

**OWNERS OF THE PELICANS
STRATA PLAN 11550**

By-laws

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Schedule 1 By-Laws

1. Interpretation

In these by-laws, including the Schedule 2 by-laws, unless the Act or the context otherwise requires:

- (a) **Act** means the *Strata Titles Act 1985* (WA);
- (b) **AGM** means an annual general meeting of the strata company;
- (c) **by-law** means a by-law of the strata company;
- (d) **council** means the strata company's council;
- (e) **councillor** means a member of the council;
- (f) **EGM** means an extraordinary general meeting of the strata company;
- (g) **invitee** means each agent, contractor, tenant, lessee, licensee and other person who at any time is upon the parcel with the consent (express or implied) of a proprietor or occupier;
- (h) **local government** means the local government within whose boundaries the parcel is located;
- (i) **lot** means a cubic space on the parcel having the boundaries ascertained under the Act;
- (j) **occupier** means, in relation to a lot, a person in lawful occupation of that lot;
- (k) **parcel** means the land, including the lots and common property comprised in the strata plan;
- (l) **person** includes a natural person and an incorporated entity;
- (l) **proprietor** means the proprietor from time to time of a lot (as defined in section 3 of the Act) or any mortgagee in possession of a lot;
- (m) **scheme** means the strata scheme constituted under the strata plan, including any additions or alterations made from time to time in accordance with the Act, and also includes the rights and obligations conferred or imposed by the Act;
- (n) **strata company** means The Owners of The Pelicans, Strata Plan 11550;
- (o) **strata company records** means the records of the council and the strata company and includes the documents referred to in sections 35, 35A, 43(1) and 49(3) of the Act;
- (p) **strata manager** means the strata manager (if any) appointed by the council;
- (q) **strata plan** means Strata Plan 11550;
- (r) **structure** includes any improvement prescribed under section 7 of the Act;
- (s) **vehicle** means any motor car, van, truck, float, bus, caravan, camper-van, trailer, motor-cycle, bicycle or any other conveyance of any kind used as a method of transport;
- (t) words defined in the Act have the same meaning where used in these by-laws;

- (u) words denoting one gender include all genders;
- (v) a reference to any thing includes the whole or each part of it; and
- (w) words in the singular include the plural and vice versa.

2. The Council

- (1) The strata company is to have a council.
- (2) The councillors are to be elected at each AGM.
- (3) Subject to the Act and to any restriction imposed or direction given by the strata company at a general meeting:
 - (a) the functions, powers and duties of the strata company are to be exercised and performed by the council; and
 - (b) a council meeting at which a quorum is present is competent to exercise all or any of those functions, powers and duties.

3. Membership of the Council

Unless there are only one or two proprietors of lots in the scheme, in which case he or they shall comprise the council, the council is to consist of not less than three nor more than seven proprietors, as decided upon by the strata company at the AGM.

4. Counting the number of proprietors

In determining the number of proprietors for the purposes of Schedule 1 by-law 3:

- (a) co-proprietors of a lot are deemed to be one proprietor; and
- (b) a person who owns more than one lot is deemed to be one proprietor.

5. Nominations for election to Council

- (1) Nomination of candidates for election to the council shall be conducted as below:
 - (a) The general meeting shall first decide, in accordance with the requirements of Schedule 1 by-law 3, the number of councillors of whom the council is to consist.
 - (b) The chairman shall then call upon those persons present who are entitled to vote on an ordinary resolution to nominate proprietors for election to the council.
 - (c) A nomination under this by-law or a deemed nomination under Schedule 1 by-law 6 must be supported by the consent of the nominee to their nomination. That consent must be given to the chairman and may be given either in writing or orally.
- (2) Following nominations:
 - (a) If the number of eligible candidates is less than the number of councillors that the general meeting has resolved to elect, the chairman shall declare those candidates to have been elected as councillors. If this occurs, the AGM may then resolve that whichever candidates have been elected as councillors shall constitute the council, provided always that Council must consist of

at least 3 proprietors. If there is no such resolution, then section 46 of the Act shall apply.

- (b) If the number of eligible candidates is equal to the number of councillors that the general meeting has resolved to elect, the chairman shall declare those candidates to have been elected as councillors.
- (c) If the number of eligible candidates exceeds the number of councillors to be elected, the chairman shall direct that a ballot be held.

6. Eligibility of a co-proprietor to be elected to Council

- (1) If there are co-proprietors of a lot, one only of the co-proprietors is eligible to be a councillor.
- (2) The co-proprietor who is so eligible shall be nominated by their co-proprietors.
- (3) If the co-proprietors fail to agree on a nominee, the co-proprietor who owns the largest share of the lot will be deemed to be their nominee, provided that person consents.
- (4) If there is no co-proprietor who owns the largest share of the lot, the co-proprietor whose name appears first in the certificate of title for the lot will be deemed to be their nominee, provided that person consents.

7. Voting for the election of councillors

- (1) If a ballot must be held, the persons entitled to vote in the ballot are those entitled to vote on an ordinary resolution and present at the AGM at which the ballot is held.
- (2) For the purposes of the ballot, the chairman shall:
 - (a) announce the names of the eligible candidates; and
 - (b) cause to be provided to each person present and entitled to vote a ballot paper for each lot in respect of which that person is entitled to vote.
- (3) A person who is entitled to vote and who wishes to vote shall complete a valid ballot paper by:
 - (a) indicating clearly the candidates they wish to elect, equal in number to the number of councillors to be elected and so that no name is repeated;
 - (b) indicating on it the number of each lot in respect of which that person's vote is cast;
 - (c) signing it; and
 - (d) returning it to the chairman.
- (4) The chairman shall cause the votes recorded on valid ballot papers to be counted before the end of the AGM.
- (5) Subject to sub-bylaw (6), the candidates, being equal in number to the number of councillors to be elected, who receive the highest numbers of votes will be deemed to be elected to council.

- (6) If the number of votes recorded in favour of a candidate is the lowest of the numbers of votes referred to in sub-bylaw (5) and:

- (a) that number equals the number of votes recorded in favour of any other candidate; and
- (b) if each of those candidates were to be declared elected the number of persons elected would exceed the number of persons required to be elected,

then, as between those candidates, those present and entitled to vote shall decide by a resolution by a show of hands which of those candidates are to be elected to the council and the candidate who receives the greatest number of votes will be deemed to be elected to council.

8. Term of Councillors

- (1) Subject to sub-bylaw (2), councillors remain as councillors until the close of an AGM at which they are not re-elected.
- (2) A councillor also ceases to be a councillor when they:
 - (a) are removed as a councillor by special resolution of the strata company;
 - (b) die or cease to be a proprietor in the scheme; or
 - (c) resign by written notice to the strata company.

9. Filling a casual vacancy on Council

If there is a casual vacancy on council, the remaining councillors may appoint a proprietor who is not already a councillor, with his consent, to fill that casual vacancy until the next AGM, but may not so appoint any proprietor earlier removed from office pursuant to Schedule 1 by-law 8(2)(a).

10. Council powers while there is a vacancy

- (1) Subject to sub-bylaw (2), if there is a casual vacancy on council, the remaining councillors may continue to act.
- (2) While the number of councillors is reduced below the quorum for a council meeting, the continuing councillors may act only to:
 - (a) convene a general meeting; or
 - (b) increase the number of councillors to the number fixed by the strata company.

/ 11. Quorum for a meeting of Council

If the council consists of:

- (a) 3 or 4 members, 2 of them;
- (b) 5 or 6 members, 3 of them; or
- (c) 7 members, 4 of them,

as the case may be, will, subject to Schedule 1 by-law 10(2), constitute a quorum for a council meeting.

