

Approved Form 28

Community Land Development Act

Community Management Statement

WARNING

The terms of this management statement are binding on the community association, each subsidiary body within the community scheme and each person who is a proprietor, lessee, occupier or mortgagee in possession of a community development lot, precinct development lot, neighbourhood lot or strata lot within the community scheme.

Community Management Statement

[Community Scheme name - Warriewood]

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Definitions

A. Statutory Definitions

A word has the meaning given to it by a definition in the Community Titles Legislation if:

- (a) it is defined in the Community Titles Legislation; and
- (b) used but not defined in this Management Statement.

B. Further Definitions

In this Management Statement these terms (in any form) mean:

"Access Way Plan" the diagram showing the access ways forming part of this Management Statement;

"Annual General Meeting" an annual general meeting of the Community Association other than the first annual general meeting;

"Association Committee" the executive committee of the Community Association as constituted or elected under this Management Statement and the Management Act;

"Community Association" the community association constituted on registration of the Community Plan;

"Community Development Lot" has that meaning given to the term in the Community Titles Legislation;

"Community Parcel" the land the subject of the Community Scheme;

"Community Plan" the community plan registered with this Management Statement;

"Community Property" means lot 1 in the Community Plan and includes all items and structures within the Community Property including:

- (a) the Open Access Way;
- (b) the Landscaped Area;
- (c) Lighting;
- (d) bollards;
- (e) vegetation;
- (f) fencing;
- (g) pathways;
- (h) services that are the responsibility of the Community Association under by-law 9.3;
- (i) stormwater drainage.

"Community Scheme" the community scheme constituted on registration of the Community Plan;

"Community Titles Legislation" the Development Act and the Management Act;

"Council" Northern Beaches Council;

"Developer" IPM Warriewood Pty Ltd ACN 657 581 710 and includes any assignee or person nominated by the Developer;

"Development Act" the *Community Land Development Act 2021* (NSW);

"Development Activities" any work which the Developer and all persons authorised by the Developer must do to complete any development on the Community Parcel including:

- (a) any form of demolition work, building work and work ancillary to or associated with building work on the Community Parcel;
- (b) the installation of Services;
- (c) any form of landscaping work or work ancillary to or associated with landscaping work on the Community Parcel;
- (d) carrying out development in stages;
- (e) construction of the Open Access Way;
- (f) any form of work which the Developer, in its absolute discretion, considers is necessary or desirable;
- (g) the subdivision of land forming part of the Community Parcel by any means; and
- (h) the exercise of any right or discretion given to the Developer under this Management Statement;

"Development Consent" the consent number [#] of Council dated [#] as amended from time to time or any development consent in substitution either in whole or in part of the subject matter of that development consent;

"Garbage Bin" includes a bin or receptacle for garbage and garden refuse and any other types of bins or receptacles Council requires Owners or Occupiers or the Community Association to use;

"General Meeting" an annual general meeting or a special general meeting of the Community Association;

"Government Agency" a governmental or semi-government, administrative, fiscal or judicial department or entity, a statutory authority or the Council;

"GST Law" means *A New Tax System (Goods and Services Tax Act 1999)* (Cth) and any other legislation or regulation which imposes levies, implements or varies a GST and any applicable ruling issued by the Commissioner of Taxation;

"Initial Period" the meaning given to the term "initial period" in the Management Act;

"Landscaped Area" means that part of the Community comprising landscaping and garden furniture adjoining the Open Access Way;

"Law" includes:

- (a) the provisions of a statute, rule, regulation, proclamation, ordinance or by-law, present or future, whether state, federal or otherwise; and

- (b) a requirement, notice, order or direction received from or given by a statutory, public or other competent authority;

"Lighting" means the street lighting located within the Open Access Way;

"Lot" a lot in the Community Plan that is not:

- (a) Community Property, a public reserve or a drainage reserve; or
- (b) severed from the Community Scheme;

"Management Act" the *Community Land Management Act 2021*;

"Management Statement" this community management statement;

"Managing Agent" an agent appointed under section 53 of the Management Act;

"National Broadband Network" means the high speed broadband network provided in optic fibre, fixed wireless and satellite services technologies

"Nature Strip" has the meaning given in By-Law 2.8;

[**"NBN Co"** means NBN Co Limited which is the entity responsible for the design, build and operation of the National Broadband Network;]

"Open Access Way" the open access ways shown on the Access Way Plan which are or will be constructed on lot 1 in the Community Plan;

"Occupier" any person in lawful occupation of a Lot;

"Original Proprietor" the Owner or Owners of a Lot or Lots as at registration of the Community Plan;

"Owner" a person for the time being recorded in the register as entitled to an interest in fee simple in a Lot;

"Permitted Person" a person on the Community Parcel with the express or implied consent of an Owner or Occupier or the Community Association;

"Recycling Bin" means a bin or receptacle for recycling which Council requires you or the Community Association to use;

"Rules" the rules made under this Management Statement;

"Service":

- (a) the supply of water, gas, electricity, artificially heated or cooled air or heating oil;
- (b) the provision of sewerage and drainage;
- (c) transmission by telephone, radio, television, satellite or other means;
- (d) the provision of security systems; and
- (e) any other facility, supply or transmission;

"Service Contract" has the meaning given to that term in by-law 22.4;

"Service Line" a pipe, wire, cable, duct, conduit or pole by means of which a Service is, or is to be, provided;

"Service Provider" is a statutory body or Government Agency that provides a Service;

"Services Plan" the prescribed diagram included in this Management Statement showing the Services forming part of this Management Statement under by law By Law 9;

"Subsidiary Scheme" has the meaning in the Management Act;

"Tax Invoice" means a tax invoice prepared according to GST law;

"Vehicle" includes a boat, trailer, caravan, car or any other towable item;

"Works":

- (a) a change to any building;
- (b) a change to any landscaping;
- (c) the construction of a new building or buildings;
- (d) the erection of or a change to signs, placards, banners, notices or advertisements;

within the Community Parcel but excludes:

- (e) Development Activities; and
- (f) internal refurbishment to a building within a Lot.

Interpretation

A. Construction

In this Management Statement a reference to:

- (a) the singular includes the plural and vice versa;
- (b) any gender includes all other genders;
- (c) other parts of speech and grammatical forms of a defined word or phrase have a corresponding meaning;
- (d) a month or monthly means calendar month or calendar monthly;
- (e) a quarter means calendar quarter;
- (f) a person includes:
 - (1) a corporation, partnership, joint venture and government body;
 - (2) the legal representatives, successors and assigns of that person; and
 - (3) where the context permits, the employees, agents, contractors and invitees of that person;
- (g) a document includes a reference to that document as amended or replaced;
- (h) a thing includes a part of that thing and includes a right;
- (i) a by-law, attachment or annexure, means a by-law, schedule of, or an attachment or annexure to this Management Statement;
- (j) a Law includes all Laws amending, consolidating or replacing them;
- (k) a document is a reference to a document of any kind including an agreement in writing, a certificate, a notice or an instrument;
- (l) a provision of this Management Statement is not to be construed against a party solely on the ground that the party is responsible for the preparation of this Management Statement or a particular provision;
- (m) an asset includes all property of any nature including a business, a right, a revenue and a benefit;
- (n) a body or authority means, if that body or authority has ceased to exist, the body or authority which then serves substantially the same objects as that body or authority;
- (o) the president of a body or authority means, in the absence of a president the senior officer of the body or authority or any other person fulfilling the duties of the president;
- (p) "\$", "A\$", "Australian dollars" or "dollars" is a reference to the lawful tender of the Commonwealth of Australia; and
- (q) "including" and similar expressions are not words of limitation.

