

MARCOOLA BEACH COMMUNITY TITLES SCHEME 30404

BY-LAWS

1 Interpretation

In these by-laws except to the extent that the context otherwise requires:

- 1.1 words importing the singular include the plural and vice versa and words importing a gender include other genders;
- 1.2 reference to any person includes reference to any individual, company, body corporate, association, partnership, firm, joint venture, trust or government agency;
- 1.3 reference to an act of parliament or to any regulation will be read as if the words 'and any statutory modification or re-enactment of it or substitution for it' were added to the reference;
- 1.4 headings will be disregarded in the interpretation of these by-laws;
- 1.5 If any by-law or part of a by-law is or becomes void or unenforceable then that by-law or part will be severed from these by-laws, to the intent that all parts of these by-laws that are not or do not become void or enforceable will remain in full force and effect unaffected by any severance.

2 DEFINITIONS

- 2.1 In these by-laws, unless the context otherwise requires:-

“BCCM Act” means the Body Corporate and Community Management Act 1997;

“Body Corporate” means the Body Corporate incorporated on registration of the Community Titles Scheme and includes where the context allows the Committee and the agents, servants, contractors or representatives of such Body Corporate;

“Building” means the building or buildings and other fixed structures erected on the Scheme Land;

“Committee” means the committee of the Body Corporate elected in accordance with the BCCM Act;

“Common Property” means that area in the Plan which is not comprised in any Lot in the Plan and includes:-

- all improvements, fixtures and fittings erected or constructed on the Common Property; and
- any additional land acquired by the Body Corporate from time to time;

“Community Management Statement” means the statement for the Community Titles Scheme recorded by the Registrar at the Department of Environment and Resource Management;

“Community Titles Scheme” means Community Title Scheme established upon registration of the Plan and the Community Management Statement;

“Invitee” means any guest, visitor, licensee or agent of an Owner or an Occupier who may be on a Lot or the Common Property with or without invitation;

“Lot” means a Lot in the Plan;

“Manager” means the person or entity with which the Body Corporate enters into a Service Contract and a Letting Authorisation;

“Occupier” of a Lot means a resident owner or resident lessee of the Lot, or any other person who lives in the Lot;

“Original Owner” has the same meaning given to that term in the BCCM Act;

“Outdoor Furniture” means furniture that is specifically designed for use outdoors and is limited to tables, chairs;

“Owner” of a Lot means the registered owner of the Lot and includes where the context allows the Owner's invitees, employees and agents;

“Plan” means Survey Plan 136706 registered pursuant to the Land Title Act 1994 as amended;

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“Regulated Parking Area” means an area of the Scheme land designated as being available for use by invitees only for parking vehicles;

“Scheme Land” means all the land referred to in the Community Management Statement;

“Vehicle” means any motor car, motor cycle, truck, van, bus, articulated vehicle, caravan, trailer, boat trailer including any boat and any other form of transport or vehicle designed for movement upon wheels.

3 NOISE

3.1 An Occupier of a Lot must not create noise likely to interfere with the peaceful enjoyment of a person lawfully on another Lot or the Common Property. In particular no Owner or Occupier of a Lot:-

3.1.1 will hold or permit to be held any social gathering in his or her Lot which is likely to breach this by-law 3.1; and

3.1.2 will allow radios, television sets, stereos, computers or the like to emit noise so as to breach the provisions of this by-law 3.1.

3.2 Where there is any unavoidable noise in a Lot or the Common Property which at any time may breach the provisions of by-law 3.1 the Owner or Occupier must take all practical means to minimise annoyance to other Owners or Occupiers of Lots by closing all doors, windows and curtains of his or her Lot or ceasing to use or occupy the Common Property and taking all such further steps as may be required to minimise such annoyance to other Owners or Occupiers.

3.3 Guests leaving after 10.00pm should be requested by their hosts to leave quietly. If an Owner or Occupier of a Lot returns to the Building between 10.00pm and 7.00am they will do so quietly and without causing nuisance or disturbance.

4 BEHAVIOUR OF INVITEES

4.1 An Owner or Occupier of a Lot must take reasonable steps to ensure that the Owner’s or Occupier’s invitees do not behave in a way likely to interfere with the peaceful enjoyment of another Lot or the Common Property.

4.2 The Owner or Occupier of a Lot will be liable to compensate the Body Corporate in respect of all damage to the Common Property or personal property vested in the Body Corporate caused by such Owner or Occupier or their invitees.

4.3 An Owner of a Lot which is subject of a lease or licence agreement will take all reasonable steps, including any action available to him under any such lease or licence agreement, to ensure that any Owner or other Occupier of the Lot or their invitees comply with the provisions of these by-laws.

4.4 Where the Body Corporate expends money to make good damage caused by a breach of the BCCM Act or of these by-laws by any Owner or Occupier of a Lot the Committee will be entitled to recover the amount so expended as a debt and any action in any court of competent jurisdiction from the Owner or Occupier of the Lot at the time when the breach occurred.

4.5 An Owner of a lot which is the subject of a lease or licence agreement, will take all reasonable steps, including but not limited to any action available to him under any such lease or licence agreement, to ensure that any lessee or licensee or other occupier of the Lot or their invitees comply with the provisions of these by-laws.

5 OBSTRUCTION

The Owner or Occupier of a Lot must not obstruct the lawful use of the Common Property by another.

6 DAMAGE TO LAWNS ETC.

6.1 The Owner or Occupier of a Lot must not:

- (a) damage a lawn, garden, tree, shrub, plant or flower on the Common Property; or
- (b) use a part of the Common Property as a garden.

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7 DAMAGE TO COMMON PROPERTY

- 7.1 An Owner or Occupier of a Lot must not, without the Body Corporate's written approval, mark, paint, drive nails, screws or other objects into, or otherwise damage or deface a structure that forms part of the Common Property.
- 7.2 However, an Owner or Occupier may with the consent of the Committee install:-
- (a) a locking or safety device to protect the Lot against intruders, or
 - (b) a screen to prevent entry of animals or insects,
 - (c) if the device is soundly built, complies with Fire Safety Regulations and is consistent with the colour, style and materials of the Building.
- 7.3 The Owner or Occupier of a Lot must keep a device installed under subsection 7.2 in good order and repair, failing which the Committee will be entitled to arrange to rectify a device that does not so comply the cost in so doing will be a debt immediately due and owing by the Owner to the Body Corporate.
- 7.4 An Owner or Occupier who damages or defaces Common Property in breach of by-law 7.1 is liable for the costs of repair, replacement or reinstatement as required to return the Common Property to a condition at least as good as if the damage or defacing had not occurred.

