

A close-up photograph of several pink cherry blossoms in various stages of bloom. The petals are light pink with some darker pink veins. The background is a soft, out-of-focus green. The text is overlaid on the right side of the image.

Development
Control By-Laws
Stage 2





SANCTUARY COVE RESORT ACT 1985

SANCTUARY COVE PRINCIPAL BODY CORPORATE BY-LAWS NOTIFICATION (NO. 3) 2003

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SHORT TITLE

1. This notification may be cited as the Sanctuary Cove Principal Body Corporate By-laws Notification (No. 3) 2003.

COMMENCEMENT

2. This notification commenced 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BY-LAW REPEALED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 19 August 1994, 17 January 1997 and 30 May 2003.

APPROVAL

4. Pursuant to section 95 of the *Sanctuary Cove Resort Act 1985*, the Minister for Housing, Local Government and Planning approved on [Not Gazetted] 2003, 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 commencement of any repeal or amendment of the Principal Body Corporate's Development Control By-laws, continues to be a 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.

'Approval' means any consent, including any conditions, given by the Principal Body Corporate in respect of the carrying out of Development.

'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.

'Authority' means any:

- (a) government or governmental, semi governmental or judicial entity or authority; or
- (b) minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government.

'Basement' means any non habitable space or room which is fully enclosed and constructed wholly below Ground Level for any purpose other than habitation or the garaging of a motorised vehicle.

'Basement Car Park' means any space which is fully enclosed, except for the access opening, and constructed such that its floor level is below the Building Reference Level for the Lot and built for the purpose of garaging motorised vehicles.

'BCA' or 'Building Code of Australia' means the edition, current at the relevant time, of the Building Code of Australia (including the Queensland Appendix) published by the body known as the Australian Building Codes Board and includes the edition as amended from time to time by amendments published by the board.

'Building Certifier' has the meaning given under the Building Act 1975.

'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 except when the Lot is a Development Parcel which will comprise two or more Principal Structures, in which case there shall be a different Building Reference Level for each Principal Structure on the Lot. The Building Reference Level for each Principal Structure shall be the average of the Specified Levels for the Principal Structure relative to the Australian Height Datum.

'Certificate of Classification' means a certificate of classification given by a Building Certifier pursuant to the Standard Building Regulation 1993.

'Class 10 Building' means a non habitable building or structure including a carport, garage, shed, pergola, shade or similar structure and decks constructed with a finished level more than 1.0 metre above Natural Ground Level.

'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 Mulpha Sanctuary Cove (Developments) Pty Ltd A.C.N. 098 660 318, 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 and includes a Basement Car Park, provided for the purpose of garaging or storing a motorised vehicle. In the case of a Development Parcel with multiple Principal Structures, a parking space shall be deemed a Covered Parking Space if it is within a Basement Car Park but not individually enclosed.



'Development' is any of the following:

- (a) carrying out Development Work;
- (b) Reconfiguring a lot.

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

'Development Work' means:

- (a) building, altering, moving or demolishing a building or other structure; or
- (b) excavating or filling –
 - (i) for, or incidental to, the activities mentioned in paragraph (a); or
 - (ii) that may adversely affect the stability of a building or other structure, whether on the land on which the building or other structure is situated or on adjoining land; or
- (c) work regulated under the Standard Building Regulation 1993; or
- (d) installing, altering or removing any service or utility for, or incidental to, the activities mentioned in paragraph (a); or
- (e) clearing substantial vegetation on land; or
- (f) any similar or like work specified by the Principal Body Corporate.

'DP' means Development Parcel.

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

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

'EL' means Estate Lot.

'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.

'Final Certificate' means a certificate from a Building Certifier certifying that the inspections referred to in Section 85 of the Standard Building Regulation 1993 which are relevant to the particular works have been satisfactorily carried out.

'Floor Space Ratio'

- (a) in Precincts 1 to 10 inclusive 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.
- (b) in Precincts 11 to 20 inclusive means the total floor area of all buildings and 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:
 - (1) the area of each storey of all Principal Structures, measured to the outermost limit of the exterior walls or balustrades, but excluding any void spaces at the level of a particular storey; and
 - (2) the area of Covered Parking Spaces on the Lot or Development Parcel in excess of 55 square metres for each Principal Structure on the Lot or Development Parcel measured to the outermost limit of the exterior walls; and
 - (3) 50% of the area of Basements, roof terraces, balconies, decks, verandas and porches, and porte cocheres that are integrated with the Principal Structure,

but shall exclude:



- (1) the areas of any lift wells and emergency fire stairs and escapes measured to the outer limits of their walls or structures; and
- (2) the circulation and manoeuvring areas within a Basement Car Park.

'Golf Course' means either of the two golf courses established within the Site or Adjacent Site.

'Ground Level' means, subject to the provisions specified in these By-laws for altering Natural Ground Levels, the ground levels that will exist on the Lot at the conclusion of the proposed works or Landscaping.

