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Lands Titles Office

BY-LAWS
Development Application No. 340:C001:03

BY-LAWS

Community Plan No. 21828

**50 RYAN STREET
MOONTA**

Lands Title 15:39 01/08/03 17x39'
REGISTRATION FEE \$294.00

GERMEIN~REED

Solicitors

Kadina

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COMMUNITY SCHEME BY-LAWS

INTRODUCTION

The terms of these By-Laws are binding on the Community Corporation, the owners and occupiers of the Community Lots comprising the scheme and persons entering the Community Parcel.

These By-Laws relate to the control and preservation of the essence or theme of the Community Corporation and as such may only be amended or revoked by special resolution of the Community Corporation in accordance with Section 39 of the Community Titles Act (Regulations).

BY-LAWS

BY-LAW 1 ADMINISTRATION, MANAGEMENT & CONTROL OF THE COMMON PROPERTY

- 1.1 The Common Property consists of:
 - 1.1.1 television aerial;
 - 1.1.2 the service infrastructure;as are situated on the land depicted as Common Property on the plan of community division deposited with the Registrar General and to which these By-Laws relate.
- 1.2 The Corporation⁽¹⁾ is responsible for the administration, management and operation of the Common Property.
- 1.3 The Corporation may make rules relating to the management and operation of the Common Property.
- 1.4 The Corporation may contract with such persons and contractors as it may decide to provide management, operational, maintenance and other services to the Common Property.

¹ See Part 9 of the Community Titles Act which deals with the establishment, function and powers of the Corporation and which provides for the appointment of various officers and if desired by lot owners, a management committee.

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BY-LAW 2 USE AND ENJOYMENT OF THE COMMON PROPERTY

- 2.1 The Common Property is, subject to the Act and the By-Laws, for the common use and enjoyment of residents in the Community Parcel and their visitors.
- 2.2 A person (including owners and occupiers of Community Lots) shall not:
 - 2.2.1 leave any object on or obstruct the use of the Common Property, or
 - 2.2.2 deposit any rubbish on the Common Property, or
 - 2.2.3 deposit any material that is likely to be hazardous or offensive to any other person using the Common Property, or
 - 2.2.4 display an advertisement, sign, placard, banner or any other thing on any part of the Common Property, or
 - 2.2.5 attach any item as a fixture or otherwise on the Common Property, or
 - 2.2.6 alter the Common Property without the prior approval of the Corporation.
- 2.3 An owner or occupier of a Community Lot must:
 - 2.3.1 not use any portion of the Common Property for his own use without the prior consent of the Corporation, and
 - 2.3.2 give notice to the Corporation of any damage caused to or defect in the Common Property immediately upon becoming aware of it.

BY-LAW 3 USE OF COMMUNITY LOTS

- 3.1 Community Lots may only be used for residential purposes and for other purposes that are normally incidental or ancillary to the use of land for residential purposes and may not be used for any other purpose.
- 3.2 Community Lots are built for the purpose of a two (2) person dwelling and as such each Community Lot may have a maximum of two (2) Permanent Residents.
- 3.3 Each Community Lot may have temporary visitors in addition to two (2) permanent residents.

BY-LAW 4 MAINTENANCE AND REPAIR

- 4.1 The owners and occupiers of Community Lots shall keep the Community Lots including the paintwork and other finishes on the external parts of buildings and fences erected on the Community Lots clean and tidy and in good repair and condition.
- 4.2 The owners and occupiers of Community Lots must carry out all maintenance and repairs to the exterior of buildings situated on the Community Lots in a proper and workmanlike manner to the reasonable satisfaction of the Corporation and in accordance with the Architectural Standards and with materials of the same or similar quality and colour as those used in the original construction of such buildings.
- 4.3 For the above purposes the owners and occupiers of every Community Lot shall permit any adjoining owner or occupier (or tradesman retained by such adjoining owner or occupier) to enter and have access to any easement for the purpose of inspecting, maintaining, repairing or clearing any overhanging roof or any service.
- 4.4 The Corporation may from time to time employ such contractors as may be necessary for the maintenance and repair of the Common Property and the cost of the same to be part of the general expenditure of the Corporation.
- 4.5 The owners and occupiers of a Community Lot shall:
 - 4.5.1 allow contractors appointed by the Corporation pursuant to By-Law 4.4 to have access to the Community Lots for the purpose of carrying out the tasks assigned to them by the Corporation, and
 - 4.5.2 not obstruct the stormwater disposal system sewers or drains situated within the Community Scheme, and
 - 4.5.3 repair at their own expense any damage caused to the Common Property by such owner or occupier as soon as possible after that damage occurs.
- 4.6 The owner of a Community Lot is liable to repair any damage caused to the Common Property by any person visiting the Community Parcel at the invitation (express or implied) of such owner or any tenant of such owner.
- 4.7 Subject to compliance with Section 146 of the Act any contractor employed by the Corporation to carry out its functions may at all reasonable times enter

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onto the Community Lots except in the event of an emergency where entry may be made at any time without notice.

