

Ellen Grove Estate Community Titles Scheme 52629

SCHEDULE B EXPLANATION OF THE DEVELOPMENT OF SCHEME LAND

Not applicable.

SCHEDULE C BY-LAWS

PART 1 – INTERPRETATION

1. Interpretation

These By-Laws are to be interpreted in accordance with the following rules:

- (a) Terms not defined in this CMS but defined in the BCCM Act have the meanings given to them in the BCCM Act.
- (b) Terms not defined in this Schedule C but defined in Schedule B of this CMS have the meanings given to them in Schedule B.
- (c) Headings are for guidance only and are not to be used as an aid in interpretation.
- (d) Plurals include the singular and singular include the plural.
- (e) Reference to either gender includes a reference to the other gender.
- (f) Reference to the whole includes any part of the whole.
- (g) A reference to a statute, ordinance, code or other Law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
- (h) A reference to a person includes a firm, a body corporate, an unincorporated association or an authority.
- (i) Where these By-Laws say that something can or must be done by the Body Corporate then that thing may be done by the Committee unless there is a legal restriction on the Committee doing so.
- (j) By-Law is illegal, invalid or unenforceable it is to be read down to such extent as may be necessary to ensure that it is legal, valid or enforceable as may be reasonable in the circumstances so as to give a valid operation of a partial character. If any such By-Law cannot be read down it, is deemed void and is severed and the remaining By-Laws are not in any way affected or impaired.

2. Definitions

In these By-Laws, unless the contrary intention appears:

- (a) "**BCCM Act**" means the Body Corporate and Community Management Act 1997.
- (b) "**Authority**" means any Body, government or otherwise, or person having or exercising control over the use or the operation of the Scheme.
- (c) "**Body Corporate**" means the body corporate created upon establishment of the Scheme
- (d) "**Breach**" means any breach, potential breach or threatened breach by an Owner, Occupier or Invitee of:
 - (i) these By-Laws;
 - (ii) the BCCM Act;
 - (iii) this CMS;

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- (iv) any registered covenant or easement over the Common Property; or
- (v) any rules relating to the Common Property made by the Committee pursuant to these By-Laws.
- (e) **"By-Laws"** means these by-laws.
- (f) **"Caretaker"** means a person or corporation who has been appointed by the Body Corporate from time to time as the caretaker to, amongst other things, keep the Common Property maintained and in good order and repair
- (g) **"CMS"** means this community management statement.
- (h) **"Committee"** means the committee of the Body Corporate appointed pursuant to the BCCM Act.
- (i) **"Committee's Representative"** means a member of the Committee or other person or body appointed from time to time for the purpose of representing the Committee.
- (j) **"Common Property"** means the common property of the Scheme.
- (k) **"Costs"** includes any cost, charge, expense, outgoing, payment or other expenditure of any nature whatsoever, including where appropriate:
 - (i) legal fees on a solicitor and own client basis; and
 - (ii) the cost of rectifying any Breach, or making good any damage caused by a Breach.
- (l) **"Development"** means the development known as Ellen Grove Estate CTS constructed on the Scheme Land.
- (m) **"Development Package"** means the development Permit Reference Number DAMC325908616 and DAMC343435217 dated 28 July 2017 issued by the Local Government for the development of the Scheme and any amendment to it.
- (n) **"Heavy Vehicle"** means a vehicle that weights over 4.5 tonnes gross vehicle mass, with a width of up to 2.5m, and a height of up to 4.6m, and may include but is not limited to mobile homes, towed caravans and boats, campervans and motor homes.
- (o) **"Invitee"** includes a tenant, guest, servant, employee, agent, member of the family, contractor, customer, visitor, invitee and licensee of an Owner or Occupier.
- (p) **"Law"** means any statute, rule, regulation, proclamation, ordinance or by-law or statutory instrument.
- (q) **"Letting Agent"** means the person or corporation authorised by the Body Corporate to act as letting agent for the Scheme.
- (r) **"Lot"** means a lot in the Scheme and includes all improvements constructed on a lot and any areas of Common Property attaching to a lot under an exclusive use by-law allocation.
- (s) **"Notice"** means any notice in writing, statement in writing, any written material and any other written communication.
- (t) **"Occupier"** means any occupier of a Lot and includes:
 - (i) the Owner (where the context requires, even if the owner is not in actual occupation of the Lot);
 - (ii) a mortgagee in possession of a Lot;
 - (iii) a tenant or lessee (registered or otherwise) of a Lot or a part of a Lot ;
 - (iv) an occupier of a part of a Lot; and

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- (v) any other person entitled to possession of the Lot or any part of it.
- (u) **"Owner"** has the meaning defined by the BCCM Act and includes the successors in title and assigns of the Owner.
- (v) **"Recreation Facilities"** means any barbeque area, and any other recreation areas on the Common Property (not forming part of an exclusive use area allocated to the Occupier of a Lot);
- (w) **"Scheme"** means Ellen Grove Estate community titles scheme.
- (x) **"Scheme Land"** means all the land contained in the Scheme.
- (y) **"Secretary"** means the secretary of the Body Corporate.
- (z) **"Speed Limit"** means 20 kilometres per hour or such other speed nominated by the Committee from time to time.
- (aa) **"Vehicles"** includes motorbikes, caravans, trailers and boats but does not include Heavy Vehicles.

