

## THE PROPRIETORS – STRATA PLAN 0002

### BY LAWS

1. A proprietor must:
  - (a) permit the body corporate and its agents, at all reasonable times on notice (except in case of emergency when no notice shall be required), to enter his or her lot for the purpose of inspecting it and maintaining, repairing and renewing pipes, wires, cables and ducts for the time being existing in the lot and capable of being used in connection with the enjoyment of any other lot or common property, or for the purpose of maintaining, repairing or renewing common property, or for the purpose of ensuring that the by-laws are being observed; and
  - (b) forthwith carry out all work that may be ordered by any competent public or local authority in respect of his or her lot other than such work as may be for the benefit of the building generally and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of the lot; and
  - (c) repair and maintain his or her lot, and keep the same in a state of good repair, reasonable wear and tear, and damage by fire, storm, tempest or act of force majeure excepted; and
  - (d) use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment thereof by other proprietors or their families or visitors; and
  - (e) not use his or her lot nor permit it to be used in such manner or for such purpose as shall cause a nuisance or hazard to any occupier of a lot (whether a proprietor or not) or the family of such occupier; and
  - (f) notify the body corporate immediately upon any change of ownership or of any mortgage or other dealing in connection with the lot.
2. The body corporate must:
  - (a) control, manage and administer the common property for the benefit of all proprietors; and
  - (b) keep in a state of good and serviceable repair and properly maintain the fixtures and fittings (including elevators) used in connection with the common property; and
  - (c) where practicable establish and maintain suitable lawns and gardens on the common property; and
  - (d) maintain and repair (including renewals where reasonably necessary) pipes, wires, cables and ducts for the time being existing in the parcel and capable of being used in connection with the enjoyment of more than one lot or common property; and

- (e) on the written request of a proprietor, or registered mortgagee of a lot, produce to such proprietor or mortgagee, or person authorised in writing by such proprietor or mortgagee the policy or policies of insurance effected by the body corporate and the receipt or receipts of the last premium or premiums in respect thereof.
- 3. The body corporate may:
  - (a) purchase, hire, or otherwise acquire personal property; and
  - (b) borrow moneys required by it in the performance of its duties or the exercise of its powers; and
  - (c) secure the repayment of moneys borrowed by it, and the payment of interest thereon, by negotiable instrument, or charge on unpaid contributions (whether levied or not or mortgage of any property vested in it), or by combination of those means; and
  - (d) invest as it may determine any moneys in the fund for administrative expenses; and
  - (e) make an agreement with any proprietor or occupier of a lot for the provision of amenities or services by it to such lot or to the proprietor or occupier of it; and
  - (f) grant to a proprietor the right to exclusive use and enjoyment of common property, or special privileges in respect of common property, provided that any such grant shall be determinable on reasonable notice unless the body corporate by resolution without dissent otherwise resolves; and
  - (g) do all things reasonably necessary for the enforcement of the by-laws and the control, management and administration of the common property.
- 4. The powers and duties of the body corporate shall, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the council of the body corporate.
- 5. The council shall consist of not less than three nor more than seven proprietors and shall be elected at each annual general meeting, provided that where there are not more than three proprietors, the council shall consist of all proprietors.
- 6. Except where the council consists of all the proprietors, the body corporate may by resolution at an extraordinary general meeting remove any member of the council before the expiration of his or her term of office and appoint another proprietor in his or her place to hold office until the next annual general meeting.
- 7. Any casual vacancy on the council may be filled by the remaining members of the council.
- 8. Except where there is only one proprietor, a quorum of the council shall be two; where the council consists of four or less members the quorum shall be three: where

it consists of five or six members the quorum shall be four; where it consists of seven members, the quorum shall be not less than 5 members.

9. At the commencement of each meeting the council shall elect a chairman for the meeting and if any chairman so elected shall vacate the chair during the course of a meeting the council shall choose in his stead another chairman who shall have the same rights of voting.
10. At meetings of the council all matters shall be determined by simple majority vote.
11. The council may:
  - (a) meet together for the conduct of business, adjourn and otherwise regulate its meetings as it thinks fit, provided that it shall meet when any member gives to the other members not less than seven days' notice of a meeting proposed by him, specifying the reason for calling such meeting; and
  - (b) employ for and on behalf of the body corporate such agents and servants as it thinks fit in connection with the control, management, and administration of the common property and the exercise and performance of the powers and duties of the body corporate; and
  - (c) subject to any restriction imposed or direction given by a general meeting, delegate to one or more of its members such of its powers and duties as it thinks fit and at any time revoke such delegation.
12. The council must:
  - (a) keep minutes of its proceedings; and
  - (b) cause minutes to be kept of general meetings; and
  - (c) cause proper books of accounts to be kept in respect of all sums of money received and expended by it and the matters in respect of which such receipt and expenditure take place; and
  - (d) prepare proper accounts relating to all moneys of the body corporate, and the income and expenditure thereof, for each annual general meeting; and
  - (e) on application of a proprietor or mortgagee, or any person authorised in writing by him or her make the books of account available for inspection at all reasonable times.
13. All acts done in good faith by the council shall notwithstanding it be afterwards discovered that there was some defect in the appointment to or continuance in office of any member of the council be as valid as if such member had been duly appointed or had duly continued in office.
14. A general meeting of proprietors shall be held within three months after registration of the strata plan.