'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.

'Landscape Open Space' means that area of a Lot not covered by Principal Structures, Class 10 Buildings, driveways, hardstand paths, swimming pools, tennis courts (except grass tennis courts) or similar structures that is landscaped with trees, shrubs, grasses and other items of soft landscaping and shall include areas of landscape over podium slabs where:

- (a) the podium slab is constructed below the Building Reference Level or where half Storeys are permitted, the podium slab is constructed below 1.5 metres above the Building Reference Level; and
- (b) the depth of planting over the podium is not less than 600 millimetres.

'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.

'Laws' means the provisions of all statutes, the provisions of all rules, regulations, ordinances, by-laws, instruments and proclamations made pursuant to the authority direct or indirect of any statute and rules of common law and equity.

'Local Authority' means the Gold Coast City Council or such other local government as may from time to time have jurisdiction over the Site or Adjacent 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.

'Natural Ground Level' for a Lot means:

- (a) the ground levels on the Lot on the day the plan creating that Lot was lodged for registration by the Company; or
- (b) if the ground level on the day mentioned in (a) is not known, the ground levels decided by the Principal Body Corporate.

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

'Notifiable Application' means an application for Approval:

- (a) to construct more than one (1) Principal Structure on a Lot; or
- (b) which requires a variation of these By-laws pursuant to By-laws 2.3.6, 2.4, 2.6.6, 2.6.7, 2.7.12, 2.8.4, 2.11.6, 2.11.7, 2.11.8, 2.13.3, 2.14.2 or 2.17.5(e).

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

'Plan' means either the Eastern Neighbourhood Plan, Southern 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.

'Precinct Type 11' means the area designated as such on the Plan.

'Precinct Type 12' means the area designated as such on the Plan.

'Precinct Type 14' means the area designated as such on the Plan.

'Precinct Type 15' means the area designated as such on the Plan

'Precinct Type 16' means the area designated as such on the Plan

'Precinct Type 17' 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 including Basement areas; and

(ii) attached verandas, decks, balconies, porches, garages and similar structures; but

(b) excludes Class 10 Buildings.

'Reconfiguring a lot' means:

(a) creating Lots by subdividing another Lot; or

(b) amalgamating 2 or more Lots;

(c) rearranging the boundaries of a Lot by registering a plan of subdivision; or

(d) creating an easement giving access to a Lot from a constructed road.

'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, Land Titles Act 1994 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 or Adjacent 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 any Lot:

(a) within the Eastern Neighbourhood, Northern Neighbourhood or Southern Neighbourhood; and

(b) used, or to be used, for residential purposes,

other than an Estate Lot or Development Parcel.

'Residue Area' means the area of a Lot less the total area of all enclosed buildings and roofed structures



determined in the same manner as for the definition of Site Coverage.

'RL' means Residential Lot.

'Site Coverage'

- (a) in Precincts 1 to 10 inclusive means the percentage ratio of the total area of the Lot covered by buildings with closed walls to the total area of that Lot.
- (b) in Precincts 10 to 20 inclusive means the percentage ratio of the total area of all enclosed buildings and roofed structures on a Lot, measured at Ground Level and to the outermost limit of the exterior walls or where no walls exist along a line 600 mm in from the external perimeter of the roof, to the total area of that Lot.

'Sole-occupancy Unit' means a room or rooms and any 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.

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

'Specified Levels' means those levels specified for a Lot in the case of a Residential or Estate Lot, or for a Principal Structure in the case of a Development Parcel, and incorporated in the Register of Specified Levels and measured:

- (1) For a Residential or Estate Lot:
 - (a) in the case of a Lot in Precinct Type 1, 2, 4, 5, 6, 7, 8, 10, 11, 12, 14, 15, 16 and 17, on the side boundaries of the Lot, at the points of intersection with the Thoroughfare Alignment; or
 - (b) in the case of a Lot in Precinct Type 3, on the side boundaries of the Lot, at the points of intersection with the rear boundary lines; and
- (2) For a Development Parcel:
 - (a) in the case of a Principal Structure in Precinct Type 1, 2, 4, 5, 7, 8, 10, 11, 12, 14, 15, 16 and 17, at the points where the external or dividing walls of the Principal Structure if projected, intersect with the Thoroughfare Alignment; or
 - (b) in the case of a Principal Structure in Precinct Type 3, at the points where the external or dividing walls of the Principal Structure if projected, intersect with the rear boundary lines; or
 - (c) in the case of a Principal Structure in Precinct Type 6, at the points where the external or dividing walls of the Principal Structure if projected, intersect with the Golf Course boundary of the Development Parcel.

'Storey' means:

- (a) that space within a building which is situated between the top of one floor level and the top of the floor level next above, or if there is no floor above, the ceiling or roof above; and
- (b) any non roofed deck or terrace constructed at roof level.

For the avoidance of doubt, a storey shall include a Basement, Basement Car Park, any space between two floors which is not habitable and any space between floors which does not extend to the perimeter walls of the Principal Structure including a mezzanine floor.

