

A photograph of a modern outdoor pool area. On the left, a large glass window reflects the sky and a blue vase. A stone wall with light-colored rectangular blocks stands in the middle ground. To the right, a large palm tree with yellow-green fronds dominates the scene. In the foreground, a swimming pool with blue tiles is visible, reflecting the sky and the surrounding elements. A lounge chair with a tan cushion and a small white dog sculpture are on the pool deck.

Development
Control By-Laws
Stage 1





SANCTUARY COVE RESORT ACT 1985

SANCTUARY COVE PRINCIPAL BODY CORPORATE BY-LAWS NOTIFICATION (NO. 2) 1994

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SHORT TITLE

1. This notification may be cited as the Sanctuary Cove Principal Body Corporate By-laws Notification (No. 2) 1994.

COMMENCEMENT

2. This notification commences on the day of publication in the Government Gazette.

BY-LAW REPEALED

3. The Sanctuary Cove Principal Body Corporate Development Control By-laws as set out in the Schedule repeal the existing Sanctuary Cove Body Corporate Development Control By-laws which were published in the Government Gazette on 22 August 1987.

APPROVAL

4. Pursuant to section 96A of the Sanctuary Cove Resort Act 1985, the Minister for Housing, Local Government and Planning approved on 18 July 1994, the Development Control By-laws made by the Principal Body Corporate as set out in the Schedule.

SCHEDULE DEVELOPMENT CONTROL BY-LAWS

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Part 1 – Transitional and Definitions

1.1 TRANSITIONAL

- 1.1.1 A design or development in the Residential Area which was lawful prior to the day when an amendment of the Principal Body Corporate's Development Control By-laws commence to apply, continues to be lawful design or development for so long as the relevant premises are so designed or developed notwithstanding any provision of these By-laws or amendment of these By-laws to the contrary.
- 1.1.2 Where an application for approval of plans and specifications has not been decided prior to the date that these By-laws commence to apply, the Principal Body Corporate in deciding the application, may give such weight as it considers appropriate to these By-laws.

1.2 DEFINITIONS

In these By-laws unless the contrary intention appears:

'Act' means the *Sanctuary Cove Resort Act 1985*.

'Adjacent Lot' means the controlled aspect Lot adjacent to a Controlled Aspect Boundary, other than the Controlled Aspect Lot.

'ARC' means the Architectural Review Committee established under Part 3 of these by-laws.

'Architectural Attachments' means finials, metalwork, chimneys, vents and other building attachments as may from time to time be designated as such by the Principal Body Corporate.

'Building Line' means a line beyond which no part of a building may be erected or may project towards a thoroughfare, side, or rear boundary without the approval in writing of the Principal Body Corporate.

'Building Reference Level' means the average of the Specified Levels for a Lot relative to the Australian Height Datum and which shall be deemed to apply over the whole of the area of that Lot.

'Class 10 Building' means a non-habitable building or structure including a carport, garage, shed, pergola, shade structure or similar structure.

'Common Property' means those areas described as 'common property' on Registered Plans, and additional common property acquired under the Building Units and Group Titles Act 1980.

'Company' means Discovery Bay Developments Pty Ltd ACN 010 446 821 having its registered office at Caseys Road, Hope Island, Queensland, its successors and assigns.

'Controlled Aspect Boundary' means the controlled aspect boundary of a Controlled Aspect Lot as designated on the Plan.

'Controlled Aspect Lot' means a lot designated as such on the Plan.

'Controlled Aspect Wall' means the wall on a Controlled Aspect Boundary.

'Conventional Aspect Lot' means a Lot designated as such on the Plan.

'Covered Parking Space' means a space fully enclosed in a Class 10 Building or integrated with a Principal Structure, provided for the purpose of garaging or storing a motorised vehicle.

'Development Parcel' means a Lot designated as such on the Plan.

'Eastern Neighbourhood' means the area designated as such on the Plan.

'Estate Lot' means a Lot designated as such on the Plan.

'Executive Committee' means the executive committee of the Principal Body Corporate constituted under the Act.

'Family Accommodation' means any premises used or intended for use within the curtilage of a Principal Structure for occupation by:

- (a) a member or members of the immediate family of; or
- (b) personal staff or servants necessary for the health and well being of a member or members of the household.

'Floor Space Ratio' means the total floor area of all Principal Structures on a Lot or Development Parcel, divided by the area of such Lot or Development Parcel. For the purpose of calculation, the total floor area shall be the sum of the area of each storey of all principal structures measured to the outermost limit of the exterior walls and including any void spaces at the level of a particular storey plus the area of separate garages or other Class X



buildings measured to the outermost limit of the exterior walls, plus 50% of the area of roofed terraces, balconies, decks, verandas, porches, porte cocheres that are integrated with the principal structure plus 50% of the area of roofed but unenclosed Class X structures.

'Golf Course' means the golf course established within the Site.

'Ground Level' means, subject to the provisions specified in these by-laws for altering ground levels, the existing ground level at, or adjacent to, a point on a Lot on the finished ground level proposed.

'Injuring' means administering a chemical or other artificial substance to a tree or altering the ground level (or water table) within the branch spread of the tree concerned, with the result that the tree or part of it dies.

'Landscaping' means the enhancement or protection of amenities on a Lot, or the locality in which a Lot is situated by any means including:

- (a) screening by fences, walls or vegetation; or
- (b) planting of trees, shrubs, ground covers or grass; or
- (c) formation of banks, terraces or other earth works; or
- (d) laying out of gardens, courts or pathways; or
- (e) construction of other amenity features.

'Local Authority' means the Albert Shire Council or such other local government as may from time to time have jurisdiction over the Site.

'Lot' means a parcel of land designated as a Lot on:

- (a) the Plan; or
- (b) a Registered Plan,

and includes a Development Parcel and Estate Lot.