15. Subsequent general meetings shall be held once in each year provided that not more than fifteen months shall elapse between the date of one annual general meeting and that of the next.
16. All general meetings other than the annual general meeting shall be called extraordinary general meetings.
17. The council may whenever it thinks fit and shall upon a requisition in writing made by proprietors entitled to twenty-five per centum of the total unit entitlement of the lots convene an extraordinary general meeting.
18. Fourteen days' notice of every general meeting specifying the place, the date and the hour of meeting and in case of special business the general nature of such business shall be given to all proprietors and registered first mortgagees who have notified their interests to the body corporate. However, accidental omission to give such notice to any proprietor or to any registered first mortgagee or non-receipt of such notice by any proprietor or registered first mortgagee shall not invalidate any proceedings at any such meeting.
19. All business shall be deemed special that is transacted at an annual general meeting with the exception of the consideration of accounts and election of members to the council, or at an extraordinary general meeting.
20. Except as otherwise provided in the by-laws, no business shall be transacted at any general meeting unless a quorum of persons entitled to vote is present at the time when the meeting proceeds to business. One-half of the persons entitled to vote present in person or by proxy shall constitute a quorum.
21. If within one-half hour from the time appointed for a general meeting a quorum is not present the meeting shall stand adjourned to the same day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within one-half hour from the time appointed for the meeting the persons entitled to vote present shall be a quorum.
22. At the commencement of a general meeting a chairman of the meeting shall be elected.
23. At any general meeting a resolution by the vote of the meeting shall be decided on a show of hands unless a poll is demanded by any proprietor present in person or by proxy. Unless a poll be so demanded a declaration by the chairman that a resolution has on the show of hands been carried shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution. A demand for a poll may be withdrawn.
24. A poll, if demanded, shall be taken in such manner as the chairman thinks fit and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.
25. In the case of equality in the votes whether on a show of hands or on a poll the chairman of the meeting shall be entitled to a casting vote.
26. On a show of hands each proprietor shall have one vote; on a poll the votes of proprietors shall correspond with the unit entitlement of their respective lots.

27. On a show of hands or on a poll votes may be given either personally or by proxy.
28. An instrument appointing a proxy shall be in writing under the hand of the appointer or his attorney, and may be either general or for a particular meeting. A proxy need not be a proprietor.
29. Except in cases where by or under this Act a resolution without dissent is required, no proprietor shall be entitled to vote at any general meeting unless all contributions payable in respect of his lot have been duly paid.
30. Co-proprietors may vote by proxy jointly appointed by them, and in the absence of such proxy shall not be entitled to vote on a show of hands, except when the resolution without dissent of proprietors is required by this Act. Any one co-proprietor may demand a poll. On any poll each co-proprietor shall be entitled to such part of the vote applicable to a lot as is proportionate to his or her interest in the lot. The joint proxy (if any) on a poll shall have a vote proportionate to the interests in the lot of such of the joint proprietors as do not vote personally or by individual proxy.
31. Where proprietors are entitled to successive interests in a lot, the proprietor entitled to the first interest shall alone be entitled to vote, whether on a show of hands or a poll; and this by-law shall be applicable whether by this Act the resolution without dissent of proprietors is required or not.
32. Where a proprietor is a trustee he shall exercise the voting rights in respect of the lot to the exclusion of persons beneficially interested in the trust, and such persons shall not vote.
33. The body corporate shall have a common seal which shall at no time be used except by authority of the council previously given and in the presence of the members of the council or at least two members of the Council, who shall sign every instrument to which the seal is affixed. Provided that where there is only one member of the body corporate his or her signature shall be sufficient for the purpose of this clause.