12. Validity of Council's acts

If it is discovered that there was a defect in the appointment or continuance in office of a councillor, all acts done in good faith by the council while that councillor acted as a member shall be as valid as if that councillor had been duly appointed or had duly continued in office.

13. Chairman, secretary and treasurer of Council

- (1) The members of the council shall, at the first council meeting after they assume office, appoint a chairman, a secretary and a treasurer of the council.
- (2) A person:
 - (a) cannot be appointed as the chairman, secretary or treasurer unless that person is a councillor;
 - (b) may be appointed to more than one of those offices; and
 - (c) may at any time be replaced by the council in any of those offices.
- (3) A person appointed to an office referred to in sub-bylaw (1) will hold office until they cease to be a councillor, until they are replaced in that office pursuant to sub-bylaw (2)(c) or until they resign from that office by written notice to the council, whichever first occurs.

14. Meetings and Resolutions of the Council

- (1) Subject to the Act and the by-laws, the council may meet together for the conduct of its business, adjourn and otherwise regulate its meetings as it thinks fit.
- (2) The council must meet when any councillor gives to the other councillors not less than 7 days written notice of a meeting, specifying in the notice the reason for calling the meeting.
- (3) A councillor may, with the written consent of the proposed appointee, appoint a proprietor or an individual authorised under section 45 of the Act by a corporate proprietor to act in that councillor's place at any council meeting. Any proprietor or individual so appointed will, when so acting, be deemed to be a councillor.
- (4) A proprietor or individual may be appointed under sub-bylaw (3) whether or not they are or were previously a councillor.
- (5) If a person appointed under sub-bylaw (3) is a councillor, they may, at any council meeting or when otherwise voting on a motion of the council, separately vote in their capacity as a councillor and also on behalf of the councillor in whose place they have been appointed to act.
- (6) At council meetings, all matters are to be determined by a simple majority vote.
- (7) A motion at a council meeting must be moved and seconded before it is voted on.
- (8) Each councillor has a deliberative vote at a council meeting, even if that councillor would not be entitled to vote at a general meeting.
- (9) The chairman of a council meeting does not, in the event of an equality of votes, have a casting vote.

- (10) The council may invite any proprietor, adviser, agent, contractor or employee to be present at any meeting or any part of a council meeting.
- (11) The council shall keep minutes of its meetings.

15. Council's powers to appoint advisers, agents and employees

The council may:

- (a) on behalf of the strata company, employ lawyers, strata managers, agents, employees, caretakers and others in connection with the exercise and performance of all or any of the functions, powers and duties of the council and the strata company; and
- (b) to the extent permissible under the Act, delegate to one or more of councillors or to a strata manager all or any of its functions, powers and duties, on any terms it thinks fit, and may at any time revoke that delegation or amend those terms.

16. Duties of Chairman of Council

- (1) The chairman shall preside at all council meetings at which they are present.
- (2) If the chairman is absent from any council meeting, the other councillors present shall appoint one of their number to preside at that meeting.

17. Chairman, Secretary and Treasurer

Subject to Schedule 1 by-law 26, the chairman, secretary and treasurer of the council are also respectively the chairman, secretary and treasurer of the strata company.

18. Powers and duties of Secretary

The powers and duties of the secretary include:

- (a) preparing and distributing minutes of council meetings and general meetings;
- (b) moving a motion to confirm the minutes of any council meeting or general meeting, respectively, at the next such meeting;
- (c) giving on behalf of the council and of the strata company the notices required to be given by the council or the strata company under the Act or the by-laws;
- (d) recording the particulars specified in section 35(1) of the Act;
- (e) providing the information on behalf of the strata company specified in sections 43(1)(a) and (b) of the Act;
- (f) answering communications addressed to the council and to the strata company;
- (g) calling of nominations of candidates for election as councillors;
- (h) subject to sections 49 and 103 of the Act and to Schedule 1 by-law 21(3), convening meetings of the council and the strata company;
- (i) preserving the strata company records for any period prescribed under the Act or seven years, whichever is the longer; and

- (j) notifying proprietors (in each notice of a general meeting) of the location of the strata company records.

19. Powers and duties of Treasurer

The powers and duties of the treasurer include:

- (a) notifying proprietors of any contributions levied pursuant to the Act by resolution of a general meeting;
- (b) receiving, acknowledging, banking and accounting for any money paid to the strata company;
- (c) preparing any certificate referred to in sections 43(1)(c) and (d) of the Act;
- (d) keeping the books of account referred to in section 35(1)(f) of the Act; and
- (e) preparing the statements of accounts referred to in section 35(1)(g) of the Act.

20. General meetings of the Strata Company

- (1) General meetings of the strata company shall be held once in each year, but not more than 15 months may elapse between the date of one AGM and that of the next.
- (2) All general meetings other than the AGM are EGMs.

21. How general meetings are convened

- (1) The council shall convene AGMs in accordance with these by-laws and may convene EGMs whenever it thinks fit.
- (2) The council must convene an EGM if it receives a written requisition made by proprietors entitled to at least 25% of the aggregate unit entitlement of the lots.
- (3) If the council does not notify proprietors within 28 days after receiving a requisition under sub-bylaw (2) of an EGM to be held not later than 56 days after receiving that requisition, the requisitionists, or any of them representing at least 50% of the aggregate unit entitlement of all of them, may themselves, in the same manner as nearly as possible as that in which general meetings are convened by the council, convene an EGM.
- (4) Any meeting convened under sub-bylaw (3) by requisition must be held within 3 months from the date on which the requisition was made and is subject to Schedule 1 by-law 27(2).

22. Additional agenda items for general meetings

If, not later than 21 days before a general meeting and before notice of the general meeting is given, a proprietor gives notice in writing to the secretary of an item of business that the proprietor requires to be included on the agenda for the next general meeting, the secretary shall include that item in the agenda of that meeting.

23. Notices of general meetings

- (1) The secretary shall give a notice of and an agenda for every general meeting to:
 - (a) all proprietors; and
 - (b) any registered mortgagee who is entitled to give and who has given the strata company written notice of their mortgage pursuant to section 50(6) of the Act, until the mortgage is discharged in respect of the lot over which it is secured.
- (2) The notice of and agenda for a general meeting must:
 - (a) be given not less than 14 clear days before the day of the meeting;
 - (b) specify the place, date and hour of the meeting;
 - (c) in the case of any proposal to vote on a unanimous resolution, a resolution without dissent or a special resolution, include the proposed resolution; and
 - (d) state the general nature of any other items of business to be discussed at the meeting.
- (3) Accidental omission to give a notice of or agenda for a general meeting to any person entitled to receive them will not invalidate the proceedings of that meeting.
- (4) Inadvertent non-receipt of a notice of or agenda for a general meeting by anyone entitled to receive them will not invalidate the proceedings of that meeting.

24. Quorum for a general meeting

- (1) No business may be transacted at any general meeting unless a quorum of persons is present at the time when the meeting proceeds to business, except as otherwise provided in these by-laws, and no vote shall be conducted unless there continues to be a quorum at the time the vote is taken.
- (2) The quorum to enable a general meeting to proceed to business is one-half of the persons entitled to vote either present in person or by duly appointed proxy.
- (3) A person is only entitled to vote on an ordinary resolution or a special resolution if all money due to the strata company in respect of the relevant lot has been paid before the general meeting commences.
- (4) A person is entitled to vote on a resolution sought to be passed as a resolution without dissent or a unanimous resolution even if money due to the strata company in respect of the relevant lot has not been paid before the general meeting commences.

25. Quorum for special resolutions or resolutions without dissent

The quorum required at the time a vote is taken on a motion sought to be passed as a special resolution or resolution without dissent is the sufficient quorum specified in section 3C of the Act.