'Thoroughfare Alignment' means:

- (a) for a Residential or Estate Lot, the alignment of the Lot to the Primary Thoroughfare or Secondary Thoroughfare;
- (b) for a Development Parcel, the alignment of the Principal Structure to the Primary Thoroughfare, Secondary Thoroughfare or the common property provided for vehicular access.

1.3 INTERPRETATION

Unless the contrary intention appears:

- (a) terms used in these By-laws have the same meaning as they have in the Act;
- (b) references to any instrument, policy, guideline, code, standard or document are references to the instrument, policy, guideline, code, standard or document as varied, modified or replaced, notwithstanding any change in the identity of the parties;
- (c) a reference to any authorities, associations, bodies and entities whether statutory or otherwise shall, in the event of such authority, association, body or entity ceasing to exist or being reconstituted, replaced or the powers or functions thereof being transferred to or taken over by any other authority, association, body or



entity be deemed to refer respectively to the authority, association, body or entity established, constituted or substituted in lieu thereof or which exercises substantially the same powers or functions in lieu thereof.

1.4 STATEMENT OF OBJECTIVES

It is of benefit to all proprietors of Lots for these By-laws to establish design standards, material types, and colour controls to protect the character and value of the Site and Adjacent Site as a first class resort community.

Any construction, alteration or addition shall not be detrimental to the appearance of the surrounding buildings, be in harmony with the neighbouring structures and comply with any neighbourhood design code or plan.

The purpose of these By-laws is to regulate the quality of design and development within the Residential Areas by maintaining within the Site and Adjacent Site a residential community which is aesthetically pleasing, functionally convenient and capable of maintaining itself by application and enforcement of the standards and design objectives listed below:

- (a) to create a first class resort community in terms of architectural form, detail, landscaping and external design which is contemporary in style, aesthetically pleasing, functionally convenient and appropriate to the lifestyle of the Gold Coast;
- (b) to preserve and enhance natural features of the Lot;
- (c) to ensure compatibility of scale, height and style with the Lot and its surrounding environs;
- (d) allow for usable private outdoor areas as an extension to the indoor living spaces;
- (e) to provide appropriate level of privacy for surrounding Lots through considered placement of windows, doors, decks, fences, plantings and screens;
- (f) to establish relationships between adjacent buildings, the building and its frontage to the thoroughfare, golf course or water body that although varied, integrate harmoniously in terms of general style and use of landscape so as to create a 'sense of place' within each Neighbourhood;
- (g) meet the general design criteria of the codes and guidelines published in accordance with By-Law 3.3.

Part 2 – Building Controls

2.1 APPLICATION

2.1.1 Subject to By-laws 1 and 2.1.2, the controls specified in these By-laws apply to:

- (a) any Development; and
- (b) any Lot,

within the Eastern Neighbourhood, Northern Neighbourhood and Southern Neighbourhood.

2.1.2 Notwithstanding anything contained in these By-laws to the contrary, these By-laws do not apply to:

- (a) Reconfiguring a lot within the Site or Adjacent Site by the Company, Primary Thoroughfare Body Corporate or Principal Body Corporate; or
- (b) infrastructure works by or on behalf of the Company which are necessary or desirable for Reconfiguring a lot including all earthworks, landform, landscaping, road works, water supply and sewerage, electricity, gas and communications; or
- (c) Development by or on behalf of the Primary Thoroughfare Body Corporate or Principal Body Corporate.

2.1.3 A person must not carry out any Development within a Residential Area unless:

- (a) an Approval has been obtained for the Development and the Approval is in force; and
- (b) the Development is carried out in accordance with the Approval.

2.1.4 The Principal Body Corporate may:

- (a) approve an application for Approval without conditions; or
- (b) approve an application for Approval subject to such conditions as the Principal Body Corporate thinks fit; or
- (c) refuse to approve an application for Approval.

2.1.5 Development Parcels can be developed as whole Lots as shown on the Plan or subdivided into further Lots ('New



Lots'). Except as expressly provided below, New Lots retain their status as Development Parcels.

Where a New Lot has two or more lot entitlements, then these By-laws shall apply to the New Lot in the same manner as these By-laws apply to the Lot from which the New Lot was created.

Where a New Lot is a group title lot and has only one lot entitlement, then:

- (a) in the event the Principal Body Corporate has granted an Approval to construct two or more attached Principal Structures on the Lot from which the New Lot was created ('Original Lot'), these By-laws shall apply to any further Development of the New Lot as if the New Lot was still part of the Original Lot; and
- (b) in any other case the New Lot shall cease to be a Development Parcel and shall become a Residential Lot.

Where a New Lot is a building unit lot and has only one lot entitlement, then these By-laws shall apply to any further Development of the New Lot as if the New Lot was still part of the lot from which the New Lot was created.