'Northern Neighbourhood' means the area designated as such on the Plan.

'Other Side Boundary' means the side boundary on a Controlled Aspect Lot opposite the Controlled Aspect Boundary.

'Plan' means either the Eastern Neighbourhood Plan or the Northern Neighbourhood Plan, as the case may be, annexed to these by-laws.

'Precinct Type 1' means the area designated as such on the Plan.

'Precinct Type 2' means the area designated as such on the Plan.

'Precinct Type 3' means the area designated as such on the Plan.

'Precinct Type 4' means the area designated as such on the Plan.

'Precinct Type 5' means the area designated as such on the Plan.

'Precinct Type 6' means the area designated as such on the Plan.

'Precinct Type 7' means the area designated as such on the Plan.

'Precinct Type 8' means the area designated as such on the Plan.

'Precinct Type 10' means the area designated as such on the Plan.

'Primary Thoroughfare Body Corporate' means the Sanctuary Cove Primary Thoroughfare Body Corporate constituted under the Act.

'Principal Body Corporate' means the Sanctuary Cove Principal Body Corporate constituted under the Act, and for the purposes of making decisions under, and administering, these By-laws, includes the Executive Committee.

'Principal Structure' means a building designed, constructed or adapted for activities normally associated with domestic living of a maximum of one Sole-occupancy Unit and one Family Accommodation and:

- (a) includes:
 - (i) all normal interior floor areas; and
 - (ii) attached verandas, decks, balconies, porches, garages and similar structures; but
- (b) excludes Class 10 Buildings.



'Register of Specified Levels' means the register incorporating specified levels, maintained by the Principal Body Corporate.

'Registered Plan' means a plan registered under the Real Property Act 1861 or the Building Units and Group Titles Act 1980, that subdivides land in the Residential Areas.

'Resident' means the registered proprietor, or mortgagee in possession, or lawful occupier, of any Lot.

'Residential Area' means the land (other than secondary thoroughfares) in the residential zones of the Site or Adjacent Site.

'Residential Body Corporate' means a body corporate constituted under the Building Units and Group Titles Act 1980 for a parcel in the Site, and when used in the context of describing a 'Resident's Residential Body Corporate' means the Residential Body Corporate for the parcel in which the particular Resident's Lot is located.

'Residential Common Area' means Common Property or secondary thoroughfares.

'Residential Lot' means:

- (a) any Lot within the Eastern Neighbourhood or Northern Neighbourhood; and
- (b) used, or to be used, for residential purposes, other than an Estate Lot or Development Parcel.

'Site Coverage' means the percentage ratio of the total area of the Lot covered by buildings with closed walls, to the total area of that Lot.

'Sole-occupancy Unit' means a room or other part of a building for occupation by one owner, lessee, tenant or other occupier to the exclusion of any other owner, lessee, tenant or other occupier.

'Specified Levels' means those levels specified for a Lot and incorporated in the Register of Specified Levels:

- (a) in the case of a Principal Structure in Precinct 1, 2, 4, 5, 7, 8 and 10, on the side boundaries of the Lot, at the points of intersection with the Thoroughfare Alignment; and
- (b) in the case of a Principal Structure in Precinct Type 3, on the side boundaries of the Lot, at the points of intersection with the rear boundary lines; and
- (c) in the case of a Principal Structure in Precinct Type 6, on the Golf Course boundary of the Development Parcel.

'Storey' means that space within a building which is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above; and

'Thoroughfare Alignment' means the alignment to the Primary Thoroughfare or Secondary Thoroughfare.

1.3 INTERPRETATION

Unless the contrary intention appears terms used in these By-laws have the same meaning as they have in the Act.



Part 2 – Building Controls

2.1 APPLICATION

2.1.1 The controls specified in these By-laws apply to any building, structure and/or other development only within the Eastern Neighbourhood or Northern Neighbourhood.

2.1.2 Except where:

(a) a Development Parcel is substantially subdivided before any development occurs on the Development Parcel; or

(b) there is reference only to a Lot in a By-Law and no reference to a Development Parcel,

In which case these By-laws apply to each subdivided Lot as if they were referred to as Lots within these By-laws, these By-laws only apply to a Development Parcel as a whole Lot and not to any subdivided Lots in the Development Parcel.

2.2 PRINCIPAL STRUCTURES

2.2.1 Only one Principal Structure may be erected on a Residential Lot.

2.2.2 No more than two Principal Structures may be erected on an Estate Lot.

2.2.3 The maximum number of Principal Structures that may be erected on a Development Parcel must not exceed the Development Parcel's Lot entitlement specified in the relevant Registered Plan creating the Development Parcel.

2.3 HEIGHT CONTROLS

2.3.1 The maximum building height above the Building Reference Level for Principal Structures on a Lot must not exceed:

(a) In Precinct Type 1, the lesser of 1 Storey or 5.5 metres; and

(b) In Precinct Types 2 and 3, the lesser of 1.5 Storeys or 6.5 metres; and

(c) In Precinct 4, the lesser of 2 Storeys or 8.5 metres; and

(d) In Precinct Type 5, the lesser of 2.5 Storeys or 10.0 metres; and

(e) In Precinct Types 6 and 7, the lesser of 3 Storeys or 12.5 metres; and

(f) In Precinct Types 8 and 10, the lesser of 2 Storeys or 10.5 metres.

2.3.2 The maximum building height above the Ground Level for a Class 10 Building must be the lesser of 1 Storey or 4.5 metres.

2.3.3 For the purpose of calculating the number of Storeys, where a half Storey is allowed above the Building Reference Level, the floor level of the storey directly above the Building Reference Level must not be greater than 1.5 metres above the Building Reference Level. In all other instances, no part of any Storey greater than the number of Storeys allowed may project above the Building Reference Level.