BY-LAW 5 BUILDING ON AND ALTERATIONS TO THE COMUNITY LOTS

- 5.1 The only building that may be erected on a Community Lot is a residential dwelling with ancillary outbuildings constructed to the design and in accordance with the Architectural Standards.
- 5.2 Neither the owner nor occupier if a Community Lot may:
 - 5.2.1 construct any building or other structure including a fence, screen or pergola or affix shutters, blinds, canopies or awnings to the external surface of any such building on a Community Lot, or
 - 5.2.2 attach any item as a fixture including fixed bars, screens, security door, security devices and fly screens on the external part of any building situated on a Community Lot except with the prior approval of the Corporation.

BY-LAW 6 ARCHITECTURAL STANDARDS

- 6.1 The Architectural Standards bind the owners and occupiers of the Community Lots and the Corporation.
- 6.2 No building modification or construction may commence or take place until the plans and specifications for it have been approved by the Corporation as to their adherence to the Architectural Standards, and
 - 6.2.1 their suitability of design, colour and material, and
 - 6.2.2 their quality of design, colour and material, and
 - 6.2.3 their harmony of external design with existing structures, and
 - 6.2.4 their location in relation to surroundings structures and topography, and
 - 6.2.5 their elevation in relation to existing structures and topography, and
 - 6.2.6 their harmony with existing landscaping, and
 - 6.2.7 their compliance with the general theme or standard of the Development.
- 6.3 The plans and specifications submitted for approval to the Corporation must:

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- 6.3.1 show the nature, shape, height, width, colour, size, materials and location of the building modification or construction work intended, and
 - 6.3.2 adhere to the Architectural Standards, and
 - 6.3.3 provide for all external walls to be of brick construction of a type and colour consistent with the Architectural Standards, and
 - 6.3.4 provide for all excess rainwater to be channeled into the stormwater disposal system.
- 6.4 The Corporation may approve or disapprove the plans and specifications solely on the basis of the matters set out in:
 - 6.4.1 these By-Laws, or
 - 6.4.2 the Architectural Standards in force at the time of its decision.
- 6.5 In order to make a decision on the plans and specifications, the Corporation may request:
 - 6.5.1 additional plans and specifications to be submitted to it, and
 - 6.5.2 additional information, reports or documents, and
 - 6.5.3 details of changes to be made to the plans and specifications if the changes are required by any Governmental authority or the Council, and
 - 6.5.4 any other relevant information, facts or material.
- 6.6 The Corporation may impose conditions on its approval of plans and specifications.
- 6.7 The Corporation must, within thirty (30) days after it has received all information required by it to make a decision deliver to the applicant its written decision.
- 6.8 The Corporation may, from time to time, add to or alter the Architectural Standards or the Colour Schedule provided such amendments are not in breach of any of the conditions attached to any relevant planning or development approval.
- 6.9 Where an owner of a Community Lot wishes to make an application to the Corporation requesting amendment to the Architectural Standards applying to that owner's Community Lot:
 - 6.9.1 the owner shall make written application to the Corporation showing sufficient details of the proposed alterations so as to enable the

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- Corporation to understand with reasonable certainty the nature and extent of the proposed alteration,
- 6.9.2 the Corporation shall refer the application to a general meeting of the members of the Corporation for their decision, and
 - 6.9.3 the Corporation may request additional information in order to enable it to make a decision in respect of any such application, and
 - 6.9.4 the Corporation may impose conditions on its approval of plans and specifications, and
 - 6.9.5 the Corporation must within thirty (30) days after it has received all information required by it to make a decision deliver to the applicant its written decision, and
 - 6.9.6 all members of the Corporation present in person or by proxy at the general meeting at which the applicant is determined must unanimously agree and support the application for alteration to the Architectural Standards.
- 6.10 The Corporation shall on request from an owner of a Community Lot, at the reasonable cost of the owner, supply to the owner a current copy of the Architectural Standards.