## **34 INTERPRETATION**

### **34.1 Definitions**

Words used in these by-laws shall have the same meaning as the words defined in the Act and the Regulations unless the contrary intention appears and the words below shall have the meaning assigned to them:

**“Act”** means the Strata Titles Act 2000 as amended from time to time, together with the Regulations made from time to time, pursuant to the Act;

**“Body Corporate”** has the same meaning as in the Act;

**“Building”** has the same meaning as in the Act;

**“By-laws”** has the same meaning as in the Act;

**“Caretaker”** means the person or entity engaged in the capacity of caretaker pursuant to an agreement between the Body Corporate and the Caretaker (if any).

**“Common Property”** has the same meaning as in the Act;

**“Council”** means the Council of the Body Corporate chosen under the Act;

**“Development”** means the development known as “Iririki Residences”;

**“Design Guidelines”** means the Architectural and Landscape Design Guidelines adopted by the Body Corporate by special resolution from time to time;

**“Facilities”** means the recreational facilities on the common property provided for use by owners, occupiers and others in accordance with the by-laws whether such facilities be located within the parcel or outside the parcel.

**“Invitee”** means any invitee, guest, agent, visitor, licensee, contractor, employee or others who may be on the parcel at the invitation or request of an owner or occupier;

**“Island Rules”** means the rules specified from time to time by the Council in accordance with By-law 57;

**“Letting Agent”** means the person or entity engaged in the capacity of letting agent pursuant to an agreement between the Body Corporate and the Letting Agent (if any).

**“Lot”** has the same meaning as in the Act;

**“Minor Improvement”** means an improvement that does not detract from the aesthetic appearance of the Common Property and has an installed value of less than 80,000VT;

**“Occupier”** means the Owner, tenant, licensee or any person resident in a lot;

**“Original Owner”** means the owner of all of the lots at the time of registration of the Strata Plan;

**“Owner”** means the person who is, or is entitled to be, the registered proprietor of the Lot and includes a mortgagee in possession of a Lot;

**“Parcel”** has the same meaning as in the Act;

**“Regulations”** means the Regulations made pursuant to the Act;

**“Utilities Infrastructure”** has the same meaning as in the Act;

**“Utilities Services”** has the same meaning as in the Act;

**“Strata Plan”** has the same meaning as in the Act;

## 34.2 Interpretation

In these by-laws unless the context indicates a contrary intention:

- (a) Words denoting any gender include all genders;
- (b) The singular number includes the plural and vice versa;
- (c) A person includes their executors, administrators, successors, substitutes (for example, persons taking by novation) and assignors;
- (d) Words importing persons will include all bodies, associations, trusts, partnerships, instrumentalities and entities corporate or unincorporated, and vice versa;
- (e) Any obligation on the part of, or for the benefit of, two or more persons will be deemed to bind or benefit as the case may be, any two or more of them jointly and each of them severally;

- (f) References to any legislation includes any legislation which amends or replaces that legislation;
- (g) Headings are included for convenience only and will not affect the interpretation of these by-laws;
- (h) A reference to any thing includes the whole or each part of it;
- (i) In interpreting these by-laws, no rules of construction will be construed to the disadvantage of a party merely because that party was responsible for the drafting of these by-laws or any part of them.

### **35 NOISE**

- 35.1 An Occupier shall not create any noise likely to interfere with the peaceful enjoyment of the Owner or Occupier of another Lot or of any person lawfully using Common Property.
- 35.2 An Owner or Occupier leaving or returning to a Lot late at night or early in the morning must do so with minimum noise.

### **36 VEHICLES**

- 36.1 The only motorised vehicles allowed on the Common Property or Lots will be electric powered carts, unless an Owner or Occupier obtains the prior written consent of the Council.
- 36.2 Save where an exclusive use by-law authorises him/her to do so, an Owner or Occupier shall not park or stand any vehicle upon Common Property except with prior written consent of the Council.
- 36.3 An Owner or Occupier and their guests must not exceed the speed limit of 5 kph on the Common Property roadways.

### **37 ROADS AND OTHER COMMON PROPERTY**

- 37.1 The roadways, pathways, drives and other Common Property and any easement giving access to the Strata Plan shall not be obstructed or used by any Occupier for any purpose other than the reasonable ingress and egress to and from their respective Lots or the parking areas provided.
- 37.2 An Owner or Occupier shall not, without the prior written consent of the Council permit the riding of bicycles (other than for ingress and egress), skateboards, roller blades, skates, carts or any other similar equipment in driveways or on or over the Common Property.

### **38 NUISANCE**

- 38.1 An Occupier must not cause a nuisance or act in such a way so as to interfere with the peaceful enjoyment of a person lawfully on another Lot or using the Common Property.
- 38.2 An Occupier must observe any direction of the Council relating to dress standards that, in the view of the Body Corporate, are necessary or desirable to avoid offence to other Owners or Occupiers. The Body Corporate must act reasonably in issuing a direction under this by-law.