2.3.4 No portion of any building except Architectural Attachments may project beyond the horizontal plane established as the maximum allowable building height.

2.3.5 For the purpose of calculating the allowable building heights, any open deck or terrace constructed at roof level is deemed to be a Storey.

2.3.6 Where:

(a) (i) the levels or depth of the Lot; or

(ii) the conditions of the Site; or

(iii) the nature of the buildings; or

(iv) the amenity of the locality,

make it necessary or expedient to alter the maximum allowable building height of a Principal Structure; and

(b) the Principal Body Corporate approves, in writing, the alteration,

then the maximum allowable building height of a Principal Structure will be as set out in the Principal Body Corporate's approval.

Current as at October 2008

Sanctuary Cove Principal Body Corporate By-Laws Notification (No. 2) 1994 – Stage 1

(Amendments approved by the Minister for Environment, Local Government, Planning and Women on 21st June 2006)



2.4 SITE COVERAGE CONTROLS

The maximum site coverage must not exceed:

In Precinct Types 1 and 2	45%
In Precinct Type 3, 4, 5, 7 and 8	40%
In Precinct Type 6	35%
In Precinct Type 10	100%

2.5 FLOOR SPACE RATIO CONTROLS

The maximum Floor Space Ratio must not exceed the numbers prescribed below and for Residential Lots, the minimum floor space ratio shall not be less than 75% of the prescribed maximum number:

In Precinct Type 1	Residential Lot 0.55
In Precinct Types 2 and 3	Residential Lot 0.45 Development Parcel 0.75
In Precinct Type 4, 5, 7 and 8	Residential Lot 0.60 Estate Lot 0.60 Development Parcel 0.75
In Precinct Type 6	Development Parcel 0.50
In Precinct 10	Residential Lot 1.00

In cases where a Residential Lot exceeds 1000m² in area, when calculating the minimum floor space ratio the size of the lot will be deemed to be 1000m².

2.6 THOROUGHFARE ALIGNMENT AND BUILDING LINE CONTROLS

2.6.1 The minimum Building Line for a Principal Structure on a Lot must not be less than:

- (a) 8.0 metres to the outer face of the street-facing wall from the Thoroughfare Alignment, where the thoroughfare is at that point not less than 18 metres wide; and
- (b) 6.0 metres to the outer face of the street-facing wall from the Thoroughfare Alignment, where the thoroughfare is at the point not less than 16 metres wide and not more than 18 metres wide; and
- (c) 5.0 metres to the outer face of the street-facing wall from the Thoroughfare Alignment where the thoroughfare is at that point not less than 14 metres wide and not more than 16 metres wide; and
- (d) 6.0 metres to the outer face of the street-facing wall from the Thoroughfare Alignment, where the thoroughfare is at that point not less than 6 metres wide but less than 14 metres wide.

2.6.2 The minimum Building Line for a Class 10 (abutting a secondary thoroughfare) must be 4.0 metres from the Thoroughfare Alignment.

2.6.3 The minimum Building Line for a Class 10 Building (abutting a secondary thoroughfare) wholly contained within the boundaries of a Development Parcel shall be 0.0 metres.

2.6.4 Where:

- (a) (i) the levels of depth of the Lot; or
(ii) the condition of the Site; or
(iii) the nature of the buildings; or
(iv) the amenity of the locality,
make it necessary or expedient to alter the minimum allowable Building Line from the Thoroughfare Alignment, for a Principal Structure; and
- (b) the Principal Body Corporate approves, in writing, the alteration,
then the minimum allowable Building Line from the Thoroughfare Alignment for a Principal Structure will be as set out in the Principal Body Corporate's approval.



2.7 SIDE BOUNDARY BUILDING LINE CONTROLS

- 2.7.1 The minimum distance from the outermost projection on a Conventional Aspect Lot, Estate Lot or a Development Parcel, to a side boundary of the Lot, must not be less than:
- (a) for Principal Structures not exceeding 5.0 metres above Ground Level, 1.5 metres; or
 - (b) for Principal Structures over 5.0 metres but not exceeding 8.0 metres above Ground Level, 2.0 metres; or
 - (c) for Principal Structures exceeding 8.0 metres above Ground Level, 2.0 metres plus 0.5 metres for every 3.0 metres or part thereof by which the Principal Structure exceeds 8.0 metres above Ground Level.
- 2.7.2 For the purpose of calculating the allowable side Building Line for a Conventional Aspect Lot, Estate Lot or a Development Parcel, the side Building Line must be measured from the outermost projection of the Principal Structure to:
- (a) the side boundary of the Lot; or
 - (b) in the case of a Principal Structure which is erected so that its length is stepped, By-Law 2.7.1 must apply as if each step of the Principal Structure were a separate building.
- 2.7.3 On a Controlled Aspect Lot:
- (a) the Principal Structure must be sited on the Controlled Aspect Boundary; and
 - (b) the Controlled Aspect Wall must:
 - (i) have no openings; and
 - (ii) be constructed of rendered masonry or brick with a minimum fire resistance rating of one hour; and
 - (c) no part of the Principal Structure may project onto the Adjoining Lot whether the projection is above, at or below Ground Level.
- 2.7.4 The minimum distance from the outermost projection of the Principal Structure on a Controlled Aspect Lot, to the Other Side Boundary of the Lot must not be less than:
- (a) for Principal Structures not exceeding 5.0 metres above Ground Level, 3.0 metres; or
 - (b) for Principal Structures over 5.0 metres but not exceeding 8.0 metres above Ground Level, 3.5 metres; or
 - (c) for Principal Structures exceeding 8.0 metres above Ground Level, 3.5 metres plus 0.5 metres for every 3.0 metres or part thereof by which the Principal Structure exceeds 8.0 metres above Ground Level.
- 2.7.5 For the purpose of calculating the allowable side Building Line for a Controlled Aspect Lot, the side Building Line must be measured from the outermost projection of the Principal Structure to:
- (a) the Other Side Boundary of the Lot; and
 - (b) in the case of a Principal Structure which is erected so that its length is stepped, By-Law 2.7.4 must apply as if each step of the Principal Structure was a separate building.
- 2.7.6 This minimum side Building Line for any Class 10 Building may be 0.0 metres provided that there is no projection by the building or the Architectural Attachments onto an adjoining Lot whether the projection be above, at or below Ground Level. In the case of any class 10 Building located within 1.5 metres of a side boundary, the wall of that building facing that side boundary must:
- (a) have no openings; and
 - (b) be of masonry construction with a minimum fire resistance rating of one hour.
- 2.7.7 Where a Class 10 Building is located between the side Building Line allowable for the Principal Structure and the side boundary, the distance separating the outermost projection of the Principal Structure and the side boundary of the Lot required in By-Law 2.7.1 or 2.7.4 must be maintained between the outermost projection of the Principal Structure as if the Class 10 Building were the side boundary of the Lot for the purposes of By-Law 2.7.1 or 2.7.4. This does not preclude the erection of an open-sided covered link between a garage or carport and the Principal Structure.
- 2.7.8 The maximum length of all Class 10 Buildings for a particular Lot, facing and within 1.5 metres of any one side boundary, must not exceed:
- (a) for the Other Side Boundary of a Controlled Aspect Lot, 4.0 metres; or
 - (b) in any other case, 9.0 metres.