B. Parties bound jointly and individually

A covenant, representation, warranty or an agreement between more than 1 person binds them jointly and severally.

C. Headings

- (a) Headings and bolding are for guidance only and do not affect the construction of this Management Statement.
- (b) The rights, powers and remedies provided in this Management Statement are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of this Management Statement.

D. Severability

- (a) If the whole or any part of a provision of a by-law is void, unenforceable or illegal:
 - (1) it is severed; and
 - (2) the remainder of these by-laws have full force and effect.
- (b) This By-Law has no effect if the severance alters the basic nature of this Management Statement or is contrary to public policy.

E. Community Association Approval

- (a) An application for approval of the Community Association or the Association Committee under this Management Statement must be made in writing.
- (b) Subject to an express provision in this Management Statement, the Community Association and the Association Committee may in their absolute discretion:
 - (1) give approval conditionally or unconditionally; or
 - (2) withhold their approval.
- (c) Subject to an express provision in this Management Statement or any provision of the Community Titles Legislation, consents by the Community Association under this Management Statement may be given by:
 - (1) the Community Association at a general meeting; or
 - (2) the Association Committee at an Association Committee meeting.

F. Community Association Exercise of Rights

- (a) The Community Association may exercise a right, power or remedy:
 - (1) at its discretion; and
 - (2) separately or concurrently with another right, power or remedy.
- (b) A single or partial exercise of a right, power or remedy by the Community Association does not prevent a further exercise of that or of any other right, power or remedy.
- (c) Failure by the Community Association to exercise or delay in exercising a right, power or remedy does not prevent its exercise later.

Part 1 By-Laws Fixing Details of Development

Amendments to by-laws

These by-laws relate to the management, administration, control, use or enjoyment of lots in an association scheme or the association property and to the control and preservation of the essence or theme of the Community Scheme (See section 128 of the Management Act).

By Law 1. Works

Works

- 1.1 An Owner or Occupier must:
 - (a) ensure any Works are of at least the same quality as existing structures and landscaping existing in the Community Scheme as at the date of registration of this Management Statement; and
 - (b) will be in harmony with existing structures and landscaping existing in the Community Scheme as at the date of registration of this Management Statement; and
 - (c) comply with By Law 1.
- 1.2 Prior to the carrying out of any Works, a party must:
 - (a) obtain the necessary approvals of all relevant Authorities;
 - (b) comply with easements and covenants in relation to support and shared slabs for dwellings constructed on Lots;
 - (c) arrange with the Association Committee a suitable time and means by which to access the area in which the Works are to be carried out;
 - (d) comply with the reasonable requirements of the Community Association about the time and means by which an, Owner or Occupier must access the Community Scheme to carry out the Works; and
 - (e) ensure that contractors and any other persons involved in carrying out the work comply with the reasonable requirements of the Association Committee about the times and means by which they must access the Community Scheme to carry out the work.
- 1.3 During the carrying out of any Works, a party must:
 - (a) ensure no damage to Service Lines or Services within the Community Scheme;
 - (b) ensure that the Works are carried out in a proper and workmanlike manner;
 - (c) effect suitable insurances;
 - (d) ensure that Works to Service Lines or Services are carried out by a suitably qualified and experienced (and where appropriate, licensed) contractors and tradesmen;
 - (e) ensure the Works are carried out to the satisfaction of Council or other Government Agency;
 - (f) not leave building materials on surrounding properties or cause unreasonable disturbance to surrounding properties; and

- (g) repair any damage caused to Community Property or the property of an Owner or Occupier as a result of the Works.

Signs

- 1.4 The Developer is permitted to place signs, placards, banners, notices or advertisements within the Community Parcel while the Developer is carrying out Development Activities.
- 1.5 In addition to the consent of the Association Committee, while the Developer is the registered proprietor of a Lot, an Owner or Occupier must obtain the written consent of the Developer before that person places any signs, placards, banners, notices or advertisements (other than a for sale or for lease sign) on any Lot within the Community Parcel.

Community Association Rights

If an Owner or Occupier does not comply with this by-law, then the Community Association may exercise its rights under by-law 19.2.

Developer Rights

- 1.6 Nothing in this by-law:
 - (a) affects the rights of the Developer to carry out Development Activities; or
 - (b) imposes an obligation on the Developer to obtain consent under this by-law for the purposes of carrying out Development Activities.

Changing the Name

- 1.7 The Community Association may change the name of [Community Scheme name] only by unanimous resolution and with the consent of the Developer.

By Law 2. Maintenance

- 2.1 An Owner or Occupier must keep that Owner's or Occupier's Lot clean and tidy and in good repair and condition.

Exterior Maintenance

- 2.2 An Owner or Occupier of a Lot must carry out all maintenance and repairs to the exterior of any buildings on the Lot (unless such maintenance or repair is the responsibility of the Community Association):
 - (a) in a proper and workmanlike manner;
 - (b) promptly; and
 - (c) to the reasonable satisfaction of the Community Association.

Landscaping

- 2.3 An Owner or Occupier of a lot must maintain all landscaping within the Lot.
- 2.4 The Community Association must maintain landscaping within the Community Property.
- 2.5 The Community Association must not remove or damage trees or plants located within Community Property and maintain such trees to a standard no less than the standard existing in the Community Scheme as at the date of registration of this Management Statement.

- 2.6 The Community Association must regularly mow, water and weed the area located within the Community Property such that it is kept to a standard no less than the standard existing in the Community Scheme as at the date of registration of this Management Statement.

Council direction or requirements

- 2.7 If required by Council:
- (a) Owners and Occupiers must comply with Council's requirements or directions for the rectification of landscaping within a Lot; and
 - (b) the Community Association must comply with Council requirements for the rectification of landscaping within Community Property.

Nature Strip

- 2.8 Owners and Occupiers must:
- (a) regularly mow, water and weed that part of the Council's land not paved between the boundary of a Lot and the roadside kerb (**Nature Strip**) such that the Nature Strip is kept to a standard no less than the standard existing in the Community Scheme as at the date of registration of this Management Statement; and
 - (b) not remove or damage any trees located on the Nature Strip and maintain such trees to a standard no less than the standard existing in the Community Scheme as at the date of registration of this Management Statement.

