

## SCHEDULE C BY-LAWS

### 1 Interpretation

Home Owners Club may or must maintain or repair.

#### Meaning of words

1.1 The following words have these meanings unless the contrary intention appears.

**Occupier** includes any person that must, by law, comply with these by-laws, and includes a firm, a body corporate, an unincorporated association or an authority.

**Act** means the Body Corporate and Community Management Act 1997.

**Original Owner** means the original owner under the Act, and any person nominated by the Original Owner to the Home Owners Club from time to time.

**Assets** means personal property of the Body Corporate.

**Regulation** means the Body Corporate and Community Management (Standard Module) Regulation 1997.

**Brookwater** means Brookwater Home Owners Club community titles scheme 29222.

**Service Connections** means antennae, pipes, wires, ducts, cables and similar things used for the supply of Services to a Lot.

**Brookwater CMS** means the community management statement for Brookwater.

**Services** means utility services such as water, gas, electricity, communications, trade waste, garbage removal and fire services supplied to Lots.

**Brookwater Home Owners Club** means the body corporate for Brookwater.

**Code** means the Architectural and Landscaping Code which forms part of the community management statement for Brookwater.

**The Classic** means the community titles scheme to which this community management statement relates.

**Committee** means the committee of the Home Owners Club.

**The Classic Land** means the land described as the scheme land in item 4 on page 1 of this community management statement.

**Common Property** means the Common Property for The Classic.

**Development** means the layered arrangement of community titles schemes of which The Classic is a subsidiary scheme.

**Display Home** means a residential dwelling built not for immediate occupation but rather in order to promote the further sale and business of the dwelling's builder.

#### Rules of interpretation

1.2 In these by-laws unless the contrary intention appears:

- (a) a reference to a by-law includes any variation or replacement of it; and
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and
- (c) the singular includes the plural and vice versa; and
- (d) a reference to a person includes a firm, a body corporate, an unincorporated association or an authority; and

**Environmental Laws** means all statutes, regulations, statutory instruments, local laws, government policies, development conditions, or requirements of any government authority which relate to environmental issues in The Classic.

**Home Owners Club** means the body corporate for The Classic.

**Lot** means a lot in The Classic.

**Maintained Areas** means areas leased, licensed or occupied by the Brookwater Home Owners Club or the Home Owners Club, or which the Brookwater Home Owners Club or the

- (e) a reference to any thing is a reference to the whole and each part of it; and
- (f) where these by-laws say that something can or must be done by the Home Owners Club then that thing may be done by the Committee unless there is a legal restriction on the Committee doing so; and
- (g) "including" when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar kind.

## 2 Protection of the Common Property and Maintained Areas

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### Gardens and Plants

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- 2.1 An Occupier must not damage or remove any garden, plant or part of a plant on the Common Property or Maintained Areas, without the written consent of the Committee. This by-law does not affect the right (if any) of an Occupier with the exclusive use of any area to garden in that area. Occupiers may also maintain the footpaths which are part of the Maintained Areas if they choose to do so.

### Structures

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- 2.2 Subject to any law, an Occupier must not alter, operate, damage or deface any structure on or that forms a part of the Common Property or a Maintained Area without the written consent of the Committee.

### Rubbish

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- 2.3 An Occupier must:
- (a) not put any rubbish, dirt or other offensive material on the Common Property or any Maintained Area; and
  - (b) dispose directly of any rubbish generated within that Occupier's Lot.

### Damage to Common Property

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- 2.4 If an Occupier damages the Common Property or any Maintained Area, the Home Owners Club may repair the damage and recover its repair costs from the Occupier as a liquidated debt.

## 3 Conduct on The Classic Land

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### Obstruction

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- 3.1 An Occupier must not obstruct lawful use of the Common Property, or the Maintained Areas, by another person.

### Noise

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- 3.2 An Occupier must not make or allow any noise in a Lot, on the Common Property or in any Maintained Area that would unreasonably interfere with the enjoyment by others of a Lot or the Common Property or a Maintained Area. If noise is unavoidable then the Occupier must strive to minimise the noise.

### Behaviour of visitors

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- 3.3 Occupiers must:
- (a) make sure their visitors, employees, agents and contractors comply with these by-laws and this community management statement; and
  - (b) compensate the Home Owners Club for any damage that a visitor to the Occupier causes to Common Property, a Maintained Area or Assets.

### Notice of accidents

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- 3.4 An Occupier involved in an accident on Common Property or a Maintained Area must notify the Home Owners Club promptly of the accident and give a reasonably detailed description of the circumstances.