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 Types 1 and 14 the lesser of 1 Storey or 5.5 metres; and
 - (b) In Precinct Types 2, 3 and 15, the lesser of 1.5 Storeys or 6.5 metres; and
 - (c) In Precinct 4, 11 and 12 the lesser of 2 Storeys or 8.5 metres but in respect of Lots 21-44 inclusive in Tristania, the lesser of 2 Storeys or 10.5 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; and
 - (g) In Precinct Type 16 either:
 - (1) the lesser of 2 Storeys or 8.5 metres; or
 - (2) the lesser of 3 Storeys or 10.0 metres provided that no enclosed or roofed structure on the top Storey is within 2 metres of the side boundary Building Line or within 5 metres of the Thoroughfare and Rear Building Lines and the enclosed area on the third Storey is less than 50 square metres; and
 - (i) In Precinct Type 17, the lesser of 4 Storeys or 14.0 metres.
- 2.3.2 The maximum building height above Natural 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 first storey directly above the Building Reference Level must be less 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 shall 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 Lot; 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.

2.4 SITE COVERAGE CONTROLS

The maximum site coverage must not exceed:

In Precinct Types 1, 2, 11, 12, 15 and 16	45%
In Precinct Type 3, 4, 5, 7 and 8	40%
In Precinct Type 6 and 17	35%
In Precinct Type 10	100%
In Precinct Type 14	50%

With the written consent of the Principal Body Corporate, buildings on Residential Lots may exceed these Site Coverage ratios to a maximum of 120% of the allowable Site Coverage Ratio if they have no more than one storey at any point on the Lot and are less than 6 metres in height when measured from the Building Reference Level.

2.5 FLOOR SPACE RATIO CONTROLS

The maximum Floor Space Ratio must not exceed:

In Precinct Type 1	Residential Lot 0.4
In Precinct Types 2,3	Residential Lot 0.45 Development Parcel 0.75
In Precinct Type 4,5,7,8,11,14,15 and 16	Residential Lot 0.60 Development Parcel 0.75
In Precinct Type 12	Residential Lot 0.75
In Precinct Types 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 Type 10 and 17	Residential Lot 1.00 Development Parcel 1.00

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:

- 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
- 6.0 metres to the outer face of the street-facing wall from the Thoroughfare Alignment in all other cases except in the case of Tristania precinct Lots 1 to 29 inclusive and Lots 45 to 75 inclusive where the distance is to be no less than 4.0 metres to the outer face of the street facing wall from the Thoroughfare Alignment in all cases.

2.6.2 The minimum Building Line for a Class 10 Building must be 4.0 metres from the Thoroughfare Alignment except Class 10 Buildings on Development Parcels.

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

2.6.4 Notwithstanding the minimum Building Line setbacks from the Thoroughfare Alignment established in this By-Law 2.6, no external wall facing a Thoroughfare Alignment shall be longer than 10 metres in one plane without being offset by at least 1.0 metres for a height of at least one storey. Walls in one plane that are separated by at least 2.5 metres shall be measured separately



2.6.5 Where:

- (a) (i) the levels of depth of the Lot; or
- (ii) the condition of the Lot; 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 or the requirements of By-Law 2.6.4; and

- (b) the Principal Body Corporate approves, in writing, the alteration, then the minimum allowable Building Line from the Thoroughfare Alignment will be as set out in the Principal Body Corporate's approval. Relaxations shall not be greater than 10% of the allowable setback distances.

2.6.6 Where the Lot is bounded by two or more Thoroughfare Alignments the Principal Body Corporate may alter the minimum allowable Building Line from the Thoroughfare Alignment or the requirements of By-Law 2.6.4.

2.7 SIDE BOUNDARY BUILDING LINE CONTROLS

2.7.1 Except where the width of the Lot exceeds 20 metres, the minimum distance from the outermost projection of the Principal Structure 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 4.5 metres above Natural Ground Level, 1.5 metres; or
- (b) for Principal Structures over 4.5 metres but not exceeding 7.5 metres above Natural Ground Level, 2.0 metres; or
- (c) for Principal Structures exceeding 7.5 metres above Natural Ground Level, 2.0 metres plus 0.5 metres for every 3.0 metres or part thereof by which the Principal Structure exceeds 7.5 metres above Natural Ground Level.

Where the width of the Lot is greater than 20 metres and less than 25 metres, the minimum side boundary set back shall be 2 metres. Where the width of the Lot exceeds 25 metres the minimum side boundary set back shall be 2.5 metres.

In the case of side boundaries that are not parallel, the width at any point shall be the minimum distance to the opposite side boundary.

Where the minimum side boundary set back is by the Lot width and not by the height of the Principal Structure, eaves shall be allowed to protrude within this minimum side boundary setback.

Where the height at the outermost projection varies requiring a change in the minimum side setback, the Principal Structure shall be stepped as if each different height section of the Principal Structure were a separate Principal Structure.

