

NOTICE OF GENERAL MEETING TO ALTER THE RULES OF THE ASSOCIATION (THE CONSTITUTION)

ILUKA HOMEOWNER'S ASSOCIATION (INC.)

The Iluka Homeowner's Association (**IHOA**), is convening a Special General Meeting at which the **Special Resolutions** below will be proposed to alter the Rules of the Association.

Meeting Time:

7:00 p.m. Tuesday 5 March 2019

Meeting Place:

**Currambine Community Centre,
64 Delamere Avenue, Currambine.**

BACKGROUND

All incorporated associations are required to review and where necessary update their rules (often known as the constitution) to ensure the document complies with the *Associations Incorporation Act 2015* the (**New Act**). Associations have until 1 July 2019 to comply.

After conducting a review of the IHOA Rules the (**Rules**), the management committee submits 3 types of alterations to the Existing Rules currently in force, the (**Existing Rules**).

- A) **Table 1**, SPECIAL RESOLUTION 1 to SPECIAL RESOLUTION 26 are required to comply with the New Act.
- B) **Table 2**, SPECIAL RESOLUTION 27 to SPECIAL RESOLUTION 41 are to correct formatting and typographical errors in the Existing Rules and are not required to comply with the New Act.
- C) **Table 3**, SPECIAL RESOLUTION 42 to SPECIAL RESOLUTION 46 are proposed to provide for any future lease for life residential development in the commercial area in ILUKA. Addressing these matters at this time will most likely avoid the need to alter the Rules again sometime in the next few years due to the existing definition of Members in Rule 5.

This document, the (**Notice to Members**), will be delivered to every letter box in ILUKA and thus constitutes service to the Members of the IHOA of that lot, in accordance with Rule 5(1) and Rule 14(7)(c) of the Existing Rules.

This Notice to Members must be read in conjunction with the "Proposed new IHOA Rules showing amendments" which includes Restrictive Covenants (Annexure 'B') adopted into the Rules in 2007. This document is available on the IHOA website (www.iluka.org.au).

In this Notice to Members and in the "Proposed new IHOA Rules showing amendments", a strikethrough (~~abc~~) indicates a deletion in the Existing Rules, an underline (abc) indicates an insertion into the Existing Rules. A (...) mark indicates adjacent unamended text to provide context.

Other helpful documents on our website are:

1. Proposed new IHOA Rules with amendments consolidated;
2. The Existing Rules of the IHOA Rules last amended in 2007, that are currently in force;
3. The *Associations Incorporation Act 2015*;
4. The *Associations Incorporation Act 2015*, Model Rules;
5. Restrictive Covenants (Annexure 'B');
6. Form 11, Appointment of Proxy.

If you do not have access to the internet and you would like to review the documents on our website, please call Ian during business hours on 0408 166 443.

In the Notice to Members, where a proposed Special Resolution extracts some part of the Existing Rules to show an amendment, it extracts that part without any other proposed amendments applied.

ILUKA HOMEOWNER'S ASSOCIATION (INC.)

APPOINTMENT OF PROXY

I,
(Insert APPOINTING MEMBER'S name)

of: Street No.: Street Name: Suburb: ILUKA,
(Insert APPOINTING MEMBER'S address)

being a member of the ILUKA HOMEOWNER'S ASSOCIATION (INC),

APPOINT:, who is also a
(Insert PROXY'S name)

member of the ILUKA HOMEOWNER'S ASSOCIATION (INC), as my proxy.

I the appointing Member, declare that I am a member of the Association in accordance with rule 5(1) and my proxy vote is appointed in accordance with rule 5(3) of the *Iluka Homeowner's Association* rules.

I so declare (Please tick the box).

My proxy is authorised to vote on my behalf at the general meeting (and any adjournments of the meeting/s) on **Tuesday 5 March 2019**.

Signature: **Date:**
(APPOINTING MEMBER)

Extract of rules of the ILUKA HOMEOWNER'S ASSOCIATION (INC).

Rule 5(1).

Every person who shall be or become the owner of a legal or equitable estate in fee simple of any lot or lots in Iluka Estate or any share or interest therein shall ipsofacto be a member of the association.

