

BY-LAWS
COMMUNITY CORPORATION NO.

PUSANT TO SECTION 34 OF THE COMMUNITY
TITLES ACT 1996

COMMUNITY DIVISION

At

2 Dunn Road
Mt Barker

COMMUNITY TITLES ACT., 1996
BYLAWS OF COMMUNITY SCHEME

WARNING

The terms of these by-laws are binding on the Community Corporation, the owners and occupiers of the community lots and the development lot or lots (if any) comprising the scheme and persons entering the community parcel.

Any change or amendments to the Community Titles Act 1996 or any legislation, which may supersede it, are to be deemed to be incorporated in these by-laws.

These by-laws relate to the application and preservation of the Development Principles which are adopted as the guidelines for the Dunn Road Development and as such these by-laws may only be amended or revoked by unanimous resolution of the Community Corporation in accordance with the Community Titles Act and Regulations

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PART 1- PRELIMINARY

1. BYLAW – DEFINITIONS

In these bylaws unless otherwise appears:

- 1.1. "Acts means the Community Titles Act 1996;
- 1.2. "administrative fund" means a fund established by the Community Corporation for the payment of recurrent expenditure;
- 1.3. "animal" includes a bird and a reptile;
- 1.4. "commercial purposes" means any purpose involving the sale or supply of goods, the manufacture of goods for sale or supply, or the provision of services but does not include the use of a portion of a residence as a home-office.
- 1.5. "common property" means the common property within the Plan and includes the service infrastructure (except for any part of the service infrastructure that provides a service to only one community lot) and any other property that comprises the common property pursuant to the Act;
- 1.6. "Community lot" means a community lot or community strata lot within the Plan and includes any building or other improvement on the community lot,
- 1.7. "Community parcel" means the land divided by the Plan but does not include a street, road, thoroughfare, reserve or other similar open space upon vesting in a council or prescribed authority or reverting to the Crown;
- 1.8. "Community Corporation" means Community Corporation No.????? Inc
- 1.9. "Council" means the District Council of Mount Barker and any subsequent municipal or district council for the area in which the community parcel is located and any other statutory authority performing or responsible for the role, decisions and activities of a municipal or district council for that area;
- 1.10. "dangerous substance" does not include any solid liquid or gas that is:
 - 1.10.1. supplied to or kept in the minimum reasonable quantity on the community lot solely for domestic use by occupiers of the community lot; or
 - 1.10.2. prescribed as a medication to an occupier of the community lot, provided the substance is maintained or stored in an appropriate sealed container and all reasonable precautions have been taken to prevent any damage to any person, community lot or the common property and its escape or access by unauthorized users;
- 1.11. "develop" includes:
 - 1.11.1. significantly alter the external appearance of, or
 - 1.11.2. to construct, alter, demolish or remove any building, structure, wall, ceiling, floor, fence, site work, service infrastructure, paving or other improvement on the community parcel;
- 1.12. "development approvals" means the development approval granted by the Council on the xxx day ????? (as may be varied from time to time) and any planning, building or development authorisation for building and other works on a community parcel;

- 1.13. "external appearances" means the appearance when viewed from any point on any other community lot or the common property or on land adjacent to the community parcel;
- 1.14. "filed" means filed with the Lands Titles Registration Office;
- 1.15. "home-office" means an office that does not involve the regular attendance of persons other than the occupiers of the community lot and which is operated from the community lot used primarily by the occupiers for residential purposes;
- 1.16. "non-recurrent expenditure" means expenditure for a particular purpose that is nominally made less frequently than once a year;
- 1.17. "occupier" of a community lot includes, if the community lot is unoccupied, the owner of the community lot;
- 1.18. "party wall" means the common wall (if any) between adjacent community lots;
- 1.19. "plan" means the plan of Community division filed with these by laws and any amendment of that plan;
- 1.20. "prescribed financial institution" means a bank, building society, credit union or other financial institution prescribed by the Regulations;
- 1.21. "recurrent expenditures" means expenditure for a particular purpose that is normally made every year or more frequently;
- 1.22. "Regulations" means the Community Titles Regulations 1996;

"residential purposes" shall include the use of a portion of the residence on the community lot as 'home-office' (provided the consent of all relevant planning authorities has been obtained for such use but does not include the use of a community lot for the purposes of a hotel, motel or hostel or to provide any other form of temporary residential accommodation for valuable consideration; or commercial purposes;