Agreements with a landscaper

- 2.9 In addition to its powers under the Management Act, the Community Association has the power to enter into agreements with a landscaper to inspect and maintain landscaping within the Community Property.

Community Association to give notice

- 2.10 The Community Association may give a notice to an Owner or Occupier requiring an Owner or Occupier to comply with the terms of this by-law.
- 2.11 If an Owner or Occupier does not comply with this by-law, then the Community Association may exercise its rights under by law 19.2.

Part 2 Association Property

Amendment to by-laws

These by-laws may only be amended after the expiry of the Initial Period by special resolution and with the written consent of each person entitled by the by-law to use the restricted property (See section 135 of the Management Act.)

By Law 3. Developer's Rights over Community Property

Restricted Use Rights

- 3.1 To enable the Developer to carry out Development Activities, the Developer, so long as it is the Owner of a Lot, has restricted use rights over the Community Property on the terms of this By Law 3.

End of Restricted Use Rights

- 3.2 Restricted use of a particular part of the Community Property and the Service Lines ceases when the Developer serves a notice on the Community Association informing the Community Association that Development Activities for a particular part of the Community Property have been completed.
- 3.3 Despite by law 3.2, restricted use of a particular part of the Community Property ceases when the Developer is no longer the Owner of any Lot.

Developer's Rights

- 3.4 The Developer has all rights necessary to enable the Developer to carry out the Development Activities including the right to:
- (a) build and develop (including subdivision) [Community Scheme name] in stages;
 - (b) unrestricted access by any means and at all times over Community Property;
 - (c) the use of any part of the Community Parcel to exercise rights under this by-law;
 - (d) place on or attach to Community Property temporary offices, sheds, depots, building materials, cranes and other equipment;
 - (e) install, connect or alter Services on or within Community Property;
 - (f) lock or secure part of the Community Property, provided the Developer gives the secretary of the Community Association a key for the locked or secured area;
 - (g) attach and place marketing and advertising signs, placards, banners, notices or advertisements on the Community Parcel;
 - (h) use any Lot owned by the Developer as a sales display;
 - (i) conduct sales and marketing activities on the Community Parcel;
 - (j) park motor vehicles and equipment on Community Property; and
 - (k) exercise the rights under this by-law at any time.

Developer's Obligations

- 3.5 The Developer must:
- (a) repair any damage occurring to the Community Parcel as a result of Development Activities as soon as practicable after that damage occurs;
 - (b) keep interference with the use by Owners and Occupiers to a minimum so far as is consistent with the Development Activities;
 - (c) maintain any Community Property that the Developer has been given the exclusive right to use; and
 - (d) on completion of each part of the Development Activities, leave the relevant Community Parcel areas in a clean and tidy condition.

Development Activities

- 3.6 An Owner or Occupier acknowledges that, as a result of the Developer's rights to carry out the Development Activities set out in this by-law, an Owner or Occupier may be subjected to noise and dust resulting from the Development Activities.

Rights of access for the Developer

- 3.7 The Developer may gain access to the restricted use areas through Community Property.

Hours of work

- 3.8 The Developer may carry out construction works:
- (a) during the hours of 7.00am and 5.00pm on Mondays to Fridays;
 - (b) the hours of 8.00am to 1.00pm on Saturdays; and
 - (c) as otherwise permitted under the Development Consent or by Council.

Sales display

- 3.9 The Developer may use any Lot it owns as a sales display.

No interference

- 3.10 The Community Association, owners and occupiers must not interfere with or prevent the Developer exercising its rights under this by law or under the Development Consent.

Maintenance

- 3.11 The Developer must maintain the Community Property for which the Developer has exclusive or restricted use rights under this by law.

Obligations of the Community Association

- 3.12 Subject to the obligations imposed on the Developer under this by law, the Community Association must maintain Community Property.

Costs of maintaining the Community Property

- 3.13 The Community Association must levy its members for the costs of maintaining the Community Property which is the subject of this by law, unless that cost is payable by the Developer under this by law.

Part 3 Mandatory Matters

By Law 4. Community Property

- 4.1 The Community Association is responsible for the control, management, operation, maintenance and repair of the Community Property.
- 4.2 An Owner or Occupier must obtain the written approval of the Community Association before that Owner or Occupier does any of the following to Community Property:
- (a) leaves anything on Community Property;
 - (b) obstructs the use of Community Property;
 - (c) uses any part of Community Property for the Owner's or Occupier's own purposes;
 - (d) erects on Community Property any structure;
 - (e) attaches to Community Property any item;
 - (f) does or permits anything which might damage Community Property; or
 - (g) alters Community Property.
- 4.3 An Owner or Occupier must:
- (a) give notice to the Community Association of any damage to or defect in the Community Property immediately after an Owner or Occupier becomes aware of any such damage or defect;
 - (b) use anything on the Community Parcel only for purpose for which it was constructed or provided; and
 - (c) only use or enjoy the Community Property in a manner or for a purpose which does not interfere unreasonably with the use and enjoyment of the Community Property by another Owner or Occupier or a Permitted Person.
- 4.4 An Owner or Occupier must:
- (a) not interfere with or damage the Community Property; and
 - (b) compensate the Community Association for any damage caused to the Community Property while that Owner or Occupier (or a Permitted Person on the Community Parcel with the consent of that Owner or Occupier) uses the Community.
- 4.5 This by-law is subject to the rights of the Developer under By Law 3.
- 4.6 An Owner, Occupier or Permitted Person must:
- (a) comply with all directions of the Community Association in relation to the Community Property;
 - (b) not park any vehicle, boat, trailer or other vehicle within the Community Property;
 - (c) not place any item (including waste) on the Community Property;

- (d) not do or omit to do any act that result or may result in damage or destruction to any part of the Community Property;
- (e) not prohibit the use of the Community Property by other users; and
- (f) not drive a motor vehicle on Community Property:
 - (i) at any speed limit in excess of the speed limit determined by the Community Association (or as otherwise required by law) which at the date of registration of this Management Statement is 15km/h;
 - (ii) unless that motor vehicle is registered and the driver is licensed; and
 - (iii) that is too noisy or gives off excessive exhaust or fumes.

Powers of the Community Association

- 4.7 In addition to its powers under the Management Act, the Community Association has the power to:
- (a) impose a speed limit for any road;
 - (b) install speed humps or other traffic control devices on any road; and
 - (c) put up traffic signs on any road and Community Property.