8 LEAVING OF RUBBISH ETC. ON THE COMMON PROPERTY

- 8.1 The Owner or Occupier of a Lot must not leave rubbish or other materials on the Common Property in anything other than in a receptacle provided by the local authority or council for the purpose of depositing rubbish.
- 8.2 The Owner or Occupier of a Lot must not leave a receptacle mentioned in 8.1 above in a way or place likely to interfere with the enjoyment of the Common Property by someone else.

9 EXTERNAL APPEARANCE OR STRUCTURE OF THE LOT

- 9.1 The Owner or Occupier of a Lot will not, without the permission in writing of the Committee of the Body Corporate, make any change to the external appearance of the Lot. This includes, but is not limited to:
- (a) No external blinds or awnings will be erected without previous consent in writing from the Committee of the Body Corporate.
 - (b) An Owner or Occupier will not alter the external colour scheme of any improvement on his Lot without prior approval in writing from the Body Corporate pursuant to resolution of the Body Corporate.
 - (c) Any alteration made to Common Property or fixture or fitting attached to Common Property by any Owner or Occupier of a Lot whether made or attached with or without the approval of the Body Corporate, will be repaired and maintained by the Owner of the said Lot.
 - (d) No name, writing, drawing, signboard, placard, sign advertisement or illuminations will be inscribed or exposed on, or at any window or other part of the structure of the Lot and no article will be projected out of any window or over any balcony, patio or courtyard, or hang towel, bedding, clothing or other article, on any part of his Lot in such a way as to be visible from outside the Lot; without the approval in writing of the Committee of the Body Corporate.
 - (e) No household items may be permanently stored on a balcony, patio or garden area except for one approved outdoor dining table, up to six chairs, one BBQ, and four pot plants (subject to by-law 9.1(g)), and one only air drier for the purpose of drying clothes, no higher than the balustrade rail, (maximum 1 meter in height), which must be portable, collapsible and removed to inside the Lot as soon as is reasonably practicable once clothes are dry. Any item whatsoever kept on the balcony must be well-maintained and kept in good repair.
 - (f) Any consent or approval given by the Committee or the Body Corporate pursuant to these by-laws will, if practicable, be revocable upon notice to the Owner or Occupier for the time being having the benefit of such consent or approval.
 - (g) An Owner or Occupier of a Lot which contains a balcony, patio or garden area will be responsible for the maintenance of that area whether it be included as part of a title to a Lot or by way of exclusive use of Common Property. An Owner or Occupier will ensure that any plants kept in such area must be in

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pots, are maintained in good health and condition and so as not to be offensive in appearance to other Owners or Occupiers and such that the plants do not extend beyond the boundaries of the Lot or the boundaries of any exclusive use area or obstruct the views from another Lot or interfere with the use and enjoyment by other Owners or Occupiers of their Lots.

- (h) An Owner or Occupier of a Lot which contains a roof garden must ensure that the trafficable waterproof membrane of the rooftop garden area is maintained in a manner to ensure no substances penetrate into or through the slab.
- (i) No floor mats are to be placed outside of doorways to any Lot within 5 metres of a stairwell.

10 STORAGE OF FLAMMABLE MATERIALS

- 10.1 The Owner or Occupier of a Lot must not, without the Body Corporate's written approval, store a flammable substance on the Common Property.
- 10.2 The Owner or Occupier of a Lot must not, without the Body Corporate's written approval, store a flammable substance on the Lot unless the substance is used or intended for use for domestic purposes.
- 10.3 The Owner or Occupier of a Lot will not bring to, do or keep anything in his or her Lot which will increase the rate of fire insurance premium on the Building or the Common Property or which may conflict with the laws and/or regulations relating to fires or an insurance policy upon the Building or the Common Property or the regulations or ordinances of any public authority for the time being in force.

11 REFUSE DISPOSAL

- 11.1 The Body Corporate provides two refuse rooms for the use of all Owners and Occupiers, however an Owner or Occupier of a Lot must keep a receptacle for garbage within their Lot and keep the receptacle in a clean and dry condition and adequately covered at all times.
- 11.2 The Body corporate has the power to devise a rubbish removal system from time to time incorporating, amongst other things:-
 - (a) permitted means and times for disposal;
 - (b) disposal routes;
 - (c) permitted pick up areas (if any);
 - (d) location of rubbish removal;
 - (e) storage of rubbish;
 - (f) containment of rubbish;
 - (g) regularity of rubbish removal;
 - (h) segregation of rubbish; and
 - (i) special rubbish requirements (ie farmable or toxic substances).
- 11.3 The Owner or Occupier of a Lot must:-
 - (a) comply with all local government local laws about disposal of garbage;
 - (b) ensure that the Owner or Occupier does not, in disposing of garbage, adversely affect the health, hygiene and comfort of the Owners or Occupiers of other Lots;
 - (c) comply with the rubbish removal system put in place by the Body Corporate from time to time under clause 10.2;
 - (d) comply any rubbish removal system devised by the Body Corporate for rubbish removal from the Scheme Land to the point of disposal.

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12 KEEPING OF ANIMALS

- 12.1 Subject to Section 181 of the BCCM Act an Owner or Occupier will not without the prior written approval of the Body Corporate bring or keep any animal on its Lot or on the Common Property or permit any invitee to bring or keep any animal on the Lot or the Common Property.
- 12.2 If the Body Corporate approves a dog to be kept on a Lot, the Body Corporate may issue to the owner a numbered identification tag ("Tag") referable to that animal.
- 12.3 Any such approval may be given subject to the following conditions and any other conditions determined by the Body Corporate:
- (a) the relevant animal must be restricted to the Owner's or Occupier's Lot and any area set aside for the exclusive use of that Lot;
 - (b) the animal must be properly restrained or controlled at all times;
 - (c) the animal must be either on a leash or carried through the Common Property;
 - (d) any animal in relation to which a Tag has been issued must wear the Tag on a collar at any time it traverses or is located on the Common Property;
 - (e) the Owner or Occupier must prevent such animal from causing a nuisance, whether by noise or otherwise, at all times;
 - (f) the Owner or Occupier must immediately clean up any waste or mess created by the animal;
 - (g) the maximum weight of the animal must be no more than 10 kg;
 - (h) the animal must be registered or have the necessary approval (if required) from the local council authority;
 - (i) any approval granted extends only to the individual animal specified in the approval, and must be obtained prior to the animal being kept on the Owners or Occupiers Lot; and
 - (j) the Owner or Occupier indemnifies the Body Corporate against any loss, damage or claims whatsoever that may arise as a result of the animal being permitted on Scheme Land.
- 12.4 If any of the conditions specified in By-law 12.3 are contravened the Body Corporate may, after giving 2 notices to the Owner or to the Occupier, (each notice giving 7 days to rectify the contravention), and if such contravention is not rectified within the specified time, require the immediate and permanent removal of the animal from the Lot and Common Property.