PART 2 – COMPLIANCE WITH CMS, BY-LAWS, RULES AND NOTICES

3. Observance of By-Laws and Peaceful Enjoyment

- 3.1 Occupiers must observe and ensure that these By-Laws are observed by their Invitees.
- 3.2 Occupiers must not behave in a manner likely to interfere with the peaceful enjoyment of other Occupiers.
- 3.3 An Owner whose Lot is the subject of a lease, licence or tenancy agreement must take all reasonable steps to ensure that any lessee, licensee, tenant or other Occupier or their Invitees comply with and observe these By-Laws.
- 3.4 An Owner must give a copy of these By-Laws to any Occupier of a Lot.

4. Rules Relating to Common Property

- 4.1 The Committee may make, amend, delete or add to, from time to time, rules relating to the Common Property and/or assets of the Body Corporate and in particular (without limitation) in relation to the use of any improvements on or facilities within the Common Property not inconsistent with these By-Laws, unless and until they are disallowed or revoked by the Body Corporate in general meeting.
- 4.2 Occupiers must comply with any rules relating to the Common Property and/or assets of Body Corporate made under this by-law.

5. Instructions to Contractors, etc.

Occupiers must not directly instruct any contractors or workmen employed by the Body Corporate unless authorised in writing by the Body Corporate.

6. Notices to be Observed

Occupiers and Invitees must observe the terms of any Notice displayed in the Common Property by authority of the Body Corporate or the Committee or of any lawful authority.

7. Throwing or Dropping Objects

Occupiers must not throw, drop or allow to throw any object or substance from their Lot or the Common Property in or onto another Lot or the Common Property or to outside of the Scheme.

PART 3 – VEHICLES

8. Vehicles

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- 8.1 An Owner or Occupier of a Lot must not, without the Body Corporate's written approval:
- (a) park a vehicle or allow a vehicle to stand on the Common Property; or
 - (b) permit an Invitee to park a vehicle or allow a vehicle to stand on the Common Property, except for the designated visitor parking which must remain available at all times for the sole use of visitor's vehicles.
- 8.2 An approval under Clause 8.1 must state the period for which it is given, with the exception of designated visitor parking. The Body Corporate may cancel the approval by giving 7 days written notice to the Owner or Occupier, with the exception of designated visitor parking.
- 8.3 The Committee is empowered to remove, at the expense of the vehicle's owner, vehicles parked illegally on Common Property by towing or other means.
- 8.4 Unless approved in writing by the Committee, Heavy Vehicles must not be parked in a Lot's allocated carparking space.
- 8.5 Vehicles parked within the Scheme must be kept clean and in a roadworthy condition.

9. Visitor Car Parks

- 9.1 Visitor car parks required under a development approval for the Scheme Land cannot be the subject of an allocation of exclusive rights under these by-laws.
- 9.2 Visitor car parking spaces must:
- (a) be used by bona fide visitors to the premises only;
 - (b) be clearly labelled as 'Visitor Parking' (and the sign must be clearly visible from the vehicle entrance to the site); and
 - (c) Remain unimpeded by landscaping, water tanks, storage (temporary or otherwise), gates or any other fitting, fixture or structure to provide 24 hour unrestricted access for bona fide visitors.

10. Speed Limits

Occupiers must not exceed the Speed Limit while driving any vehicle on the Common Property. Occupiers must use their best endeavours to ensure that their Invitees do not exceed the Speed Limit.

PART 4 – OBLIGATIONS IN RESPECT OF LOTS

11. Use of Lots

- 11.1 Subject to these By-Laws (including, without limitation, the rights of the Caretaker and Letting Agent under Part 8), Lots must be used only for residential purposes.
- 11.2 Lots must not be used:
- (a) for any purpose that may cause a nuisance or hazard or is in any manner likely to interfere with the peaceful enjoyment of other Occupiers or any person lawfully using the Common Property;
 - (b) for any illegal or immoral purpose that will interfere with the good reputation of the Scheme; or
 - (c) for any purpose that may endanger the safety or good reputation of persons residing within the Scheme.
- 11.3 Occupiers may, providing that it is lawful to do so, carry out a home occupation or business from a Lot and may receive visitors for that purpose providing:
- (a) the use does not conflict with the rights of any Caretaker or Letting Agent under these by-laws or otherwise appointed by the Body Corporate;

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- (b) the use is lawful and all necessary permits and insurances for the use are held;
- (c) the use does not unreasonably interfere with the amenity of other Occupiers; and
- (d) the Occupier obeys the reasonable directions and requirements of the Committee.