Rule 5(3).

Each lot in Iluka Estate shall be allocated one vote for the purposes of meetings of the Association and where a lot is owned by more than one person then such persons shall be entitled to jointly exercise that one vote. Where a corporation is an owner the corporation must appoint a person to exercise the vote on behalf of the corporation.

Rule 17(2).

A member which is a body corporate may appoint in writing a natural person, whether or not he or she is a member, to represent it at a particular general meeting or at all general meetings. (Refer to rule 17 in full).

Rule 18.

A member (in this rule called "the appointing member") may appoint in writing another member who is a natural person to be the proxy of the appointing member and to attend, and vote on behalf of the appointing member at, any general meeting.

Table 1 - SPECIAL RESOLUTION 1 to SPECIAL RESOLUTION 26.

SPECIAL RESOLUTION 1 to SPECIAL RESOLUTION 26 are required to comply with the *Associations Incorporation Act 2015*.

In this table, a reference to a Clause is a reference to a clause in Schedule 1, Division 1, of the *Associations Incorporation Act 2015*.

SPECIAL RESOLUTION 1 Amend the following section references in the Existing Rules to refer to the new sections of the New Act.

- Rule 2: "financial year" has the meaning given by Schedule 1, Division 2, clause 5 section 3(1) of the Act, ...
- Rule 2: "special resolution" has the meaning given by section 2451 of the Act;
- Rule 2: "the Act" means the *Associations Incorporation Act ~~1987~~2015*;
- Rule 6: section 27 53 of the Act
- Rule 10(c)(i): section 27 53 of the Act
- Rule 10(c)(ii): section 28 35 of the Act
- Rule 10(c)(iii): section 29 58 of the Act
- Rule 11(d): sections 25 66 and 26 Tier 1: s68 & 70, Tier 2: s71 & 73 or Tier 3: s74 & 76 of ...
- Rule 14(1)(b): section 23 50 of the Act
- Rule 14(7)(b): section 27 53 of the Act
- Rule 15(7)(b): section 24 51 of the Act
- Rule 19(1): Part 3 Division 2 sections 17, 18 and 19
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SPECIAL RESOLUTION 2 Rule 2: amend the definition of "financial year" to clarify the meaning so as to ensure compliance with Clause 12.

- Rule 2 "financial year" has the meaning given by section 3(1) of the Act, ~~a reference in that section to~~
- ~~(a) "an incorporated association" or "the association" being construed as a reference to the Association; and~~
- ~~(b) "the committee" being construed as a reference to the Committee;~~

Rationale: The deleted wording is verbose and redundant.

SPECIAL RESOLUTION 3 Rule 2: insert definition of "financial year period" to comply with Clause 12.

- Rule 2 "financial year period" means, pursuant to Schedule 1, Division 2, clause 5(3) of the Act, the period commencing 7 days prior to the beginning of one Annual General Meeting to 7 days prior to the beginning of the next Annual General Meeting;
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SPECIAL RESOLUTION 4 Rule 2: amend the definition of "general meeting", so as to ensure compliance with Clause 7.

- Rule 2 "general meeting" means meeting convened under rule 14 and includes a Special General Meeting and an Annual General Meeting;
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SPECIAL RESOLUTION 5 Rule 2: clarify the definition of a member, so as to ensure compliance with Clause 3.

Rule 2 "member" means member of the Association pursuant to rule 5(1);

SPECIAL RESOLUTION 6 Rule 2: insert the definition of "Special General Meeting", so as to ensure compliance with Clause 14.

Rule 2 "Special General Meeting " means a general meeting of the Association other than the Annual General Meeting;

SPECIAL RESOLUTION 7 Rule 5(1): amend this Rule to clarify the qualifications of membership, so as to ensure compliance with Clause 3.

5(1) Every person, or body corporate, who shall be or become is the owner of a legal or equitable estate in fee simple of any lot or lots in Iluka Estate or any share or interest therein shall ipsofacto be a member of the association.

Rationale: The wording is unclear, and the definition is incomplete where it does not include a body corporate as a member.

SPECIAL RESOLUTION 8 Rule 5(1)(A), and Rule 5(1)(B): to specify when membership commences and ceases, to comply with Clause 3.

