

RULES OF ILUKA HOMEOWNERS' ASSOCIATION

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RULES OF ILUKA HOMEOWNERS' ASSOCIATION

1. Name of Association

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

2. Definitions

In these rules, unless the contrary intention appears -

"Committee meeting" means meeting referred to in rule 13 (1),

"Committee member" means person referred to in paragraph (a), (b), (c), (d) or (e) of rule 8(1);

"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;

"general meeting" means meeting convened under rule 14;

"member" means member of the Association;

"ordinary resolution" means resolution other than a special resolution;

"Iluka Estate" means and includes each of the lots comprised in "Plans and Diagrams registered at the

Land Titles Office and nominated by the Developer as forming part of Beaumaris Beach Estate Iluka;

"special resolution" has the meaning given by section 24 of the Act;

"the Act" means the Associations Incorporation Act 1987;

"the Association" means the Association referred to in rule 1;

"the Chairperson" means -

(a) in relation to the proceedings at a Committee meeting or general meeting, the person presiding at the Committee meeting or general meeting in accordance with rule 9; or

(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 perform his or her functions, the Vice-Chairperson;

"the Committee" means the Committee of Management of the Association referred to in rule 8(1);

"the Developer" means The Roman Catholic Archbishop of Perth and Davidson Pty Ltd (ACN 009 447 745);

"the Secretary", means the Secretary referred to in rule 8(1)(c);

"the Treasurer" means the Treasurer referred to in rule 8(1)(d);

"the Vice-Chairperson" means the Vice-Chairperson referred to in rule 8(1)(b).

"SAR" means the 'Special Area Rating', payable to the City of Joondalup.

3. Objects of the Association

- (a) To provide for and ensure high standards of maintenance for Iluka Estate parks and reserves, gardens, road features, foreshore reserve facilities and any private recreation and other facilities constructed within Iluka Estate.
- (b) The property and income of the Association shall be applied solely towards the promotion of the objects of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to members, except in good faith in the promotion of those objects.
- (c) To engender a sense of community spirit and utility amongst home owners in Iluka.
- (d) To represent the best interests of the Association to government and private organisations.
- (e) To promote the activities and services, of the Association, within the community.
- (f) To promote and co-ordinate community events.
- (g) To liaise with the Estate developer and local government, regarding ongoing development within Iluka

- (h) To assist in the enforcement of the restrictive covenants applicable to properties in Iluka.
- (i) To develop and implement a set of covenants to maintain the amenity and integrity of Iluka and to ensure compliance of those covenants by the levying of fines or taking such other steps that may in all the circumstances be deemed reasonable.

4. Powers of Association

The Association shall have power to do all things as it or its members may deem to be necessary, incidental or conducive to the attainment of the above objects.

5. Qualifications for Membership of Association

- (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.

(2) Deleted

- (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.

6. Register of Members of Association

The Secretary, or their delegate, shall on behalf of the Association keep and maintain the register of

members in accordance with section 27 of the Act and that register shall be so kept and maintained.

7. Subscriptions of Members of Association

- (1) The members shall from time to time at a general meeting determine the amount of the membership joining fee and other fees to be paid by each member.
- (2) Each member shall pay to the Joondalup City Council the SAR when it becomes due.
- (3) All membership joining fee and other fees or fines payable by a member shall be a charge on the lot owned by each member and the Association shall be entitled to lodge a Caveat on any lot in Iluka Estate which is in arrears in order to secure payment of any membership joining fee and other fees or fines and arrears thereof.
- (4) If any member refuses and/or neglects to pay any membership joining fee or other fees or fines imposed by the Association within thirty (30) days of being requested to do so in writing, the Association shall be entitled to commence legal proceedings to enforce payment of the amount outstanding.

8. Committee of Management

(1) The affairs of the Association shall be managed exclusively by a Committee of Management consisting of -

(a) a Chairperson;

(b) a Vice-Chairperson;

(c) a Secretary;

(d) a Treasurer; and

(e) not less than 4 other persons,

all of whom shall be members of the Association elected to membership of that Committee at an annual general meeting or appointed under rule 8(7).