26. Chairman of a general meeting

- (1) At a general meeting or at the resumption of an adjourned general meeting, the chairman of the council is to be the chairman of the meeting, subject to sub-bylaw (2).

- (2) The chairman of the council either before or at the commencement of the general meeting may elect not to chair that meeting or a particular part of that meeting.
- (3) If the chairman makes an election under sub-bylaw (2) or is unavailable to act as chairman at that meeting or at a part of that general meeting, those present at the meeting shall authorise another person to chair the meeting or that part of the meeting, as the case may be.
- (4) A person appointed under sub-bylaw (3) need not be a proprietor.
- (5) A person appointed under sub-bylaw (3) may be appointed to act as chairman until the end of the general meeting or until the conclusion of the part of the meeting for which that person was appointed to act.
- (6) The person appointed to be chairman of or of any part of a resumed adjourned general meeting may be a different person to the person who chaired the meeting or any part of the meeting that was adjourned.

27. Adjournment of a general meeting

- (1) If a quorum is not present within 30 minutes after the time appointed for a general meeting, the meeting will stand adjourned for 7 days, at the same time and place, subject to sub-bylaw (2).
- (2) If a quorum is not present within 30 minutes after the time appointed for an EGM convened on the requisition of proprietors, the EGM will be dissolved.
- (3) If a quorum is not present at the general meeting adjourned pursuant to sub-bylaw (1) within 15 minutes after the time appointed for the adjourned general meeting, the persons entitled to vote and present will constitute a quorum to enable the meeting to proceed to business.
- (4) The chairman may, with the consent of a general meeting at which a quorum is present, adjourn the meeting from time to time and from place to place. However, the meeting cannot be resumed unless there is a quorum present at that resumed meeting.
- (5) No business may be transacted at a general meeting adjourned pursuant to sub-bylaw (4) other than the business left unfinished at the meeting from which the adjournment took place.
- (6) The strata company shall not be required to give to any proprietor any notice of an adjournment under this by-law.

28. Voting at a general meeting

- (1) A person is not entitled to move or second a motion at a general meeting or to nominate a candidate for election as a councillor unless the person is entitled to vote on that motion or at the election.
- (2) Each motion at a general meeting must be moved and seconded.
- (3) Subject to the Act and to sub-bylaw (4), a motion may be passed at a general meeting by a simple majority vote.
- (4) If a motion at a general meeting is sought to be passed as a resolution without dissent or a special resolution, the voting requirements of section 3C(c) of the Act must be complied with in respect of that motion.
- (5) All motions at a general meeting, other than those sought to be passed as a special resolution or resolution without dissent are to be decided on

a show of hands, unless following that vote any person entitled to vote demands a poll, whether or not a declaration has been made under sub-bylaw (8).

- (6) On a show of hands, each person entitled to vote has one vote for each lot in respect of which they are exercising the power of voting.
- (7) On a poll:
 - (a) each person entitled to vote has one vote for each unit entitlement allocated to the lot in respect of which that person is voting; and
 - (b) each co-proprietor of a lot is entitled to such part of the vote applicable to the lot as is proportionate to their interest in the lot.
- (8) A declaration by the chairman that a resolution has been carried on a show of hands is conclusive evidence of that fact, without proof of the number or proportion of votes recorded in favour of or against the resolution, unless a poll is demanded under sub-bylaw (5).
- (9) If a poll is demanded, it must be taken immediately in a manner the chairman thinks fit and the chairman shall then declare the result of the poll.
- (10) A demand for a poll may be withdrawn by the person who demanded it before the result of the poll is declared.
- (11) In the case of equality in the votes, on a show of hands or on a poll, the question will be deemed to be determined in the negative.
- (12) The chairman has a deliberative vote if entitled to vote, but does not have a casting vote.

29. Voting by proxy

- (1) A person entitled to vote at a general meeting is entitled, subject to section 50A of the Act, to appoint a proxy holder to vote on their behalf at that meeting.
- (2) A proxy instrument must be in writing under the hand of the appointor or their attorney and may be either for a specific general meeting or for all general meetings.
- (3) A proxy instrument may contain directions on how to vote in relation to specific items.
- (4) A proxy holder need not be a proprietor.
- (5) Co-proprietors of a lot may only vote on a show of hands or on a poll by a proxy holder jointly appointed by them, but the appointee may be one of those co-proprietors.
- (6) If the co-proprietors of a lot have not jointly appointed a proxy holder to vote for them, they are not entitled to vote on a show of hands, on a poll or when a special resolution or a resolution without dissent is required by the Act.
- (7) If the co-proprietors of a lot have not jointly appointed a proxy holder to vote for them, they are still entitled to vote when the unanimous resolution of proprietors is required by the Act.
- (8) On a poll, the joint proxy holder (if any) has a vote proportionate to the interests in the lot of such of the joint proprietors as do not vote personally or by an individual proxy holder.

30. Common Seal

The common seal of the strata company may only be used with council's authority and, except where there is only one proprietor, in the presence of at least two councillors, who must sign every instrument to which the seal is affixed.

31. Exclusive use – car bays

- (1) A proprietor shall be entitled to the exclusive use and enjoyment of the common property car bay or car bays (if any) delineated and identified on the attached Exclusive Use Sketch by the designation "CB" followed by a number corresponding with the proprietor's lot.
- (2) In relation to a car bay in respect of which a proprietor has an exclusive use right under sub-bylaw (1), the proprietor shall:
 - (a) Unless otherwise authorised in writing and subject to any limits or conditions specified by the council, use it only for the purpose of parking a registered vehicle;
 - (b) not use it or permit it to be used for:
 - (i) the parking or storage of any other vehicle or other item unless otherwise authorised in writing by the council and subject to any limits or conditions specified by the council;
 - (ii) the carrying out of any repair or restoration of any vehicle or watercraft or other item;
 - (iii) the washing or cleaning of any vehicle, watercraft or other item, other than the cleaning of a vehicle's windows.

32. Visitors, Manager and boat trailer parking

- (1) The common property car bays delineated and identified on the attached Exclusive Use Sketch by the designation "VIS" ("visitor bays") shall be for the shared use of all proprietors, occupiers and their respective lawful invitees provided that:
 - (a) visitor bays shall not be used for the parking of boat trailers or the storage of any watercraft;
 - (b) visitor bays shall not be used for the long term storage of any vehicle;
 - (c) visitor bays shall not be used for the carrying out of any repair or restoration of any vehicle or watercraft or other item;
 - (d) visitor bays shall not be used for the washing or cleaning of any vehicle, watercraft or other item, other than the cleaning of a vehicle's windows;
 - (e) no proprietor or occupier shall at any given time use more than one visitor bay;
 - (f) no proprietor or occupier of a lot shall at any time use a visitor bay unless a car bay in respect of which the proprietor of that lot has an exclusive use right under sub-bylaw 31(1) is already being used by that proprietor or occupier;
- (2) The common property car bay delineated and identified on the attached Exclusive Use Sketch by the designation "MANAGER" ("the bay") shall

be for the shared use of the strata manager and lawful invitees of an occupier ("visitors") on the following basis:

- (a) the strata manager shall be entitled to the use of the bay between the hours of 8am and 2pm on Mondays to Fridays (excluding public holidays); and
 - (b) the strata manager and visitors shall be entitled to the use of the bay at all other times on a "first come first served basis" (and the provisions of sub-bylaws (1)(a) to (f) shall apply to the bay).
- (3) The common property area delineated and identified on the attached Exclusive Use Sketch by the designation "BOAT AND TRAILER WASHDOWN AREA" ("washdown area") shall be for the shared use of all proprietors and occupiers provided that:
- (a) The washdown area shall be used only for the purposes of parking boat trailers (with or without boats) and for the washing or cleaning of boats;
 - (b) The washdown area shall not be used for storage of any vehicle or watercraft for longer than 2 months without the prior written approval of the council;
 - (c) The washdown area shall not be used for the carrying out of any repair or restoration of any vehicle or watercraft or other item.

