cats must wear collar bells when outside.
- 7.05.4 All pets must be registered with the local authority.
- 7.05.5 A Proprietor or Occupier must clean and remove any mess left on Common Property or private property by an animal under its control.
- 7.05.6 The Body Corporate can order the removal of an animal from a Lot or Common Property if the animal is disturbing others or the owner of the animal is not complying with these by-laws. The animal must be removed from the Lot or the Common Property within three days of such an order. The costs of any order are to be paid by the Proprietor or the Occupier to the Body Corporate.
- 7.05.7 If an animal is loose on the Common Property, the Body Corporate may:
- i) restrain the animal; or
 - ii) deliver the animal to a pound; or
 - iii) have the animal removed from a Lot or the Common Property by authority that has power to deal with wandering animals.
- 7.05.6 A Proprietor or Occupier that keeps an animal on a Lot or the Common Property must indemnify the Body Corporate or any other person in respect of damage caused by the animal. The indemnity for the Body Corporate includes loss suffered by the Body Corporate because of a claim made against the Body Corporate.
- 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 any Registered Covenant or unless the same is contained within the Dwelling and not visible from outside the Dwelling.
- 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 Dwelling when the Lot is left unoccupied and the Body Corporate reserves the right to enter and fasten the same if left unfastened.
- 7.08 WINDOW COVERS
- A Proprietor or Occupier will not cover any window with aluminium foil or similar material.
- 7.09 TEMPORARY BUILDINGS
- Except for children's recreational facilities a Proprietor or Occupier will not place upon any Lot or Common Property any outbuilding, tent, shack, shed or other temporary building or improvement.

7.10 INSURANCE

- 7.10.1 A Proprietor or Occupier will take out and maintain comprehensive public liability insurance covering body injury with a limit of not less than \$10 million per occurrence.
- 7.10.2 For all Lots that are not Insured Lots, in addition to the insurance referred to in by-law 7.10.1, the Proprietor or Occupier will take out and maintain comprehensive property insurance on all improvements on each Proprietor's or Occupier's Lot for reinstatement or replacement value with cover for but not limited to fire and theft.
- 7.10.3 For all the Insured Lots, the Body Corporate will take out and maintain comprehensive property insurance on all improvements on Insured Lots for reinstatement or replacement value with cover for but not limited to fire and theft.
- 7.10.4 A Proprietor or Occupier will deliver a certificate of currency (or the equivalent) or certified copies of the policies if required by the Body Corporate to the Body Corporate.
- 7.10.5 A Proprietor or Occupier of a Lot will not bring to, do or keep anything upon his Lot which will increase the rate of fire insurance on his Dwelling or the Common Property or which may conflict with the laws or regulations relating to fire or any insurance policy upon such Dwelling or the Common Property or the regulations or ordinances of any public authority for the time being in force.
- 7.10.6 The Body Corporate has the power by ordinary resolution at a general meeting to determine the amount which is reasonable to be raised from each Proprietor of the Insured Lots for the purpose of meeting the Body Corporate's actual or expected liabilities incurred or to be incurred by the Body Corporate for the insurance referred to in by-law 7.10.3.
- 7.10.7 A Proprietor of any of the Insured Lots is liable, jointly and severally, with any person who was liable to pay the Insurance Levy when the Proprietor become the proprietor of its Lot, and to pay such part of the Insurance Levy as was unpaid when the Proprietor became the Proprietor of that Lot.
- 7.10.8 The Insurance Levy shall be deemed to have been duly imposed on a Proprietor of each of the Insured Lots notwithstanding that notice of the Insurance Levy payable was not served on that Proprietor.
- 7.10.9 A notice of the Insurance Levy payable by a Proprietor of a Lot shall:
- (a) state the amount of any Insurance Levy payable;
 - (b) state the date when the Insurance Levy becomes payable; and
 - (c) be served or deemed to have been served on a Proprietor of an Improved Lot before the date when the Insurance Levy becomes due and payable.
- 7.10.10 If the year over which the Insurance referred to in by-law 7.10.3 is provided commences on a day other than the first day of the period to which the Insurance relates or determines on a day other than the last day of the period to which the Insurance relates, each Proprietor or Occupier of the Insured Lots 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 Insurance Levy for the Insurance provided for the broken period.
- 7.10.11 The Body Corporate may, by ordinary resolution at a general meeting, determine that a late payment of the Insurance Levy shall be subject to an interest charge and fix:
- (a) a time by which a Proprietor or Occupier of one or more Insured Lots must pay the Insurance Levy; and

- (b) the interest rate for the purpose of calculating the interest charge to which the payment of the Insurance Levy shall be subject.

7.11 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 Lot shall be responsible for ensuring compliance with such lease particularly so far as that lease relates to the By-laws.

7.12 DRILLING

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

7.12.2 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.

7.13 REGISTERED COVENANT

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

7.14 IDENTIFICATION OF OCCUPIER AND PROPRIETOR

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

8.00 SECURITY CONTROLS

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 or the Secondary 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:

- i) the issuing of security cards upon conditions including the paying of a deposit;
- ii) the right to refuse admission to any person unless prior notice of the identity of the person is given;
- iii) 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
- iv) 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.