(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 of each successive annual general meeting thereafter all members of the Committee of Management shall retire but shall be eligible for re-election.

(3) A person is not eligible for election to membership of the Committee unless a member (who has paid all fees or fines then due and payable) has nominated him for election by delivering notice in writing of that nomination, signed by -

(a) the nominator; and

(b) the nominee to signify his or her willingness to stand for election,

to the Secretary not less than 7 days before the day on which the annual general meeting concerned is to be held, and the nominee has paid all membership joining fee and other fees or fines then due and payable.

(4) A person who is eligible for election or re-election under this rule may at the annual general meeting concerned -

(a) propose or second himself or herself for election or re-election; and

(b) vote for himself or herself.

(5) The Secretary, or their delegate, shall ensure that notice of all persons seeking election to membership of the Committee is given to all members when notice is given to those members of the calling of the annual general meeting at which that election is to be held.

(6) If the number of persons nominated for election to membership of the Committee does not exceed the number of vacancies in that membership to be filled -

(a) the Secretary shall report accordingly to; and

(b) the Chairperson shall declare those persons to be duly elected as members of the Committee at,

the annual general meeting concerned.

(7) When a casual vacancy within the meaning of rule 12 occurs in the membership of the Committee -

(a) the Committee may appoint a member to fill that vacancy; and

(b) a member appointed under this subrule shall -

(i) hold office until the commencement of; and

(ii) be eligible for election to membership of the Committee at,

the next following annual general meeting.

9. Chairperson

(1) Subject to this rule, the Chairperson shall preside at all general meetings and Committee meetings.

(2) In the event of the absence from -

(a) a general meeting of -

(i) the Chairperson, the Vice-Chairperson; or

(ii) both the Chairperson and the Vice-Chairperson, a member elected by the other members present at the general meeting;

or

(b) a Committee meeting of -

(i) the Chairperson, the Vice-Chairperson; or

(ii) both the Chairperson and the Vice-Chairperson, a Committee member elected by the other Committee members present,

shall preside at the meeting.

10. Secretary

The Secretary , or their delegate, shall -

(a) co-ordinate the correspondence of the Association;

(b) keep full and correct minutes of the proceedings of the Committee and of the Association;

- (c) comply on behalf of the Association with -
 - (i) section 27 of the Act in respect of the register of members of the Association;
 - (ii) section 28 of the Act in respect of the rules of the Association; and
 - (iii) section 29 of the Act in respect of the record of the office holders, and any trustees, of the Association;
- (d) have custody of all books, documents, records and registers of the Association, including those referred to in paragraph (c), other than those required by rule 13 to be kept and maintained by, or in the custody of, the Treasurer; and
- (e) perform such other duties as are imposed by these rules on the Secretary.

11. Treasurer

The Treasurer shall -

- (a) be responsible for the receipt of all moneys paid to or received by, him or her on behalf of, the Association and shall issue receipts for those moneys in the name of the Association;

- (b) pay all moneys referred to in paragraph (a) into such account or accounts of the Association as the Committee may from time to time direct;
- (c) make payments from the funds of the Association with the authority of a general meeting or of the Committee and in so doing ensure that all cheques are signed by 1 Committee member and himself or herself;
- (d) comply on behalf of the Association with sections 25 and 26 of the Act in respect of the accounting records of the Association;
- (e) whenever directed to do so by the Chairperson, submit to the Committee a report, balance sheet or financial statement in accordance with that direction;
- (f) have custody of all securities, books and documents of a financial nature and accounting records of the Association, including those referred to in paragraphs (d) and (e); and
- (g) perform such other duties as are imposed by these rules on the Treasurer.