2.8 REAR BOUNDARY BUILDING LINE CONTROLS

- 2.8.1 The minimum rear Building Line for any Principal Structure, or Class 10 Building, on Lot must not be less than:
- (a) 8.0 metres for any Lot which abuts the Golf Course, except in the case of Precinct Type 6 where the minimum allowable rear Building Line may be 5.0 metres; and
 - (b) 6.0 metres for any Lot which abuts a body of water; and
 - (c) 10.0 metres in all other cases except for a Development Parcel where the minimum allowable rear building line may be relaxed to 8.0 metres.
- 2.8.2 Shading devices, trellises or similar structures that are not connected to the Principal Structure and are:
- (a) (i) merely ornamental; or
 - (ii) used for horticultural purposes; and
 - (b) set back from side boundary alignments in accordance with By-Law 2.7.1 or 2.7.4; and
 - (c) not in excess of 3.0 metres in height above Ground Level,
- may be installed or maintained between the minimum rear Building Line and the boundary of the Lot for any Principal Structure or Class 10 Building:
- (d) if the Resident's Residential Body Corporate consents; and
 - (e) if the Principal Body Corporate approves, in writing, the structures as set out in the Principal Body Corporate's approval.
- 2.8.3 Where:
- (a) (i) the levels or the depth of the Lot; or
 - (ii) conditions, including (though not limited to) the shape of the Lot,
- make it necessary or expedient to alter the minimum allowable rear boundary Building Lines; and
- (b) the Principal Body Corporate approves, in writing, the alterations,
- then the minimum allowable rear boundary Building Lines will be as set out in the Principal Body Corporate's approval.
- 2.8.4 The erection of Architectural Attachments on any part of a revetment wall is prohibited.

2.9 PARKING AND DRIVEWAY CONTROLS

- 2.9.1 Two covered parking spaces must be provided on each Residential Lot or Estate Lot.
- 2.9.2 Two uncovered parking spaces must be provided on each Residential Lot or Estate Lot. These parking spaces may be in tandem and located between the covered parking spaces and the Thoroughfare Alignment.
- 2.9.3 For each Principal Structure on a Development Parcel, at least one covered parking space must be provided together with one additional parking space which may be either covered or uncovered.
- 2.9.4 All uncovered parking spaces must be paved with good quality masonry paving and with first class workmanship and finish.
- 2.9.5 The owner of any Lot must construct a driveway with good quality masonry paving and with first class non-slip finish between the thoroughfare kerb line and the fence or boundary line of that Lot.
- 2.9.6 The maximum number and width of driveways between the Thoroughfare Alignment and the kerb line for Residential and Estate Lots must not exceed:
- (a) for Lots with one Thoroughfare Alignment, one driveway of 5.5 metres or two driveways of 3.5 metres; and
 - (b) for Lots with more than one Thoroughfare Alignment, one driveway of 5.5 metres from one Thoroughfare Alignment and one driveway of 3.5 metres from another Thoroughfare Alignment.

2.10 CONTROLLED ASPECT WALL CONTROLS

- 2.10.1 The owner of a Controlled Aspect Lot (for the purpose of this By-Law 2.10, referred to as the 'Owner') must finish the Adjacent Lot side of their Controlled Aspect Wall compatible with the Principal Structure on their Lot. The Owner must ensure and maintain the structural soundness and waterproofing of their Controlled Aspect Wall.
- 2.10.2 The owner of an Adjacent Lot may finish the side of the Controlled Aspect Wall facing his Lot with material and



colour that is compatible with his Principal Structure. The Owner of an Adjacent Lot must first submit to the Owner of the Controlled Aspect Wall, a plan showing the proposed material and colour and how the finish is to be applied to the Controlled Aspect Wall so that it does not adversely affect the structural waterproofing of the wall.

The Adjacent Lot owner's request must not be unreasonably refused.

2.10.3 The owner of an Adjacent Lot:

- (a) must maintain the finish of the Controlled Aspect Wall facing his Lot so as not to adversely affect the structural soundness or waterproofing of the walls; and
- (b) must not affix anything to the Controlled Aspect Wall facing his Lot.

2.10.4 Where a Controlled Aspect Wall abuts a Residential Common Area, the painting, finish and maintenance of both sides of that wall is the responsibility of the Owner.