BY-LAW 7 LANDSCAPE STANDARDS

- 7.1 The Landscape Standards bind the Corporation.
- 7.2 The Corporation may, from time to time, add to or alter the Landscape Standards.

BY-LAW 8 WATER AND SEWER RATES ETC.

- 8.1 The Owners and Occupiers of a Community Lot shall:
 - 8.1.1 allow SA Water the Council and AGL South Australia and their workmen, agents and contractors access to the Community Lots (if required) for the purpose of reading meters and repair of services.
 - 8.1.2 on request by the Corporation, pay to the Corporation a share of the water rates (including excess water) levied by SA Water in respect of the Community Parcel with such share being calculated in accordance with each Owners' Lot entitlement.

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- 8.1.3 pay all common effluent charges levied by the Council against each of the Community Lots.

BY-LAW 9 AERIALS AND SIGNAGE ETC.

- 9.1 The owners and occupiers of Community Lots shall not, except with the approval of the Corporation:

- 9.1.1 construct, install or attach any television, radio or other aerial, antenna, dish, or tower or any other transmitting or receiving device to a building erected on a Community Lot, or
- 9.1.2 construct, install or attach any solar energy collection panel or equipment on such a building, or
- 9.1.3 fix or place any sign, placard, banner, notice or advertisement on the external surface of any such building or inside the window of any such building;

so as to be visible from either the Common Property or the streetscape provided that this By-Law does not prevent the display of an advertisement associated with the sale of a Community Lot.

BY-LAW 10 GARBAGE

- 10.1 The owners and occupiers of the Community Lots shall use their Community Lot for the storage of rubbish.
- 10.2 Any rubbish stored on a Community Lot is to be stored so that it is hidden from view from outside that Lot.
- 10.3 The owners and occupiers of the all Community Lots shall comply with the Council requirements relating to disposal of garbage.
- 10.4 Each owner and occupier shall not more than twenty four (24) hours before the time at which garbage is normally collected, place his garbage bin within the area designated for that purpose by the Corporation.
- 10.5 When the garbage has been collected the bin shall be promptly returned by such owner or occupier to his Community Lot.

BY-LAW 11 FENCING

- 11.1 The owners of Community Lots may not construct fencing of any type on that portion of their Community Lot which lies in front of the front façade of their dwelling.
- 11.2 All other fencing in the Community Scheme situated on the Common Property shall be made of such material as the Corporation may from time to time determine.

BY-LAW 12 RESTRICTIONS ON CAR PARKING

- 12.1 An owner or occupier of a Community Lot shall not permanently park any vehicle weighing more than three (3) tonnes on any part of the Common Property.

BY-LAW 13 FINANCIAL CONTRIBUTION BY OWNERS

- 13.1 The Corporation shall, from time to time, in general meeting of the Community Lot owners, fix by ordinary resolution the amount it requires by way of contributions from the owners of the Community Lots which monies shall be paid into an Administrative Fund⁽²⁾.
- 13.2 Unless the owners of the Community Lots otherwise unanimously agree, all contributions to be made by the owners to the Administrative Fund shall be proportional to their individual lot entitlement⁽³⁾.
- 13.3 The Corporation may permit contributions to be paid in instalments and may fix interest payable on contributions in arrears.
- 13.4 For the purpose of maintaining the Common Property the Corporation shall establish a Sinking Fund⁽⁴⁾ in addition to an administrative fund and may, from time to time in general meeting, set the amount of the contribution to be made by the owners of the Community Lots to the sinking fund.
- 13.5 Subject to the Act non-recurrent expenditure shall be made from the Sinking Fund and all other expenditure of the Corporation shall be made from the Administrative Fund.