### **39 KEEPING OF ANIMALS**

39.1 An Occupier of a Lot shall not, keep any animal upon his Lot or the Common Property.

#### **40 DEPOSITING RUBBISH ON COMMON PROPERTY**

40.1 An Occupier shall not deposit or throw upon the Common Property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of the Occupier of another Lot or of any person lawfully using the Common Property.

#### **41 GARBAGE DISPOSAL**

41.1 An Occupier shall –

- (a) save where the Body Corporate provides some other means of disposal of garbage, maintain within his/her Lot, or on such part of the Common Property as may be authorised in writing by the Council, a receptacle for garbage in a clean and dry condition and adequately covered;
- (b) comply with all government by-laws and any ordinances relating to the disposal of garbage; and
- (c) ensure that the health, hygiene and comfort of the Owner or Occupier of any other Lot is not adversely affected by his/her disposal of garbage; and
- (d) not cause an accumulation of garbage or other refuse on a Lot or Common Property.

41.2 The Body Corporate may establish a garbage disposal system for the Strata Plan. The garbage disposal system may provide for any of the following:

- (a) permitted means and times for disposal and removal;
- (b) disposal routes over Common property;
- (c) designation of areas on Common Property for storage and collection; and
- (d) arrangements for separation and sorting.

41.3 The Body Corporate may enter into agreements with each Owner or Occupier to provide for the charging for garbage disposal services provided by the Body Corporate under the garbage disposal system and recovery of costs to the Body Corporate of providing such services (if any).

#### **42 DAMAGE TO LAWNS ON COMMON PROPERTY**

42.1 An Occupier of a lot shall not –

- (a) damage any lawn, garden, tree, shrub, plant or flower being part of or situated upon Common Property; or
- (b) except with the prior written consent of the Council, use for his own purposes as a garden any portion of the Common Property.

#### **43 DAMAGE TO COMMON PROPERTY**

43.1 An Occupier shall 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 except with the consent in writing of the Council;

- 43.2 An Occupier shall reimburse to the Body Corporate any cost in remedying, rectifying or repairing any damage caused by an Occupier, their guests or invitees to the Common Property.
- 43.3 The Occupier shall pay the amount of those costs to the Body Corporate within seven (7) days of receipt of a written demand and the amount of such cost shall be deemed to be a liquidated debt.

#### **44 SECURITY**

- 44.1 The Council may take all reasonable steps to ensure the security and proper management of the Strata Plan, the Body Corporate's personal property, the Common Property and to ensure the observance of these by-laws and if it considers it necessary or desirable may restrict access to any part of the common property or create an exclusive use right over any part of the common property for security surveillance purposes.
- 44.2 The Body Corporate may establish a security system and provide security services for the benefit of Occupiers and may arrange for the installation of any Utility Infrastructure necessary for the operation of a security system for the benefit of Occupiers of the Parcel.
- 44.3 An Occupier must not do or permit anything to be done which may prejudice the security or safety of the Parcel.
- 44.4 An Occupier must not install any security system on any Lot without the prior written consent of the Council.
- 44.5 Each Occupier must, and must ensure his/her guests and invitees, comply with all security arrangements established and prescribed in respect of access to and security of the Strata Plan.
- 44.6 If the Body Corporate establishes a security system it shall make available to the appropriate parties security keys or other access devices as necessary.
- 44.7 An Occupier must take all reasonable steps to ensure the proper use of such security keys or devices by persons authorised by them and the safe return of such keys and devices and the Body Corporate shall be entitled to impose a deposit or bond in relation to the provision of such keys and devices.
- 44.8 Any Utility Infrastructure installed on the Common Property for use in connection with a security system for the parcel will remain the property of the Body Corporate and be maintained and repaired by the Body Corporate subject to the Body Corporate's rights and obligations under the by-laws to recover costs for the provision of those services from users.
- 44.9 The Body Corporate is not liable for any loss or damage suffered to any Owner or other person or property because -
- (a) the security system fails or there is unauthorised entry to any part of the Common Property or a Lot; or
  - (b) the security system is not at any particular time operational.
- 44.10 Each owner must allow the Body Corporate on the giving of reasonable notice (except in the case of emergency), to enter onto a Lot to attend to the repair and maintenance of any Service Infrastructure used in connection with the provision of a security system and security services.
- 44.11 Each Owner must observe any conditions or requirements of the Body Corporate

imposed as a condition of the use and operation of the security system or security services provided by the Body Corporate.