5(1)(A) A person or body corporate, commences to be a Member of the Association, as soon as that person or body corporate satisfies the requirements of rule 5(1).

5(1)(B) A person or body corporate, ceases to be a Member of the Association, when that person or body corporate, ceases to satisfy the requirements of rule 5(1).

SPECIAL RESOLUTION 9 Rule 5(1)(C): Qualifications for membership, insert this Rule to clarify non-members, so as to ensure compliance with Clause 3.

5(1)(C) Any person, including: children; relatives; or friends; of a Member, who does not have a right of membership in accordance with rule 5(1), is not a Member of the Association. Any body corporate that does not have a right of Membership in accordance with rule 5(1), is not a Member of the Association. Any person or body corporate, who is not a Member of the Association has no right to attend Association Committee Meetings or General Meetings nor vote at any Association meeting or event.

SPECIAL RESOLUTION 10 Rule 7(1)(A): insert this Rule to require Members to pay a joining fee, to comply with Clause 5.

7(1)(A) Pursuant to rule 5(1), the owner of each lot shall pay a joining fee to the Association at the time of becoming an owner of that lot.

SPECIAL RESOLUTION 11 Rule 8(2) and Rule 8(7)(b)(i): amend these Rules to fix a drafting error, to comply with Clause 6(b).

Delete ~~commencement~~ and insert end.

8(2) The Committee of Management shall hold office and shall be elected annually. At the commencement of the first annual general meeting to be held after the incorporation of the Association under the Act and at the ~~commencement~~ end of each successive annual general meeting thereafter all members of the Committee of Management shall retire but shall be eligible for re-election.

8(7)(b)(i) hold office until the ~~commencement~~ end of; and ...

Rationale: If the Committee of Management ceases to hold office at the commencement of the Annual General Meeting then there is no Committee to run the Annual General Meeting and oversee the election of a new Committee during the Annual General Meeting.

SPECIAL RESOLUTION 12 Rule 8(2)(A): insert this Rule to specify the "Powers of the Committee" to comply with Clause 6.

(2)(A) The Committee has power to do all things necessary or convenient to be done for the proper management of the affairs of the Association.

SPECIAL RESOLUTION 13 Rule 8(8): insert Payments to Members, to comply with Clause 6g and Clause 11.

8(8) The Committee of Management shall administer the funds of the Association.
(a) The Committee shall approve all payments made by the treasurer prior to the payments being made.
(b) Notwithstanding rule 9(3), the Committee shall approve all recurring payments.
(c) A Committee Member or Member, of the Association shall first obtain approval from the Committee prior to making purchases on behalf of the Association.

SPECIAL RESOLUTION 14 Rule 8(9): insert this Rule to specify the circumstances in which payment may be made to a Committee Member or Member, to comply with Clause 6g and Clause 11.

8(9) The Committee may approve a payment to a Committee Member or Member out of the funds of the Association only if it is a:
(a) payment in good faith to the Committee Member or Member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business; or
(b) payment of interest, on money borrowed by the Association from the Committee Member or Member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia; or
(c) payment of reasonable rent to the Committee Member or Member for premises leased by the Committee Member or Member to the Association;
or

(d) reimbursement of reasonable expenses properly incurred by the Committee Member or Member on behalf of the Association.

SPECIAL RESOLUTION 15 Rule 9(3): insert this Rule to authorise the Chairperson to have a delegated financial authority of \$100, to comply with Clause 11.

9(3) The Chairperson may authorise ad-hoc payments of up to \$100, on behalf of the Association, without approval from the Committee. All said payments shall be reimbursed by the treasurer and accurately recorded in the relevant Association's financial records.

SPECIAL RESOLUTION 16 Rule 10(d): amend this Rule to include securities, to comply with Clause 16.

10(d) ... have custody of all books, securities documents, records and registers of the Association,

SPECIAL RESOLUTION 17 Rule 13(6): Replace this Rule to provide for Committee Members with a material personal interest at Committee Meetings, to comply with Clause 6e.