By Law 5. Open Access Ways

- 5.1 The terms of this by-law start when the restricted use rights granted under By Law 3 end.
- 5.2 The Open Access Way is available for use by Owners and Occupiers and Permitted Persons in accordance with this By Law 5.
- 5.3 Subject to by-law 5.5, the Community Association is responsible for the control, management and operation, maintenance and repair of the Open Access Way.
- 5.4 An Owner, Occupier or Permitted Person must:
- (a) comply with all directions of the Community Association in relation to the Open Access Way;
 - (b) not park any vehicle, boat, trailer or other vehicle within the Open Access Way;
 - (c) not place any item (including waste) on the Open Access Way;
 - (d) not do or omit to do any act that result or may result in damage or destruction to any part of the Open Access Way;
 - (e) not prohibit the use of the Open Access Way by other users; and
 - (f) not drive a motor vehicle:
 - (i) at any speed limit in excess of the speed limit determined by the Community Association (or as otherwise required by law) which at the date of registration of this Management Statement is 15km/h;
 - (ii) unless that motor vehicle is registered and the driver is licensed; and
 - (iii) that is too noisy or gives off excessive exhaust or fumes.

Third Party Agreements

- 5.5 Subject to by-law 5.6 the Community Association may enter into agreements with third parties in respect of the control, management, operation, maintenance and repair of the Open Access Ways (**Open Access Way Agreement**).
- 5.6 While the Developer is the owner of a Lot in the Community Scheme, any Open Access Way Agreement must be approved by the Developer.

Powers of the Community Association

- 5.7 In addition to its powers under the Management Act, the Community Association has the power to:
- (a) impose a speed limit for the Open Access Way;
 - (b) install speed humps or other traffic control devices on the Open Access Way; and
 - (c) put up traffic signs on the Open Access Way and Community.

By Law 6. Landscaped Area

- 6.1 The terms of this by-law start when the restricted use rights granted under By Law 3 end.
- 6.2 The Landscaped Area is available for use by Owners and Occupiers and Permitted Persons.
- 6.3 Subject to By-Law 6.5, the Community Association is responsible for the control, management and operation, maintenance and repair of the Landscaped Area.
- 6.4 An Owner, Occupier or Permitted Person must:
- (a) comply with all rules and directions of the Community Association in relation to the Landscaped Area; and
 - (b) not prohibit the use of the Landscaped Area by other users.
- 6.5 Subject to By-Law 6.6 the Community Association may enter into agreements with third parties in respect of the control, management, operation, maintenance and repair of the Landscaped Area (**Landscaped Area Agreement**).
- 6.6 While the Developer is the owner of a Lot in the Community Scheme, any Landscaped Area Agreement must be approved by the Developer.

By Law 7. Internal Fencing

External & Internal

- 7.1 The *Dividing Fences Act 1991* applies to any external and internal boundary fences erected within the Community Parcel.

Community Property Fencing

- 7.2 The Community Association is responsible for the maintenance and replacement of fencing on Community Property.
- 7.3 By-law 7.2 does not apply if a person using Community Property damages the fencing.

By Law 8. Garbage

Waste collection – Council requirements

- 8.1 Owners and Occupiers and the Community Association must comply with By Law [25] of this Management Statement. **[Corrs note: this by-law (and if applicable, Part 5) to be updated to align with any Development Consent requirements.]**

Collection of garbage

- 8.2 Owners, Occupiers must sort, store and make garbage, waste materials and recyclable materials available for collection according to:
- (a) instructions from Council;
 - (b) instructions from the Community Association; and
 - (c) this Management Statement.

Council prevails

- 8.3 Instructions by Council prevail to the extent of any inconsistency between them and instructions from the Community Association or this Management Statement.

Restrictions

- 8.4 Owners and Occupiers must not:
- (a) deposit garbage or recyclables on Community Property; or
 - (b) put anything in the Garbage Bin or Recycling Bin of another owner or occupier without their consent.

Owner and Occupier obligations

- 8.5 Owners and Occupiers must:
- (a) keep Garbage Bins and Recycling Bins in:
 - (i) the garage of a Lot; or
 - (ii) any garbage receptacle area in the Lot allocated for the purpose of storing Garbage Bins and Recycling Bins;
 - (b) ensure that Garbage Bins and Recycling Bins cannot be seen from another Lot or Community Property;
 - (c) drain and securely wrap garbage before placing it in Garbage Bins and drain tins and bottles before putting them in Recycling Bins;
 - (d) ensure Garbage Bins and Recycling Bins are regularly cleaned and washed;
 - (e) put Garbage Bins and Recycling Bins out for collection by Council at the front of that Owner or Occupier's Lot on the public road verge, unless Council directs otherwise (or directs the Community Association to direct otherwise) to put Garbage Bins and Recycling Bins in a different area nominated by Council in which case Owners and Occupiers must comply with such a direction;

- (f) put Garbage Bins and Recycling Bins out for collection no earlier than 2pm on the day before Council normally collects garbage and recycling from the Community Scheme;
- (g) return Garbage Bins and Recycling Bins to that Owner or Occupier's Lot no later than 7pm on the day that Council collects garbage and recycling from the Community Scheme;
- (h) arrange at the cost of the Owner or Occupier for garbage which Council will not collect as part of its normal garbage collection to be properly disposed of; and
- (i) utilise Council's household clean-up service for bulky waste in accordance with Council policy and guidelines.

By Law 9. Services

Sewerage

- 9.1 On registration of this Management Statement, it is intended to create a statutory easement according to section 37 of the *Sydney Water Act 1994* (NSW) in respect of the sewerage service lines.
- 9.2 Sydney Water must maintain the sewerage service lines.

Statutory Services

- 9.3 This Management Statement includes a prescribed diagram in respect of the:
 - (a) [stormwater drainage Service
 - (b) electricity Service;
 - (c) gas Service;
 - (d) potable water Service; and
 - (e) telecommunication Services.] **[Corrs note: to be confirmed once the Services Plan is prepared.]**
- 9.4 The Community Association is the provider of the Services set out in by-law 9.3.
- 9.5 It is intended to create a statutory easement pursuant to section 34 of the Development Act in respect of the Services set out in by-law 9.3 shown on the Services Plan.
- 9.6 The Council is not liable for the repair or maintenance of the Services set out in by-law 9.3 within the Lots or Community Property.

Repair and Maintenance of Services

- 9.7 To the extent that responsibility for the cost of repair or maintenance from time to time of such Services is not borne or liable to be borne by the provider of such Services, such costs shall:
 - (a) in the event the requirements for repair or maintenance arises out of any act or omission by a Lot Owner, lessee or Occupier or his servant, agents or invitees, shall be borne by the Owner of the Lot concerned who shall indemnify and keep indemnified the other Lot Owners in the scheme and the Community Association in respect of such costs;
 - (b) in respect of the internal connections within Lots for Services of electricity, potable water supply, recycled water supply, telecommunications, sewerage, stormwater and gas is the responsibility of the Owner of the Lot concerned; and

(c) in any other event shall be borne by the Community Association.

Obligation of the Community Association

9.8 The Community Association is responsible for and must maintain and repair the Services and associated Service Lines set out in by law 9.3.

Obligation of Service Providers

9.9 Statutory Service Providers are responsible for and must maintain their Services and associated Service Lines to the extent required by law. Any damage to Council's assets as a consequence of any maintenance performed by Service Providers will be repaired by the Council at the cost of the relevant Service Provider.