12. Casual Vacancies in Membership of Committee

A casual vacancy occurs in the office of a Committee member and that office becomes vacant if the Committee member -

- (a) dies;
- (b) resigns by notice in writing delivered to the Chairperson or, if the Committee member is the Chairperson, to the Vice-Chairperson;
- (c) is convicted of an offence under the Act;
- (d) is permanently incapacitated by mental or physical ill-health.
- (e) is absent from more than -

- (i) 3 consecutive Committee meetings; or

- (ii) 3 Committee meetings in the same financial year,

of which he or she has received notice without tendering an apology to the person presiding at each of those Committee meetings; or

- (f) ceases to be a member of the Association.

13. Proceedings of Committee

- (1) The Committee shall meet together for the dispatch of business not less than once in each calendar month and the Chairperson may at any time convene a meeting of the Committee.
- (2) Each Committee member has a deliberative vote.
- (3) A question arising at a Committee meeting shall be decided by a majority of votes, but, if there is an equality of votes, the person presiding at the Committee meeting shall have a casting vote in addition to his or her deliberative vote.
- (4) At a Committee meeting 6 Committee members constitute a quorum.
- (5) Subject to these rules, the procedure and order of business to be followed at a Committee meeting shall be determined by the Committee members present at the Committee meeting.
- (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.

14. General Meetings

(1) The Committee -

(a) may at any time convene a special general meeting;

(b) shall convene annual general meetings within the time limits provided for the holding of annual general meetings by section 23 of the Act; and

(c) shall, within 60 days of receiving a request in writing to do so from not less than 50 members, convene a special general meeting for that purpose specified in that request.

(2) The members making a request referred to in subrule (1)(c) shall -

(a) state in that request the purpose for which the special general meeting concerned is required; and

(b) sign that request.

(3) Subject to subrule (6), the Secretary shall give to all members not less than 14 days notice of a general meeting and of any motions to be moved at the general meeting.

(4) A notice given under subrule (3) shall specify -

(a) when and where the general meeting concerned is to be held; and

(b) particulars of the business to be transacted at the general meeting concerned and of the order in which that business is to be transacted.

(5) In the case of an annual general meeting, the order in which business is to be transacted is

(a) first, the consideration of the accounts and reports of the Committee;

(b) second, the election of Committee members to replace outgoing Committee members; and

(c) third, any other business requiring consideration by the Association in a general meeting.

- (6) The Secretary, or their delegate, shall give to all members not less than 21 days notice of a general meeting at which a special resolution is to be proposed and of any other motions to be moved at that general meeting.

- (7) The Secretary, or their delegate, may give a notice under subrule (3) or (6) by -
 - (a) serving it on a member personally; or
 - (b) sending it by post to a member at the address of the member appearing in the register of members kept and maintained under section 27 of the Act; or
 - (c) causing it to be placed in the member's letter box;
 - (d) causing it to be advertised in a local newspaper.

- (8) When a notice is sent by post under subrule (7)(b), sending of the notice shall be deemed to be properly effected if the notice is sufficiently addressed and posted to the member concerned by ordinary prepaid mail.

15. Quorum in Proceedings at General Meetings

- (1) At a general meeting 15 members present in person or by proxy constitute a quorum.

- (2) If within 30 minutes after the time specified for the holding of a general meeting in a notice given under rule 14(3) or (6) -
 - (a) as a result of a request or notice referred to in rule 14(1)(c) or a quorum is not present; the general meeting lapses; or
 - (b) the general meeting stands adjourned to the same time on the same day in the following month and to the same venue; or

where the venue is not available, the closest possible time to the original set time with the appropriate notice as required in rule 14
- (3) If within 30 minutes of the time appointed by subrule (2)(b) for the resumption of an adjourned general meeting a quorum is not present, the members who; are present in person or by proxy may nevertheless proceed with the business of that general meeting as if a quorum were present.
- (4) The Chairperson may, with the consent of a general meeting at which a quorum is present, and shall, if so directed by such a general meeting, adjourn that general meeting from time to time and from place to place.