2.10.5 Where a Class 10 Building, wall or other structure is constructed on a Lot abutting a Controlled Aspect Wall as in By-Law 2.7, it must be structurally independent of and must not adversely affect the structural soundness, finish and waterproofing of the Controlled Aspect Wall in any way.

2.10.6 The provisions in respect of initial finishing and subsequent maintenance of Controlled Aspect Walls set out in By-laws 2.10.1 and 2.10.2 apply to any wall of a Class 10 Building or fence constructed on the side alignment of a Conventional Aspect Lot or Development Parcel.

2.10.7 For Controlled Aspect Lots, the finished floor level of the building abutting the Controlled Aspect Boundary must be a minimum of 0.23 metres and a maximum of 1.0 metre above the ground level at any point in the boundary.

2.11 FENCE CONTROLS

2.11.1 The owner of a Controlled Aspect Lot must construct a fence that is:

- (a) of the same material, finish and colour as the Controlled Aspect Wall on that Lot; and
- (b) located at 0.0 metres on the Controlled Aspect Boundary of that Lot; and
- (c) 2.0 metres in height above Ground Level except where:
 - (i) the fence encloses a courtyard contained within the Principal Structure, the height may be increased in line with the adjoining gutter or parapet; or
 - (ii) within 3.0 metres of the rear boundary, the fence must be stepped to a maximum of 1.25 metres in height about Ground Level to the rear boundary.

If the distance from the Principal Structure to the rear boundary is greater than 6.0 metres, the section of the fence further than 6.0 metres from the Principal Structure may be of open metal work construction or replaced with suitable planting.

2.11.2 The owner of a Controlled Aspect Lot may construct a temporary fence (complying with By-Law 2.11.4) on the Other Side Boundary of his Lot if there is no building constructed on the Lot adjoining that boundary. The temporary fence must be removed when construction proceeds on that adjoining Lot.

2.11.3 Fences located adjacent to a Thoroughfare Alignment must be constructed:

- (a) to a maximum height of 2.0 metres above Ground Level; and
- (b) no closer than 2.5 metres to the thoroughfare kerb line; and
- (c) of either rendered masonry or brick with a first class finish and may include panels or sections of open metalwork construction, provided that:
 - (i) the brick or rendered masonry component is at least 0.4 metres high above Ground Level; and
 - (ii) the total height does not exceed 2.0 metres above Ground Level.

Fences located adjacent to boundaries of Golf Courses or bodies of water must be of open metalwork construction and not of masonry or solid construction.

2.11.4 Subject to By-Law 2.10.5, fences located elsewhere on any Lot must be of either rendered masonry, brick work, open metalwork construction or a combination or the same with first class finish on all faces to a maximum height of 2.0 metres above Ground Level.

2.11.5 Swimming pools must be fenced in accordance with the requirements of the Local Authority, unless exempted or those requirements are amended resulting in the swimming pools complying to those amended requirements.



- 2.11.6 Fences, gatehouses and gates that:
- (a) abut or face a Thoroughfare Alignment, Residential Common Area or Golf Course; or
 - (b) are constructed on a Development Parcel,
- must not be altered nor the fence-line changed, without the approval of the Principal Body Corporate.
- 2.11.7 No existing:
- (a) fence may be altered; or
 - (b) fence line re-created,
- closer to a road on a primary thoroughfare or a secondary thoroughfare than where the existing fence is located, except as approved by the Principal Body Corporate and only as set out in the Principal Body Corporate's approval.
- 2.11.8 No new fence may be constructed closer to a road on a primary thoroughfare or a secondary thoroughfare than as approved by the Principal Body Corporate.

2.12 EXTERIOR MATERIALS AND COLOUR CONTROLS

- 2.12.1 Exteriors of Principal Structures and Class 10 Buildings must be finished in any, or a combination, of:
- (a) glazing; or
 - (b) brick; or
 - (c) stone; or
 - (d) rendered masonry (up to 2mm aggregate size); or
 - (e) timber; or
 - (f) applied monolithic fine-textured finish.
- 2.12.2 Exteriors of Principal Structures, Class 10 Buildings and fences must be finished in light subdued colours or white. Finishes that are of high contrast, intense or speckled colours are prohibited.
- 2.12.3 Fascia boards, trim and exposed metalwork must be:
- (a) painted or stained timber; or
 - (b) painted metal.
- 2.12.4 Fascia boards, trim and exposed metal work must be finished in a colour which is colour co-ordinated with the Principal Structure.
- 2.12.5 Principal Structures and Class 10 Buildings must be roofed in any, or a combination of:
- (a) colourbond metal; or
 - (b) timber shingles; or
 - (c) clay or concrete tiles.
- 2.12.6 Roofs must be finished in subdued colours or white. Finishes that are of high contrast, intense or speckled colours are prohibited.

2.13 TENNIS COURTS

- 2.13.1 Tennis courts must be set back from all Lot boundaries to a minimum of 3.0 metres for full size tennis courts and a minimum of 2.0 metres for half size tennis courts. The set back area must be densely planted with shrubs and other vegetation so as to prohibit the use of a wall on an adjoining controlled Aspect Lot as a rebound wall.
- 2.13.2 Approval must be obtained from the Local Authority for any tennis court and tennis court lighting.
- 2.13.3 If:
- (a) the level or shape of the Lot or exceptional conditions make it necessary or expedient to do so; and
 - (b) the Principal Body Corporate approves, in writing, the reduction, the set back dimensions for tennis courts may be reduced as set out in the Principal Body Corporate's approval.