Works as Executed Plan

9.10 Service Lines are shown in the Services Plan.

Registering Another Works as Executed Plan

9.11 Service Lines may not have been installed in the position or positions shown on the Services Plan for the Community Scheme. If this happens, owners must allow the Community Association to register another works as executed plan as an amendment to this Management Statement.

Basic Utility Services In relation to basic utility services generally, as at the date of (and subject to) this Management Statement: **[Corrs note: Basic Utility Services to be confirmed prior to registration.]**

- (a) Sydney Water and the Community Association supplies water and sewerage services to the Community Scheme and each Lot;
- (b) an energy retailer and the Community Association supplies electricity Services to the Community Scheme;
- (c) Jemena supplies gas Services to the Community Scheme;
- (d) NBN Co. supplies telephone transmission to and from the Community Scheme; and
- (e) the Community Association provides storm water drainage Services to the Community Scheme.

By Law 10. Insurance

10.1 The Community Association must take out insurances required under the Management Act including the following policies:

- (a) to cover damage to the Community Property and for death and bodily injury for which the Community Association could become liable in damages including on the Open Access Ways;
- (b) against damages for which the Community Association could become liable because of work done by a voluntary worker;
- (c) to cover accidental injury to, or accidental death of, a voluntary worker;
- (d) in respect of any event against which it is required by law to insure, including any insurance required to be effected under the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998*, and

- (e) against the possibility of the members of the Community Association becoming jointly liable under a claim arising out of any other event against which the Community Association decides by special resolution to insure.
- 10.2 The Community Association may resolve by special resolution to take out additional insurances in accordance with the Management Act.
- 10.3 The Community Association must review, on an annual basis:
- (a) all of its insurance; and
 - (b) the need for new or additional insurances.
- 10.4 Notice of an Annual General Meeting must include a form of motion to decide whether the insurances of the Community Association should be confirmed, varied or extended.
- 10.5 If there is an increase in risk or a new risk to the Community Property then the Community Association must immediately:
- (a) effect new insurances; or
 - (b) vary or extend existing insurances.
- 10.6 An Owner or Occupier must obtain the written approval of the Community Association before it does anything that might:
- (a) void or prejudice the Community Association's insurance; or
 - (b) increase any insurance premium which the Community Association pays.

By Law 11. Association Committee

Constitution

- 11.1 The Association Committee must be established under the Management Act.
- 11.2 The officers of the Association Committee are the secretary, treasurer and chairperson.

Functions of the Secretary

- 11.3 The functions of the secretary of the Association Committee include:
- (a) convening meetings of the Community Association and the Association Committee;
 - (b) preparing and distributing minutes of meetings of the Community Association and the Association Committee;
 - (c) giving a notice on behalf of the Community Association and the Association Committee required to be given under the Management Act;
 - (d) maintaining the Community Association roll;
 - (e) supplying certificates setting out details of insurances, contributions and other matters under section 174 of the Management Act;
 - (f) answering communications addressed to the Community Association or the Association Committee;

- (g) performing administrative or secretarial functions on behalf of the Community Association and the Association Committee; and
- (h) keeping records under part 3 of schedule 1 to the Management Act.

Functions of the Treasurer

11.4 The functions of the treasurer of the Association Committee include:

- (a) notifying members of the Community Association of contributions levied under the Management Act and collecting those contributions;
- (b) receiving, acknowledging, banking and accounting for any money paid to the Community Association under this Management Statement or the Community Titles Legislation;
- (c) preparing certificates providing details of contributions, insurances and other matters under section 174 of the Management Act;
- (d) keeping prescribed accounting records as required under section 100(1) of the Management Act; and
- (e) preparing financial statements as required under section 96(1) of the Management Act.

Function of the Chairperson

11.5 The function of the chairperson is to preside at Community Association meetings and Association Committee meetings at which the chairperson is present.

Sub-Committees

11.6 The Association Committee may appoint one or more sub-committees comprising one or more of its members to:

- (a) conduct investigations;
- (b) perform duties and functions on behalf of the Association Committee; and
- (c) report the findings of the sub-committee to the Association Committee.

No Remuneration

11.7 A member of the Association Committee is:

- (a) not entitled to any remuneration for the performance of that person's functions unless approved by an Unanimous Resolution of the Community Association at an Annual General Meeting; and
- (b) entitled to reimbursement for reasonable out of pocket expenses incurred by that person in the performance of that person's functions.

Protection of Association Committee members from liability

11.8 A member of the Association Committee is not liable for any loss or damage occurring by reason of an act done in that member's capacity as a member of the Association Committee.

11.9 By-law 11.8 does not apply if a member is fraudulent or negligent.

By Law 12. Meetings

12.1 Subject to the provisions of the Management Act, the Association Committee may:

- (a) meet together for the conduct of business, adjourn and otherwise regulate its meetings as the Association Committee thinks fit;
- (b) make decisions on the day to day administration of the Community Association;
- (c) make decisions in relation to applications for consent under this Management Statement; and
- (d) subject to this Management Statement, regularly call a meeting of the Association Committee.

Right of Owner to Attend Meetings

12.2 An Owner or, if the Owner is a corporation, the Owner's nominee, may attend a meeting of the Association Committee. That Owner may address the meeting only if the Association Committee passes a resolution authorising the person to do so.

Meeting at Request of Members

12.3 At the request of not less than 1/3 of the members of the Association Committee, the secretary must convene a meeting.

12.4 Subject to by-law 12.3, the secretary must convene the meeting within the period of time specified in the request.

12.5 The members must give the secretary more than 7 days to convene the meeting.

12.6 If no time is specified in the request, then the secretary must convene the meeting within 14 days of receiving the request.

12.7 If the secretary is absent, a member of the Association Committee must convene the meeting.

Out of Meeting Determinations

12.8 Subject to clause 7(4) of Schedule 2 of the Management Act, a resolution is valid as if it had been passed at a duly convened meeting of the Association Committee even though the meeting was not held if:

- (a) the person convening the meeting has observed this Management Statement and the Management Act;
- (b) each member of the Association Committee has been served with a copy of a motion for a proposed resolution to be submitted at the meeting; and
- (c) the resolution has been approved in writing by a majority of members of the Association Committee.

Notices and Minutes of Meetings

12.9 Before each Association Committee meeting, the Association Committee must prepare an agenda for the meeting. This agenda must list the business that the Association Committee will deal with at the Association Committee meeting.

12.10 At least 72 hours before a meeting of the Association Committee, the Association Committee must:

- (a) notify members of the Community Association of the meeting including details of the meeting; and
- (b) provide each member of the Community Association with a copy of the agenda for the meeting.

12.11 If the Community Association has placed a notice board on Community Property, then the Association Committee will have complied with by-law 12.10 if it ensures that the agenda and notice of the meeting are placed on the notice board at least 72 hours before the meeting.