#### **45 MAINTENANCE AND CONDITION OF LOT**

45.1 Occupiers must keep their Lots in a good state of repair and condition.

45.2 Without limiting by-law 45.1 the Occupier must -

- (a) maintain lawns, gardens and vegetation on the Lot in a neat, tidy and well presented manner;
- (b) maintain driveways, paths, or similar amenities located on or within the Lot; to the extent that it is not the responsibility of the Body Corporate, maintain the service infrastructure within the Lot or which is for the benefit of the Occupier;
- (c) give prompt notice to the Body Corporate of any damage, defect or disrepair of services or service infrastructure on the Lot;
- (d) not overload any Utility or Utility Infrastructure; and
- (e) use, wherever possible, only non toxic or non poisonous products in maintaining or repairing the Lot.

#### **46 LIGHTING**

46.1 All exterior light fittings must be of first class quality and design and must be located so that when in use they do not cause a nuisance to another Lot.

46.2 An Occupier of a Lot shall not change the number or colour of the exterior light to his Lot without the prior written consent of the Council.

#### **47 APPEARANCE OF LOT**

47.1 An Occupier of a lot shall not, except with the prior written consent in writing of the Council, hang any washing, towel, bedding, clothing, aerial, device, wire or other article (except on clothes lines provided for the purpose of hanging laundry) or display any sign, advertisement, placard, banner, pamphlet or like matter on the Common Property or any part of his/her Lot in such a way as to be visible from another lot or Common Property.

47.2 Despite the first paragraph of this by-law, the Caretaker and the Letting Agent for the time being of the parcel shall be entitled to erect signs and notices on the Common Property relating to the management of the Common Property and letting of Lots provided that such signs do not detract from the overall appearance or amenity of the strata plan.

47.3 Insect screens must be designed to be as unobtrusive as possible and must match the colour of the window frames.

47.4 Where cyclone shutters are not permanently affixed to windows and door openings they are to be removed at all times when not in use.

47.5 Windows shall be kept clean and promptly replaced with fresh glass of the same kind, colour and weight as at present if broken or cracked.

#### **48 ALTERATIONS TO A LOT**

48.1 An Occupier of a Lot must not, without the prior written consent of the Council –

- (a) carry out alterations to his/her Lot;
  - (b) alter any Utility Infrastructure or the services provided to his/her Lot;
  - (c) in any way attempt to enclose or partially enclose any balcony or other open structure which forms part of his/her Lot; or
  - (d) alter in any way the external appearance of his/her Lot, including landscaping, painting the external parts of the Lot.
- 48.2 Any proposed alteration to a lot will be governed by the Architectural and Landscape Design Guidelines (“the Design Guidelines”), and the Body Corporate shall not consent to any alteration to a Lot unless there has been strict adherence to the procedures contained in the Design Guidelines.
- 48.3 The Body Corporate shall adopt the Design Guidelines by special resolution and can only amend the Design Guidelines by special resolution.
- 48.4 The Body Corporate will not allow any alteration to a Lot that incorporates or facilitates a further resubdivision of a lot other than as provided in Clause 48.5.
- 48.5 Further resubdivision of a Lot will only be allowed as follows:
- (a) No further subdivision: Lots 1 – 10, 23 – 26, 33 – 37 and 39 –45;
  - (b) Subdivision into 2 lots only will be permitted: Lots 11 – 14 and 17 – 22;
  - (c) Subdivision into 4 lots: Lot 15;
  - (d) Subdivision into 7 lots: Lots 27, 28, 30 and 31;
  - (e) Subdivision into 8 Lots: Lots 16 and 29;
  - (f) Subdivision into 13 lots: Lot 32;
  - (g) No restriction on subdivision: Lot 38.

#### **49 ALTERATIONS TO COMMON PROPERTY**

- 49.1 An Owner, other than the Original Owner, must not make any improvements without the prior written consent of the Body Corporate.
- 49.2 An improvement to Common Property, other than a minor improvement, shall require the consent of the Body Corporate by
- (a) special resolution; or
  - (b) where the improvement causes or results in the exclusive use of any part of the Common Property to the occupier making the improvement, by resolution without dissent.
- 49.3 The Council may consent to a Minor Improvement to Common Property.
- 49.4 In considering whether to grant its consent to any improvement, the Body Corporate may -
- (a) seek and obtain advice from suitably qualified consultants including architects, engineers and lawyers; and
  - (b) recover the costs of obtaining that advice from the person seeking the Body Corporate’s consent, whether or not the consent is given.
- 49.5 Any improvements made or sought to be made by an Occupier -
- (a) must be maintained and repaired by the Owner unless the Body Corporate agrees to the contrary by resolution in general meeting; and

(b) otherwise comply with the Act, the Regulations and the By-laws.