- 1.23. "Scheme Description" means the Scheme Description for this Community Scheme;
- 1.24. "Service infrastructure" means the cables, wires, pipes, sewers, sewerage treatment system, drains, ducts, conduits, spaces, receptors, reflectors, machinery, plant and equipment constructed or installed at any time and from time to time by which the community lots or the common property are provided with any system or service specified in the Act or designed to improve the amenity or enhance the enjoyment of the community lots or the common property;
- 1.25. "sinking fund" means a fund established by the Community Corporation for the payment of non-recurrent expenditure;
- 1.26. "structure" includes:
 - 1.26.1. any structure, improvement, fixture, fitting, plant, equipment, lift, machinery, wall, fence, partitioning, ramp, stairs, pontoon, boardwalk, walkway, path, paving, landscaping and other fixture constructed, installed or situated on or in the community lot or the common property (as the case may be), and
 - 1.26.2. any chattel and other property that comprises part of the common property; and

- 1.26.3. any alterations, additions, modifications and replacements made thereto from time to time;
- 1.27. "uncovered area" means an area that is not beneath a roof which prevents the passage of rain; and
- 1.28. "vehicles" includes any motorised vehicle, bicycle and any mechanism used to transport persons and goods in or about the community parcel

2. BY-LAW 2 - INTERPRETATION

In these by-laws unless otherwise appears.

- 2.1 all words not defined in these by-laws shall have the meaning ascribed by the Act, the Regulations and the Scheme Description;
- 2.2 a reference to any Act, Regulations, document or plan must be construed as a reference to that Act, Regulation, document or plan as amended, varied or replaced;
- 2.3 a reference to a community lot by a number is a reference to that community lot as numbered in the Plan;
- 2.4 any consent or approval required from the Community Corporation must be in writing and may be given subject to conditions which must be complied with;
- 2.5 where these by-laws create or impose any obligation or requirements on any person, the obligation or requirement on that person extends to not allowing any breach of that obligation or requirement by any other person or by any animal for which the person is directly or indirectly responsible with; and
- 2.6 signage or any other visual advertising for any business, craft, trade, commerce or other activity conducted on or from a community lot shall be deemed to be of or incidental to the conduct of that business, craft, trade, commerce or other activity.

PART 2 - MANDATORY BY-LAWS

3. ADMINISTRATION, MANAGEMENT AND CONTROL OF THE COMMON PROPERTY

The Community Corporation is responsible for the administration, management and control of the common property. This responsibility shall include the servicing, maintenance, repair, upkeep, security and replacement of the common property (including all improvements to the common property and any service infrastructure comprising the common property).

4. USE AND ENJOYMENT OF THE COMMON PROPERTY

Subject to the Act, the Regulations, the Scheme Description and these bylaws, the common property is for the common use and enjoyment of occupiers of the community lots and their visitors.

5. CONSISTENCY WITH THE ACT AND REGULATIONS

Any by-laws that are inconsistent with the Act, the Regulations or the Scheme Description (if any) are invalid to the extent of the inconsistency.

PART 3 - DEVELOPMENT ON THE COMMUNITY PARCEL

6. NO DEVELOPMENT WITHOUT CONSENT

A person must not develop a community lot or the common property

6.1 without the consent of the Community Corporation; and

6.2 unless the development complies with:

6.2.1 all necessary development approvals; and

6.2.2 the Scheme Description .

7. NATURE AND STANDARD OF BUILDINGS AND OTHER WORKS

Subject to any further conditions imposed pursuant to the immediately preceding by-law, any buildings or structures on the community parcel shall be located, designed and constructed:

7.1 in a manner consistent with any existing buildings or structures unless such buildings or structures were constructed in breach of the immediately preceding by law; and

7.2 to a standard of work and materials not less than:

7.2.1 where there is no building or, the community lot - a fair average standard; and

7.2.2 where there is an existing building on the community lot- at such higher standard as the buildings or structures originally constructed on the community lot.

PART 4 - USE AND MAINTENANCE OF COMMUNITY LOTS

8. USE OF COMMUNITY LOTS

8.1 A person must only use a community lot for residential purposes. However, a designated portion of a community lot may be used for other purposes with the consent of the Community Corporation provided that

8.1.1 the other use has been approved by the Community Corporation;

8.1.2 the occupier continues to use the community lot primarily for residential purposes;

8.1.3 the consent of all relevant planning authorities has been obtained for such use; and

8.1.4 the consent shall automatically lapse when that occupier ceases to occupy the community lot unless the Community Corporation resolves to the contrary.

8.2 A person must not use a community lot for any purpose that is not permitted by the Scheme Description.

9. MAINTENANCE AND REPAIR OF BUILDINGS AND STRUCTURES ON A COMMUNITY LOT

9.1 The owner of a community lot must maintain and keep in good repair and condition:

- 9.1.1 all buildings and structural improvements to the community lot; and
- 9.1.2 all structures, paintwork and finishes on the community lot that affect the external appearance of all buildings and structures on the community lot.