## 4 Use of Lots

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### Residential purposes

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- 4.1 Subject to by-law 4.5, Lots must be used for residential purposes only.
- 4.2 Only one single detached residence for use by families or by not more than six unrelated persons may be erected on a standard format Lot unless the Home Owners Club consents. For clarity, this means that no granny flats or separate dwelling units are permitted.
- 4.3 No relocatable or mobile homes are permitted on the Lots.
- 4.4 No Display Homes are permitted on the Lots.

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**Original Owner's rights**

- 4.5 Despite anything else in these by-laws, the Original Owner may:
- (a) erect signage, or permit signage to be erected, on The Classic Land (provided this complies with all laws); and
  - (b) undertake works on The Classic Land necessary to the completion of the Development, including excavation, general earthworks, the installation of drainage, utility services, and irrigation; and
  - (c) enter onto any of The Classic Land with any vehicles, workers, or equipment to undertake the works mentioned in paragraph (b); and
  - (d) bring heavy earth moving equipment onto the Common Property or the Maintained Areas from time to time in order to complete the Development.

**Parking**

- 4.6 Vehicles, trailers, boats and caravans must not be parked on parts of Lots other than garages, driveways or parking areas.
- 4.7 Unless permitted under a by-law, an Occupier must not park or stand a vehicle or equipment on the Common Property or a Maintained Area.
- 4.8 Areas of the Common Property constructed as car parks may be used for visitor parking but Occupiers must not park on those areas.
- 4.9 No person, apart from the Original Owner, may bring a vehicle heavier than 2 tonnes onto The Classic Land, without the consent of the Committee or the committee of Brookwater Home Owners Club.

**Maintenance of Lots**

- 4.10 Lots must be kept clean, maintained in good order and condition to a similar standard as the footpaths in the Development, and kept free of rubbish and vermin.

**Tree removal**

- 4.11 After construction of a residence on a Lot is complete, Occupiers may not remove any existing landscaping or vegetation from the Lot without the approval of the Home Owners Club. However, an Occupier may remove limbs from

trees if there are legitimate concerns about safety. The Code deals with the removal of vegetation before and during construction of a residence on a Lot.

**Notice of damage**

- 4.12 Occupiers must promptly notify the Home Owners Club of any damage to or defect in water or gas pipes, electrical cables, service cables and other fixtures.

**Garbage disposal**

- 4.13 The following rules apply to garbage bins:
- (a) garbage bins must be stored where they are not visible from outside the Lot; and
  - (b) they must be emptied on a regular basis; and
  - (c) they must be returned to their receptacles within 24 hours after being emptied.

**Flammable liquids**

- 4.14 Occupiers must store and use flammable liquids or materials in their Lots in accordance with best practice.

**Appearance of buildings on Lots**

- 4.15 An Occupier may make a significant alteration to the exterior of a completed building or other improvement on a Lot only if the Occupier first obtains the consent of the Design Assessment Panel constituted under the Code.

**5 Management of Common Property****Restricted access areas**

- 5.1 The Committee must ensure that any parts of the Common Property used for:
- (a) electrical substations or control panels; and
  - (b) fire service control panels; and
  - (c) telephone exchanges; and
  - (d) other services to the Lots and Common Property,

are kept locked unless there is a legal requirement to the contrary. Occupiers may not

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enter or open such areas without the consent of the Committee.

- 5.2 The Committee may use appropriate parts of the Common Property to store equipment used for the performance of the Home Owners Club's duties in respect of the Common Property and the Maintained Areas. Any such areas may be locked and access is prohibited without the authority of the Committee.

**6 Animals**

- 6.1 Occupiers must clean and remove any mess left on Common Property or Maintained Areas by an animal under their control.
- 6.2 Dogs and other animals must be appropriately restrained whilst on Common Property or Maintained Areas. Animals are strictly prohibited on the Brookwater Golf Course.
- 6.3 The Committee may remove an animal from The Classic Land or the Maintained Areas if the animal is disturbing others, in the Committee's opinion.

**7 Miscellaneous****Recovery of legal costs**

- 7.1 If the Home Owners Club takes legal action to recover levies then the Occupier against whom the legal action is taken must pay the Home Owners Club's legal costs and expenses on a solicitor and own client basis.

**Recovery of costs and expenses by Home Owners Club**

- 7.2 If the Home Owners Club incurs costs or expenses because an Occupier does not pay an amount due to the Home Owners Club or breaches these by-laws, the Act or the Regulation, the Occupier must pay the Home Owners Club those costs or expenses within seven days of the Home Owners Club demanding payment, as a liquidated debt due to the Home Owners Club.

**Compliance with laws**

- 7.3 Occupiers must comply with all laws and the requirements of all relevant authorities, including any water management plan that applies to the Development.