2.7.2 For the purpose of calculating the minimum distance from the outermost projection of a Principal Structure to a side boundary of a Lot pursuant to By-Law 2.7.1, the height reference shall be measured at the external perimeter of the building or roof line where it overhangs the building walls.

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 in compliance with the Building Code of Australia; 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.



Where the height at the outermost projection varies requiring a change in the minimum side setback, the Principal Structure shall be stepped as if each different height section of the Principal Structure were a separate Principal Structure.

- 2.7.5 Except in Precinct Type 12, the minimum side Building Line for:
- (a) a Class 10 Building used as a Covered Parking Space may be 0.0 metres provided that there is no projection by the building or Architectural Attachments onto an adjoining Lot whether the projection be above, at or below Ground Level and there is adequate provision to avoid stormwater discharge onto the adjoining Lot;
 - (b) all other Class 10 Buildings or structures on a Lot, must not be within 1.5 metres of a side boundary.
- 2.7.6 In Precinct type 12 the minimum side Building Line for all Class 10 Buildings or structures shall be the same as for the Principal Structure on the Lot.
- 2.7.7 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 comply with Clause 41 of the Standard Building Regulation 1993; and
 - (b) be of masonry construction with a minimum fire resistance rating in compliance with the Building Code of Australia.
- 2.7.8 For Class 10 Buildings constructed on a side boundary the finish of the wall will be treated as a Controlled Aspect Wall pursuant to By-Law 2.10.2.
- 2.7.9 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 and the Class 10 Building.
- 2.7.10 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.
- 2.7.11 Notwithstanding the minimum side boundary Building Lines established in this By-Law 2.7, no external wall facing a side boundary shall be longer than 12 metres in one plane without being offset by at least 1.0 metre unless approved in writing by the Principal Body Corporate. Walls in one plane that are separated by at least 5.0 metres shall be measured separately.

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 except in the case of Banksia Lakes where the minimum allowable rear Building Line for Lots 1 to 16 inclusive and for the south eastern boundary of Lot 17 – 2 metres and for the balance of Lot 17 and for Lots 18 to 33 – 5 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 Notwithstanding the minimum rear boundary Building Lines established in this By-Law 2.8.1, no external wall facing a Golf Course or body of water shall be longer than 10 metres in one plane without being offset by at least 1.5 metres. Walls in one plane that are separated by at least 2.5 metres shall be measured separately.
- 2.8.3 Shading devices, trellises, sails 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 structure as set out in the Principal Body Corporate's approval.

2.8.4 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 or the requirements of By-Law 2.8.2; 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.

2.8.5 The erection of Architectural Attachments on any part of a revetment wall is prohibited.

2.9 PARKING AND DRIVEWAY CONTROLS

2.9.1 A minimum of two (2) Covered Parking Spaces must be provided on each Residential Lot or Estate Lot.

2.9.2 Two uncovered parking spaces of not less than 5.5 metres in length with a gradient not greater than 1 in 5 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 (other than a Principal Structure in the Southern Neighbourhood with an internal floor area greater than 150 square metres), at least one Covered Parking Space must be provided together with one additional parking space which may be either covered or uncovered. For each Principal Structure on a Development Parcel in the Southern Neighbourhood with an internal floor area greater than 150 square metres, at least two (2) Covered Parking Spaces 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 or concrete, brick pavers, or tiles and be constructed with first class workmanship and finish.

2.9.5 (a) 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.

- (b) The thoroughfare kerb may be modified to provide a lay back only with the approval in writing of the Principal Body Corporate.

- (c) Where services, such as water mains, run under any concrete base driveway then that driveway must be constructed with the kerb and shall be not more than 5.0m x 1.5m x .125m thick. All joints to these slabs shall have effective and suitable jointing material. These joints shall not be stepped, dowelled or tongue and grooved. The purpose is so that in the event of a failure the entire driveway does not have to be removed.

- (d) Any sewer or stormwater access hole or turning point must be flush mounted in the driveway. Suitable covers are available for a variety of finishes.

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 7.0 metres or two driveways of 3.5 metres; and
- (b) for Lots with more than one Thoroughfare Alignment, one driveway of 7.0 metres from one Thoroughfare Alignment and one driveway of 3.5 metres from another Thoroughfare Alignment.

2.9.7 The entry ramp to a Basement Car Park must not be wider than the lesser of 6 metres or 40% of the width of the Lot on the Thoroughfare Alignment.

2.9.8 Basement Car Parks shall be constructed within the Building Lines established for the Principal Structure on the Lot except that they may encroach to within 1.5 metres of any boundary where the top level of the roof structure of the Basement Car Park is below Ground Level.

2.9.9 Covered Parking Spaces shall comply with the dimensional requirements of AS 2890.1 – 1993.

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 soundness or 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) a minimum of 1.8 metres and maximum of 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) the fence is within 6.0 metres of the rear boundary, where that boundary abuts a body of water, Golf Course, primary thoroughfare or secondary thoroughfare, when the fence must be stepped to a maximum of 1.25 metres in height above 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 and gatehouses located adjacent to a Thoroughfare Alignment must be constructed:

- (a) to a maximum height of 2.0 metres above Ground Level for fences and 3.0 metres for Gatehouses; 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 for fences or 3.0 metres for Gatehouses.