9.2 All external paintwork and finishes on all buildings and structural improvements to the community lot must conform with the conditions (if any) of the development approvals.

9.3 Where the external appearance of a community lot will be significantly affected, the owner or occupier of a community lot must not paint, stain or colour any part of any structure on a community lot in any colours other than the existing colours (as most recently applied to the structure) without the consent of the Community Corporation.

9.4 Where the structural soundness or the external appearance of a community lot is not significantly affected, the owner or occupier of a community lot may:

- 9.4.1 Paint and decorate the internal part of any structure on a community lot at any time and in any colours, manner and fashion; and
- 9.4.2 Affix any fixtures, fittings, pictures, screen, locks, hooks and other Items to any part of the building and improvements, without the consent of the Community Corporation.

9.5 There shall be no dividing fences erected between community lots over the portion of the lot in front of residential buildings built on the lot.

10. GARDENS, TREES AND SHRUBS

10.1 The owner of a community lot must ensure that any uncovered area of the community lot is paved, landscaped or laid out as garden and planted with ground cover, trees or other plants.

10.2 No tree, shrub or plant shall be planted on a community lot unless:

- 10.2.1 the height of a mature specimen of that tree, shrub or plant does not exceed 6 metres; or
- 10.2.2 it is recommended by an appropriate authority for planting within 3 metres of a residence.

11. OCCUPIER'S OBLIGATIONS TO MAINTAIN THE COMMUNITY LOT IN GOOD CONDITION

11.1 The Occupier must properly maintain all trees, plants, ground cover, gardens and landscaping on the community lot. The duty to maintain a tree, plant, ground cover or garden shall extend to making good if it should substantially deteriorate.

11.2 The occupier of a community lot must keep the community lot in a clean, neat and tidy condition and in particular must:

11.2.1 store domestic garbage in an appropriate sealed container that prevents the escape of unpleasant odours or attracts pests or vermin;

11.2.2 store and dispose of other waste in an appropriate manner to prevent any nuisance to the occupier of any other community lot;

11.2.3 comply with any requirements of the Council and the Community Corporation for the disposal of garbage, garden and other waste:

11.2.4 not engage in any activity or practice that attracts or maintains pests or vermin.

12. ANIMALS

12.1 Unless expressly exempted by these by-laws, a person must not bring onto or keep any animal on a community lot or the common property without the consent of Community Corporation.

12.2 The consent of the Community Corporation shall not be required in relation to a dog that is trained to assist the person in respect of a disability.

12.3 An animal shall be exempt in relation to a community lot whilst it satisfies the following criteria:

12.3.1 the animal is the only animal kept on the community lot;

12.3.2 the animal is not a proscribed breed under the Dog and Cat Management Act;

12.3.3 the animal is not the subject of any order under the Dog and Cat Management Act;

12.3.4 the animal is fully contained by fences, walls or other structures that prevent it from escaping from the community lot;

12.3.5 the animal stays at all times on the community lot unless it is entering or exiting the community lot, at which times it must be kept on a leash or confined to a cage;

12.3.6 the animal does not cause a nuisance at any time;

12.3.7 the animal does not cause an unreasonable disturbance;

12.3.8 the animal's excrete is promptly cleaned up and appropriately disposed of; and

12.3.9 the animal does not exceed 18 kilograms in weight.

12.4 The Community Corporation may resolve that a specified animal fails to meet the criteria for exemption. In such case, the occupier;

12.4.1 must not bring, permit or keep that animal on any part of the community parcel; and

12.4.2 where that animal permanently resides on a community lot, must permanently remove that animal from the community parcel within 14 days of the Community Corporation's resolution.

13. PESTS AND VERMIN AND THE USE OF NON-NATURAL PESTICIDES, HERBICIDES AND FERTILISERS

13.1 The owner and the occupier of a community lot must repair as soon as practicable to the satisfaction of the Community Corporation any apparent or threatened:

13.1.1 infestation by pests or vermin;

13.1.2 contamination or pollution by agricultural or other chemicals, and

13.1.3 outbreak or presence of any plant or animal disease

on any community lot or the common property.