49.6 The Body Corporate may remove any unauthorised improvement and recover the costs of doing so from the person responsible for the improvement.

## **50 ANTENNA**

50.1 No television, radio or other electronic antenna, satellite dish, microwave receiver or device of any type shall be erected, constructed or placed or permitted to remain on any Lot or on the Common Property except with the prior written consent of the Council.

## **51 LOTS TO BE KEPT CLEAN OF VERMIN**

51.1 All lots shall be kept clean and all practical steps shall be taken to prevent infestation by vermin and/or insects.

51.2 Where an Owner or Occupier fails to keep their Lot clean, the Body Corporate may enter upon the Lot, and at the cost of the Owner of the Lot, remove any garbage or other refuse and treat any infestation by pests or vermin.

51.3 Any costs incurred by the Body Corporate pursuant to this by-law shall be recoverable as a liquidated debt.

## **52 STORAGE OF FLAMMABLE LIQUIDS**

52.1 An Occupier shall not, except with the prior written consent of the Council, use or store upon his/her Lot or upon the Common Property any flammable chemical, liquid or 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.

## **53 WASTAGE OF WATER**

53.1 An Occupier of a lot shall not waste water and shall see that all water taps on the Lot and/or the Common Property are promptly turned off after use.

## **54 ACCIDENTS**

54.1 An Occupier shall give to the Council prompt notice of any damage to or defect in or change to the services infrastructure which comes to his/her knowledge and the Council shall have authority by its servants or agents 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 Lot.

## **55 UTILITIES INFRASTRUCTURE**

55.1 The services infrastructure must only be used for the purpose for which it was designated and not for any other purpose.

## **56 USE OF FACILITIES**

56.1 The Body Corporate has the power and authority to enter into the Facilities Agreement to provide for the management, use and access to the Facilities by Occupiers.

56.2 The Body Corporate acknowledges that Occupiers and their invitees, in certain circumstances provided for in these by-laws, are entitled to use the Facilities in accordance with the rights granted by the Body Corporate under any Facilities Agreement.

### 56.3 Swimming Pool

- (a) An Occupier must not use the swimming pool between 10pm and 6am, except with the prior written consent of the Council.
- (b) In relation to the swimming pool and adjacent areas, an Owner or Occupier must ensure –
  - (i) children under the age of 13 years do not use the swimming pool unless accompanied by an adult exercising effective control;
  - (ii) guests and invitees do not use the swimming pool unless accompanied by the Owner or Occupier;
  - (iii) food and drink are not consumed in the swimming pool; save and except for designated areas as set out in the Island Rules.
  - (iv) glassware of any type is not taken in or around the area;
  - (v) caution is exercised around the area at all times; and
  - (vi) no person causes a nuisance to any other person lawfully using the swimming pool or surrounding area.
- (c) An Owner or Occupier must not, without proper authority, operate, adjust or interfere with the operation of any equipment associated with the swimming pool or add any chemical or other substance to the swimming pool.
- (d) All Occupiers agree that they use the recreational facilities at their own risk and that no claim shall lie against the Body Corporate for any injury sustained whilst using the recreational facilities and the Occupier shall indemnify the Body Corporate against any loss or claim in this regard.

### 56.4 Tennis Court

- (a) In relation to the use of the tennis court, an Occupier must ensure –
  - (i) no activity other than playing tennis is permitted on the tennis court or other purposes approved by the Body Corporate or any Facilities Manager.
  - (ii) no footwear other than non-marking soled shoes are to be worn on the tennis court;
  - (iii) guests and invitees are not allowed to use the tennis court unless accompanied by the Occupier;
  - (iv) those with reservations shall have priority over those who have not reserved the tennis court; and
  - (v) play is restricted to daylight hours.

## 57 RULES RELATING TO THE COMMON PROPERTY

57.1 The Council may make rules relating to the use of Common Property by Occupiers ("Island Rules") and in particular the recreation facilities including the swimming pool, tennis court and barbecue area.

58 The Island Rules must not be inconsistent with these by-laws. The Island Rules must be observed in the same manner as these by-laws.

## **59 AUCTION SALES PROHIBITED**

- 59.1 An Occupier of a Lot shall not permit any auction sale to be conducted or take place on his/her Lot or upon the Common Property except with the prior written consent of the Council.