13 USE OF LOTS

- 13.1 Each Lot will be used for residential purposes only except for Lot 6 which will be used for any other lawful use provided the owner of Lot 6 first obtains the written approval of the Body Corporate.
- 13.2 An Owner or Occupier of a Lot will not use his or her Lot for any purpose which may be illegal or cause a nuisance.
- 13.3 An Owner or Occupier of a Lot will not operate or permit to be operated upon the parcel any radio, short wave radio, transmitter, telecommunications device or electronic equipment so as to interfere with any domestic appliance or apparatus (including a radio or televisions receiver) lawfully in use upon the Common Property or in any other Lot.

14 AERIALS AND RECEIVERS

No outside wireless, television aerial, skydish receiver, satellite receiver or other erection, construction, aerial, receiver or thing of like nature nor air-conditioning units or condensers or things of a like nature will be erected without the previous consent in writing of the Committee.

15 REPLACEMENT OF GLASS

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

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16 USE OF WATER

An Owner or Occupier will see that all water taps in his or her Lot and on the Common Property are properly turned off after use.

17 USE OF APPURTENANCES

The water closets, conveniences and other water apparatus including waste pipes and drains must not be used for any purpose other than those for which they were constructed and no sweepings or rubbish or other unsuitable substance will be deposited in the Lot. Any costs or expenses resulting from damage or blockage to such water closets, conveniences, water apparatus, waste pipes and drains from misuse or negligence will be borne by the Owner whether the same is caused by the Owner's own actions or those of its invitees.

18 NOTICE OF ACCIDENT TO BE GIVEN

An Owner or Occupier of a Lot will give the Committee of the Body Corporate prompt notice of any accident to or fault in the waterpipes, gas pipes, electrical installations or fixtures which come to his or her knowledge. The Committee of the Body Corporate will have authority by its agents or servants in the circumstances having regard to the urgency involved to examine or make such repairs or renovations as may be deemed necessary for the safety and preservation of the Building as often as may be necessary.

19 KEEPING LOTS CLEAN

- 19.1 All Lots must be kept clean and all practicable steps must be taken to prevent infestation by vermin and/or insects.
- 19.2 Each Owner or Occupier will be responsible for the interior maintenance of his or her Lot, including balconies, courtyards, patios, terraces and the like (if any).
- 19.3 Each Ground Floor Owner or Occupier must regularly clean the interior and exterior of all windows forming part of the Lot.
- 19.4 An Owner or Occupier must not allow any debris, water or other material to flow over or escape from any balcony, patio or courtyard area onto another Lot or the Common Property.

20 RENOVATION OF A LOT

- 20.1 Any renovation of any Lot must comply with the following:-
 - (a) All relevant permits (if any) to be obtained from all relevant authorities in compliance with regulations and by-laws.
 - (b) The Body Corporate by-laws to be adhered to during the course of any works.
 - (c) Any damage sustained to Common Property during the course of any works to be rectified by the Owner to the satisfaction of the Body Corporate.
 - (d) No load bearing wall or supports to be removed or interfered with, without the written consent of the Body Corporate.
 - (e) The Body Corporate will be entitled to request inspections and copies of such plans and specifications as it might consider necessary to enable it to grant its approval and the Owner of a Lot must comply with all such requests.
- 20.2 An Owner or Occupier must not hang curtains visible from outside the Lot unless those curtains have a backing of off white or cream colour without the prior written approval of the Committee. An Owner or Occupier will not install, renovate and/or replace a curtain backing or window tinting without having the colour and design of same approved by the Committee. In giving such approvals the Committee will ensure so far as practicable that curtain backings and window tinting used in all Lots presents a uniform appearance when viewed from outside the Building (from any place or angle whatsoever).
- 20.3 An Owner or Occupier must not hang venetian blinds or blinds of a similar or like nature visible from outside the Lot unless those blinds have the prior written approval of the Committee. In giving such approvals the Committee will ensure so far as practicable the blinds used in all Lots presents a uniform appearance when viewed from outside the Building (from any place or angle whatsoever).
- 20.4 An Owner must not alter the outside appearance of his or her Lot or cause to be constructed or placed to or upon

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any part of the Lot which can be viewed (from any place or angle whatsoever) external to the Lot any materials or items unless such works or such act is first approved by the Committee and if required by the BCCM Act an appropriate resolution passed at a general meeting of the Body Corporate.

21 INSTALLATION OF HARD FLOORING

Installation:

21.1 An Owner or Occupier of a Lot will not install or cause to be installed or place in any part of its Lot hard flooring, including though not limited to, timber, tiles, marble or other flooring likely to interfere with the quiet enjoyment of other Owners or Occupiers or persons using the Common Property (the "works") unless the Owner or Occupier has first obtained the written approval of the Committee, which approval will not be withheld unreasonably.