12.12 The agenda must list the business that the Association Committee will deal with at the meeting.

12.13 The secretary must ensure that:

- (a) minutes of the Association Committee are sent to each member of the Community Association within 7 days of the meeting; and
- (b) that the following are properly kept:
 - (1) agendas and minutes of meetings of the Association Committee;
 - (2) records of decisions of the Association Committee; and
 - (3) records of notices.

12.14 If the secretary is absent, then the chairperson must ensure that the Association Committee complies with by-law 12.13.

By Law 13. Amounts Payable

13.1 An Owner must pay:

- (a) contributions levied under this Management Statement and the Community Titles Legislation when they fall due; and
- (b) on demand any costs, charges and expenses of the Community Association incurred in connection with the contemplated or actual enforcement or preservation of any rights under this Management Statement in relation to the Owner or Occupier.

13.2 If a contribution or amount payable under this Management Statement or the Community Titles Legislation is not paid when due, then interest is payable under section 90(1) of the Management Act.

13.3 Nothing in this by-law prevents the Community Association from recovering any amount exceeding interest calculated under this by-law as a consequence of any amount not being paid when due.

13.4 A certificate signed by the Community Association, its Managing Agent or the secretary of the Association Committee about a matter or a sum payable to the Community Association is prima facie evidence of:

- (a) the amount; or
- (b) any other fact stated in that certificate.

Part 4 Optional Matters

By Law 14. Behaviour of Owners, Occupiers and Permitted Persons

14.1 An Owner or Occupier must not:

- (a) obstruct lawful use of Community Property; or
- (b) use language or behave in a manner likely to cause offence or embarrassment to an Owner or Occupier of another Lot or to a Permitted Person.

14.2 Owners or Occupiers are responsible to other Owners, Occupiers and the Community Association for:

- (a) any noise which causes unreasonable disturbance;
- (b) damage to or loss of property or injury to any person caused by any animal; and
- (c) cleaning up after any animal.

Permitted Persons

14.3 An Owner or Occupier must take all reasonable steps to ensure that a Permitted Person complies with this Management Statement.

14.4 If an Owner or Occupier cannot comply with by-law 14.3, then that person must:

- (a) withdraw the consent of the person to be on the Community Parcel; and
- (b) request that person to leave the Community Parcel.

14.5 If this Management Statement prohibits an Owner or Occupier from doing a thing, the Owner or Occupier must not allow or cause another person to do that thing.

14.6 An Owner or Occupier must compensate the Community Association for any loss or damage to the Community Parcel that is caused or contributed to by a Permitted Person on the Community Parcel with the consent of that Owner or Occupier.

By Law 15. Parking

Restrictions

15.1 An Owner or Occupier must not park a Vehicle on the Community Property other than in areas designated for parking and subject to any rules of the Community Association from time to time in relation to those parking spaces.

15.2 Owners and Occupiers must not:

- (a) repair a vehicle on Community Property unless it is an emergency;
- (b) use a parking space on any Lot to store any items or materials; or
- (c) park an unregistered vehicle in any part of the Community Property.

By Law 16. Air conditioning unit

Installation

- 16.1 Any proposed air conditioning unit to be installed by an Owner or Occupier must:
- (a) be approved by the Developer prior to registration of this Management Statement or the Association Committee thereafter;
 - (b) not interfere with the structural integrity of the Lot or Community Property;
 - (c) not interfere with any Services;
 - (d) not interfere with or damage any waterproofing;
 - (e) not give rise to the transmission of “offensive noise” as defined in the *Protection of the Environment Operations Act 1997* (NSW) as amended or replaced;
 - (f) comply with any relevant Authority requirements, including the Development Consent and any other applicable development consents relating to the Lot; and
 - (g) be installed to prevent vibration and structural borne noise.
- 16.2 Owners or Occupiers that install an air conditioning unit must when installing the air conditioning unit:
- (a) comply with the requirements of this Management Statement;
 - (b) comply with any restriction on use of land;
 - (c) comply with any relevant Authority requirements; and
 - (d) comply with manufacturer’s specifications for installation and connection of the air conditioning unit (if any).
- 16.3 Without limiting any other provision of this Management Statement, damage to any part of the Lot, Community Property or Services caused directly by the Owner or Occupier or any authorised user of the Lot must be made good by and at the cost of that Owner or Occupier in a proper and workmanlike manner and to the satisfaction of the Association Committee.

Amendment

- 16.4 Notwithstanding any other provision in this Management Statement, the Association Committee may not propose to amend or repeal this By Law 16 without first obtaining the prior written consent of the Owners and Occupiers.

By Law 17. Keeping of Animals

Keeping of Animals

- 17.1 Owners and Occupiers may keep:
- (a) domestic pets such as (but not limited to):
 - (i) fish in an indoor aquarium;
 - (ii) canaries, budgerigars or similar birds;

- (iii) cats;
- (iv) dogs;
- (b) in a Lot, provided no more than [3] birds, cats and/or dogs (in any combination) are kept on the Lot at any one time; and
- (c) a guide dog, hearing dog or other animal trained to assist to alleviate the effect of a disability if Owners and Occupiers or another person who lives with an Owner or Occupier needs a dog or other animal because of a visual disability, a hearing disability or any other disability

without first obtaining the consent of the Community Association.

Consent of Community Association

17.2 Owners and Occupiers must have consent from the Community Association to keep any other types or numbers of animals not specified in By-Law 17.1 in the Community Scheme.

Owner's obligation

17.3 In addition to an Owner complying with this **Error! Reference source not found.**, each Owner must ensure that an Occupier of their Lot complies with this By-Law 17.1

Restrictions on keeping animals

- 17.4 (a) Owners and Occupiers must:
- (i) ensure pets are kept within a Lot at all times unless restrained; and
 - (ii) ensure pets do not cause unreasonable disturbance or noise.
- (b) In addition to this Management Statement, Owners and Occupiers must comply with the Development Consent, easements and all laws and requirements of Government Agencies regarding the keeping of animals.

Community Association can refuse consent

- 17.5 The Community Association will not give Owners and Occupiers consent to keep:
- (a) a dog that is vicious, aggressive, noisy or difficult to control;
 - (b) a dog that is not registered under the *Companion Animals Act 1998* (NSW); or
 - (c) a dangerous dog classified as such under the *Companion Animals Act 1998* (NSW).

Controlling animals

- 17.6 (a) Owners and Occupiers must ensure that any animal Owners and Occupiers keep under this by-law does not wander onto another Lot or Community Property.
- (b) If it is necessary to take an animal onto Community Property (e.g. to transport it) Owners and Occupiers must restrain it (e.g. by leash or pet cage) and control it at all times.

Conditions for keeping an animal

17.7 The Community Association may make conditions if it gives Owners and Occupiers consent to keep an animal.

Removal of animals

- 17.8 The Community Association has the right at any time to order Owners and Occupiers to remove animals (and revoke any consent to keep an animal) if:
- (a) it becomes offensive, vicious, aggressive, noisy or a nuisance;
 - (b) Owners and Occupiers do not comply with obligations under this **Error! Reference source not found.**;
 - (c) Owners and Occupiers breach a condition made by the Community Association when it gave Owners and Occupiers consent to keep the animal; or
 - (d) a dog is a dangerous dog or is not registered under the *Companion Animals Act 1998* (NSW).