Delete existing Rule 13(6):

13(6): ~~— A Committee member having any direct or indirect pecuniary interest referred to in section 21 or 22 of the Act shall comply with that section.~~

Insert new Rule 13(6):

13(6) Subject to sections 43(2) and 43(3) of the Act, a Committee Member who has a material personal interest in a matter being considered at a Committee Meeting, must not:

(a) be present while the matter is being considered at the meeting; or

(b) vote on the matter.

SPECIAL RESOLUTION 18 Rule 13(7): insert new Rule to clarify voting rights at a Committee Meeting, to comply with Clause 6e.

13(7) Every Member of the Association has the right to attend a Committee Meeting as a visitor to the Committee Meeting however, only Committee Members elected in accordance with rule 8, have a deliberative vote at Committee Meetings.

SPECIAL RESOLUTION 19 Rule 14(1)(c): percentage of the membership required to convene a special general meeting, amend this Rule to comply with Clause 10.

14(1)(c) ... receiving a request in writing to do so from not less than ~~50 members~~ 5 % of the membership of the Association, convene a special general meeting

SPECIAL RESOLUTION 20 Rule 14(1)(A), Rule 14(1)(B) and Rule 14(1)(C): insert this Rule to specify rights to attend and vote at meetings, to comply with Clause 8.

14(1)(A) Every Member of the Association, subject to rule 5(1) and rule 5(1)(D), has a right to attend a general meeting.

14(1)(B) At a general meeting, a Member of the Association may be requested to provide their name, address or such other details to verify their membership of the Association.

14(1)(C) Any person, body corporate or institution that does not have a right as specified in rule 14(1)(A) does not have a right to attend any Association meeting unless consent is provided by the Committee.

SPECIAL RESOLUTION 21 Rule 14(9): insert this Rule to comply with Clause 13.

14(9) Except for general meetings convened pursuant to rule 14(1), the Association is not obligated to convene a general meeting.

SPECIAL RESOLUTION 22 Rule 14(10): insert this Rule to provide for a procedure at Special General Meetings, to comply with Clause 7.

14(10) In the case of a Special General Meeting, the order in which business is to be transacted shall be determined by the Committee in accordance with the purpose of that Special General Meeting and where applicable, the Committee shall;

(a) give each Member in attendance a reasonable opportunity to make written and oral submissions to the meeting considering the number of submissions that are to be presented;

(b) give due consideration to any submissions so made;

(c) respond to Member submissions in a reasonable time and by a media acceptable to the parties.

SPECIAL RESOLUTION 23 Rule 19(1): amend to clarify the requirement of altering the rules, to comply with Clause 14.

19(1) The Association may alter or rescind these rules, or make rules additional to these rules, only by special resolution at a Special General Meeting in accordance, ...

SPECIAL RESOLUTION 24 Rule 21: insert numbering of Rule 21 paragraph 1, insert Rule 21(2), Rule 21(3) and Rule 21(4) to provide for the inspection of Association material to comply with Clause 17.

21(1) A member may at any reasonable time inspect without charge the books, documents, records and securities of the Association.

21(2) A Member inspecting the material referred to in rule 21(1) may make a copy of, or take an extract from, the material but is not entitled to remove the material for that or any other purpose.

21(3) The Committee shall refuse a Member, or any other party, access to the material referred to in rule 21(1) or any part thereof, if providing said access to the material is contrary to another Commonwealth or State law.

21(4) A Member who wishes to make a copy of, or take an extract from, the material referred to in rule 21(1) shall provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the association and for no other purpose.

SPECIAL RESOLUTION 25 Rule 22: amend this Rule to comply with Clause 19.

Insert numbering for Rule 22 paragraph 1 and Amend text of paragraph 1.

22(1) ... that surplus property shall be distributed in accordance with section 24 of the *Associations Incorporation Act 2015* as amended from time to time.

Delete Rule 22(a) and 22(b)

(a) ~~to another incorporated association having objects similar to those of the Association; or~~

(b) ~~for charitable or benevolent purposes;~~

Insert numbering for Rule 22 paragraph 2 and amend paragraph 2.