33. Exclusive use – courtyards and balconies

- (1) A proprietor shall be entitled to the exclusive use and enjoyment of that portion of the common property comprising a private courtyard immediately adjacent to the lot (if any) delineated and identified on the attached Exclusive Use Sketch by the designation "A" followed by a number corresponding with the proprietor's lot.
- (2) A proprietor shall be entitled to the exclusive use and enjoyment of that portion of the common property comprising a private balcony immediately adjacent to the lot (if any) delineated and identified on Sheet 2 (the First Floor) of the Strata Plan by dotted lines.

34. Exclusive use – conditions

- (1) A proprietor in respect of whose lot any rights of exclusive use and enjoyment of a part of the common property are granted shall:
 - (a) keep that part clean and free of litter;
 - (b) not add to, alter, or otherwise construct any building, structure, floor covering, lighting or other installation within that part without the prior written approval of the strata company;
 - (c) be responsible, at their cost, for repairing, maintaining and when necessary replacing any light fittings within that part, but any replacement must be the same as the original light fitting unless the council otherwise approves;
 - (d) subject to sub-bylaw (5), be responsible, at their cost, for repairing, maintaining and when necessary replacing any fencing between that part and other common property, but any replacement must be the same as the original fencing unless the council otherwise approves;

- (e) pay the cost of any necessary repair to or replacement of any rollers in any glass sliding doors which provide access to that part and of any hinges and doors to that part;
 - (f) at the proprietor's cost keep clean all windows facing onto any balcony included in that part where those windows can be safely accessed by the proprietor;
 - (g) not use that part for any purpose other than for passive purposes directly related to the permitted use of the proprietor's lot;
 - (h) not place any item of flora on or within any balcony other than plants placed within containers that prevent the escape or flow of water on to any part of the building in which the proprietor's lot is situated; and
 - (i) comply, within seven days of service on that proprietor by the strata company, with any notice specifying any default in complying with any of the requirements of paragraphs (a) to (g).
- (2) Nothing in this by-law is to be deemed to limit a proprietor's obligations under section 42(11)(b) of the Act or to limit or restrict the strata company's powers to amend or add to the provisions of sub-by-law (1);
 - (3) If a proprietor fails to promptly duly comply with a notice to remedy any breach of this by-law, the proprietor shall permit the strata company with or without tradesmen, contractors, agents or others, with any necessary plant, equipment or materials on reasonable notice or, in the case of an emergency, without notice, to enter and remain on the exclusive use area and to carry out any works necessary to remedy the said default shall on demand by the strata company reimburse the strata company for all expenses involved in doing so.
 - (4) A proprietor or occupier shall not sell, lease, rent or otherwise dispose of or part with possession of any part of the common property in respect of which any right of exclusive use has been granted in respect of the lot owned or occupied by them to any person who is not a proprietor or occupier of the lot, without the prior written consent of the strata company.
 - (5) The Dividing Fences Act 1961 applies to fencing between exclusive use courtyard areas as if adjoining courtyard areas were adjoining lands to which that Act applies and as if the proprietors to whom exclusive use of those courtyards has been granted were the proprietors of those courtyard areas.

35. Special Privileges in respect of Common Property for 'Permitted Items'

- (1) In this by-law "permitted item" means, in respect of each proprietor, those items permitted in writing by the council to be placed in, on, fixed or attached to any part of the common property and which relates solely to or provides a utility or service to that proprietor's lot or is solely for the benefit of that proprietor. These items may include doors (including security doors), decorative fittings (including unit numbers), fly screens, shutters, windows, window plate glass, window tinting, patios, shade sails, air-conditioning systems, hot water systems, storage sheds and pergolas.

- (2) A proprietor who has obtained the permission of the council referred to in sub-bylaw (1) shall, before installing the permitted item or undertaking any works in relation to such installation, provide evidence of the grant of any approval required from the local government and also such other documents as the council shall reasonably specify when granting its permission.
- (3) The permission of the council referred to in sub-bylaw (1):
- (a) must be in writing;
 - (b) may be subject to such conditions as the council may from time to time reasonably determine, including, but not limited to, conditions as to the installation process, style, type, colour, capacity, odour, noise levels, position and method of fixing of such items; and
 - (c) may be withdrawn, as the council may from time to time reasonably determine.
- (4) The council:
- (a) shall not permit the installation of any item visible from outside the lot that is not in keeping with the rest of the improvements on the parcel; and
 - (b) is not obliged to permit the installation of any item or improvement.
- (5) A proprietor shall, in respect of any permitted item:
- (a) install the permitted item at the proprietor's own cost;
 - (b) not alter, modify, erect, demolish, remove or add to the permitted item without the written approval of the council;
 - (c) keep any part of the permitted item that is visible from any part of the parcel free from dirt, corrosion and unsightly marks or objects;
 - (d) ensure that the use of the permitted item does not affect the quiet and peaceful enjoyment by any proprietor or occupier of any part of the parcel;
 - (e) allow the strata company by its councillors, agents, employees and contractors to enter upon his lot to inspect and carry out works on common property, after giving reasonable notice;
 - (f) at the proprietor's own cost, keep in good and serviceable repair, properly maintain and, where necessary, renew and replace the permitted item and do so whether damage or deterioration arises from fair wear and tear, inherent defect or any other cause;
 - (g) at the proprietor's cost, remove the permitted item immediately after having received notice from the council of being required to do so;
 - (h) on the written request of the council, make good, at the proprietor's cost and to the reasonable satisfaction of the council, any damage caused by the installation, repair, maintenance, renewal, replacement or removal of the permitted item;
 - (i) indemnify the strata company and the council against all actions, claims, demands, suits or causes of action arising out of any wilful or negligent act or omission or breach of duty of care in respect of the permitted item; and

- (j) obtain and ensure that all occupiers of the lot obtain comprehensive insurance to adequately cover all actions, claims, demands, suits or causes of action referred to in sub-by-law (9)(i) and, upon demand by the council, produce evidence that such insurance has been obtained and is current.
- (6) If a proprietor fails to comply with sub-by-law (5)(f), (g) or (h), after giving that proprietor reasonable notice, the council may have access to the lot for the purpose of and to carry out all works required and recover from the proprietor the costs of any such works as if those costs were a contribution levied pursuant to section 36(1) of the Act.
- (7) Subject to compliance with this by-law and to the terms and conditions that are applicable to his permitted items, each proprietor shall have in relation to his lot:
 - (a) the special privilege of installing and keeping permitted items in, on, fixed or attached to that part of the common property in respect of which permission is granted pursuant to this by-law; and
 - (b) to the extent that any permitted item is not installed or erected in a common property area that is the subject of a grant of exclusive use pursuant to Schedule 1 by-law 33, the exclusive use of the common property cubic space occupied by that permitted item.

36. Exclusive use and special privileges – term

Each grant of an exclusive use area and special privileges conferred pursuant to these by-laws shall continue and enure as appurtenant to, and for the benefit of, the lot to which that grant relates until the relevant by-law is repealed or the strata scheme is terminated, whichever occurs first and the proprietor from time to time of that lot shall observe and comply with the conditions relating to that grant of exclusive use or special privileges.