Fences located adjacent to boundaries of Golf Courses or bodies of water must be of open metalwork construction in a form or standard approved by the Principal Body Corporate 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 of 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 and the Standard Building Regulation 1993, 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 Thoroughfare Alignment 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 Exterior claddings of Principal Structures, Class 10 Buildings and fences must be within the specified colour range and be of pastel to muted mid earth tones. Vibrant primary colours are not permitted as an exterior cladding colour. Exterior colours in Precinct 14 must be in harmony and compatible with the landscape of the surrounding golf course.
- 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 and be within the specified range of colours.
- 2.12.5 Principal Structures and Class 10 Buildings must be roofed in any, or a combination of:
- (a) colourbond metal; or
 - (b) clay or concrete tiles
- except in Precinct 14 where all roofs must be in colourbond metal (colour to be slate grey).
- 2.12.6 Except in Precinct 14 where all roof colours must blend with the surrounding landscape of the golf course, roofs must be muted earth tones or white and be non reflective. No vibrant primary or speckled colours shall be permitted.

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 view of 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 a screened enclosure 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 two (2) wheeled garbage containers that is separately accessible from the secondary thoroughfare and is no more than 12.0 metres from the Thoroughfare Alignment.

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 adjacent thoroughfare.

2.15.6 Finished floor levels, including the floor level of any Basement or Basement Car Park, must be a minimum height above flood level as specified by the Local Authority.

2.15.7 Any Basement must be contained within the Building Lines of the Principal Structure and be accessed only from within the Principal Structure.

2.15.8 Any deck or roof terrace constructed at roof level must only be accessed from within the Principal Structure.



- 2.15.9 The following provisions apply in relation to wharves, pontoons and jetties:
- (a) all wharves, pontoons and jetties must be constructed to first class standards utilising designs approved, in writing, by the Principal Body Corporate and such other authority as may have jurisdiction in the siting and design of these structures;
 - (b) the wharf, jetty or pontoon must be designed by a competent person such that it is independent of and does not apply structural load to the revetment wall or edge structure;
 - (c) covered or enclosed structures are not permitted on any wharf, pontoon or jetty;
 - (d) all wharves, pontoons and jetties are not to exceed 2.5m in width;
 - (e) the length of the jetty or wharf is not to exceed 80% of the straight line dimension of the waterfront boundary of the Lot with a maximum length of 12 metres irrespective of lot dimension.
- 2.15.10 Boatsheds and boat ramps are not permitted on any water body within Residential Zone.

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 or such other authority as may have jurisdiction in the siting and design of these structures.
- 2.16.3 Swimming pool equipment such as filter pump motors 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;
 - (f) be suitably screened and not be visible from a Primary Thoroughfare, Secondary Thoroughfare, Golf Course, body of water or adjoining Lot.
 - (g) be adequately sound insulated.

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 from the Natural Ground Level by more than 0.5 metres within 1.5 metres of any boundary or by more than 1.5 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) Where the Ground Level is varied pursuant to By-Law 2.17.5 (a), the resulting cut and fill areas shall be either retained by walls or other structures or contoured and landscaped such that the land is structurally stable and not subject to erosion.



- (c) 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 with first class workmanship and finish.
 - (e) The Principal Body Corporate may vary these controls on Ground Levels, if warranted by the topography of the Lot, on application by the owner of a Lot.
- 2.17.6 The area of Landscape Open Space for any Lot in Precincts 11 to 17 inclusive shall not be less than 30% of the Residue Area. In all other Precincts the area of Landscape Open Space shall be at least 10%.
- 2.17.7 Owners must not plant or keep on, and must remove from a Lot any tree or plant species which is a declared noxious weed or is prohibited by the Precinct Zone

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:
- (1) erect any external blinds or awnings; or
 - (2) fit any windows with mirrored glass or coat any windows with aluminium foil, reflected films, or similar material; or
 - (3) provide on his Lot, clothes-drying facilities that are visible from another Lot, body of water, primary thoroughfare, secondary thoroughfare, Common Property or Golf Course; or
 - (4) erect any sign or billboard of any kind on the Lot,
- 2.18.2 A Residential Lot shall have an area of not less than 450 square metres.
- 2.18.3 No Class 10 Building shall be erected on a Lot that does not also have constructed on it one Principal Structure.

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 greater than 7 members of which at least 2 members must be non resident members and at least 2 members must be resident members.
- A non resident member of the ARC must be a person who has relevant professional qualifications and expertise in architecture, town planning, building, landscape architecture or similar discipline.



A non resident member of the ARC must not be a resident of Sanctuary Cove or a member (or nominee of a member) of a body corporate which is a member of the Principal Body Corporate.