2.14 SCREENED ENCLOSURES

- 2.14.1 Where exterior amenity areas, such as (though not limited to) pools and courtyards, are screened enclosures:



- (a) the materials and design used for the screens must be compatible with the materials and design of the Principal Structure; and
- (b) attached to the Principal Structure, they will be considered as part of the Principal Structure for Building Line set back purposes; and
- (c) detached from the Principal Structure, they will be considered as Class 10 Buildings for the purpose of establishing alignment set backs as separation from the Principal Structure; and
- (d) 50% of the area of the screened enclosures is to be included in the calculation of the maximum Floor Space Ratio for the Lot; and
- (e) for Lots 1 to 66 in registered Group Titles Plan No. 1701, the screened enclosures are prohibited from protruding past the specified Building Lines.

2.14.2 If:

- (a) the amenity of adjoining owners is not adversely affected by the screened enclosures; and
 - (b) the screened enclosures are adequately screened from adjoining Lots, Thoroughfares and Residential Common Areas by soft landscaping; and
 - (c) the Resident's Residential Body Corporate consents; and
 - (d) the Principal Body Corporate approves, in writing, the screened enclosures,
- a Resident may erect or attach screened enclosures outside the set back requirements for the Principal Structure or Class 10 Building as set out in the Principal Body Corporate's approval.

2.15 GENERAL CONDITIONS

- 2.15.1 All external meters and services must be fully screened or enclosed.
- 2.15.2 The owner of a Lot must provide an enclosure for a wheeled garbage container that is separately accessible from the secondary thoroughfare.
- 2.15.3 All exterior light fittings must be of first class quality and design.
- 2.15.4 The owner of each Lot must provide address numbers which:
- (a) are of first class quality and design; and
 - (b) are located so as to be clearly visible from the adjoining thoroughfare; and
 - (c) are externally illuminated at night by reflected light; and
 - (d) comply with the following requirements:
 - (i) be of a minimum 100mm and a maximum 200mm in height; and
 - (ii) be made of brass or other similar metal; and
 - (iii) not be painted.
- 2.15.5 The owner of each Lot must provide a letter box complying with Australia Post regulations and located so as to be accessible from the secondary thoroughfare.
- 2.15.6 Finished floor levels, including the floor level of any Basement, must be a minimum height above floor level as specified by the Local Authority.
- 2.15.7 Any Basement must be contained within the limits of the Principal Structure or Class 10 Building and must not be less than 1.5 metres from a side boundary.
- 2.15.8 All wharves and jetties must be constructed to first class standards utilising designs approved, in writing, by the Principal Body Corporate and the Department of Transport. Covered or enclosed structures are not permitted on any wharf or jetty.
- 2.15.10 Boatsheds are not permitted on any water body within Residential Area.

2.16 SWIMMING POOLS

- 2.16.1 Swimming pools, as measured to the water's edge within the pool, must be:
- (a) no closer than 1.5 metres to a side and rear boundary except where such boundaries abut a body of water where the distance shall be 2.5 metres measured to the boundary or revetment wall, whichever is the closer; and



- (b) fenced in accordance with By-Law 2.11.5.
- 2.16.2 Swimming pools which abut the Coomera River are subject to the swimming pool setback By-laws of the Local Authority.
- 2.16.3 A swimming pool filter pump motor must:
 - (a) be located as far as practicable from adjoining premises; and
 - (b) be located not more than 5 metres from pool surrounds; and
 - (c) be located no closer than 2 metres to the closest part of the boundary of any adjoining premises; and
 - (e) comply with the requirements of the Local Authority.

2.17 LANDSCAPE CONTROLS

- 2.17.1 Landscaping must not unreasonably interfere with the amenity of adjacent Lots or Residential Common Areas. Such amenity includes, but is not limited to, views, access to natural light, privacy, absence of intrusive noise, absence of glare and access to significant natural features.
- 2.17.2 Owners must be responsible for the provision and maintenance of landscaping on their Lots. Lots must be landscaped outside any structures.
- 2.17.3 Subject to the approval of the Principal Body Corporate, owners of Lots must landscape between any primary thoroughfare or secondary thoroughfare kerb line (as the case may be) and the Lot boundary.
- 2.17.4 (a) Screens and shading structures must be coloured and finished in the same manner as is required for the Principal Structure.
 - (b) Enclosure and shading structures greater than 2.0 metres in height situated on a Lot abutting a Golf Course, body of water or Residential common Area, which are visible from those adjacent areas, must be screened by vegetation.
- 2.17.5 (a) The Ground Level of any Lot must not be raised or lowered by more than 0.5 metres within 1.5 metres of any boundary or by more than 1.0 metres for the remainder of the Lot. Where Lots abut a Controlled Aspect Wall the level of the ground adjacent to that wall must be no higher than 0.23 metres below the finished floor level to the adjoining building.
 - (b) Retaining walls or other devices used to alter the natural ground line must be a maximum of 1.0 metre in height or be terraced or effectively screened by suitable planting.
 - (d) Retaining walls or other devices used to alter the natural ground line must be constructed of high quality monolithic material with first class workmanship and finish.
 - (e) The Principal Body Corporate may relax the ground line, on application by the owner of a Lot, if warranted by the topography of the Lot.

2.18 GENERAL RESTRICTIONS

- 2.18.1 A Resident must not, unless:
 - (a) the Resident's Residential Body Corporate consents; and
 - (b) the Principal Body Corporate approves, in writing,do any of the following:
 - (c) erect any external blinds or awnings; or
 - (d) fit any windows with mirrored glass or coat any windows with aluminium foil, reflected films, or similar material; or
 - (e) provide on his Lot, clothes-drying facilities that are visible from another Lot, body of water; or
 - (f) erect any sign or billboard of any kind on the Lot,and then only as set out in the Principal Body Corporate's approval.