37. Lot 27 – conditions and restriction on use

- (1) The proprietor of lot 27 shall ensure that lot 27 is used solely for commercial retail purposes and shall at his expense, ensure that all approvals, consents and licences required by the proprietor for the conduct of the business or businesses conducted from lot 27 are obtained and maintained at all times and that all their conditions are observed. The proprietor will provide copies of all approval consents and licences aforesaid upon demand of the council
- (2) The proprietor of lot 27 shall at his expense observe and comply with all laws, requirements and notices relating to:
 - (a) the use and occupation of lot 27 for the use for which any approval has been granted;
 - (b) lot 27 and the facilities therein or required to be provided therein by reason of the number and the sex of the proprietor's employees and other persons working in or entering lot 27;
 - (c) the fixtures, fittings, machinery, plant and equipment in lot 27;
 - (d) occupational health, safety and environmental matters;
 - (e) the provision of fire fighting equipment including if necessary the provision of fire extinguishers and fire blankets.

/ (3) The proprietor of lot 27 shall not:

- (a) allow lot 27 to be used for any illegal, immoral, noxious, dangerous or offensive purpose, activity or occupation;
- (b) use or permit any part of lot 27 to be used as sleeping quarters or for residence;
- (c) keep or permit to be kept any animals in lot 27;
- (d) hold or permit any auction or public meeting in lot 27;
- (e) permit his employees or contractors to purposely break bottles in any receptacle at any time
- (f) use lot 27 in a noisy manner or in any other manner which would cause damage, nuisance or disturbance to other lot proprietors or to the owners or occupiers of adjoining properties;
- (g) use lot 27 in an excessively noisy or noxious or offensive manner;
- (h) use plant or machinery in his commercial lot so as to constitute a nuisance or disturbance to other lot proprietors due to noise vibration odours or otherwise;

and, without derogating from the proprietor of lot 27's obligations hereunder, the occupier of lot 27 shall also comply with the provisions of this sub-by-law (3) (and nothing in this sub-by-law (3) shall be taken to limit the occupier's obligations in respect of their occupation and use of lot 27 under any other by-law, contract, statutory provision or at common law).

(4) The proprietor of lot 27 shall at the proprietor's expense:

- (a) take reasonable action to secure lot 27 against unauthorised entry whilst the lot is occupied;
- (b) ensure that the external doors and windows in lot 27 are securely locked and fastened when lot 27 is unoccupied;
- (c) keep lot 27 and its entrances and surrounds in a thorough state of cleanliness and not allow to accumulate or remain therein or thereabouts any discarded rubbish papers cartons boxes containers or other waste products;
- (d) keep lot 27 free and clear of all rodents vermin insects birds animals termites and other pests and if the proprietor fails to do so the proprietor shall if and so often as necessary employ pest exterminators approved by the council to carry out the necessary work;
- (e) bear the costs of any repainting of the exterior of lot 27, save any repainting as is carried out as part of the repainting of the exterior surfaces of all of the buildings in the scheme;
- (f) maintain in good working order and condition and keep clean all fittings, equipment and furnishings maintained within lot 27 and all signage used in connection with lot 27 and the business or businesses conducted therefrom;
- (g) maintain with a public insurance office policies to cover public liability with a cover of not less than Ten Million Dollars or any increased sum which the council may from time to time specify in

respect of any one occurrence. The policy of insurance shall cover all claims demands proceedings judgments damages costs and losses of any nature whatsoever in connection with the loss of life of and or personal injury to any person and or damage to any property (wheresoever occurring) arising from or out of any occurrence at or in the vicinity of the lot 27 or any part thereof or occasioned wholly or in part by an act neglect default or omission by the proprietor of lot 27 or by his or her employees or visitors or by any occupier of lot 27 or that occupier's employees or visitors and shall be adequate to indemnify the strata company in respect of all such claims;

- (h) forthwith expend all monies recovered in respect of any insurance maintained under this by-law in the satisfaction reinstatement or replacement of those claims or items for which the monies are received to the extent that those monies are sufficient for the purpose and the proprietor of lot 27 shall make up any deficiency from his or her own monies;
 - (i) on demand produce any evidence of the insurance policies maintained under this by-law and of the renewal thereof which the council may from time to time require.
- (5) The proprietor of lot 27 shall not install, use or permit the installation or use of any signs, placards or displays, illuminated or otherwise ("signs"), visible from outside the lot without the prior written approval of the strata company and, where required, any local government or other licensing authority.

/ 38. Lot 27 – use and operation of Jetty 547

- (1) The proprietor of lot 27 shall at the proprietor's expense:
 - (a) operate and maintain Jetty number 547 ("the Jetty") in accordance with all terms and conditions set out in the licence of that jetty between the Chief Executive Officer of the Department for Planning and Infrastructure of the State of Western Australia and the strata company and dated 25 June 2004 or any extension or replacement thereof ("the Jetty Licence");
 - (b) without limiting paragraph (a), operate the Jetty and all fuel bowsers and other plant and equipment situated thereon in a safe and responsible manner and in accordance with all applicable laws (including, without limitation, any statutory law or regulation relating to fuel distribution);
 - (c) without limiting paragraph (a), maintain in good and sound condition and working order and in a thorough state of cleanliness the Jetty and all fuel bowsers and other plant and equipment situated thereon;
 - (d) pay by way of reimbursement to the strata company one third of all fees and other monies payable by the strata company as licensee of all jetties licensed under the Jetty Licence (and the strata company is hereby authorised to raise such amount by levying a contribution on the proprietor of lot 27 equal to such fees and other monies);
 - (e) maintain with a public insurance office policies to cover public liability with a cover of not less than Ten Million Dollars or any

increased sum which the council may from time to time specify in respect of any one occurrence in relation to the use and operation of the Jetty. The policy of insurance shall cover all claims demands proceedings judgments damages costs and losses of any nature whatsoever in connection with the loss of life of and or personal injury to any person and or damage to any property (wheresoever occurring) arising from or out of any occurrence at or in the vicinity of the Jetty or any part thereof or occasioned wholly or in part by an act neglect default or omission by the proprietor of lot 27 or by his or her employees or visitors or by any occupier of lot 27 or that occupier's employees or visitors in respect of the use and operation of the Jetty and all fuel bowzers and other plant and equipment situated thereon (including the storage and reticulation of fuel) and shall be adequate to indemnify the strata company in respect of all such claims;

- (f) forthwith expend all monies recovered in respect of any insurance maintained under this by-law in the satisfaction reinstatement or replacement of those claims or items for which the monies are received to the extent that those monies are sufficient for the purpose and the proprietor of lot 27 shall make up any deficiency from his or her own monies;
 - (g) on demand produce any evidence of the insurance policies maintained under this by-law and of the renewal thereof which the council may from time to time require.
- (2) Without limiting Schedule 1 by-laws 42 and 43, in the event that the proprietor of lot 27 fails to pay when due any expense for which that proprietor is liable under this by-law then the strata company may pay that expense and allocate those expenses to lot 27 for the purpose of raising contributions from the proprietor of lot 27 to meet those expenses before assessing contributions on all of the lot proprietors for the balance of the strata company's expenses under section 36(1) or section 36(2) of the Act.
 - (3) The proprietor of lot 27 shall not make or permit any alterations or additions to be made to the Jetty or any of the fuel bowzers and other plant and equipment situated thereon nor install, use or permit the installation or use of any signs, placards or displays, illuminated or otherwise ("signs") on the Jetty without the prior written approval of the strata company and, where required, any local government or other licensing authority.

39. Rules

- (1) The strata company may from time to time make, withdraw or amend rules, consistent with these by-laws, for the use and management of the common property and any jetty in respect of which the strata company holds a lease, licence or permit (and whether pursuant to section 37(1)(h) of the Act or otherwise) including but not limited to the management or control of:
 - (a) the affixing of external aerials;
 - (b) visitors' vehicle parking;
 - (c) security;

- (d) use of jetties;
 - (e) approval for keeping pets;
 - (f) rubbish collection and waste management;
 - (g) advertising and signs;
 - (h) charges relating to the security system and security keys.
- (2) A proprietor, occupier or other resident shall comply at all times with any rules made pursuant to this by-law.