2 See Section 116 of the Community Titles Act which deals with Administrative Funds
3 See Section 20 of the Community Titles Act for meaning of lot entitlement
4 See Section 116 of the Community Titles Act which deals with Sinking Funds

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BY-LAW 14 INSURANCE

- 14.1 The Corporation shall on an annual basis review:
 - 14.1.1 all insurances effected by it, and
 - 14.1.2 the need for new or additional insurance.
- 14.2 The owners of the Community Lots shall at every annual general meeting of the Corporation consider whether the insurances effected by the Corporation should be confirmed, varied or extended.
- 14.3 The Corporation shall immediately after any such annual general meeting:
 - 14.3.1 effect any such new insurance, or
 - 14.3.2 vary or extend any such existing insurance.
- 14.4 Where an owner of a Community Lot is concerned that the amount of any insurance effected by the Corporation is insufficient, he may supply to the Corporation for consideration at the next annual general meeting such valuations and other records or materials in his possession that he considers relevant to this issue and the other owners shall take these matters into consideration when considering the insurance cover to be effected in the future by the Corporation.
- 14.5 Owners and occupiers of Community Lots shall not, except with the approval of the Corporation, do anything that might:
 - 14.5.1 void or prejudice insurance effected by the Corporation, or
 - 14.5.2 increase any insurance premium payable by the Corporation.
- 14.6 Owners of Community Lots shall:
 - 14.6.1 insure the buildings erected on their Community Lots for their full replacement value, and
 - 14.6.2 on request from the Corporation produce to the Corporation their policy of insurance and Certificate of Currency of insurance.
- 14.7 The Corporation and the owners of the Community Lots shall in all respects comply with the provisions of Part 10 Division 2 of the Act relating to insurance obligations.

BY-LAW 15 WASHING

- 15.1 The hanging of any washing, towels, bedding, clothing or other articles of a similar nature by an owner or occupier of a Community Lot shall be limited to:

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- 15.1.1 the rear area of the Community Lots, or
- 15.1.2 any other part of the Community Lots designated by the Corporation from time to time for that purpose.

BY-LAW 16 STORAGE OF FLAMMABLE LIQUIDS

The owner or occupier of a Community Lot shall not, except with the approval of the Corporation, use or store on the Community Lot or any other part of the Community Parcel, any flammable chemical, gas, dangerous chemicals, liquids, gases or other material used or intended to be used for domestic purposes or in the fuel tank of a motor vehicle or internal combustion engine.

BY-LAW 17 KEEPING OF ANIMALS

- 17.1 An owner or occupier of a Community Lot may keep two (2) Animals only on each Community Lot.
- 17.2 An owner or occupier of a Community Lot who keeps an Animal on a Community Lot or brings an Animal onto any other part of the Community Parcel:
 - 17.2.1 shall ensure that the Animal is at all times kept under control and within the confines of the Community Lot unless accompanied by the owner or occupier when on any other part of the Community Parcel, and
 - 17.2.2 shall keep the Animal on a leash and under control whilst on the Common Property, and
 - 17.2.3 is liable to the owners or occupiers of the other Community Lots and all other persons lawfully on the Community Parcel for any damage to or loss of property or injury to any person caused by the Animal, and
 - 17.2.4 is responsible for cleaning up after the Animal on any part of another Community Lot, or the Common Property, and
 - 17.2.5 shall ensure that such Animal does not make any noise which may unreasonably disturb owners and occupiers of the other Community Lots.

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BY-LAW 18 CONTROL OF LESSEES AND LICENSEES

An owner of a Community Lot who leases the same to a tenant shall provide such tenant with a copy of these By-Laws and take all such reasonable steps, including but without limitation, any action available to him under such lease to ensure that the tenant and/or any person on the Community Parcel with the consent (express or implied) of the tenant, complies with these By-Laws.

BY-LAW 19 RESPONSIBILITY FOR ASSOCIATED PERSONS

- 19.1 An owner or occupier of a Community Lot must take all reasonable steps to ensure that Associated Persons comply with these By-Laws.
- 19.2 Where an Associated Person does not comply with these By-Laws then the owner or occupier shall request that person to leave the Community Parcel.
- 19.3 Where By-Laws prohibit an owner or occupier of a Community Lot from doing any act, then such owner or occupier must not allow an Associated Person to do that thing.
- 19.4 Owners and occupiers of Community Lots are responsible for the acts and omissions of all Associated Persons on the Community Parcel with the consent (express or implied) of such owner or occupier.

BY-LAW 20 CORPORATION'S RIGHT TO REMEDY

- 20.1 The Corporation may do anything on a Community Lot which should have been done by an owner or occupier of that Community Lot under these By-Laws but which has not been done or has not been done properly by such owner or occupier.
- 20.2 If the Corporation exercises its rights under By-Law 20.1 then so long as it is necessary, persons and contractors authorised by the Corporation may enter upon the Community Lot and remain there as long as shall be necessary and the cost of such action shall be borne by the owner of the Community Lot and may be recovered from him by the Corporation.
- 20.3 If the Corporation exercises its rights under By-Law 20.1, then the owner or occupier of a Community Lot who should have done the act performed by the Corporation shall on demand pay or reimburse the Corporation the costs and

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expense incurred by the Corporation in connection with the work done or acts performed by the Corporation.