A resident member of the ARC must be a resident of Sanctuary Cove who resides full time within Sanctuary Cove and a member (or a nominee of a member) of a body corporate which is a member 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, dismiss, add to or replace all members of the ARC.
- 3.1.4 Subject to By-Law 3.1.3(b), persons appointed to the ARC shall be appointed for a term of 2 years. The appointee may not serve more than 2 terms.
- 3.1.5 The PBC may appoint a chairperson and may appoint such other officers for its efficient operation as it deems appropriate.
- 3.1.6 Members of the ARC must disclose any conflict of interest that they may have in determining an application. Professionals who are engaged on work that is subject to ARC approval cannot be members of the ARC.
- 3.1.7 For Notifiable Applications, Applicants and their professional advisors and adjacent Lot owners, may address the ARC to indicate their support or objection to the development to help in the ARC's recommendations.

3.2 REVIEW OF PLANS AND SPECIFICATIONS

- 3.2.1 The Principal Body Corporate may refuse to consider, reject or approve subject to conditions any application, where, in its opinion, the Development:
- (a) would adversely affect the amenity or the likely amenity of the neighbourhood or adjoining Lots; or
 - (b) would result in the aesthetics of the Development not being in keeping with the character of the neighbourhood or adjoining Lots; or
 - (c) would result in the buildings and structures on a Residential Lot not having a total floor area (calculated in the same manner as total floor area when used in the definition of Floor Space Ratio) of at least 235 square metres.
 - (d) would not comply with any design guide or code published for that precinct and approved by the precinct residential body corporate

No Development can be commenced on any land in the Residential Area until:

- (a) plans and specifications showing the Development including, if applicable, the nature, kind, shape, height, width, colour, material and location of the proposed construction, alteration or improvements together with relevant landscaping and security details and calculations determining:
 - (1) Site Coverage;
 - (2) Floor Space Ratio;
 - (3) Landscape Open Space;
 - (4) Building Reference Level and maximum height relevant to the Australian Height Datum,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; and
- (d) a copy of the plans, drawings, specifications and other documents and information (which comply with the Approval) lodged by the applicant with the Building Certifier, stamped approved or otherwise endorsed by the Building Certifier has been submitted to the Principal Body Corporate; and
- (e) all bonds and assessment fees payable to the Principal Body Corporate pursuant to these By-laws have been paid; and
- (f) a notice of commencement has been given to the Principal Body Corporate by the applicant.

- 3.2.2 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 these 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).
- 3.2.3 Plans and specifications submitted to the Principal Body Corporate for its approval must be fully detailed including in the case of building work 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 By-Laws.
- 3.2.6 Subject to By-Law 3.12.2, the Principal Body Corporate must approve plans and specifications subject to such conditions (if any) as it thinks fit, if the plans and specifications comply with these 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 Regulation 1993 and these By-laws; or
 - (iii) the proposed construction or alteration be completed within a reasonable time specified in the recommended condition which cannot be greater than 18 months.
- 3.2.8 Plans and specifications referred to the ARC for review must comply with the rules, guidelines and codes prescribed from time to time by the Principal Body Corporate.
- 3.2.9 Notwithstanding anything contained in these By-laws to the contrary, the applicant shall ensure that the buildings, structures and other works submitted for Approval shall also comply with all relevant Laws.

3.3 PUBLICATION OF RULES, GUIDELINES AND CODES

The Principal Body Corporate may from time to time publish rules, guidelines and codes 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 used by the Principal Body Corporate as security for the proper performance of the works and for repairing damage to primary or secondary thoroughfares or any improvements thereon arising directly or indirectly from the performance of the work; and
 - (d) relevant factors which the Principal Body Corporate (and, if applicable, the ARC) may take into consideration in reviewing submissions; and
 - (e) a list of tree and plant species that can not be planted in the Residential Area; and
 - (f) a set of rules governing construction activities in the Residential Area, which may include but not be limited to working hours, parking, noise, waste storage and removal, fencing, hoardings and scaffolding, signage, environment and erosion control; and
 - (g) design guidelines intended to encourage the design of homes that reflect the quality and aesthetic to create a cohesive and harmonious residential environment that has energy efficient strategies and solutions and environmentally sustainable design principles relating to urban stormwater runoff and water usage; and
 - (h) neighbourhood landscape plans detailing the landscaping requirements between the Lot boundary and the thoroughfare kerb line pursuant to By-Law 2.17.3; and
 - (i) any procedure or requirements relevant to the administration of these By-laws; and
- colour schemes and colour charts.