13.2 The use of artificial pesticide and herbicides is to fertilisers is subject to the same regulations regarding certification as a organic producer subject by the Biological Farmers of Australia see the following link

<http://www.bfa.com.au/IndustryResources/OrganicCertification.aspx#OGA>

PART 5 - LEASING OF COMMUNITY LOTS

14. NOTIFICATION OF OCCUPIERS

14.1 Where the owner of a community lot is not or ceases to be the occupier of the community lot, the owner must advise the Community Corporation promptly and, in any event, within 7 days of:

14.1.1 his or her address;

14.1.2 the name(s) of the occupiers of the community lot, and

14.1.3 all changes to such names and addresses.

15. RESTRICTION ON SHORT-TERM LEASES

The owner of a community lot must not, without the Community Corporation's consent, lease the community lot, or grant a right of occupation in respect of the community lot for valuable consideration, for a period of less than 2 months.

PART 6 - THE COMMON PROPERTY

16. USE OF COMMON PROPERTY

16.1 The common property shall be used:

16.1.1 as a driveway and areas designated for car parking ~ the community lots,

16.1.2 as accommodation for community facilities; and

16.1.3 for the accommodation and provision of the service infrastructure.

16.2 Without the consent of the Community Corporation, a person must not use the Common property in a manner or for any purpose that infringes the rights or other persons to use the common property and in particular that:

16.2.1 obstructs or unreasonably interferes with the use of the common property by any owner or occupier of a community lot; or

16.2.2 is not in accordance with any easement or the provision of services for which it has been constructed.

17. DAMAGE TO COMMON PROPERTY

17.1 A person must not, without the consent of the Community Corporation:

17.1.1 damage or interfere with:

- (a) a building, structure or other improvement; or
- (b) any tree, plan, ground cover, gardens and landscaping;
on the common property;

17.1.2 deposit any rubbish or waste material on the common property, or

17.1.3 deposit any object or material on the common property if it is likely:

- (a) to obstruct the movement of vehicular or pedestrian traffic; or
- (b) to be hazardous or offensive to other persons using the common property.

18. TRAFFIC AND PARKING

18.1 A person must not park or leave vehicles on the common property other than in designated car spaces.

18.2 A person must not drive or ride a vehicle on the common property except on a roadway established for use by a vehicle.

18.3 A person driving or riding a vehicle on the common property:

18.3.1 must not drive or ride at a speed exceeding 5 kph; and

18.3.2 must otherwise comply with the rules applicable under the Road Traffic Act 1961 to the driving or riding of a vehicle on a public road.

18.3.3 must only drive on common property in cases of emergency and on occasions when required to deliver heavy objects

18.4 A person must not repair or carry out any maintenance on any vehicle upon the common property except in the case of an emergency and then only to the extent necessary to remove the vehicle from the common property.

18.4.1 A person may however repair, carry out maintenance or clean any vehicle on areas designated from time to time by the Community Corporation to be used specifically for this purpose

18.5 The Community Corporation may from time to time grant to the owner or occupier of a community lot exclusive use of portion of the Common Property designated for car parking.

18.5.1 The owner of a community lot granted an exclusive use under 18.5 shall have the right to transfer the use of the car park to any subsequent owner of their community lot

18.5.2 Any grant made under 18.5 can only be made or withdrawn by a unanimous resolution of the Community Corporation

PART 7 - FINANCIAL MANAGEMENT

19. ESTABLISHMENT AND USE OF ADMINISTRATIVE FUND AND SINKING FUND

19.1 The Community Corporation must establish an administrative fund and sinking fund.

19.2 Unless otherwise provided in the Act or the Regulations, contributions of the owners of community lots and other money received by the Community Corporation must be:

19.2.1 credited to the administrative fund or sinking fund according to the purpose for which the money was received; and

19.2.2 paid into an account at a prescribed financial institution in the name of the Community Corporation or, where the Community Corporation has delegated its power to receive and hold money to another person, a trust account held by that person at a prescribed financial institution.

19.3 Money received from the sale of assets of the Community Corporation must be credited to the sinking fund.

19.4 All recurrent expenditure must be made from the administrative fund and all non-recurrent expenditure must be made from the sinking fund unless otherwise provided in the Act or the Regulations.

20. TRANSFER OF MONEYS BETWEEN FUNDS

If more money than is required by the Community Corporation is held in the administrative fund or sinking fund, the excess may by special resolution of the Community Corporation be transferred to the other fund.

21. EXPENDITURE AND ACQUISITIONS TO BE PROPERLY AUTHORISED

The Community Corporation must not undertake expenditure or acquire property unless the expenditure or cost of the acquisition is specifically authorised by a resolution of the Community Corporation. Where the expenditure or cost of the acquisition exceeds the amounts prescribed in the Regulations for that purpose, the expenditure and acquisition must be authorised by a special or unanimous resolution (as the circumstances shall require).