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 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 Dwelling 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 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 DWELLING

Upon one day's notice in writing the Body Corporate and its servants, agents and contractors will be permitted to enter any Lot and any Dwelling to inspect the interior of any Dwelling 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 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 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 to 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 RULES 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 précis 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:

- i) purchase of electricity;
- ii) provision of telephone services;
- iii) provision of mail delivery services;
- iv) provision of emergency services;
- v) maintenance of any security systems on or crossing the Common Property and provision of other security services; and
- vi) 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,

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 or the Dwelling nor in any other way cause or increase a risk of fire or explosion in such Dwelling.

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 Lot or upon the 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, 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:

- i) 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;
- 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 of his or her Dwelling;
- iii) 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 or upon Secondary Thoroughfares except for a reasonable period of time not exceeding twenty-four (24) hours before and after scheduled garbage collection hours;
- iv) 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 an enclosed structure or appropriately screened from view;
- v) bring upon, grow or maintain upon any part of the Parcel any plant or seed infected with noxious insects or plant disease; or
- vi) 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 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 eradicating insects and vermin.

26.00 OBSERVANCE OF OTHER LAWS

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

- i) the Primary Thoroughfare (Body Corporate) By-Laws;
- ii) the Secondary Thoroughfare (Body Corporate) By-Laws;
- iii) the Development Control Deed (if any) entered into between the Proprietor and the Company; and
- iv) 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:

‘Improved Lot’ means a Lot on which a Dwelling has been constructed;

‘Intercom System’ means the audio intercom system approved by the Body Corporate from time to time; and

‘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 of an Improved 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 an Improved Lot to be pay the Prescribed Charge.

28.03 INSTALLATION AND MAINTENANCE OF INTERCOM SYSTEM

- 28.03.1 Each Proprietor of an Improved Lot must install and 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 an Improved Lot to move the Service or any part of it to an alternate position within the Improved Lot determined by the Body Corporate.

28.03.2 Each Proprietor of an Improved Lot must maintain and repair the part of the Service installed in that Lot.

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

28.03.4 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.

28.03.5 Each Proprietor and Occupier of an Improved 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.

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

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 an Improved 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 an Improved Lot is liable, jointly and severally, with any person who was liable to pay the Prescribed Charge when the Proprietor become the proprietor of an Improved 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 an Improved 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 an Improved 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 an Improved 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 an Improved 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.

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 an Improved 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 brake lamps;
- (b) mudguards;
- (c) an efficient breaking 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 29.02 where the Body Corporate does not register a vehicle under 29.04. 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 registrations 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 owner of the Vehicle 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:

'Improved Lot' means a Lot on which a Dwelling has been constructed;

'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; and

'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 an Improved 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 an Improved Lot to be pay the Prescribed Charge.

30.03 TELECOMMUNICATIONS SYSTEM

30.03.1 Each Proprietor of an Improved 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 an Improved Lot to move the Service or any part of it to an alternate position within the Improved Lot determined by the Body Corporate.

30.03.2 Each Proprietor of an Improved Lot must maintain and repair the part of the Service installed in that Lot.

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

30.03.4 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.

30.03.5 Each Proprietor and Occupier of an Improved 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.

30.03.6 A Proprietor or Occupier must not or knowingly allow any person, other than the Body Corporate to maintain, repair or install the Service in an Improved 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 an Improved 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 an Improved Lot is liable, jointly and severally, with any person who was liable to pay the Prescribed Charge when the Proprietor become the proprietor of an Improved 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 an Improved 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 an Improved 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 an Improved 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 an Improved 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 an Improved 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 and improvements on the 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 Telstra Velocity System; and
- (d) to treat the Lot for pests, insects and vermin; and
- (e) to do anything that a Proprietor or Owner 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 of a Lot 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 Proprietors 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:

- (f) must not object to any such nuisance (whether to the company, the local government or any other body or authority, including any body corporate);
- (g) must ensure that any other person who is the proprietor or occupier of the Lot at a relevant time does not do so; and
- (h) 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 or will be installed at the Ross Street side entry to the Marina Precinct which restricts vehicular access only, but not pedestrian access to the Marina Precinct; and
- (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 Group Titles 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 group titles 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:

- (c) 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 by the Company of any lot in the Marina Precinct; and
- (d) 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 BODY CORPORATE ACCESS FOR MAINTENANCE

36.01 In relation to Lots in Concourse Villas which the Developer has constructed a boulder wall near the rear boundary of the Lots, the Body Corporate (at its cost and risk) must maintain the landscaped areas:

- (a) situated between the boulder wall and rear boundary (notwithstanding that area forms part of the registered Lot);
- (b) within that part of the face of the boulder wall.

For that purpose 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).

37.00 NERANG RIVER SET BACK

37.01 No Development will be permitted within ten metres from the top of bank along the Nerang River as shown on the Sections Plan.

38.00 FENCING

38.01 The *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* (Qld) does not apply to any dividing fence:

- (a) between a Lot and any adjoining Lot owned by the Company; or
- (b) between a Lot and any part of the Common Property.

38.02 Neither the Company nor the Body Corporate is liable to contribute to the construction or maintenance of any dividing fence between a Lot and any adjoining Lot or any part of the Common Property or any common property of any body corporate other than the Body Corporate.