22(2) ~~which incorporated association or purposes, as the case requires, Where surplus property rises pursuant to rule 22(1), the surplus property distribution shall be determined by resolution of the members when authorizing and directing the Committee under section 33(3) of the Act to prepare a distribution plan for the distribution of the surplus property of the Association, and distributed in accordance with Part 10, Division 1, of the *Associations Incorporation Act 2015* as amended from time to time.~~

SPECIAL RESOLUTION 26 Rules 23 to 27: disciplinary action and dispute resolution, insert these Rules to comply with Clause 18.

23. Disciplinary Action, Disputes and Mediation

(1) Rules 23 to 27 inclusive, provides a procedure for dealing with any dispute under or relating to these rules —

(a) between Members; or

(b) between a Member and the Association.

(2) Terms used in rules 23 to 27 inclusive.

"Association Dispute" means, a dispute between one Member of the Association and the Association, under or relating to these rules.

"Dispute" means, either an Association Dispute or a Member Dispute.

"Dispute Procedure" means, a procedure in relation to rule 23(1).

"Member Dispute" means, a dispute between two or more Members of the Association, under or relating to these rules.

24. Disciplinary Action

(1) Suspension

(a) The Committee may decide to suspend a Member's membership if —

(i) the Member contravenes any of these rules including the annexed documents specified in rule 19(3); or

(ii) the Member acts detrimentally to the interests of the Association.

(b) The secretary must give the Member written notice of the proposed suspension at least 28 days before the Committee meeting at which the proposal is to be considered by the Committee.

(c) The notice given to the Member must state —

(i) when and where the Committee meeting is to be held; and

(ii) the grounds on which the proposed suspension is based; and

(iii) that the Member, or the Member's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral submissions to the Committee about the proposed suspension.

(d) At the Committee meeting, the Committee must —

(i) give the Member, or the Member's representative, a reasonable opportunity to make written and oral submissions to the Committee; and

(ii) give due consideration to any submissions so made and decide whether to suspend the Member's membership and, if the decision is to suspend the membership, the period of suspension.

(e) The Committee must give the Member written notice of the Committee's decision, the effective date, and the reasons for the decision, within 28 days after the Committee meeting at which the decision is made.

(f) A Member whose membership is suspended from the Association may, within 28 days after receiving notice of the Committee's decision, give written notice to the secretary requesting the appointment of a mediator in accordance with rule 27.

(2) Consequences of suspension

(a) During the period a Member's membership is suspended, the Member —

(i) loses any rights (including voting rights) arising as a result of membership;

(ii) is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Association;

(iii) shall continue to abide by these rules; and

(iv) shall continue to be subject to fines for non-compliance of these rules to the same extent as other Member.

(b) When a Member's membership is suspended, the secretary must record the detail of the suspension in the register of Members. —

(c) When the period of the suspension ends, the secretary must record in the register of Members that the Member's membership is no longer suspended.

25. Resolving disputes - Member Dispute.

(1) Any party to a Member Dispute may commence the procedure, by giving written notice to the secretary of —

(a) the parties to the dispute; and

(b) the matters that are the subject of the dispute.

(2) The parties to a Member Dispute must attempt to resolve the dispute between themselves within 30 days after the dispute has come to the attention of the

Association. The parties to a Member Dispute may engage in mediation.

- (3) After receiving a notice, the Committee must consider the dispute at one of the next three Committee meetings referred to in rule 13(1) or within 3 months, or at any other meeting convened to determine the Dispute.
- (4) The secretary must give each party to the dispute, written notice of the Committee meeting at which the dispute is to be considered and determined at least 21 days before the meeting is held.
- (5) The notice given to each party to the dispute must state —
 - (a) when and where the Committee meeting is to be held; and
 - (b) that all parties, or their representatives, must attend the meeting and all parties will be given a reasonable opportunity to make written and oral submissions to the Committee about the dispute.
- (6) At the Committee meeting at which a dispute is to be considered and determined, the Committee must —
 - (a) give each party to the dispute, or their representative, a reasonable opportunity to make written and oral submissions to the Committee about the dispute; and
 - (b) give due consideration to any submissions so made; and
 - (c) determine the dispute.
- (7) If one or more parties to a dispute is not present at a meeting so convened in accordance with rules 25(3) to 25(5) without reasonable apology, the Committee may determine the dispute in their absence.
- (8) The Committee must give each party to the dispute written notice of the Committee's determination, and the reasons for the determination, within 28 days after the Committee Meeting at which the determination is made.
- (9) A party to the Member Dispute may, within 28 days after receiving notice of the Committee's determination under 25(8), give written notice to the secretary requesting the appointment of a mediator in accordance with rule 27.