21.2 Conditions:

Where the Committee grants approval to the installation of the works, in addition to any other conditions the Committee may impose, the following conditions may apply:

- (a) The Field Impact Isolation Class ("FIIC") of the works when completed will not be less than the following performance specification per area:

Area	FIIC
Kitchen	60
Lounge/Bedroom	70
All other areas	70

- (b) Within seven (7) days following the installation of the works, the Owner or Occupier will at its cost have the FIIC determined by a field test conducted by an accredited acoustic consultant approved by the Committee. The Owner or Occupier will provide a copy of the consultant's report to the Committee within seven (7) days of receiving it.
- (c) Where the FIIC of the completed works is less than the level detailed in the by-law 21.2(a) the Owner or Occupier must, within a reasonable time and at its cost, cause the removal of the works and/or have any necessary procedures or additional works undertaken in order for the works to comply with the requirements in by-law 21.2(a). Following any such remedial action being taken, the provisions of by-law 21.2(a) must again be complied with by the Owner or Occupier.
- (d) Where the works are installed and the FIIC complies with the requirements of by-law 21.2(a) and any other conditions imposed by the Committee, the Body Corporate or its representatives will notify the Body Corporate's insurers of the installation of the works, and the Owner or Occupier will be liable for any increase in premium as a result of the installation of the works.
- (e) Should the method used in the FIIC be abolished or replaced, the Committee may impose conditions, or such other assessment criteria for the noise impact of the works as it deems fit.
- (f) Compliance with Conditions:
- (g) An Owner or Occupier of a Lot must comply with any conditions imposed by the Committee when granting its consent, including any conditions which are reasonably imposed by the Committee to prevent any noise arising in any way out of the installation or use of the works from being transmitted from the Lot to another Lot.
- (h) The granting of any approval by the Committee does not in any way relieve an Owner or Occupier of his or her responsibility under all other by-laws.

21.3 Re-instalment

In the event that an Owner or Occupier fails to comply with the terms of this by-law 21, then an Owner or Occupier will, at his or her expense, remove the works from the Lot upon receiving written notice from the Committee to mitigate any noise. Liability for re-instalment will not cease on transfer of ownership of the Lot and this obligation to re-instate will pass to subsequent Owners and Occupiers.

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22 PROPRIETOR NOT TO LITTER

An Owner or Occupier of a Lot will not throw or allow to fall or permit or suffer to be thrown or to fall any paper, rubbish, refuse, cigarette butts or other substance whatsoever out of the windows or doors or down the staircase, passage of skylights, from balconies, from the roof or in passageways of the Building. Any damage or costs for cleaning or repair caused by a breach of this by-law will be borne by the Owner or Occupier concerned.

23 GARBAGE

- 23.1 Incinerators and garbage bins will be placed only where approved by the Committee and used only for the purpose of which they are provided.
- 23.2 Empty bottles, boxes, used containers and similar items will be stored tidily and, so far as possible, out of sight, but in any event, not on any balcony, patio, courtyard or the Common Property..
- 23.3 The Committee may make rules from time to time with regard to the disposal of rubbish down garbage chutes and in the areas set aside for garbage disposal.

24 INFECTIOUS DISEASES

In the event of any infectious disease which may require notification by virtue of any Statute, Regulation or Ordinance affecting any person in any Lot the Owner or Occupier of such Lot will give, or cause to be given, written notice and any other information which may be required to the Committee and will pay to the Committee with expenses of disinfecting the Building where necessary and placing any articles or things the destruction of which may be rendered necessary by such disease.

25 SECURITY

All doors and windows to any Lot will be securely fastened on all occasions when they are left unoccupied.

26 ENTRY ON A LOT

- 26.1 The Body Corporate and its servants, agents and contractors may, with at least 24 hours written notice to the Owner or Occupier, enter any lot:
- (a) to inspect the interior of the lot and to test or service any electrical, gas, air-conditioning, security, fire safety, water installation or equipment, balcony, floor, window or any attached fittings;
 - (b) to trace and repair any leakage or defect in any installation or equipment at the expense of the Owner or Occupier of the lot if such leakage or defect is due to any act omission or default of such Owner or Occupier;
 - (c) for the purpose of treating for pest control; and
 - (d) maintaining, repairing or renewing pipes, wires, cables, vents, ducts and equipment in the lot and capable of being used in connection with the enjoyment of any other lot or Common Property.
- 26.2 An Owner or Occupier will provide to the Manager a key or access device (if an access device is not already available to the Manager) for access to its lot or exclusive use areas for the purposes of entry only in the following circumstances:
- (a) genuine emergency (or where there is reason to believe a genuine emergency exists);
 - (b) after 24 hours notice is given and for the purpose defined in this by-law 26; and/or
 - (c) on receipt of consent of an Owner or Occupier.
- 26.3 The Body Corporate in exercising its powers under this by-law will ensure that its servants, agents and employees cause as little inconvenience to any Owner or Occupier as is reasonable in the circumstances.

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27 COMMON PROPERTY AND RECREATIONAL AREAS

The Committee of the Body Corporate may make rules from time to time with respect to the use of the Common Property and recreational areas including the reservation of use of any such areas or part thereof for particular persons, Owners or Occupiers and their guests.

28 SECURITY OF THE COMPLEX

28.1 The Committee of the Body Corporate, or the Manager/Operator may take all reasonable steps to ensure the security of the parcel and Body Corporate property and the observance of these By-Laws and without limiting the generality of the foregoing may:-

- (a) close off any part of the Common Property not required for ingress or egress to a Lot or car parking space on either a temporary or permanent basis or otherwise restrict the access to or use by Owners or Occupiers of any such part of the Common Property;
- (b) permit any designated part of the Common Property to be used by any security person, firm or company (to the exclusion of Owners or Occupiers generally) as a means of monitoring the security and general safety of the parcel;
- (c) obtain, install and maintain locks, alarms communications systems and other security devices.

28.2 If the Committee of the Body Corporate in the exercise of any of its powers under these by-laws restricts the access of Owners or Occupiers to any part of the Common Property by means of any lock or similar security device it may take such number of keys to operating systems as it determines available to Owners upon payment of such reasonable charge therefore as may be determined from time to time by the Committee.

28.3 An Owner or Occupier of a Lot to whom any key or any operation system is given pursuant to these by-laws will exercise a high degree of caution and responsibility in making the same available for use by any occupier of a Lot and will take reasonable precautions (which will include an appropriate covenant in any lease or licence of a Lot to any such occupier) to ensure return thereof to the Owner or the Body Corporate upon the Occupier ceasing to be an occupier.

28.4 An Owner or Occupier of a Lot into whose possession any key or operating system referred to in these by-laws has come will not without the proper approval in writing of the Committee duplicate the same or cause or permit the same to be duplicated and will take all reasonable precautions to ensure that the same is not lost or handed to any person other than another Owner or Occupier and is not disposed of otherwise than by returning it to the Committee.

28.5 An Owner or Occupier of a Lot who is issued with a key or operating system referred to in these by-laws will immediately notify the Body Corporate or the Manager/Operator if the same is lost or misplaced.