**Copies of by-laws**

- 7.4 The owner of a Lot must give a copy of these by-laws to any other Occupier of a Lot.

**Agreements by the Home Owners Club**

- 7.5 Occupiers must:
- (a) comply with all agreements entered into by the Home Owners Club, as far as these are relevant; and
  - (b) not do anything which might cause the Home Owners Club to be in breach of any agreement.

**Compliance with Brookwater CMS**

- 7.6 Occupiers must comply with the Brookwater CMS.

**Golf Course**

- 7.7 Each Occupier acknowledges that:
- (a) The Classic Land is located near the Brookwater Golf Course; and
  - (b) it is possible that golf balls from the Brookwater Golf Course may damage improvements on The Classic Land, or injure persons.
- 7.8 Each Occupier indemnifies the Home Owners Club and all other Occupiers against, and release the Home Owners Club and all other Occupiers from, liability for loss the Occupier or other people claiming through the Occupier suffer because of golf balls from the Brookwater Golf Course, whether the loss is caused by negligence or by something else.

**8 GST**

- 8.1 Unless otherwise expressly stated, sums payable or consideration to be provided under or in accordance with these by-laws are exclusive of GST.
- 8.2 If any party:
- (a) is liable to pay GST on any supply made by it under these by-laws; and
  - (b) agrees to issue a valid tax invoice to the recipient within 7 days of the due date for payment for the supply,

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then the recipient agrees to pay to the supplier an additional amount equal to the consideration payable for the supply multiplied by the prevailing GST rate.

with the occupier for payment of accounts for Services supplied to the Lot.

8.3 Notwithstanding any other provision in this community management statement to the contrary, this clause 8 will survive termination of this community management statement.

8.4 "GST" and other terms used in this clause 8 have the definitions provided in A New Tax System (Goods and Services Tax) Act 1999 (Cth) and the related imposition Acts of the Commonwealth, or Acts in substitution for them.

## 9 Supply of Services by the Home Owners Club

9.1 The Home Owners Club may:

- (a) purchase Services in bulk (as cheaply as possible) for the whole of The Classic Land; and
- (b) sell Services to Occupiers under section 119 of the Standard Module.

### Separate meters

9.2 The Home Owners Club must ensure that each Lot to which Services are sold has a separate meter and must arrange the installation of separate meters if necessary, if this is applicable to the type of Service supplied.

9.3 If it is not appropriate to install meters or similar devices in respect of a particular Service, then the Home Owners Club must devise a fair method of calculating how much of each Service a particular Occupier has used.

### Selling price of Services

9.4 The Home Owners Club:

- (a) must not unfairly discriminate between Occupiers in setting charges for Services; and
- (b) may not charge more than the rate the relevant Services supplier would charge to supply the Service directly to the Lot.

### Payment of accounts

9.5 The Home Owners Club may issue accounts for Services supply at the intervals it decides are appropriate and accounts must be paid within 14 days.

9.6 If the owner of a Lot is not the occupier of the Lot then the owner is jointly and severally liable

9.7 If accounts are not paid on the due date then:

- (a) the amount outstanding (including any interest accruing from day to day) is subject to interest at the rate of 20% per annum; and
- (b) an account is taken not to be paid until any interest is also paid; and
- (c) the Home Owners Club may sue the person liable for payment of the account as a liquidated debt; and
- (d) the Home Owners Club may disconnect or discontinue the supply of the Service to the relevant Lot until the amount outstanding is paid.

### Limit on liability of Home Owners Club

9.8 The Home Owners Club:

- (a) does not have to supply Services beyond the extent that the relevant Services supplier could supply at any time; and
- (b) is not liable for damage or loss suffered to persons or property because of a failure of the supply of the Service whether caused by the Home Owners Club, its servants and agents, or any other person and through any cause whatsoever, including negligence.

9.9 Control of the systems used to supply Services is the responsibility of the Committee and the Committee may employ servants or agents to operate the Services. The Committee may exercise the powers of the Home Owners Club under this by-law 9.

### Transferee of Lot liable for accounts and able to search

9.10 The transferee of a Lot is liable for unpaid accounts for Services supplied to that Lot. The Home Owners Club must, if asked, disclose the amount of outstanding Services accounts for a lot to a proposed transferee of that Lot. The transferee must have the written authority of the owner of the relevant Lot.

### Right of Occupiers not to take Services

9.11 Nothing in this by-law obliges an Occupier to buy Services from the Home Owners Club. If the Home Owners Club supplies Services to an Occupier, the Home Owners Club and the

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Occupier must enter into an agreement about that supply.