## **60 BEHAVIOUR OF INVITEES**

- 60.1 An Occupier shall take all reasonable steps to ensure that his/her guests and invitees abide by the by-laws and do not behave in a manner likely to interfere with the peaceful enjoyment of the Occupier of another Lot or of any person lawfully using Common Property.
- 60.2 If an invitee does not comply with these by-laws then the Occupier must take all reasonable steps to ensure that the invitee immediately leaves the parcel.
- 60.3 Occupiers shall reimburse the Body Corporate for all damage to the Common Property caused by their Occupiers and invitees.

## **61 RECOVERY OF COSTS AND LEVIES**

- 61.1 An Owner must pay on demand the whole of the Body Corporate's costs and expenses (including solicitor and own client costs), such amount to be deemed a liquidated debt, incurred in –
- (a) recovering levies or any other money that the Body Corporate is entitled to receive from the Owner; and
  - (b) all proceedings, including legal proceedings, taken against the Owner, Occupier or invitee concluded in favour of the Body Corporate.

## **62 CONSUMPTION OF ALCOHOL**

- 62.1 An Owner or Occupier shall not –
- (a) subject to clause 62.2 of this by-law, consume or permit to be consumed any alcoholic beverage in any area comprising Common Property other than such area as is specifically designated for such consumption as set out in the Island Rules.
  - (b) allow, permit or encourage any person who is, or appears to be, under the age of 18 years to consume any alcoholic beverage in any area on the Strata Plan, unless under the supervision of a parent or guardian.
- 62.2 The Owner or Occupier of Lot 38 shall be entitled to use any part of the Common Property for the purpose of holding functions, which may involve the serving of liquor. Such entitlement shall be subject to:
- (a) noise from the functions not unreasonably interfering with other Owner's or Occupier's quiet enjoyment;
  - (b) the area used for the function being left in a clean and tidy state forthwith following the function; and
  - (c) functions not unreasonably interfering with the right of other Owners or Occupiers to use the Common Property.

## **63 DISPLAY LOT**

- 63.1 Whilst the original owner remains an Owner of any Lot, it and its officers, servants and/or agents shall be entitled to utilise any Lot of which it remains an Owner as a

display Lot for the purpose of allowing prospective purchasers of any Lot to inspect such Lot or Lots, and further shall be entitled to place such signs and other advertising and display material in and about the Lot and about other parts of the Common Property and further shall be entitled to full and uninterrupted access to the Strata Plan for the purposes aforesaid during the hours of 9.00 a.m. to 5.00 p.m. seven (7) days per week.

#### **64 EXCLUSIVE USE**

64.1 The Owner for the time being of each Lot identified in Schedule A (if any) shall have the right, exclusive use and enjoyment of (together with the right of ingress thereto and egress there from) the area, the designation of which appears in Schedule A (if any) and which area is identified on the attached sketch plan marked "EU1" (if any). Each such Owner shall be responsible at their own expense for the performance of the duties of the Body Corporate pursuant to the Act and the applicable Regulations in respect of any such area.

#### **65 USE OF LOTS**

65.1 An Owner or Occupier shall not use his/her Lot or the Common Property for any illegal, unlawful or immoral purpose.

65.2 Lot 38 and any areas set aside for Lot 38's exclusive use shall be used by the Owner or Occupier thereof, including its guests and invitees, for the purpose of a Convention Centre kitchen, dining area, bar area, laundry and function room, and such Owner or Occupier for the time being of Lot 38 shall be entitled to use such Lot for the purposes of a convention centre, licensed restaurant and bar and shall be entitled to supply alcohol (including room service to Lots) to such persons as permitted from time to time pursuant to any licence granted to such Owner or Occupier.

#### **66 INSURANCE**

66.1 An Owner or Occupier must not do or permit anything to be done which may invalidate, suspend or increase the premium for any insurance policy effected by the Body Corporate in furtherance of the Body Corporate's responsibility to take out insurance as is provided for in the Act and Regulations from time to time.

#### **67 FIRE CONTROL**

67.1 No Occupier must use or interfere with any fire safety equipment except in the case of an emergency and must not obstruct any fire stairs or fire escape.

67.2 The Body Corporate and the Occupiers must ensure that there is adequate provision of all adequate fire fighting equipment in the buildings and on the Lots and must take all reasonable steps to comply with all or any fire laws in respect of the buildings and the Lots.

#### **68 AMENITIES AND SERVICES**

68.1 The Body Corporate, subject to By-law 71, may in its absolute discretion enter into agreements, contracts, licences, leases or other arrangements of any nature in connection with the provision of amenities or services and for the engagement or authorisation of service contractors and others to provide or supply amenities or services.