2.19 SECURITY

- 2.19.1 Each Principal Structure must have a fire and security system connected and compatible to the integrated on-site monitoring system. The Principal Structure's system must include:
 - (a) connection to an active telephone line at all times; and



- (b) motion detectors; and
 - (c) duress facility; and
 - (d) smoke and heat detectors.
- 2.19.2 The Principal Structure's system referred to in By-Law 2.19.1 must be maintained, updated and replaced as necessary to comply with and be compatible to the integrated on-site monitoring system.
- 2.19.3 Cards, transmitters and similar devices for residential gate access must be compatible with the Site's present electronic access facility.
- 2.19.4 Electronic opening devices fitted to the Lots and all openers, transmitters and like devices must be passed (on the transfer of the Lot) from one owner to another.

Part 3 – Architectural Review Committee

3.1 APPOINTMENT OF ARCHITECTURAL REVIEW COMMITTEE

- 3.1.1 The Principal Body Corporate may appoint an Architectural Review Committee to advise and make recommendations to the Principal Body Corporate on applications for the approval of plans and specifications.
- 3.1.2. The ARC must consist of not less than 5 nor more than 9 as may be fixed from time to time by resolution of the Principal Body Corporate.
- 3.1.3 The Principal Body Corporate:
- (a) may appoint all of the members of the ARC; and
 - (b) retains the right to appoint, add to or replace all members of the ARC.
- 3.1.4 The members of the ARC may be appointed for a term not exceeding 2 years.
- 3.1.5 Persons appointed by the Principal Body Corporate to the ARC need not be members of a body corporate which is a member of the Principal Body Corporate.
- 3.1.6 The ARC may appoint a chairperson and may appoint such other officers for its efficient operation as it deems appropriate.

3.2 REVIEW OF PLANS AND SPECIFICATIONS

- 3.2.1 The ARC must:
- (a) when any plans and specifications are referred to it by the Principal Body Corporate, consider whether those plans and specifications comply with the Principal Body Corporate's Development Control By-laws; and
 - (b) make recommendations to the Principal Body Corporate, on plans and specifications referred to the ARC; and
 - (c) perform such other duties as may be requested of it by the Principal Body Corporate (including the inspection of construction in progress to ensure conformity with plans approved by the Principal Body Corporate).
- 3.2.2 No requisite Local Authority or other governmental approval can be sought for the construction or alteration of any structures, nor can the construction or alteration of any improvements on any land in the residential zones of the Site be commenced, until:
- (a) plans and specifications showing the nature, kind, shape, height, width, colour, materials and location of the proposed construction or alteration of the structures or improvements together with relevant landscaping proposals, have been submitted to the Principal Body Corporate; and
 - (b) the Principal Body Corporate has approved those plans and specifications; and
 - (c) the Principal Body Corporate has served the applicant with written notice of its approval.
- 3.2.3 Plans and specifications submitted to the Principal Body Corporate for its approval must be fully detailed including (without limitation) floor plans, site plans, drainage plans, landscape plans, elevation drawings, security layout plans and descriptions or samples of exterior materials and colours.
- 3.2.4 The address for submission of plans and specifications for approval of the Principal Body Corporate, is the address for service of the Principal Body Corporate as defined in the Act, or such other address as may be fixed from time to time by resolution of the Principal Body Corporate.



- 3.2.5 The ARC's recommendation to the Principal Body Corporate on plans and specifications referred to the ARC, must be based on the matters set forth in these Development Control By-Laws.
- 3.2.6 The ARC must recommend that the Principal Body Corporate approves plans and specifications (with or without conditions) if the plans and specifications of the proposed construction or alteration comply with these Development Control By-laws.
- 3.2.7 The ARC may recommend that the Principal Body Corporate impose a condition on an approval of an application, that:
- (i) additional plans and specifications or such other information as recommended, be submitted; or
 - (ii) changes be made to the plans and specifications, provided those changes are consistent with the Building Act 1975, the Standard Building By-laws, and these Development Control By-laws; or
 - (iii) the proposed construction or alteration be completed within a reasonable time specified in the recommended condition.
- 3.2.8 Plans and specifications referred to the ARC for review must comply with the rules and guidelines prescribed from time to time by the Principal Body Corporate.

3.3 PUBLICATION OF RULES AND GUIDELINES

The Principal Body Corporate may from time to time publish rules and guidelines dealing with:

- (a) procedures and requirements for the submission of plans and specifications for approval; and
- (b) a scale of fees payable, upon an application for approval, to the Principal Body Corporate or the Principal Body Corporate's consultants; and
- (c) a scale of bonds payable by a Resident at the commencement of any works on a Lot, to the Principal Body Corporate to be applied against the cost of repairing damage to primary thoroughfares or secondary thoroughfares; and
- (d) relevant factors which the Principal Body Corporate (and, if applicable, the ARC) may take into consideration in reviewing submissions; and
 - (i) any procedure or requirements relevant to the administration of these By-laws.

3.4 DECISIONS OF THE ARC

- 3.4.1 A recommendation of the ARC and the reasons for that recommendation, must be given by the ARC to the Principal Body Corporate within 30 days after receipt of all details required by the ARC to make its recommendations.
- 3.4.2 The ARC will be deemed to recommend approval of an application unless within 30 days after receipt by the ARC of the application or, where additional information is requested by the ARC, within 30 days of receipt of additional information by the ARC:
- (a) the ARC requests, from the applicant, additional information or details of materials proposed to be used; or
 - (b) the ARC sends to the Principal Body Corporate its recommendation to disapprove the application.