40. Approval

- (1) Any proprietor who seeks the approval of the council pursuant to these by-laws must provide such information, documents, undertakings and evidence of approvals by the local government or other bodies in support of the application for approval as the council shall reasonably specify.
- (2) If the approval of the council is required by these by-laws, such approval:
- (a) must be in writing;
 - (b) may be refused;
 - (c) may be given on such conditions; and
 - (d) may be withdrawn,
- as the council shall reasonably determine.

41. Penalty for breach of by-laws

Subject to section 42A of the Act, the penalty for breaching any of these by-laws (whether in Schedule 1 or Schedule 2) shall be \$500 or such greater amount as may from time to time be prescribed by the *Strata Titles General Regulations 1996*.

42. Default

Without limiting any obligations of a proprietor, occupier or other resident under these by-laws, if a proprietor or occupier defaults in the performance of any requirement of the Act or of any term or condition of any Schedule 1 or Schedule 2 by-law and that default continues for a period of seven (7) days after notice thereof is given to the proprietor or occupier by the secretary of the strata company or the strata manager, the strata company may enter and, if necessary, remain upon any portion of the proprietor's lot (or the lot occupied by the relevant occupier) or the common property for the purpose of making good such default and any costs or expenses incurred by the strata company in so doing shall be recoverable from the proprietor or occupier making such default.

43. Indemnity

- (1) A proprietor or occupier of a lot shall indemnify and keep indemnified the strata company from and against all actions, claims, demands, costs, suits or causes of action arising out of or attributable to:
- (a) any breach of any of these by-laws or any wilful act or omission on the part of that proprietor or occupier or their invitee, as the case may be; and
 - (b) any works carried out by or on behalf of that proprietor or occupier in or in relation to that lot.

(2) Without limiting sub-bylaw (1):

- (a) If damage of any nature is caused to any part of the common property by the actions of any proprietor, occupier or their invitee, that proprietor or occupier as the case may be, shall reimburse to the strata company upon demand the full cost of making good that damage; and
- (b) If the strata company expends money to make good the damage to the common property the strata company shall be entitled to recover the amount so expended as a debt in any court of competent jurisdiction.

44. Levies on differential basis for default and related expenses

- (1) Subject to section 81(11) and section 111 of the Act, where the strata company has incurred default costs (as defined in sub-bylaw (2)) the strata company shall levy contributions in respect of such default costs on the defaulting proprietor solely, or if there is more than one defaulting proprietor, on the defaulting proprietors between or among them in proportion to the unit entitlement of their respective lots.
- (2) In this by-law:
 - (a) **costs** means all costs of and incidental to the relevant work or matter, including:
 - (i) an allowance based on the agreed amount or charge-out rate of any strata manager engaged by the strata company for time spent by the strata manager and not incorporated in the base fee charged by the strata manager in managing the scheme;
 - (ii) the costs and expenses of any debt collection agent engaged by the strata company;
 - (iii) the costs and expenses of any contractors, consultants or experts engaged by the strata company; and
 - (iv) the costs and expenses of any solicitor engaged by the strata company on a solicitor and own client full indemnity basis, including barrister's fees where applicable;
 - (b) **debt recovery action** means any action in a court of competent jurisdiction by the strata company under sections 36(1)(d), 36(4), 38(5), 42(13), 53(3) or 55A(2) of the Act;
 - (c) **default costs** means:
 - (i) litigation expenses; and
 - (ii) work expenses;
 - (d) **defaulting proprietor** means:
 - (i) the proprietor to whom notice alleging breach of the Act or of the by-laws of the strata company or demand made pursuant to the Act or such by-laws has been given;
 - (ii) the proprietor who owes the debt the subject of the debt recovery action;
 - (iii) the proprietor against whom any application mentioned in sub-bylaw 44(2)(e)(iii) has been made;

- (iv) the proprietor by whom any application mentioned in sub-by-law 44(2)(e)(iv) has been brought;
 - (v) the proprietor by whom, or against whom (as the case may be) any appeal mentioned in sub-by-law 44(2)(e)(v) has been brought;
 - (vi) the proprietor by whom, or against whom (as the case may be) any other proceedings mentioned in sub-by-law 44(2)(e)(vi) has been brought
- (e) **litigation** includes:
- (i) any notice given alleging breach of the Act or of the by-laws of the strata company or demand made pursuant to the Act or such by-laws;
 - (ii) any debt recovery action;
 - (iii) any application by the strata company to the State Administrative Tribunal to enforce any provision of the Act or the by-laws of the strata company under sections 81, 83, 91, 92, 103I or 103K of the Act;
 - (iv) any application brought against the strata company to the State Administrative Tribunal under any provision of the Act or the by-laws;
 - (v) an appeal to the Supreme Court from a order of the State Administrative Tribunal;
 - (vi) any other proceedings in any court.
- (f) **litigation expenses** means the costs of the litigation; and
- (g) **work expenses** means the costs of carrying out work under sections 38(1), 38(2) or 38(3) of the Act or Schedule 1 by-law 35.

Schedule 2 By-laws

1. Payments and Notifications

A proprietor shall:

- (a) pay by the respective due dates all rates, taxes, charges, outgoings and assessments that are payable in respect of their lot;
- (b) within 28 days after becoming a proprietor, give the council written notice of an address of the proprietor within Western Australia for service of notices and other documents under the Act;
- (c) notify the council of any mortgage or other dealing in connection with their lot, including in the case of a lease of a lot, the name of the lessee and the term of the lease, if required by the council;
- (d) give each occupier a copy of the by-laws at the start of the occupation;
- (e) include in the occupancy agreement provisions requiring the occupier to comply with the by-laws and authorising the proprietor to terminate the occupancy agreement if the occupier breaches a by-law; and
- (f) promptly notify the council of the discharge of any mortgage and the termination or assignment of any lease that had been notified to the council.

2. Maintenance and Repairs

A proprietor shall, at the proprietor's cost:

- (a) carry out all work that may be ordered by any competent public authority or local government in respect of that proprietor's lot within the time period specified in the order; and
- (b) keep the lot in a state of good repair, except for reasonable wear and tear.

3. Refuse and Cleaning

Proprietors and occupiers shall:

- (a) maintain within those parts of the common property as have been designated by the council, a rubbish bin in clean and dry condition and adequately covered;
- (b) comply with all by-laws of the local government relating to the disposal of rubbish;
- (c) not deposit rubbish on common property or on their lot other than in a rubbish bin maintained in a designated rubbish bin area;
- (d) ensure that any rubbish that is likely to rot or otherwise become offensive is securely wrapped in newspaper or plastic prior to being placed in a rubbish bin; and
- (e) dispose of any recyclable goods into the appropriate containers.

4. Conduct of proprietors, occupiers and invitees

Proprietors and occupiers shall:

- (a) use and enjoy the common property in such a manner as not to unreasonably interfere with the reasonable use and enjoyment of other lots and the common property by other proprietors, occupiers or invitees;
- (b) take all reasonable steps to ensure that their invitees do not behave in a manner likely to interfere with the peaceful enjoyment of another lot or other lots by other proprietors, occupiers or invitees;
- (c) ensure that their invitees comply with the provisions of the by-laws and shall do all such things as are reasonably necessary to ensure that the invitees vacate the parcel as soon as possible, if the invitees fail to comply with any by-law;
- (d) not use their lot or permit it to be used in such a manner or for such purposes as are illegal;
- (e) not use their lot for any purpose or conduct any activity on their lot contrary to a planning law or local government by-law;
- (f) not apply to the local government to change the use of the lot without providing a copy of the application to the council prior to or as soon as practicable following the making of the application.
- (g) not cause an unreasonable nuisance to a proprietor or occupier of another lot;
- (h) not use language or behave in a manner that causes offence or embarrassment to a proprietor or occupier of another lot or to any person lawfully using common property; and
- (i) not make undue noise or allow undue noise to be made in or about their lot or the common property.