26. Resolving disputes - Association Dispute.

- (1) An Association Dispute is a dispute between one Member of the Association and the Association. These rules do not allow for an Association Dispute to be with more than one Member of the Association. Each Member must raise their grievance with the Association individually. The Committee may elect to manage individual grievances collectively.
- (2) Only a Member of the Association has standing to raise an Association Dispute.
- (3) Either party to an Association Dispute may commence the procedure, by giving written notice to the secretary or the Member of the Association as the case may be, of—
 - (a) the party to the dispute; and
 - (b) the matters that are the subject of the dispute.
- (4) After receiving a notice, the Committee must consider the dispute at one of the next three Committee Meetings referred to in rule 13(1) or within 3 months, or at any other meeting convened to determine the Dispute.
- (5) The secretary must give the Association Member to the dispute, written notice of the Committee Meeting at which the dispute is to be considered and determined at least 21 days before the meeting is held.
- (6) The notice given to the Association Member to the dispute must state —
 - (a) when and where the Committee meeting is to be held; and
 - (b) that the Association Member or their representative, may attend the meeting and will be given a reasonable opportunity to make written and oral submissions to the Committee about the dispute.
- (7) At the Committee Meeting at which a dispute is to be considered and determined, the Committee must —
 - (a) give the Association Member or their representative, a reasonable opportunity to make written and oral submissions to the Committee about the dispute; and

- (b) give due consideration to any submissions so made; and
 - (c) determine the dispute.
- (8) If the Member of the Association or their representative is not present at a meeting so convened in accordance with rules 26(5) to 26(7) without reasonable apology, the Committee may determine the dispute in their absence including dismissing the dispute.
- (9) The Committee must give each party to the dispute written notice of the Committee's determination, and the reasons for the determination, within 28 days after the Committee Meeting at which the determination is made.
- (10) A party to the dispute may, within 28 days after receiving notice of the Committee's determination under 25(8), give written notice to the secretary requesting the appointment of a mediator in accordance with rule 27.

27. Mediation

- (1) This rule applies if written notice has been given to the secretary requesting the appointment of a mediator —
 - (a) by a party under rule 24(1)(f); or
 - (b) by a party under rule 25(9) or
 - (c) by a party under rule 26(10).
- (2) If this rule applies, a mediator must be chosen or appointed in accordance with this rule.
- (3) The mediator must be a person chosen by agreement between the parties and the Committee; or
- (4) If there is no agreement for the purposes of rule 27(3), then the Committee must appoint the mediator. The person appointed as mediator by the Committee must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre.
- (5) The parties to the mediation must attempt in good faith to settle the matter that is

the subject of the mediation.

- (6) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 21 days before the mediation takes place.
- (7) In conducting the mediation, the mediator must —
- (a) give each party to the mediation every opportunity to be heard; and
 - (b) allow each party to the mediation to give due consideration to any written statement given by another party; and
 - (c) ensure that natural justice is given to the parties to the mediation throughout the mediation process.
- (8) The mediator cannot determine the matter that is the subject of the mediation.
- (9) The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.
- (10) The costs of the mediation are to be paid by the party to the mediation that requested the appointment of the mediator.
- (11) If-
- (a) mediation takes place because a Member whose membership is suspended from the Association gives notice under rule 24(1)(f); and
 - (b) as the result of the mediation, the decision to suspend the Member's membership is revoked,
- that revocation does not affect the validity of any decision made at a Committee Meeting or general meeting during the period of suspension.
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Table 1

Table 2 - SPECIAL RESOLUTION 27 to SPECIAL RESOLUTION 41.