12. Alteration to Lots

- 12.1 An Owner or Occupier must not alter a Lot in any way without the approval in writing of the Committee.
- 12.2 No approval of the Committee is necessary in respect of minor maintenance of the internal area of the Lot such as painting of internal walls and replacement of carpet providing that the colours of such finishes which are visible from outside of the Lot are in keeping with the colours used in the Scheme generally.
- 12.3 An Owner must submit plans and specifications and any other details required by the Body Corporate to the Committee in respect of any proposed alterations.
- 12.4 The Committee must not unreasonably withhold its consent to an alteration, and may give its consent subject to reasonable conditions.
- 12.5 An approval given by the Committee to an alteration (in particular the installation of shutters) is conditional upon the Owner first obtaining all necessary Council approvals to the alteration.

13. Appearance of Lots

- 13.1 The Occupier of a Lot must not, without the Body Corporate's written approval, make a change to the external appearance of the Lot unless the change is minor and does not detract from the amenity of the Lot and its surrounds.
- 13.2 The Occupier of a Lot must not, without the Body Corporate's written approval:
 - (a) Hang washing, bedding, or another cloth article if the article is visible from another Lot or the Common Property, or from outside the Scheme Land;
 - (b) Affix any clothes line or similar drying device to the courtyard of the Lot or any part of the Common Property;
 - (c) Hang any curtains in the Lot, except curtains with white backing; or
 - (d) Display a sign, advertisement, placard, banner, pamphlet or similar article if the article is visible from another Lot or Common Property, or outside the Scheme Land; or
- 13.3 Bylaw 13.2(d) does not apply to a real estate advertising sign for the sale or letting of the Lot if the sign is of a reasonable size.
- 13.4 An Occupier of a Lot which contains any garden area or feature plants must maintain that area or plants so as to achieve the purpose of this by-law.
- 13.5 An Occupier must not install any air conditioning or mechanical plant installations without the prior approval in writing of the Committee. Notwithstanding, no unscreened installations on the Scheme are to be visible from outside of the Scheme. Any installations which are required to be located on a roof, wall or garden of a Lot are to be appropriately screened or shaped according to the acoustic requirements of the Scheme and so as to integrate in a complimentary manner with the overall design of the roof, wall or garden area in which the installation is to be located.
- 13.6 A Caretaker or Letting Agent may affix and/display such signage and advertisements on Common Property as may reasonably be required by the Caretaker or Letting Agent in the performance of their duties and in the exercise of their rights under any agreement entered into between the Caretaker or Letting Agent and the Body Corporate.

Ellen Grove Estate Community Titles Scheme 52629**14. Courtyards and Terraces**

- 14.1 All balconies, verandahs and terraces must remain unenclosed with no shutters, glazing, louvres or similar permanent fixtures. .
- 14.2 Each Owner shall be responsible for the maintenance of any vegetation grown in their courtyard or Lot and ensure that the vegetation comply with relevant covenants attached to their courtyard or Lot or requirements of the relevant authority.
- 14.3 If the Owner fails to comply with By-Law 14.2, for a period of fourteen (14) days after being directed to do so, the Body Corporate may enter upon a Lot to carry out any works required for the vegetation to comply with the relevant covenant or requirement of the relevant authority. The Body Corporate's costs of carrying out the works, including materials and the cost of plants are recoverable by the Body Corporate from the Owner as a liquidated debt.