3.5 MEETINGS OF THE ARC

- 3.5.1 The ARC may meet from time to time (as necessary) to perform its duties under these Development Control By-laws.
- 3.5.2 Three members of the ARC will constitute a quorum.
- 3.5.3 At any meeting at which a quorum of the ARC is present, the decision by a majority of ARC members voting on a particular matter, will be the decision of the ARC.
- 3.5.4 If there is an equality of votes, in addition to the Chairperson's ordinary vote, the ARC's chairperson has a casting vote.
- 3.5.5 The ARC may by a unanimously adopted resolution in writing, designate one or more of its members to investigate or perform any duties for and on behalf of the ARC, and report that person's finding to the ARC.
- 3.5.6 The vote of a majority of the ARC members constitutes an act of the ARC.



3.6 NO WAIVER OF FUTURE APPROVALS

Where the Principal Body Corporate approves or imposes conditions on any proposals, plans and specifications, or drawings for any work done (or proposed) in connection with any other matter requiring the approval of the Principal Body Corporate that approval or condition shall be deemed not to constitute a waiver of any right of the Principal Body Corporate to withhold its approval or consent to any similar proposals, plans and specifications, drawings or other matter whatsoever subsequently or additionally submitted for approval or consent.

3.7 COMPENSATION OF ARC MEMBERS

The members of the ARC may receive reimbursement for expenses incurred by them in the performance of their duties, and such other sums as the Principal Body Corporate may from time to time determine by resolution, as compensation for services rendered.

3.8 APPEAL

3.8.1 Where plans and specifications submitted to the Principal Body Corporate are not approved, the applicant making the submission may appeal in writing to the Principal Body Corporate, provided the written appeal (and the grounds for the appeal) are received within 30 days after notice of the Principal Body Corporate's decision on the application is sent to the applicant.

3.8.2 The Principal Body Corporate may submit any appeal against its decision, to the ARC for review, and request the ARC's written recommendations for the Principal Body Corporate.

3.8.3 Within 60 days after receiving a request for appeal, the Principal Body Corporate must notify its written approval or disapproval of the application. Where the Principal Body Corporate fails to notify its decision within that 60 day period, the decision shall be deemed to be a decision in favour of the applicant.

3.9 INSPECTION OF WORK

3.9.1 Inspection of work and correction of any defects must proceed as follows:

- (a) on completion of any works which require approved plans under these Development Control By-laws, the Resident that owns those works must give written notice of completion to the Principal Body Corporate (or, if so resolved by the Principal Body Corporate, the ARC); and
- (b) within 30 days after receiving notice of completion of the works (or within 30 days after the time limit for completing the works has expired) the Principal Body Corporate (or, if so resolved by the Principal Body Corporate, the ARC) by its duly authorised representative, may inspect the works. If the Principal Body Corporate finds that the works have not been completed in substantial compliance with the approved plans, the Principal Body Corporate may notify the Resident in writing of such non compliance within the 30 day inspection period, specifying the particulars of the non compliance and requiring the Resident to remedy the non compliance; and
- (c) if the Resident fails, within 30 days from the date the Principal Body Corporate gives the Resident a notice of non compliance, to remedy the non compliance, then the Principal Body Corporate may, at its option, peacefully remove the non complying works or otherwise peacefully remedy the non compliance and the Resident must reimburse the Principal Body Corporate upon demand, for the Principal Body Corporate's expenses incurred in connection with removing or remedying the non compliance.

3.10 NON LIABILITY OF MEMBERS

3.10.1 Neither:

- (a) the ARC or any member of it; nor
- (b) the Principal Body Corporate or its duly authorised representatives, shall be liable to any Resident for any loss, damage or injury arising out of or in any way connected with the performance of the Principal Body Corporate's or the ARC's duties under these By-laws, unless that arises out of the wilful misconduct or bad faith of the Principal Body Corporate or ARC as the case may be.

3.10.2 Neither the ARC nor the Principal Body Corporate are responsible for reviewing, nor will any approval of any plan or design be deemed approval of any plans or design for the purposes of:

- (a) structural safety approval; nor
- (b) conformity with building or other codes or standards.



3.11 VARIANCE

Where the Principal Body Corporate authorises non compliance with any of these Development Control By-laws, the authorisation applies only to the extent specified in writing by the Principal Body Corporate, and it will not affect in any way the Resident's obligation to comply with all laws and regulations, including but not limited to requirements imposed by the Local Authority, affecting the Resident's use of the Lot and any improvements on the Lot.

3.12 GENERAL PROVISIONS

3.12.1 The establishment of the ARC and the procedures for architectural approvals must not be construed as changing any rights or restrictions on Residents to maintain, repair or alter the Resident's Principal Structure (and other improvements on the Resident's Lot) as may otherwise be specified in laws and regulations binding Residents, including but not limited to requirements imposed by the Local Authority.

3.12.2 The ARC may refuse to consider any application, where, in its opinion, the construction, alteration or addition:

- would adversely affect the amenity or the likely amenity of the neighbourhood or adjoining Lots; or
- would result in the aesthetics of the building or other structure not being in keeping with the character of the neighbourhood or adjoining Lots.

Part 4 – General

4.1 SEVERABILITY

The provisions of these By-laws shall as far as possible, be construed as severable provisions to the intent that where any such provision would, but for this By-Law, be invalid or unenforceable, then the remaining provisions of these By-laws shall nevertheless be valid and enforceable.

4.2 COST RECOVERY

4.2.1 A person must pay (on demand) the whole of the Principal Body Corporate's costs, charges and expenses (including legal costs on a full indemnity basis or solicitor and own client basis, whichever is the higher) incurred in:

- enforcing these By-laws against; or
- recovering levies, fees or other costs payable by, that person through litigation or other lawful means.

4.2.2 Any amount payable under By-Law 4.2.1 may be recovered against that person as a liquidated debt in a court of competent jurisdiction.

ENDNOTES

- Made by the Principal Body Corporate on 18 January 1994.
- Published in the Gazette on 19 August 1994.
- Not required to be laid before the Legislative Assembly.
- The administering agency is the Department of Housing, Local Government and Planning.