SPECIAL RESOLUTION 27 to SPECIAL RESOLUTION 41 are to correct formatting, spelling and typographical errors in the Existing Rules. These changes to the Rules are not directly required to comply with the *Associations Incorporation Act 2015* but to provide clarity of the Rules to ensure compliance of the Act.

SPECIAL RESOLUTION 27 Rule 1: amend the name of the Association to correct a typographical error.

Rule 1 The name of the Association is ILUKA HOMEOWNER'S' ASSOCIATION (INC).

For clarity.

Amend Rule 1 from:

The name of the Association is ILUKA HOMEOWNERS' ASSOCIATION (INC).

To:

The name of the Association is ILUKA HOMEOWNER'S ASSOCIATION (INC).

Rationale: The name of the Association registered with the *Department of Mines, Industry Regulation and Safety*, in 2005, is ILUKA HOMEOWNER'S ASSOCIATION (INC). No other changes to the name of the Association have been made since then.

SPECIAL RESOLUTION 28 Rule 2: amend definitions to meet to plain English drafting standards.

Rule 2 "the Chairperson" means - ... (b) otherwise than in relation to the proceedings referred to in paragraph (a), the person referred to in rule 8(1)(a) or, if that person is unable to ...

SPECIAL RESOLUTION 29 Rule 2: amend definitions to meet to plain English drafting standards.

Rule 2 "Committee meeting" means a meeting referred to in rule 13 (1),
"general meeting" means a meeting convened under rule 14;
"Committee member" means a person referred to in ...
"member" means a member of the Association;
"ordinary resolution" means a resolution ... ;

SPECIAL RESOLUTION 30 Rule 2: definition of "SAR", amend typographical error.

Rule 2 "SAR" means the 'Specified Area Rate ~~Special Area Rating~~', payable to the City of Joondalup ...

SPECIAL RESOLUTION 31 Rule 2: definition of "SAR", to provide the source of law for the SAR".

Rule 2 ... payable to the City of Joondalup in accordance with the *Local Government Act 1995 (WA)*;

SPECIAL RESOLUTION 32 Rule 5(1): amend this Rule to correct a typographical error.

5(1) Insert space in "ipsofacto" to "ipso_facto".

SPECIAL RESOLUTION 33 Rule 3, 10, 11, 12: amend the numbering of these Rules to keep the numbering consistent with other Rules.

Rule 3: Delete numbering (a) ... (i), Insert numbering (1) ... (9).

Rule 10: Delete numbering 10(a) ... 10(e), Insert numbering 10(1) ... 10(5). Delete numbering 10(3)(i) ... 10(3)(iii), Insert numbering 10(3)(a) ... 10(3)(c). Due to this amendment amend paragraph ~~(e)~~(3),

Rule 11: Delete numbering (a) ... (g), Insert numbering (1) ... (7). And then amend references: 11(2), ~~(a)~~(1); 11(6), ~~(d)~~(4) and ~~(e)~~(5);

Rule 12: Delete numbering 12(a) ... 12(f), Insert numbering 12(1) ... 12(6). Delete numbering 12(5)(i) ... 12(5)(ii), Insert numbering 12(5)(a) ... 12(5)(b).

SPECIAL RESOLUTION 34 Rule 7(3): amend this rule to clarify the operation of the rule.

7(3) ~~All~~The membership joining fee and all other fees or fines payable by a member shall be a charge on the lot

SPECIAL RESOLUTION 35 Rule 7(4): amend this Rule to correct a typographical error.

7(4) ... shall be entitled to ~~commence~~commence legal proceedings ...

SPECIAL RESOLUTION 36 Rule 8(1)(e): amend this Rule to correct a typographical error.

8(1)(e) not less ~~then~~than 4 other persons,

SPECIAL RESOLUTION 37 Rule 10(4): amend this Rule to correct a reference error.

10(4) ... other than those required by ~~rule 13~~ rule 11(6) to be kept ...

SPECIAL RESOLUTION 38 Rule 17(3)(b): amend this Rules to meet to plain English drafting standards.

17(3)(b) a copy of which resolution is lodged with the Secretary.

SPECIAL RESOLUTION 39 Rule 19(4): amend this Rule to correct a capitalisation error.

19(4) The ~~e~~Committee may from time to time ...