29 SECURITY SYSTEMS

29.1 All security equipment installed on Common Property and used in connection with the provision of security for the Scheme Land will with the exception of that equipment installed upon any Lot be and remain the property of the Body Corporate. All security equipment (with the exception of that equipment installed upon any Lot which will be maintained at the cost and expense of the Owner of the Lot) the property of the Body Corporate will be repaired and maintained at the cost and expense of the Body Corporate.

29.2 In no circumstances will the Body Corporate be responsible to a Owner or Occupier (and the Owner or Occupier will not be entitled to make any claim for compensation or damages) in the event of a failure of all or any of the security systems put in place by the Body Corporate to operate in the manner in which they are intended or a failure to detect the operation non-operation of any system. Where the failure to operate arises from a malfunction of the security equipment in a Lot, then the Owner or Occupier will allow the Body Corporate by its employees, agents or contractors to enter upon the Lot (upon one (1) days notice except in the case where the circumstances require immediate entry, when immediate entry maybe effected) and attend to the repair (which term will include replacement where required) or maintenance of the security equipment. The costs and expenses of the repair and maintenance of the security equipment within a Lot will be at the cost and expense of the Owner or Occupier of a Lot.

29.3 The Committee of the Body Corporate will be entitled to make rules and regulations for the benefit of all Owners or Occupiers regulating the security and the operation of it upon the Scheme Land. Such rules and regulations will not be inconsistent with these by-laws. The Owner or Occupier will ensure compliance with such rules and regulations so made until the same will have been revoked, amended or altered by a majority resolution of the Body Corporate in general meeting.

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29.4 The Owner or Occupier of a Lot will ensure that all security systems are used by the Owner, Occupier, guests and invitees in the manner intended.

30 COMMITTEE MAY ENGAGE

The Committee may engage for and on behalf of the Body Corporate such agents, contractors and employees as it thinks for and in connection with the exercise and performance of the powers, authorities, duties and functions of the Body Corporate.

31 BULK SUPPLY OF ELECTRICITY AND/ OR GAS

31.1 The Body Corporate will have the lawful authority from time to time to purchase, rent, lease or otherwise acquire title to and the use of and to have installed, used, run and maintain an energy management style in the Building and in such case the following will apply:

31.1.1 the Body Corporate will have the power to enter into a Contract for the purchase of reticulated electricity and/or reticulated gas ("Utility Services"), on the most economical basis, for the whole of the Building from the relevant authority;

31.1.2 the Body Corporate will have the power to sell Utility Services to each Owner or Occupier of a Lot in the Building;

31.1.3 each Owner or Occupier of a Lot will purchase and use all gas for hot water consumed in his or her Lot direct from the Body Corporate and will not purchase this gas from any other source;

31.1.4 the Body Corporate will arrange for the installation of a separate electricity metre for each Lot;

31.1.5 the Body Corporate will not be required to supply to any Owner or Occupier of a Lot electricity requirements beyond those requirements which the relevant authority could supply at any particular time;

31.1.6 the price to be charged by the Body Corporate to each Owner or Occupier of a Lot for the supply of Utility Services will be at the same rates and governed by the same conditions as would be imposed from time to time by the relevant authority if such authority were supplying electricity direct to each Owner or Occupier of a Lot;

31.1.7 the Body Corporate will render accounts to each Owner or Occupier of a Lot and such accounts will be payable to the Body Corporate within fourteen (14) days of the delivery of such accounts;

31.1.8 in respect of an account which has been rendered pursuant to these by-laws, then an Owner of a Lot is liable, jointly and severally with any person who was liable to pay that electricity account when that Owner became the Owner of that Lot;

31.1.9 in the event that a property account for the supply of Utility Services is not paid by its due date for payment, then the Body Corporate will be entitled to:-

(a) recover the amount of the unpaid account or accounts (whether or not a formal demand has been made) as a liquidated debt due to it in any Court of competent jurisdiction; and/or

(b) disconnect the supply of Utility Services to the relevant Lot;

31.1.10 the Body Corporate will not, under any circumstances whatsoever, be responsible or liable for any failure of the supply of electricity due to breakdowns, repairs, maintenance, strikes, accidents or causes of any class or description.

31.1.11 the Body Corporate will, from time to time, determine a security deposit to be paid by each Owner or Occupant of Lots connected for the supply of the Utility Services as a guarantee against non payment of accounts for the supply of Utility Services.

32 OUTSTANDING LEVIES MAY BE RECOVERED

32.1 An Owner will pay on demand the whole of the Body Corporate's costs and expense of whatsoever nature (including solicitors and own client costs in administrative and secretarial fees) incurred in recovering any charges levied pursuant to the BCCM Act, or enforcing these by-laws which costs and expenses will be deemed to be liquidated debt due and in the case of an owner will be a charge added to the Administrative Fund account for the Lot concerned.

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32.2 If a contribution levied under the Act is unpaid 30 days after it falls due for payment then the amount of the unpaid contribution will bear interest at an annual rate to be determined by the Body Corporate by Ordinary Resolution in a General Meeting from time to time.

32.3 The Body Corporate will be entitled to instigate legal proceedings out of any Court of competent jurisdiction in the State of Queensland in respect of any levies issued which are not paid by the due date by an Owner and to enforce any judgments obtained to recover any such sum or sums owing in any manner the Body Corporate deems in its sole discretion desirable.

33 COMMITTEE MAY RECOVER MONIES EXPENDED

Where the Body Corporate expends money to make good any damage caused by a breach of the Act or of these by-laws by an Owner or Occupier or guest, servant, employees, agents, children, invitees and licensees of the Owner or Occupier, the Committee will be entitled to recover the amounts so expended as a debt in any action in any Court of competent jurisdiction from the Owner or Occupier of the Lot at the time when the breach occurred.

34 TENANTS TO HAVE NOTICE OF BY-LAWS

A copy of these By-Laws (or a summary approved by the Committee) must be exhibited in a prominent place in any Lot made available for letting.

35 SMOKE FREE BUILDING

35.1 An Owner or Occupier will not smoke upon the Common Property and will ensure that any invitees or guests do not smoke on the Common Property.

35.2 Smoking is not allowed on any balcony, courtyard or garden area if doing so causes annoyance or discomfort to others.

36 NOTICES

Owners and Occupiers will observe the terms of any notice displayed by the Committee or of any statutory authority.