PART 8 - INSURANCE

22. DUTY TO INSURE

22.1 The owner of each community lot shall insure all buildings and other improvements on their lot in accordance with their own requirements and the Corporation shall not be liable in respect thereof. The insurance must be against risks that a normally prudent person would insure against; and

21.1.1 must cover costs such as site clearance, architects fees and demolition costs; and

21.1.1 must be for full replaceable costs of replacing the building or improvements specifications and materials.

22.2 The Corporation shall effect such insurance as is required by Sections 103 and 104 of the Act. The Community Corporation must review on an annual basis all insurances effected by it and the need for new insurances.

22.2.1 Notice of an AGM of the Community Corporation must include a form of to decide whether the insurances affected by the Community Corporation should be re-affirmed or varied or extended; and

22.2.2 The Community Corporation must immediately effect new insurances or vary or extend existing insurances if there is a new risk or an increased risk.

22.3 An owner or occupier of a Community Lot must not, except with the approval of the Corporation do anything that may:

22.3.1 increase any insurance premium payable by the Corporation.

22.3.2 void or prejudice any insurance effected by the Corporation.

22.4 The owner of each Community Lot shall keep or be otherwise covered by a current Public risk Insurance policy in respect of any public activities on or within their Community Lot for a sum insured of not less than \$10 million.

22.5 Upon written request by the Corporation each Community Lot owner must provide evidence of a current policy of insurance effected by the proprietor in accordance with the terms of these by-laws.

PART 9 - PROHIBITION OF DISTURBANCE

23. DISTURBANCE

23.1 The occupier of a community lot must not engage in conduct that unreasonably disturbs the occupier of another community lot or others who are lawfully on a community lot or the common property.

23.2 The owner or occupier of a community lot must ensure, as far as practicable, that persons who are brought or allowed onto the community lot or the common property by the occupier do not engage in conduct that unreasonably disturbs the occupier of another community lot or others who are lawfully on a community lot or the common property.

PART 10 -GENERAL PROVISIONS

24. PROHIBITED CONDUCT

24.1 A person must not use a community lot or the common property for an illegal purpose.

24.2 A person must not:

24.2.1 use or store any explosive or dangerous substance;

24.2.2 engage in any dangerous or offensive activity;

24.2.3 erect any satellite dish, fence or other structure that alters the external appearance of the lot; or

24.2.4 display a sign or advertisement (other than a sign or advertisement of a reasonable size and nature associated with the sale of a community lot);

on a community lot or the common property without the consent of the Community Corporation.

25. MEMBERS MUST DISCLOSE INTERESTS

A member of a committee must not take part in any deliberations or decisions of that committee in relation to any matter in which he or she has a direct or indirect pecuniary interest.

26. OFFENCE

A person who contravenes or fails to comply with a provision of these by laws is guilty of an offence.

Maximum Penalty: The maximum penalty prescribed by the Act

27. THE COMMUNITY CORPORATION'S RIGHT TO RECOVER MONEY

27.1 Any money due to the Community Corporation by an owner or occupier of a community lot under the Act, the Regulations or these bylaws shall be:

27.1.1 payable on the date specified in the applicable resolution of the Community Corporation or management committee (as the case may be) or, where no date is specified, seven days after the sending of the request for payment; and

27.1.2 recoverable as a debt.

27.2 Where an owner or occupier of a community lot commits any breach of the Act, Regulations or these by-laws (including any failure to pay any money due to the Community Corporation), the owner or occupier shall also pay:

27.2.1 the costs incurred by the Community Corporation in respect of the breach; and

27.2.2 interest at a rate of 2% per annum above the rate charged by the Community Corporation's banker on an overdraft of less than \$100,000.00 calculated daily from the day that the money becomes due for payment to the Community Corporation.

For the purposes of this by-law "costs" means all costs, expenses, taxes (including GST), premiums, charges, duties, impositions, fees (including the fees of any independent consultant engage in respect of the breach), fines, interest, penalties, administrative costs and any other moneys incurred or expended and including all legal costs determined on an indemnity basis.

28. AMENDMENT OF THESE BY-LAWS

These by-laws may only be amended or revoked by unanimous resolution the Community Corporation in accordance with the Act and the Scheme Description.

PART 11 - SECONDARY COMMUNITY STRATA PLANS

29. Any Secondary Community Strata Plan being formed within this Community Scheme. shall be subject to its own by-laws and management procedures, and these shall not contravene or be contrary in any way to the by-laws and management procedures of the Community Corporation.

30. The owner of each title within any such Secondary Community Strata Plan shall be deemed to be a full participant in the management and maintenance of the development and in the obligations of the Community Corporation.