Responsibilities

- 17.9 Owners and Occupiers are responsible to other owners and occupiers and people using Community Property for:
- (a) any noise that owner or occupier's animal makes which causes unreasonable disturbance;
 - (b) damage to or loss of property or injury to any person caused by that owner or occupier's animal; and
 - (c) cleaning up that owner or occupier's animal.

Visitors

- 17.10 Owners and Occupiers must not allow visitors to bring animals into the Community Scheme unless they are guide dogs, or hearing dogs (and those visitors are visually or hearing impaired) or other animals trained to assist to alleviate the effect of a disability if they need a dog or other animal because of a visual disability, a hearing disability or any other disability.

By Law 18. Private Services

- 18.1 The Community Association may, on its own behalf:
- (a) provide private Services to an Owner or Occupier;
 - (b) arrange for the installation and maintenance of proposed Service Lines for the provision of private Services;
 - (c) contract with any person to monitor or provide, in part or in whole, private Services; and
 - (d) contract with any person to assist the Community Association in relation to performance of obligations under by-laws in Part 5 of this Management Statement.
- 18.2 An Owner or Occupier must not do anything which interferes, obstructs access to, overloads or damages private Services.
- 18.3 An Owner or Occupier must immediately notify the Community Association of any damage to or the defective operation of any private Service.
- 18.4 Subject to section 119 of the Management Act, the Community Association and a person authorised by the Community Association may enter a Lot at all reasonable times to maintain, repair, alter, add to or increase the capacity of or renew private Services.

By Law 19. Community Association's Rights and Obligations

Contracts

- 19.1 The Community Association may, on its own behalf, contract with persons to provide:
- (a) management, operational, maintenance and other services for Community Property;
 - (b) Services or amenities to the Owners or Occupiers; and
 - (c) Services or amenities to Community Property.

Remedy

- 19.2 The Community Association may do anything on a Lot:
- (a) which should have been done by an Owner or Occupier under this Management Statement but which has not been done or has not been done properly; or
 - (b) to comply with this Management Statement, including remedying, removing or restoring anything on that Lot which is prohibited under this Management Statement.
- 19.3 If by-law 19.2 applies, the Community Association is entitled to:
- (a) enter and remain on the Lot for as long as it is necessary; and
 - (b) recover any costs associated with carrying out works under this Management Statement from the Owner of the Lot.

Trading Activities

- 19.4 The Community Association may, for the purpose of exercising and performing its functions, carry on a business or trading activity.
- 19.5 If the Community Association carries on business or trading activity, then the Community Association:
- (a) must pay into the sinking fund of the Community Association income derived by the Community Association from its business or trading activities;
 - (b) must estimate how much money the Community Association will need to credit to the sinking fund of the Community Association;
 - (c) must levy each member for a contribution to meet expenses associated with carrying on a business or trading activities; and
 - (d) may distribute any net profit derived by the Community Association from carrying on a business or trading activities in accordance with section 81 of the Management Act.
- 19.6 If the Community Association suffers a net loss from carrying on its business or trading activities, then the Community Association must impose a levy on each member for a contribution to the sinking fund in order to meet the amount of the net loss.

Not Liable for Damage

- 19.7 The Community Association is not liable for damage to or loss of property or injury to any person in or near the Community Parcel due to any cause.

19.8 By-law 19.7 does not apply if, the damage loss or injury follows the negligence or fraud of the Community Association or any employee or agent of the Community Association.

Communications with Community Association

19.9 A person must forward complaints, notices or applications to or requests for consideration of matters by the Community Association in writing:

- (a) to the Managing Agent of the Community Association; or
- (b) if there is no Managing Agent, to the secretary of the Association Committee.

By Law 20. Obligations of Owners and Occupiers

Compliance with Requirements, Orders and Notices

20.1 An Owner or Occupier must comply on time with:

- (a) each requirement and order of each Government Agency;
- (b) each Law for the Lot and the use or occupation of the Lot; and
- (c) the terms of any notice displayed on Community Property by the Community Association, Service Provider or other relevant Government Agency.

Contractors

20.2 An Owner or Occupier may only directly or indirectly instruct agents, employees or contractors of the Community Association if the Community Association authorises the Owner or Occupier to do so.

Use

20.3 An Owner or Occupier must not do any of the following on either that Owner's or Occupier's Lot or on the Community Parcel:

- (a) engage in any illegal conduct or activity; or
- (b) do anything that might damage the good reputation of the Community Scheme.

Lessees/Licensees

20.4 An Owner whose Lot is the subject of a lease or licence agreement must:

- (a) provide the lessee or licensee with a copy of this Management Statement; and
- (b) take all reasonable steps, including any action available under the lease or licence agreement, to ensure that the lessee or licensee of the Lot and any person on the Community Parcel, with the consent express or implied of the lessee or licensee, complies with this Management Statement and any Rules.

Things done at Owner's or Occupier's cost

20.5 Anything which an Owner or Occupier is required to do under this Management Statement must be done at the cost of the Owner or Occupier.

Chemicals

- 20.6 Subject to by-law 20.7, Owners or Occupiers must not pour, drain or otherwise dispose of any chemicals or detergents into the drains or pipes that service that Owner or Occupier's Lot if those chemicals or detergents cause, or are likely to cause, damage to the drains or pipes.
- 20.7 Owners or Occupiers may pour, drain or otherwise dispose of chemicals or detergents into the drains or pipes that service Lot if those chemicals or detergents are general household or domestic chemicals or detergents used to properly maintain that Owner or Occupier's Lot.
- 20.8 If Owners or Occupiers cause damage to drains or pipes after failing to comply with by-laws 20.6 or 20.7, Owners or Occupiers must on demand pay the Community Association the cost of repairing that damage.

By Law 21. Rules

- 21.1 The Community Association may make, and at any time add to, Rules for the control, management, operation, use and enjoyment of the Community Parcel and the Community Property.
- 21.2 The Rules must be consistent with:
- (a) the Management Act;
 - (b) the Development Act;
 - (c) all Laws;
 - (d) this Management Statement; and
 - (e) the terms of the Development Consent.
- 21.3 The Rules bind an Owner, Occupier, mortgagee in possession of a Lot, lessee of a Lot and Permitted Persons.

By Law 22. Services Contracts

Entry during Initial Period

- 22.1 During the Initial Period, the Community Association may:
- (a) enter into Service Contracts with one or more service providers; and
 - (b) take an assignment of the Service Contracts entered into by the Developer before the date of this Management Statement.