37 CABLE TV

37.1 The Body Corporate will have the power and authority to:-

- (a) permit any person to install cabling, wiring, ducting, conduits, amplifiers, satellite dish and any other equipment ("the Equipment") necessary for the provision of cable television services, satellite services and similar services to the Scheme Land; and
- (b) enter into agreements for the provision of such cable television services with any such provider of such services or similar services on such terms and conditions as the Body Corporate may determine in its absolute discretion.

37.2 The Body Corporate may approve and ratify any agreements evidencing the grant of the rights referred to in by-law 36.1 and any ancillary documents relating to those agreements or any amendments, variations, assignments of those agreements which may be entered into by the Body Corporate prior to the date on which this by-law is registered in the Department of Natural Resources.

38 VEHICLES AND USE OF ROADS AND OTHER COMMON PROPERTY

38.1 The following principles apply for the purposes of the By-laws in this section dealing with Vehicles and the use of the roadways in the Scheme:

- (a) Each lot contains 1 or more car parking areas within the boundary of the Lot;
- (b) These car parking areas are located on the ground and basement level of the Scheme building;
- (c) An Owner or an Occupier must keep its Vehicle or Vehicles housed in the car parking section of the Lot when not in use;
- (d) Vehicles must not be parked on the roadways of the Scheme or any other part of the Common Property except emergency service vehicles such as police, ambulance and fire brigade;

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- (e) An Owner or an Occupier must ensure that all Vehicles are parked entirely within the car parking area of the Owner's or Occupier's Lot and that no part of the Vehicle or attachment to the Vehicle protrudes beyond the boundary of the Lot.
- (f) A drip tray must be placed under any vehicle that is leaking oil or other mechanical fluids. This drip tray is to be obtained at the Owner or Occupier of the Lot's expense and placed under the vehicle by the Owner or Occupier of the Lot. This drip tray must not contain sand or like substance. The Owner or Occupier of the Lot must ensure the drip tray and the car space (if necessary) are cleaned on a regular basis.

38.2 The Owner or an Occupier must not:

- (a) without the written approval of the Body Corporate park a Vehicle or allow Vehicle to stand on the Common Property; or
- (b) permit an invitee to park a Vehicle or allow a Vehicle to stand on the Common Property except in a Regulated Parking Area.

38.3 Approval under By-law 38.2(a) must state the period for which it is given and must specify the area or areas of the Common Property upon which the Vehicle may be parked.

38.4 However, the Body Corporate may cancel the approval by giving 7 days written notice to the Owner or Occupier.

38.5 A Owner or an Occupier must not:

- (a) allow any unregistered or unroadworthy Vehicle to remain on the Common Property; or
- (b) carry out any repairs or permit any repairs to be carried out to any Vehicle except for any necessary roadside service.

38.6 The Body Corporate may take all necessary steps to remove any Vehicle which is parked in a Regulated Parking Area or on any other part of the Common Property in breach of these by-laws at the cost of the Owner or Occupier responsible for the Vehicle even if that Vehicle belongs to an invitee of the Owner or Occupier. The Owner or Occupier indemnifies the Body Corporate and Manager against any claim arising out of the Body Corporate's actions to remove the Vehicle.

38.7 When operating a Vehicle on the roadways in the Scheme, a Owner or an Occupier must:

- (a) give way to pedestrians at all times;
- (b) not exceed the speed limit of 5km per hour; and
- (c) comply with all traffic signs installed by the Body Corporate.

39 PRIVATE GARBAGE DISPOSAL

39.1 The Body Corporate will have the lawful authority from time to time to enter into a contract with an entity other than the local authority for the removal of garbage on the most economical basis, provided such contract is in accordance with by-law 11.3, for the whole of the Building (excluding the Commercial Lots) in lieu of the local authority removing the garbage and in such case the following will apply:

- (a) the Body Corporate will enter into a contract with a private contractor for the removal of the garbage on the most economical basis for the whole of the Building;
- (b) the price to be charged by the Body Corporate to each Owner or Occupier of a Lot for the removal of garbage and refuse will be at the same rate and governed by the same conditions as would be imposed from time to time by the relevant authority if such authority were removing the garbage/refuse direct from each Owner or Occupier of a Lot;
- (c) the Body Corporate will render accounts to each Owner or Occupier of a Lot and such accounts will be payable to the Body Corporate within 14 days of the delivery of such accounts;
- (d) in respect of an account which has been rendered pursuant to these by-laws, then a Owner of a Lot is liable, jointly and severally with any person who is liable to pay that garbage account when the Owner becomes the Owner of that Lot;

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- (e) in the event that a proper account for the supply of garbage removal is not paid by its due date for payment, then the Body Corporate will be entitled to recover the amount of the unpaid account or accounts (whether or not a formal demand has been made) as a liquidated debt due to it in any Court of competent jurisdiction.
- (f) that the Body Corporate will not, under any circumstance whatsoever, be responsible or liable for any failure of garbage to be removed due to a breakdown by the private contractor retained for the purposes of removing the garbage/refuse.

40 USE OF THE RECREATIONAL FACILITIES

40.1 In relation to the use of the swimming pool, tennis court, gymnasium and related facilities (together termed the "Recreational Facilities"), an Owner or Occupier of a Lot, will ensure:-

- (a) that his/her invitees and guests do not use the Recreational Facilities unless he/she or another Owner or Occupier accompanies them;
- (b) that children below the age of 13 years are not allowed in or around the Recreational Facilities, unless accompanied by a competent adult Owner or Occupier exercising effective control over them;
- (c) that glass containers or receptacles of any type are not taken to or allowed to remain in or around the Recreational Facilities;
- (d) that he/she and his/her invitees will exercise caution at all times and will not run, splash, or behave in any manner that is likely to interfere with the use and enjoyment of the swimming pool and other areas by any other persons;
- (e) at all times appropriate attire is worn in or around the Recreational Facilities;
- (f) there is no drunk and disorderly behaviour in or around the Recreational Facilities;
- (g) that the hours of operation for the swimming pool and gymnasium are observed and the hours are:-
 - Monday to Sunday 7.00am to 9.00pm
- (h) that the hours of operation for the tennis court are observed and the hours are:-
 - Monday to Sunday 8.00am to dusk.
- (i) the Committee will be empowered to amend the times for the use of the Recreational Facilities;
- (j) only Owners, occupiers, tenants and their authorised guests may use the Recreational Facilities;
- (k) an Owner or occupier of a Lot will not without proper authority, operate, adjust or interfere with the operation of any equipment associated with any Recreational Facility, or add any chemical or other substance to same.