15. Maintenance of Lots

- 15.1 Each Occupier must be responsible for the maintenance of their Lot and each Occupier shall ensure that their Lot is kept and maintained as not to be offensive in appearance to other Occupiers through the accumulation of excess rubbish or otherwise.
- 15.2 Each Occupier must ensure that waterproofing of all terraces and courtyards which form part of that Occupier's Lot do not result in water escaping into other Lots or onto Common Property.
- 15.3 Windows shall be kept clean and promptly replaced by the Occupier of their Lot at their Cost with fresh glass of the same kind and weight as at present, if broken or cracked. This By-Law does not prohibit an Occupier from making a claim on the Body Corporate insurance.
- 15.4 Each Owner shall be responsible for the maintenance of their air-conditioning unit(s) (if any) servicing their Lot and ensure that their air conditioning unit(s) is operating in a quiet manner so as not to cause a nuisance to any Occupier.
- 15.5 An Owner shall not install an air-conditioning system or replace their air-conditioning system unless:
- (a) the Body Corporate first approves the new system to be installed;
 - (b) the Owner complies with any rules set out by the Committee in regard to the installation, replacement, noise, omissions and operation of air-conditioners (if any);
 - (c) it is installed in the exclusive area designated for installation or in areas, included within the Lot, and designated by the Committee;
 - (d) the installation is carried out by an installer approved by the Body Corporate.
- 15.6 The Occupiers of Lots with courtyards (if any) and carparking space (if any) within their Lots or by way of exclusive use must maintain the courtyards, carparking space and any other exclusive use areas to such a standard as nominated by the Committee.
- 15.7 The purpose of these By-Laws is to ensure that the Scheme remains at all times visually uniform, of tidy appearance and of a high visual amenity. If the Occupiers fail to comply with the reasonable directions of the Committee, for a period of fourteen (14) days after being directed to do so, the Body Corporate may enter upon a Lot to carry out any works required by these By-laws. The Body Corporate's costs of carrying out the works, including materials and the cost of plants are recoverable by the Body Corporate from the Owner as a liquidated debt.

16. Clearance of Post Boxes

Occupiers (and if the Lot is vacant, Owners) must regularly clear the post box for the Lot.

17. Noise

- 17.1 An Owner or Occupier and contractors, invitees, or agents must not make or permit any noise likely to interfere in any way with the peaceful enjoyment of other Owners or Occupiers of lots or of any person lawfully using

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the Common Property. In particular, no owner or Occupier of a lot will hold or permit to be held any social gathering in his lot which would cause any noise which unlawfully interferes with the peace and quietness of any other Owner or occupier of a lot, at any time of day or night and in particular must comply in all respects with any legislation or requirements of authorities in relation to the minimisation of noise and disturbance from noise associated with the use of a lot.

- 17.2 In the event of any unavoidable noise in a lot at any time, the Owner or Occupier must take all practical means to minimise annoyance to other Occupiers including by closing doors, windows and curtains and taking such further reasonable steps as may be within their power.
- 17.3 Invitees leaving after 11.00 pm must be requested by their host to leave quietly. Quietness must also be observed when an Occupier returns to the lot late at night or in early morning hours.
- 17.4 Occupiers must not operate any electronic device or equipment, including but not limited to any radio, two way radio, short wave radio, transmitter, telecommunications device or electronic equipment which may interfere with any domestic appliance or apparatus lawfully in use within the Scheme.
- 17.5 The volume of any radio, television or other sound device or equipment must be kept as low as possible at all times and must not be operated in such a manner as to unreasonably interfere with the use and enjoyment of any other lot by any other Owner or Occupier of a lot.

18. Infectious Diseases

- 18.1 Occupiers must immediately give Notice to the Body Corporate of any serious infectious disease contracted by the Occupier or an Invitee; and
- 18.2 Include in such Notice details of all relevant information related to that disease.

19. Insurance

Occupiers must not bring on to, do or keep any thing in or on their Lots which may increase the rate of insurance of the Scheme or which may conflict with the laws relating to fires or any insurance policy for the Scheme or the regulations of any public authority.

20. Vermin

An Owner or the Occupier shall keep the Lot clean and take all practical steps to prevent infestation by vermin, insects or other pests.

21. Water Apparatus

- 21.1 The water closets, conveniences, and other water apparatus including waste pipes and drains must not be used for any purpose other than those for which they were constructed and no sweepings or rubbish or other unsuitable substance is to be placed in them.
- 21.2 The cost of rectifying any damage or blockage which results from misuse or negligence of the same must be borne by the Owner of the respective Lot.

PART 5 – OBLIGATIONS RELATING TO BOTH THE USE OF THE COMMON PROPERTY AND LOTS

22. Bulk Supply of Utilities

The Body Corporate may at its election supply or engage another person to supply utilities to Owners or Occupier's in the Scheme and in that case the following will apply:

- (a) the Body Corporate may enter into a contract for the purchase of reticulated utilities on the most economical basis, for the whole of the Scheme from the relevant authority and may sell reticulated utility to each Owner or Occupier in the Scheme provided, in respect of electricity supply, the Body Corporate's charge must not exceed the lowest available tariff to the Owner or Occupier for supply of the electricity direct from the relevant electricity authority;
- (b) each Owner or Occupier must purchase and use all utilities consumed in the Owner's or Occupier's lot direct from the Body Corporate and must not purchase the utility from any other source;