5. Use of lots

- (1) Subject to sub-bylaw (2), and without limiting Schedule 2 by-law 4, a proprietor, occupier or other resident of a lot (**residential lot**) other than lot 27 shall use the lot solely as a residence for not more than six (6) persons and may lease the lot for residential purposes.
- (2) A proprietor or occupier of a residential lot may conduct a lawful business or profession from the lot so long as they first obtain the written approval of the strata company for such use and, in any event, so long as:
 - (a) the proprietor does not invite customers or clients to visit the lot for the purpose of the business or profession;
 - (b) the conduct of the business or profession from the lot does not breach any statute or any local government by-law or regulation;
 - (c) the conduct of the business or profession does not cause any inconvenience or nuisance to the proprietor or occupier of any other lot;
 - (d) the business or profession does not involve the manufacture or repair of goods, the delivery of goods to or the storage of goods on the lot;

- (e) the business or profession does not involve the parking of customers' or clients' vehicles on the common property other than on a part of the common property over which that proprietor has exclusive use rights or privileges under section 42(8) of the Act; or
- (f) the business or profession does not involve or include:
 - (i) the display, sale, rental, servicing or dismantling of any vehicle or watercraft or related items;
 - (ii) the provision of massage, tattooing or body-piercing services; or
 - (iii) any other activity which the strata company in its complete discretion considers incompatible the scheme and the rights, safety and sentiments of the other proprietors.

6. Safety and Security

Proprietors and occupiers shall:

- (a) take all reasonable steps to maintain the safety and security of the parcel;
- (b) notify the council immediately when they become aware of any threat to the scheme;
- (c) ensure that all security gates are securely closed after passing through them;
- (d) comply with all reasonable directions of the council concerning the safety and security of the scheme;
- (e) maintain the safe custody of all keys, cards and remote control handsets for use in relation to the parcel. If any such keys, cards or remote control handsets are lost or damaged, they shall be repaired or replaced as the council shall require at the cost of the proprietor. If, in the opinion of the council, the loss or damage affects the security of the parcel, then that proprietor shall pay all costs necessary to ensure security is preserved for all the lots and the common property;
- (f) not make any copy or duplicate of a security device without the consent of the strata company;
- (g) not obstruct, interfere with or make any changes or adjustments to any security or safety system or equipment within the scheme without the prior written approval of the council (including any fire safety equipment and any fire escape or stairway; and
- (h) not use any fire safety equipment except in the case of an emergency and then in accordance with the purpose for which the fire safety equipment is designed.

7. Lot appearance

In addition to complying with the requirements of the Act, no proprietor or occupier shall:

- (a) alter the structure of their lot without giving at least 14 days written notice to the council before starting works;

- (b) hang any washing, bedding, clothing or other article on any part of their lot or in such a way as to be visible outside the lot other than on a dedicated clothes line for a reasonable period;
- (c) maintain within the lot anything (including, without limitation, garden furniture, portable BBQ, pot plants and decorative statues and plaques) visible from outside their lot that, viewed from outside that lot, is not in the opinion of the council in keeping with the rest of, or otherwise detracts from the overall appearance of, the development comprised in the parcel; or
- (d) fail to maintain all lawn and garden areas within their lot to a standard reasonably required by the strata council;
- (e) without limiting paragraph (d), plant or maintain any tree, shrub or other plant likely, in the reasonable opinion of the council, to grow in excess of 1.5 metres in height;

and for the purposes of this by-law "lot" includes any exclusive use area granted under Schedule 1 by-laws 31 and 33.

8. Use of common property

Proprietors and occupiers shall not:

- (a) obstruct lawful use of or access to common property, other than common property over which the proprietor or occupier has exclusive use rights, by any person;
- (b) store any items in or upon the common property (including areas of exclusive use) otherwise than in accordance with any licence or by-law allowing such storage;
- (c) damage common property, except for reasonable wear and tear during its use for the purposes for which it is intended or used;
- (d) allow a child to play upon any driveway or car park area, unless accompanied by an adult exercising effective control;
- (e) use any part of the common property for their own purposes to the exclusion of others, except as permitted by these by-laws; nor
- (f) transport any large object through or upon common property, unless they have first given to the council at least 2 days written notice and then only in accordance with any conditions set by the council.

9. Common property damage

- (1) If damage of any nature is caused to any part of the common property by the actions of any proprietor, occupier or their invitee, that proprietor or occupier as the case may be, shall reimburse to the strata company upon demand the full cost of making good such damage.
- (2) If the strata company expends money to make good the damage to the common property the strata company shall be entitled to recover the amount so expended as a debt in any court of competent jurisdiction.

10. Signs

- (1) Subject to sub-bylaw (2) and Schedule 1 by-law 37(5), proprietors or occupiers shall not display signage on common property or on any part

of their lot which is visible from outside that lot, unless approved by the council pursuant to sub-bylaw (2).

- (2) Proprietors or occupiers shall have the power to display signage on common property or on any part of their lot that is visible from outside that lot reasonably required for the advertising or sale or leasing of their lot, only if approved in writing by the council.

11. Vehicles

- (1) For the avoidance of doubt (and without limiting the definition of "vehicles" in Schedule 1 by-law 1), for the purposes of sub-bylaws (2) and (3) "vehicles" includes "boat trailers".
- (2) Proprietors and occupiers shall not at any given time park or stand more than two vehicles anywhere on the parcel.
- (3) Proprietors and occupiers shall not, except with the written approval of the council:
 - (a) park or stand any vehicle upon common property, except pursuant to rights granted to them by Schedule 1 by-law 31 or otherwise in accordance with Schedule 1 by-law 32;
 - (b) park or stand any vehicle on a lot or common property other than wholly within a car-bay;
 - (c) permit or authorise any person to enter with any vehicle on any part of the common property that is not designed for such purpose;
 - (d) drive a vehicle in excess of 10 km/h upon the parcel;
 - (e) park or keep any inoperable vehicle or boat on a lot or common property; nor
 - (f) conduct substantial repairs or restorations of any vehicle upon common property.

12. Flammable materials and fire protection

- (1) Proprietors or occupiers shall not use or store any inflammable material upon the parcel, other than materials used or intended to be used for domestic purposes or fuel in the fuel tank of a vehicle.
- (2) A proprietor shall ensure that smoke detector alarms are installed, maintained and operated in the ground floor and sleeping areas of his lot.
- (3) If the strata company adopts and puts in to effect a Fire Management Plan designed to minimise the risk or effects of an outbreak of fire within the parcel, to control and extinguish any outbreak of fire which may occur within the parcel and to preserve the safety of people located upon or within the parcel, all proprietors, occupiers and their invitees shall at all times comply with that Fire Management Plan.

13. Animals

- (1) Subject to sub-bylaws (2), (3), (4) and (5), proprietors and occupiers of lots shall be entitled to keep animals as pets within their lots.
- (2) A proprietor or occupier who keeps an animal as a pet must prevent the animal from wandering on common property unless such animal is on a lead and under the supervision of an adult.

- (3) A proprietor or occupier who keeps an animal as a pet must ensure that they promptly remove from the common property and properly dispose of any excreta produced by their animal.
- (4) A proprietor or occupier who keeps an animal as a pet must prevent the animal from consistently making a noise or behaving in a manner which unreasonably disturbs the proprietors or occupiers of any other lot and must take every action reasonably necessary to remedy such behaviour within fourteen (14) days after written notice is served on him by the council.
- (5) Subject to section 42(15) of the Act, a proprietor or occupier must not keep any animal within his lot:
 - (a) contrary to any local government by-law; or
 - (b) if the proprietor or occupier has, in respect of the same animal, received three notices from the council issued under sub-by-law (4) (whether or not the behaviour complained of has, or appears to have, been remedied); or
 - (c) after the council:
 - (i) has given notice to the proprietor or occupier on reasonable grounds to show cause why the animal should not be removed from the parcel; and
 - (ii) in the absence of a satisfactory response from the proprietor or occupier, has given notice to the proprietor or occupier requiring the animal to be removed from the parcel.