41 GENERAL USE OF THE COMMON PROPERTY

41.1 Owners and Occupiers must, and must ensure their guests and invitees:

- (a) only use the Common Property or any Body Corporate Asset for the purpose for which they were designed or intended;
- (b) comply with all directions and rules of the Body Corporate relating to conduct on the Common Property or use of any Body Corporate Asset;
- (c) observe all relevant Requirements in connection with the Common Property or Body Corporate Assets;
- (d) not place or permit to be placed any rubbish, trade waste, refuse or other material on the Common Property except in areas specifically allocated for such purpose;
- (e) ensure no food or alcohol is consumed in any area of the Common Property except the barbeque area;
- (f) ensure that no auction sales are held on the Common Property;

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- (g) not use or interfere with fire doors, fire hose reels, fire extinguishers, fire sprinklers, manual alarm call points or any fire fighting equipment except in case of genuine need or emergency and acknowledge that if this by-law is breached any costs or damages attributed to such breach will be a debt due and owing to the Body Corporate by the Owner or Occupier;
- (h) ensure any door, gate, or garage roller door giving access to Common Property is secured and any defect in same is promptly reported to the Caretakers;
- (i) ensure that no skateboards, bicycles, scooters (excepting for the mobility impaired,) remote controlled vehicles or other recreational equipment are ridden or operated on the Common Property and at no time are such devices allowed to stand unattended on the Common Property;
- (j) ensure that children are not permitted to play in the stairwells, breezeways, fire stairs, garage areas or elevators at anytime and that children are not permitted to play on any area of Common Property between 9.00pm and 8.00am. At no time are children permitted to use lasers of any description, whether real or toy, and toy guns that fire any projectile are not allowed to be used on the Common Property, or within the Lots if the projectile leaves the Lot.

42 EXCLUSIVE MANAGEMENT / CARETAKING / LETTING

- 42.1 Lot 5 (the "Manager's Lot") may be used for both residential purposes and for the purpose of management and caretaking of the parcel and for the sale and letting of Lots in the parcel on behalf of the Owners and the rendering of services to occupiers of Lots in the parcel.
- 42.2 The Manager may with the prior consent of the Committee of the Body Corporate display in locations approved by the committee signs or notices on the Manager's Lot and Common Property for the purposes of offering for sale or for lease or for letting any Lot in the parcel and the provision of services.
- 42.3 For the purposes aforesaid the Body Corporate will have the power to grant (by appropriate ordinary resolution) to the Manager the right to carry on exclusively in and from the parcel the business of manager/caretaker inclusive of the right to effect sales and lettings of Lots in the parcel and for that purpose to enter into appropriate agreements on such terms and conditions as the Body Corporate may deem fit.
- 42.4 The Body Corporate will not permit any other person to provide such management/caretaking or letting selling or reception services in or about the Common Property and the Body Corporate will be empowered in the agreement entered into with the Manager to enter into covenants terms and conditions whereby the Body Corporate covenants not to appoint any other person to act as its Manager/Caretaker/Letting Agent for the parcel and the Body Corporate further covenants that if any other person other than the Manager appointed by the Body Corporate pursuant to the Agreement entered into attempts to use any part of the parcel for the purpose of conducting a business of manager/caretaker/letting agent then the Body Corporate will use all reasonable endeavours (so far as it is able and at the expense of the Body Corporate) to effect a termination of that unauthorised business.

43 USE OF STAIRWELL 11 OF BUILDING

- 43.1 An Owner or occupier of Lots 34,35,64,65,90,91,103 and 104 will:-
 - (a) ensure the durable information notice, issued by the Body Corporate advising that the fire safety of the Lot and other Lots is dependent on the self closers to the Lot doors working effectively and the door being closed when not in use, remains fixed at all times to the back of the door(s) to their Lot ("the entrance door(s)");
 - (b) permit the Body Corporate or any person appointed by the Body Corporate to conduct regular inspections of the entrance door(s) to the Lot on seven (7) days written notice to the Owner or occupier of the Lot, to ensure that the self closing mechanisms are functioning effectively. The Body Corporate will in lieu of such inspections accept from the Owner or occupier of a Lot a written statement confirming that the self closing door mechanism has been maintained and is in proper working order;
 - (c) not replace, alter or modify in any way the entrance door(s) to their Lot;
 - (d) ensure that the entrance door(s) are not propped open by any implement and are closed when not in use;
 - (e) not place in the stairwell servicing the Lots referred to in by-law 43.1 any combustible material. Any costs incurred by the Body Corporate as a result of the failure by an Owner or occupier of a Lot to abide by this by-law will be recoverable as a liquidated debt from the Owner or Occupier of a Lot;

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- (f) immediately remove any combustible material found in the stairwell or alternatively immediately report to the Body Corporate the presence of combustible material in the stairwell; and
- (g) permit the Body Corporate to enter the Lot for the purpose of removing any combustible material placed in the stairwell (if required).

44 USE OF CAR SPACES

In relation to the use of car parking spaces, an Owner or Occupier of a Lot will not use such areas for storage purposes. In the event that an Owner or occupier of a Lot fails to abide by this by-law and by any notices issued by the Body Corporate requiring removal of stored items, the Body Corporate will be permitted to remove the items and the costs associated with such removal will be recoverable from the Owner or occupier of a lot as a liquidated debt.

45 ALLOCATION OF EXCLUSIVE USE AREAS

- 45.1 The Owner or Occupier of Lot 22 will be entitled to the right of exclusive use to that part of the Common Property as shown in Schedule "E" and shown as Area "A" on the annexed sketch plan marked "A".
- 45.2 The Owner or Occupier of Lot 23 will be entitled to the right of exclusive use to that part of the Common Property as shown in Schedule "E" and shown as Area "B" on the annexed sketch plan marked "A".
- 45.3 The Owner or Occupier of Lot 24 will be entitled to the right of exclusive use to that part of the Common Property as shown in Schedule "E" and shown as Area "C" on the annexed sketch plan marked "A".
- 45.4 The Owner or Occupier of Lot 25 will be entitled to the right of exclusive use to that part of the Common Property as shown in Schedule "E" and shown as Area "D" on the annexed sketch plan marked "A".