68.2 Without limiting the ambit of Clause 68.1 the services and amenities the Body Corporate may provide include all or any of the following -

- (a) Maintenance and caretaking of the Common Property;
- (b) Letting of Lots in the Strata Plan;

- (c) The appointment of a body corporate administrator;
- (d) Window and general cleaning;
- (e) Garbage disposal and recycling;
- (f) Telecommunication services;
- (g) Security services;
- (h) Utility Services;
- (i) Agreements with the Original Owner in relation to the progressive development of the Parcel and in relation to the grant of easements and or licensing certain areas of adjoining land.

68.3 The Body Corporate may only terminate an agreement entered into pursuant to By-law 68.2(a) by the passing of a resolution without dissent to that effect.

## **69 RIGHT OF ENTRY**

69.1 The Body Corporate may enter a Lot with workmen and other authorised persons and necessary materials and appliances to -

- (a) comply with any Requirements involving the destruction of noxious animals, rodents or other pests; and
- (b) carry out any repair, alterations, renovations, extensions or works in relation to any Utilities or Utility Infrastructure or reading meters whether to his lot or to any adjoining lot or for any purpose permitted under these by-laws, the Act or the Regulations.

69.2 In case of emergency no notice will be required under by-law 69.1.

69.3 Anything undertaken by the Body Corporate under this by-law will be paid for by the Owner of the relevant Lot where the need for the Body Corporate to do that thing is due to any act or default of the Owner and the Body Corporate shall be entitled to recover such amount as a liquidated debt.

69.4 In exercising its rights under this by-law the Body Corporate must ensure that it causes as little inconvenience to the Owner of the Lot as is reasonable in the circumstances.

## **70 USE OF LOTS**

70.1 All lots in the Strata Plan, with the exception of Lot 38 shall be used for residential and holiday accommodation purposes.

## **71 SPECIAL PRIVILEGE FOR LOT 38**

71.1 The body corporate grants to the Occupier of lot 38 the exclusive right to carry on the Parcel the business of letting of lots in the Complex and the caretaking of the common property.

71.2 The Body Corporate shall enter into from time to time an appropriate agreement or agreements on such terms and conditions as the body corporate in its absolute discretion determines.

71.3 The Body Corporate shall not allow any person or corporation other than the Owner or Occupier of Lot 38 to use any part or all of the parcel, or to directly or indirectly engage in or be concerned in the business of caretaking of the parcel and of the letting of the lots in the parcel and/or the providing of any services referred to in these by-laws.

71.4 The Body Corporate hereby authorises the Occupier of Lot 38 the right to install and maintain on Common Property such Utility Infrastructure (including but not limited to telephone and computer cabling for the operation of a PABX telephone System) required by it to operate its business.

71.5 Without limitation to any other By-law, the Owner of any Lot must not, and must not permit or authorise any other person to, enter into any arrangement whatever for the letting or licensing of the use of any Lot without the prior approval of the Body Corporate

71.6 In order to approve a long-term apartment lease by its Owner the Council must be satisfied that;

1. Body Corporate levies are up to date or an agreed binding plan is in place with the Owner for timely repayment
2. Landlord Insurance is in place or the Body Corporate is indemnified against such claims against it
3. Subletting is not permitted
4. The apartment is not displayed for rental on the internet for any form of short term letting under 3 months
5. The term of the lease is not less than 3 months
6. Tenants must be bound to standards of behaviour required in the By-Laws
7. A copy of the lease must be held by the BC Manager noting that the rental amount need not be shown
8. IHL must be reimbursed for utility services used by the tenant, and may require payment for other facilities if the tenant chooses to use them, not including the access ferry

71.7 The Council may rescind an approval given under 71.6 if any of the conditions are in continued breach after appropriate notice has been given to the owner to remedy.

## **72 DISCOUNTS FOR TIMELY PAYMENT OF LEVIES**

72.1 The body corporate may, by ordinary resolution, fix a discount to be given to owners of lots if a levy or an installment of a levy, is received by the body corporate by the date for payment fixed in notices of contribution given to the owners.

72.2 The discount cannot be more than 20% of the amount to be paid.

## **73 INTEREST FOR LATE PAYMENT**

73.1 The body corporate may, by ordinary resolution, set an interest rate to be paid by owners of lots if a levy, or installment of a levy, is not received by the body corporate by the date for payment fixed in notices of contribution given to the owners.

73.2 The amount must consist of simple interest at a stated rate of 0.75% per month for each month the contribution or installment is in arrears. The Council may during in the period of calendar year 2020 waive interest set under By-Law 73.1 in its past or current form and to the extent that the Councillors deem fit in respect of all debtors or any debtor.