- (5) There shall not be transacted at an adjourned general meeting any business other than business left unfinished or on the agenda at the time when the general meeting was adjourned.
- (6) When a general meeting is adjourned for a period of 30 days or more, the Secretary, or their delegate, shall give notice under rule 14 of the adjourned general meeting as if that general meeting were a fresh general meeting.
- (7) At a general meeting -
 - (a) an ordinary resolution put to the vote shall be decided by a majority of votes cast on a show of hands; and
 - (b) a special resolution put to the vote shall be decided in accordance with section 24 of the Act.
- (8) A declaration by the Chairperson at a general meeting that a resolution has been passed as an ordinary resolution thereat shall be evidence of that fact unless, during the general meeting at which the resolution is submitted, a poll is demanded in accordance with subrule (9).

- (9) At a general meeting, a poll may be demanded by the Chairperson at the general meeting or by 3 or more members present in person or by proxy and, if so demanded, shall be taken in such manner as the Chairperson directs.
- (10) If a poll is demanded and taken under subrule (9) in respect of an ordinary resolution, a declaration by the Chairperson of the result of the poll is evidence of the matter so declared.
- (11) A poll demanded under subrule (9) on the election of a person to preside over a general meeting or on the question of an adjournment shall be taken forthwith on that demand being made.

16. Minutes of Meetings of Association

- (1) The Secretary, or their delegate, shall cause proper minutes of all proceedings of all general meetings and Committee meetings to be taken and then to be entered within 30 days after the holding of each general meeting or Committee meeting, as the case requires, in a minute book kept for that purpose.

- (2) The Chairperson shall ensure that the minutes taken of a general meeting or Committee meeting under subrule (1) are checked and signed as correct by the Chairperson of the general meeting or Committee meeting to which those minutes relate or of the next succeeding general meeting or Committee meeting, as the case requires.

- (3) When minutes have been entered and signed as correct under this rule, they shall, until the contrary is proved, be evidence that
 - (a) the general meeting or Committee meeting to which they relate (in this subrule called "the meeting" was duly convened and held;
 - (b) all proceedings recorded as having taken place at the meeting did in fact take place thereat; and
 - (c) all appointments or elections purporting to have been made at the meeting have been validly made.

17. Voting Rights of Members of Association

- (1) Subject to rule 5(3), each member present in person or by proxy at a general meeting is entitled to a deliberative vote.

- (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.

- (3) An appointment made under subrule (2) shall be so made by a resolution of the board or other governing body of the body corporate concerned
 - (a) which resolution is authenticated under the common seal of that body corporate; and
 - (b) a copy of which resolution is lodged with the Secretary.

- (4) A person appointed under subrule (2) to represent a member which is a body corporate shall be deemed for all purposes to be a member until that appointment is revoked by the body corporate or, in the case of an appointment in respect of a particular general meeting, which appointment is not so revoked, the conclusion of that general meeting.

18. Proxies of Members of Association

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.

19. Rules of Association

(1) The Association may alter or rescind these rules, or make rules additional to these rules, in accordance, with the procedure set out in sections 17, 18 and 19 of the Act.

(2) These rules bind every member and the Association to the same extent as if every member and the Association had signed and sealed these rules and agreed to be bound by all their provisions.

20. Common Seal of Association

(1) The Association shall have a common seal on which its corporate name shall appear in legible characters.

- (2) The common seal of the Association shall not be used without the express authority of the Committee and every use of that common seal shall be recorded in the minute book referred to in rule 16.
- (3) The affixing of the common seal of the Association shall be witnessed by any 2 of the Chairperson, the Secretary and the Treasurer.
- (4) The common seal of the Association shall be kept in the custody of the Secretary or of such other person as the Committee from time to time decides.

21. Inspection of records, etc. of Association

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

22. Distribution of Surplus Property on Winding up of Association

If, on the winding up of the Association, any property of the Association remains after satisfaction of the debts and liabilities of the Association and the costs, charges and expenses of that winding up, that property shall be distributed -

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

(b) for charitable or benevolent purposes,

which incorporated association or purposes, as the case requires, 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.