SCHEDULE D	OTHER DETAILS REQUIRED/PERMITTED TO BE INCLUDED
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Nil

SCHEDULE E	DESCRIPTION OF LOTS ALLOCATED EXCLUSIVE USE AREAS OF COMMON PROPERTY
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Lot On Plan	Exclusive Use of Common Property	Purpose
Lot 22 on SP 136706	Area "A" on the attached sketch plan marked A	Courtyard, patio
Lot 23 on SP 136706	Area "B" on the attached sketch plan marked A	Courtyard, patio
Lot 24 on SP 136706	Area "C" on the attached sketch plan marked A	Courtyard, patio
Lot 25 on SP 136706	Area "D" on the attached sketch plan marked A	Courtyard, patio

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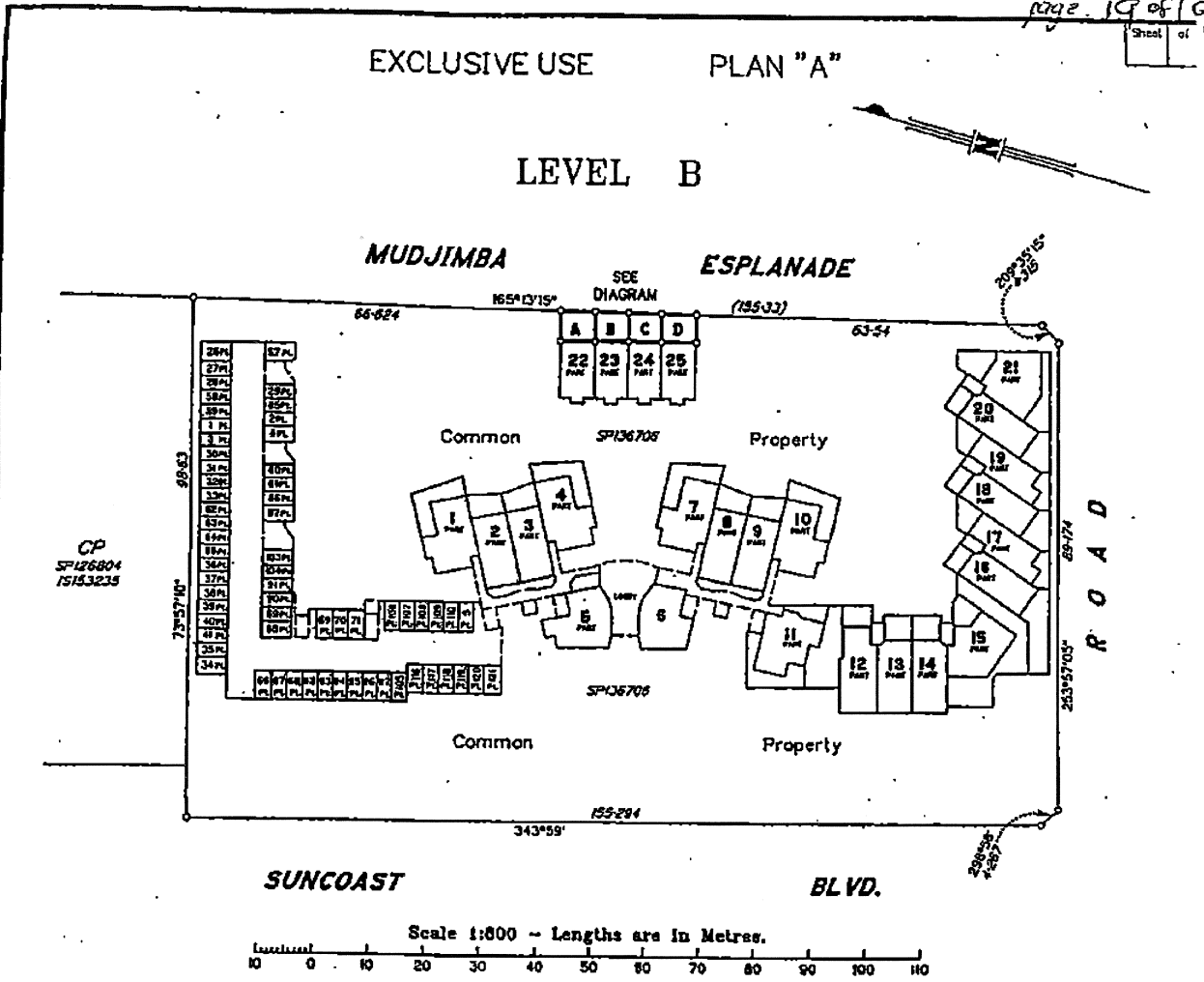
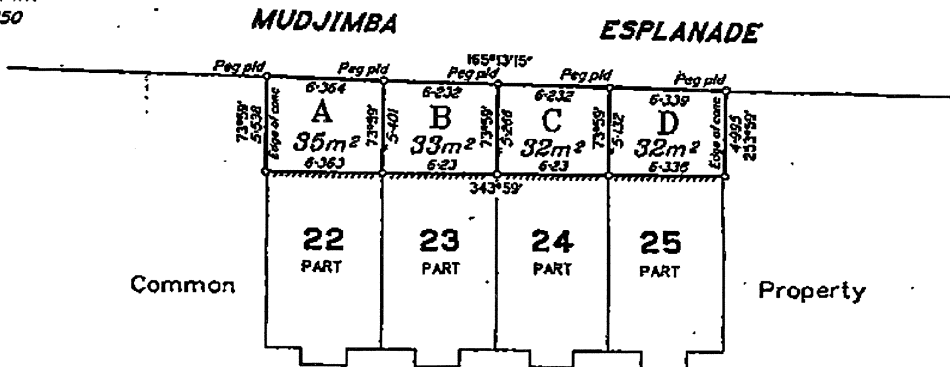


DIAGRAM
SCALE 1:250



EXCLUSIVE USE PLAN

MARCOOLA BEACH (Level B)
over Common Property on SP136706
PARISH OF MAROOCHY
County of Canning
Date 30/5/02

REVISED 12/4/02 AMENDED 3/6/02

I, Peter Joseph DELLER, Licensed Surveyor
certify that the details shown on this section plan
are correct as surveyed
by Peter John GIBBS Surveying Graduate

Licensed Surveyor
Date 3/6/02



ENDORSED
ACCREDITED
SURVEYOR

"SKETCH OK"
30/5/02
GATE

LICENSED SURVEYORS & DEVELOPMENT CONSULTANTS

W.D. SURVEYS
(WILSON DELLER)

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