3.4 DECISIONS OF THE PRINCIPAL BODY CORPORATE

- 3.4.1 A decision by the Principal Body Corporate and the reasons for that decision, must be given by the Principal Body Corporate to the applicant:
- (a) in respect of Notifiable Applications, within 75 days after receipt of all details required by the Principal Body Corporate to make its decision; or
 - (b) in any other case, within 60 days after receipt of all details required by the Principal Body Corporate to make its decision.
- 3.4.2 In respect of applications for Approval (other than Notifiable Applications), the Principal Body Corporate will be deemed to have approved an application unless within 60 days after receipt by the Principal Body Corporate of the application or, where additional information is requested by the Principal Body Corporate or ARC, within 60 days of receipt of the additional information by the Principal Body Corporate or ARC as the case may be:
- (a) the Principal Body Corporate or ARC requests, from the applicant, additional information or details of materials proposed to be used; or
 - (b) the Principal Body Corporate sends to the applicant its decision concerning the application.
- 3.4.3 In respect of Notifiable Applications, the Principal Body Corporate will be deemed to have approved an application unless within 90 days after receipt by the Principal Body Corporate of the application or, where additional information is requested by the Principal Body Corporate or ARC, within 90 days of receipt of the additional information by the Principal Body Corporate or ARC as the case may be:
- (a) the Principal Body Corporate or ARC requests, from the applicant, additional information or details of materials proposed to be used; or
 - (b) the Principal Body Corporate sends to the applicant its decision concerning 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 By-laws.
- 3.5.2 Four 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 unconditionally 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 45 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.

3.8.4 If the Principal Body Corporate rejects the appeal pursuant to By-Law 3.12.2, then the applicant may apply to have the matter arbitrated.

3.9 CERTIFICATION AND INSPECTION OF WORK

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

- (a) on completion and before occupancy of any works which require approved plans under these By-laws, the Resident that owns those works must
 - (1) give written notice of completion of the works to the Principal Body Corporate (or, if so resolved by the Principal Body Corporate, the ARC); and
 - (2) if applicable, provide to the Principal Body Corporate a copy of the Final Certificate or Certificate of Classification (as the case may be) for the works; and
 - (3) provide certification by the Building Certifier that the works have been completed in accordance with the Approval, noting, where applicable, any variation or non compliance with that Approval; and
 - (4) without limiting By-Law 3.9.1(a)(3), provide evidence satisfactory to the Principal Body Corporate that the security and landscaping have been completed in accordance with the Approval; 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 whichever is the earlier to occur, 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 compliance with the Approval, 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. The Principal Body Corporate may apply any bond it holds towards payment of such expenses.

3.9.2 The Principal Body Corporate or the ARC (by themselves, their agents, servants or contractors) may, to ensure compliance with these By-laws and any Approval, enter any Lot for the purpose of inspecting any work or removing or remedying any non compliance with these By-laws or any Approval.

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

3.11.1 The Principal Body Corporate shall not approve any development unless it fully complies with these By-laws, except where variations can be granted pursuant to By-laws 2.3.6, 2.4, 2.6.5, 2.6.6, 2.7.11, 2.8.4, 2.11.6, 2.11.7, 2.11.8, 2.13.3, 2.14.2 or 2.17.5(e).



- 3.11.2 Where the Principal Body Corporate authorises non compliance with any of these 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 or other 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 Except for minor modifications, alterations or additions to a building or structure, the Principal Body Corporate may refuse to consider or reject any application for construction, alteration or addition that is not designed by a person who has qualifications which would permit the person's registration as an architect with the Royal Australian Institute of Architects.
- 3.12.3 Any Approval given by the Principal Body Corporate pursuant to these By-laws will lapse and be void unless there has been substantial completion of works within 18 months of the date of the Approval. In the case of an Approval for a building, substantial completion means completion of:
- (a) construction of the floor slab and footings; and
 - (b) the erection of external walls and wall finishes; and
 - (c) the installation of roof framing and sheeting; and
 - (d) the landscaping.
- 3.12.4 The applicant shall ensure that the Lot
- (a) is maintained in a neat and tidy manner
 - (b) has a covered food scrap receptacle
 - (c) has grass no longer than 75 mm
 - (d) is kept free from pests and vermin
 - (e) does not pond water
 - (f) does not have stacked or cut vegetation or soil
- Any of the above can be rectified by the PBC at the Owners cost.

3.13 NOTIFIABLE APPLICATIONS

- 3.13.1 In respect of Notifiable Applications, the Principal Body Corporate must:
- (a) place a notice on the Lot the subject of the application; and
 - (b) give notice to the owners of all land adjoining the Lot the subject of the application, indicating that an application for Approval has been lodged with the Principal Body Corporate.
- 3.13.2 The notice placed on the Lot must remain on the Lot for at least 21 days. Each notice given to the owner of land adjoining the Lot must be given at or about the same time as the notice is placed on the Lot.
- 3.13.3 For the purpose of By-Law 3.13.1(b), roads, land below the high-water mark and the beds of banks of rivers are to be taken not to be adjoining land.



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:

- (a) enforcing these By-laws against; or
- (b) 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.

4.3 RUNS WITH LAND

An Approval attaches to the land, the subject of the application, and binds the owner, the owners successors in title and any occupier of the land.

END NOTE

1. Not yet gazetted.