Disclosure of Terms

- 22.2 Each of the Service Contracts must be:
- (a) for a term of no greater than 3 years; and
 - (b) for a fee not exceeding the market fee for the relevant service.
- 22.3 The effect of the Service Contracts is disclosed in this by-law for the purposes of section 122(2)(a) of the Management Act.

Definitions

22.4 In this By Law 22:

"**Service Contracts**" means the contract or contracts entered into:

- (a) on or after the date of this Management Statement between the Community Association and one or more service providers; and
- (b) before the date of this Management Statement between the Developer and one or more service providers,

for the provision of maintenance, replacement and repair and other services in relation to the Community Property, Service Lines, Open Access Ways and Landscaped Area.

By Law 23. GST

Amounts are exclusive of GST

23.1 Unless otherwise expressly stated, all amounts payable under or in connection with this management statement are expressed to be exclusive of any amount of GST.

Obligation to pay GST

23.2 Where GST is imposed on any supply made under or in connection with this management statement by one party ('the supplying party') to another party ('the receiving party') the receiving party must pay or provide the GST exclusive consideration for the supply and in addition to and at the same time as the GST exclusive consideration is payable or to be provided, an additional amount equal to the amount of GST liability of the supplying party. The supplying party must issue a Tax Invoice to the receiving party.

Differences in amounts

23.3 If the amount of GST recovered by the supplying party from the receiving party differs from the amount of GST payable at law by the supplying party (or an entity grouped with the supplying party for GST purposes) in respect of the supply, the amount payable by the receiving party to the supplying party will be adjusted accordingly.

Reimbursement

23.4 Where one party (**payer**) is liable to reimburse another party (**payee**) for any expenditure incurred by the payee (**Expenditure**) the amount reimbursed by the payer will be the GST exclusive Expenditure plus any GST payable to the payee by the payer under this by-law.

By Law 24. Colour

24.1 Owners and Occupiers of a Lot must maintain the colour of the external façade of the dwelling located on the Lot in keeping with the colours of the other Lots within the Community Scheme.

Part 5 By-laws required by a Public Authority

Amendment to by-laws

These by-laws have been made at the request of a public authority. These by-laws may only be amended or revoked:

- (a) *by a special resolution of the Community Association; and*
- (b) *with the consent of the public authority*

(See clause 9, schedule 2 of the Development Act).

[Corrs note: further provisions may be required to be included once the development consent is obtained.]

By Law 25. Council Waste Collection

25.1 Each Owner and Occupier of a Lot must sort and store domestic waste, materials (not of a kind prohibited under any State or Federal statute) which shall include garbage, recyclables, general clean up, vegetation clean up and any other domestic waste materials which Council has arranged to collect (**Waste**), according to:

- (a) Council's requirements, and
- (b) the Community Association requirements.

Council's requirements prevail if there is a conflict in these requirements.

25.2 An Owner and Occupier of a Lot must keep any Waste container and Waste secure so that:

- (a) there is no hazard or danger to the public;
- (b) it does not emit odours; and
- (c) it is hidden from view from outside the Lot.

25.3 The Owner and Occupier of a Lot must ensure that Waste in the Owner or Occupiers Waste container as required by Council on or from the Lot is made available for collection and removal by the Council in accordance with the Council's requirements as in force from time to time relating to the disposal, collection and removal of Waste. Waste containers are not to be placed for collection other than for a reasonable time before and after the times set aside for Waste collection and removal.

25.4 The Community Association and the Owner of each Lot permit Council and every person authorised by it and its Waste contractor to do all things reasonably necessary and to enter, go, pass and re-pass land in the Community Plan for the purpose of exercising the following functions, namely, the collection and removal of Waste, with or without vehicles or both, and remaining upon the subject land for a reasonable time for the purpose of such collection and removal as well as for the purpose of the delivery, removal, inspection and repair of Waste containers.

25.5 The Owner of each Lot as well as the Community Association:

- (a) acknowledge that the collection of the Waste is on the basis that the Council and every person authorised by it and its Waste contractor will not be liable for any damage or loss

(including damage or loss to any fixture, flora, kerb, gutting, underground pipe, drain and infrastructure located above or beneath the surface of the subject land where such damage or loss is suffered by the Owner, the Community Association or any other person) arising from the exercise by Council or its Waste contractors of the functions referred to in By-law 25.4, except to the extent that such damage or loss is as a result of the negligence of Council or its Waste contractor as the case may be;

- (b) jointly and severally indemnify Council and every person authorised by it and its Waste contractors in respect of all such damage and loss except to the extent that such damage or loss is as a result of the negligence of Council or its Waste contractor as the case may be; and
- (c) if required by Council, shall as a precondition and prerequisite to Council and its Waste contractor entering upon the subject land, with or without vehicles, for the purpose of the collection and removal of Waste from the subject land and for certain associated and other ancillary purposes, enter into and execute a positive covenant, or enter into such additional or other agreement or arrangement as may be deemed necessary or appropriate by Council, in such form and on such terms as are acceptable to Council, to reflect the terms of this By-Law in terms in a manner satisfactory to Council.

25.6 The Owner and Occupier of each Lot and the Community Association must ensure that the access way for collection of Waste is not obstructed in any way by vehicles or any structures which may inhibit the collection of Waste.

25.7 Council may, in its absolute discretion, terminate the collection and removal of Waste within the property and direct that collection and removal of Waste be at the kerbside of the nearest public road.

25.8 The indemnities given by each Owner in By-law 25.5 apply only to the extent that the event the subject of the indemnity relates to the Owner's own Lot.

25.9 For the purpose of this By-law and anything done for the purpose of giving effect to it, the Community Association has the power to enter into an agreement or arrangement with Council for the execution and imposition of a positive covenant in favour of Council as the prescribed authority, as well as the power to enter into any additional or other agreement or arrangement with Council as may be deemed necessary or appropriate by Council, pursuant to which or whereby access onto and over the Community Association land may be granted to Council and its Waste contractor for the collection and removal of Waste and for ancillary functions, and the Community Association shall cooperate with Council in relation to the registration at Land and Property Information NSW of any positive covenant, agreement, or arrangement may extend to releasing and/or indemnifying Council and its Waste contractor from any liability for any damage or loss of the kinds referred to in this By-law. As soon as practical after the making by Council of a request of the kind referred to in By-law 25.5(c), the Community Association, as well as the Owner of any Lot (if so required by Council), must enter into and execute the positive covenant, or enter into such additional or other agreement or arrangement required by Council, as the case may be, in the terms contemplated in By-law 25.5(c).

25.10 The By-law may not be amended or revoked without the formal prior consent of Council.

SIGNATURES AND CONSENTS

DATED day of

Execution by Developer

[Execution block to be inserted]

CERTIFICATE OF APPROVAL

It is certified that:

- (a) Northern Beaches Council granted development consent pursuant to development consent number [#] dated [#]; and
- (b) the terms and conditions of these by-laws are not inconsistent with that development as approved.

Date:

Signature of Council
authorised person

ACCESS WAY PLAN

SERVICES PLAN