14. Contractors

- (1) No proprietor or occupier may directly instruct any contractors or tradespersons or other persons employed by the strata company unless authorised by the council.
- (2) No proprietor or occupier may directly employ any contractors or tradespersons or other persons to undertake any works that are the responsibility of the strata company unless authorised by the council.
- (3) Any person giving instructions without authorisation under sub-by-law (1) or employing any person without authorisation under sub-by-law (2) shall be responsible personally for the payment of the person engaged and shall be further responsible for the cost of removing or altering any work performed by the person engaged pursuant to that instruction or employment.

15. Swimming Pool

- (1) In this by-law:

approved person means an adult proprietor while residing in a lot or an adult lawful occupier of a lot and includes an adult invitee of that proprietor or occupier while in the company of that proprietor or occupier.

pool means the swimming pool comprised in the scheme, including all associated surrounds, enclosures, pumps, filters and other accessories installed or used in connection with the use, safety, hygiene or management of the pool.

recreational facilities means the pool and any associated facilities including barbecues and related fixtures and fittings.

- (2) The pool shall be used only by approved persons and the children of approved persons in accordance with and subject to the provisions of this by-law.
- (3) An approved person shall not:
 - (a) allow any child under the age of ten (10) years to use the pool when not supervised by an approved person;
 - (b) invite more than 5 persons, including children, at any one time, to use the pool or its surrounds without the prior written approval of the council;
 - (c) exclude or attempt to exclude any other approved person from using the pool;
 - (d) use or attempt to use the pool at any time when the strata company or the strata manager considers it necessary to close or restrict access to the pool in the interests of health, safety, chemical analysis, maintenance or repair purposes;
 - (e) use or attempt to use the pool while affected by alcohol, drugs, or medication or while subject to any cuts, sores skin complaints, illness or affliction which could adversely affect the use of the pool by any other person at the same or any later time;
 - (f) expectorate, urinate or defecate in the pool;
 - (g) use any soap, shampoo or detergent in any form which may foul or pollute the pool or adversely affect any pump, filter or other part of the pool;
 - (h) bring into the pool enclosure (other than under any gazebo or similar facility adjacent to the pool) any food, including confectionery, drink (other than in unbreakable containers), glass items or tobacco products;
 - (i) use the pool while not properly attired in a swimming costume sufficient to preserve public decency;
 - (j) jump or attempt to jump from any structure above the height of the pool into the pool;
 - (k) interfere with any safety system, pump, filter or other plant or equipment or any light switch, power source, timing device or water treatment plant or equipment;
 - (l) bring any bird, animal or reptile to the pool;
 - (m) use the pool without first showering or bathing; or
 - (n) use the pool before 6.00am or after 10.00pm on any day.
- (4) An approved person shall ensure that any person using the pool with their approval complies with the provisions of paragraph (3).
- (5) The recreational facilities shall be used only by approved persons and an approved person making use of any of the recreational facilities shall ensure that they are used only in accordance with any instructions provided for their use and that all lights are turned off at the conclusion of their use.

- (6) An approved person:
 - (a) shall notify the strata manager immediately upon becoming aware of any breakdown of, loss of, damage to or defect in any part of the recreational facilities;
 - (b) be responsible for any necessary repair or replacement of the recreational facilities resulting from the use thereof by that approved person or by any person using the recreational facilities with the approval (express or tacit) of that approved person.
- (7) A proprietor, occupier or other resident shall not use nor arrange for any person to use any of the recreational facilities for any business or profit-making purpose or for any sports coaching, professionally or otherwise, for any person who is not an occupier of a lot.

16. Boatshed and jetties

- (1) For so long as the strata company is licensee of Jetties numbered 550 and 551 and Boatshed number 548 pursuant to licence granted by the Chief Executive Officer of the Department for Planning and Infrastructure of the State of Western Australia and dated 25 June 2004 or any extension or replacement thereof ("the Jetty Licence") proprietors and occupiers may, subject to sub-bylaw (2):
 - (a) use those Jetties for the mooring of boats on a short term basis only, on a "first come, first served" basis;
 - (b) use the Boatshed to pick up or drop off passengers from boats only when either of the Jetties are unavailable or a more stable landing platform is required.
- (2) Any proprietor or occupier using the Jetties or the Boatshed shall ensure that they do not do anything (whether by act or omission) as would constitute a breach of the terms and conditions set out in the Jetty Licence and further shall not:
 - (a) use the Boatshed for mooring purposes; and
 - (b) use the Boatshed for recreational purposes to the exclusion of others.

17. Services

- (1) All services within the scheme (including, without limitation, all toilets and other water apparatus including waste pipes and drains) shall not be used for any purpose other than those for which they were constructed and no sweepings or rubbish or other unsuitable substance shall be deposited therein or other action taken that may obstruct the use of any of the services.
- (2) Any cost incurred by the strata company in repairing any damage or blockage resulting to any of the services caused by a breach of sub-bylaw (1) shall be borne by the proprietor responsible for that damage or blockage, whether the same is caused by his own actions or those of the proprietor's occupiers or invitees.
- (3) A proprietor or occupier shall give prompt notice to the strata company of any accident to or defect in or want of repair in respect to any of the services (including, without limitation, the supply of sewer, water, gas,

electricity, telephone or any other service) situated within the lot or on the common property which comes to his knowledge.

- (4) The strata company shall have authority to enter upon any lot at all reasonable times, by its agents or contractors, having regard to the urgency involved, to carry out any repairs or renovations to common property as may be necessary.

18. Electrical systems

- (1) A proprietor or occupier shall not install any electrical equipment which will overload the cables, switchboards and other equipment that supplies electricity to the scheme or to his lot.
- (2) A proprietor or occupier shall not interfere with any control mechanisms or equipment that supplies electricity to the scheme or to his lot or that is dependant upon the supply of electricity for its operation (save for personal household property of that proprietor or occupier within their lot) and including, without limitation, power boxes, reticulation systems and security lighting.
- (3) A proprietor or occupier shall be liable:
 - (a) for the costs of repairing any damage resulting from a breach of this by-law;
 - (b) for ensuring that any equipment forming part of common property that is damaged as a result of a breach of this by-law is repaired and restored to working order;
 - (c) to alter or upgrade the electrical supply system at the proprietor's cost in order that it will suffice for the additional load imposed by any installation made in breach of this by-law or, failing such alteration or upgrade, to disconnect any installation made in breach of this by-law.

19. Public Address Systems and Antennae

- (1) A proprietor or occupier or their invitees shall not place or operate any radio or television receiver, loud speaker, amplifier, public address system or other similar device in the common property or in any other place where it may be heard in any other part of the parcel (other than in that lot) without the consent of the council.
- (2) A proprietor or occupier shall not:
 - (a) erect, construct, install or use or permit to be erected, constructed, installed or used any antenna, satellite receiver dish or aerial:
 - (i) on any part of the common property without the prior written approval of the strata company; or
 - (ii) within his lot where it is visible from outside the lot and the use of which does or may interfere with any television or radio reception, security, safety or communication system in any other lot or which creates any other nuisance to the proprietor or occupier of any other lot.
 - (b) insert, alter or amend any television or other cabling or related communication or transmission devices or materials in any part of the common property without the prior approval in writing of the council.