BY-LAW 21 CORPORATION'S RIGHT TO RECOVER MONEY

The Corporation may recover any money owing to it under the By-Laws as a debt.

BY-LAW 22 OFFENCE

Any person who contravenes or fails to comply with a provision contained in these By-Laws or the Rules is guilty of an offence.

Maximum Penalty: \$500.00 or such other maximum amount as may from time to time be provided for by Section 34(3)(e) of the Act.

BY-LAW 23 RULES

23.1 The Corporation may make rules relating to the control, management, operation, use and enjoyment of the Community Parcel including, without limitation the control, management, operation and use of the Common Property.

23.2 Any such rules shall bind all owners and occupiers of the Community Lots.

BY-LAW 24 SUPPLY OF BY-LAWS

A copy of these By-Laws will be supplied by the Corporation to all owners of the Community Lots from time to time or on request of any owner or occupier of a Community Lot.

PART III

DEFINITIONS

1. In these By-Laws, unless the contrary intention appears.

- | | | |
|-----|---------------------------------|--|
| 1.1 | the Act: | means the Community Titles Act 1996 as amended and any other act that replaces it. |
| 1.2 | Administrative Fund: | means the administrative fund to be established by the Corporation pursuant to Section 116 of the Act. |
| 1.3 | Animal: | means a dog, cat or bird. |
| 1.4 | Architectural Standards: | means the theme or architectural style of the |

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- development as illustrated in the architect's designs and specifications submitted with the Development Application Number to the Council subject to the conditions attached to the Development approval as varied from time to time in accordance with By- Law 6.
- 1.5 **Associated Person:** means any person on the Community Parcel with the consent (express or implied) of an owner or occupier of a Community Lot.
- 1.6 **Common Property:** means the common property forming part of the Community Parcel as described in By-Law 1.
- 1.7 **Community Lot:** means a Lot that is part of the Community Parcel which is not the Common Property or a Development Lot.
- 1.8 **Community Parcel:** means the land divided by the plan of community division to which these By-Laws relate being 50 Ryan Street Moonta SA.
- 1.9 **the Corporation:** means the Community Corporation incorporated on the deposit of the plan of Community Division lodged with the Registrar General together with these By-Laws.
- 1.10 **the Council:** means the District Council of the Copper Coast and its successors.
- 1.11 **the Development:** means the development situated at 50 Ryan Street Moonta Bay in the said State.
- 1.12 **Landscape Standards:** means the style and standard of garden established originally by the developer as varied from time to time in accordance with By-Law 7.
- 1.13 **Permanent Resident** means any person who uses the Community Lot as their principal place of residence.
- 1.14 **Sinking Fund:** means the sinking fund to be established by the Corporation pursuant to Section 116 of the Act.

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A term defined in the Act has the same meaning when used in these By-Laws unless a contrary intention plainly appears.

2. INTERPRETATION

- 2.1 If an Owner comprises two or more persons their obligations under these By-Laws are joint, and several. This means that each one of those persons may alone be made to pay any moneys payable by those persons or to perform any obligation imposed on those persons pursuant to these By-Laws.
- 2.2 Words suggesting natural persons include companies and vice versa.
- 2.3 Words suggesting the single number include the plural number and vice versa.
- 2.4 Words suggesting any gender include all genders.
- 2.5 Headings are for reference only and do not affect interpretation.
- 2.6 If the whole or any part of a By-Law is found to be void, unenforceable or illegal, it shall be deemed to be severed from these By-Laws and the remainder of the By-Laws shall have full force and effect unless such severance is contrary to public policy or alters the basic nature of these By-Laws.
- 2.7 Reference to an authority includes any new or substitute authority which carried out substantially the same functions.
- 2.8 Any power, remedy or right vested in the Corporation by the By-Laws may be exercised in its discretion either separate or concurrently with any other power, remedy or right and any delay by the Corporation in exercising any such power, remedy or right does not prevent it from subsequently doing so.
- 2.9 The powers, remedies or rights vested by these By-Laws in the Corporation are in addition to all such powers, remedies or rights provided for in the Act and any other law.