SPECIAL RESOLUTION 40 Capitalise defined words throughout the Rules.

Capitalise the first letter of:

~~a~~Annual ~~g~~General ~~m~~Meeting;

where applicable, ~~a~~Association;

Committee ~~m~~Member;

Committee ~~m~~Meeting;

~~m~~Member;

~~s~~Special ~~g~~General ~~m~~Meeting;

throughout the rules.

SPECIAL RESOLUTION 41 Rule 19(3) and 19(4): amend these Rules to correct reference errors to rule 19(2).

19(3) ... ~~section~~ rule 19(2) ...

19(4) ... ~~section~~ rule 19(2) ...

Table 2

Table 3 SPECIAL RESOLUTION 42 to SPECIAL RESOLUTION 46.

SPECIAL RESOLUTION 42 to SPECIAL RESOLUTION 46 are proposed to provide for any future development in the commercial zone. These changes to the Rules are not required to comply with the *Associations Incorporation Act 2015*. However, addressing these matters at this time will most likely avoid the need to alter the Rules again sometime in the next few years due to non-compliance to the Act in the definition of members at that time.

SPECIAL RESOLUTION 42 Rule 2: insert these definitions to provide for a new "Type A Associate Member".

Rule 2 "Type A Associate Member" means a person granted membership pursuant to rule 5(1)(D).

"Type A Associate Membership" means the type of membership referred to in rule 5(1)(D).

"Type A Associate Committee Member" means a Type A Associate Member elected to membership of the Committee in accordance with rule 8.

SPECIAL RESOLUTION 43 Rule 5(1)(D): insert this rule to specify the qualifications for a Type A Associate Member.

(1)(D) Any person who: does not have an interest as specified in rule 5(1); and is registered on the Commonwealth electoral roll as being a resident of ILUKA; and has a lease for life residential contract with, a lot owner pursuant to rule 5(1); may apply to the Committee for a Type A Associate Membership.

(1)(E) A person ceases to be a Type A Associate Member of the Association, when that person ceases to satisfy the requirements of rule 5(1)(D).

Rationale: The proposed new developments in the Burns Beach corner of ILUKA may introduce residents into ILUKA who do not qualify for membership of the Association under the existing rule 5(1). SPECIAL RESOLUTION 43 introduces sub rule 5(1)(D) which allows for *lease for life* residents who live in ILUKA to be members of the Association. In the view of the Committee, SPECIAL RESOLUTION 43 is consistent with the objects of the Association.

SPECIAL RESOLUTION 44 Rule 7(1)(B): Insert this Rule to specify a joining fee for a Type A Associate Members.

7(1)(B) Pursuant to rule 5(1)(D), Type A Associate Member shall pay a joining fee to the Association at the time of becoming a member.

SPECIAL RESOLUTION 45 Rule 5(4): insert this Rule to clarify the rule on voting rights in relation to Type A Associate Members.

5(4) A Type A Associate Member shall not have a vote pursuant to rule 5(3).

Rationale: The current rule 5(3), allocates 1 voting right to each lot in ILUKA. Association Members do not have voting rights, however Association Members exercise the voting right of the lot or lots of which they own. Type A Associate Members do not have a share or interest in any lot in ILUKA and therefore do not have any voting rights pursuant to rule 5(3). Rule 5(4) clarifies that position and does not alter the Existing Rules in any way.

SPECIAL RESOLUTION 46 Rule 8(1)(A) to 8(1)(C): insert these rules to provide for Committee Membership for Type A Associate Members.

8(1)(A) In addition to the Committee of Management specified in rule 8(1), the Committee of Management may consist of no more than two Type A Associate Members, referred to as Type A Associate Committee Members. One of the two Type A Associate Committee Member positions is reserved for the lot owner or the lot owner's delegate who may also be a person so specified in 5(1)(D).

8(1)(B) A Type A Associate Committee Member, shall be elected to membership in accordance with this rule.

8(1)(C) Type A Associate Committee Members, shall be afforded the same rights and privileges of all other Committee Members and have a right be elected to any office specified in rule 8(1)(a) to 8(1)(d) inclusive in accordance with this rule.

Table 3