

Draft Community Management Statement

Vista Parade, Kotara.

Revision 1

Dated October 2022

CONTENTS

Definitions	3
PART 1 – BY-LAWS FIXING DETAILS OF DEVELOPMENT	4
By-Law 2 Architectural & Landscape Guidelines.....	4
By-Law 3 Solar Energy Devices.....	4
By-Law 4 Alterations to Buildings on a Lot	5
By-Law 5 Maintaining of Buildings on a Lot	5
By-Law 6 Maintenance and Use of Landscape Areas.....	5
By-Law 7 Encroachments.....	5
PART 2 - RESTRICTED COMMUNITY PROPERTY.....	6
By-Law 8 Restricted Community Property.....	6
PART 3 - MANDATORY MATTERS.....	7
By-Law 9 Internal Fencing.....	7
By-Law 10 Garbage.....	7
By-Law 11 Services.....	7
By-Law 12 Insurance.....	8
By-Law 13 Executive Committee.....	9
By-Law 14 Executive Committee Proceedings.....	9
PART 4 - OPTIONAL MATTERS.....	9
By-Law 15 Keeping of Animals.....	12
By-Law 16 Obligation of a Proprietor of a Lot.....	12
By-Law 17 Noise Control.....	12
By-Law 18 Road Rules.....	12
By-Law 19 Restrictions on Parking.....	12
By-Law 20 Community Association's Right to Enter Into Contracts.....	12
By-Law 23 Control of Occupiers.....	12
By-Law 24 Community Association's Right to Remedy.....	13
By-Law 25 Debts to Community Association.....	13
By-Law 26 Non-Liability of Community Association.....	13
By-Law 27 Interest on Overdue Money.....	13
By-Law 27 Rules.....	13
By-Law 28 Compliance	13
By-Law 29 Prima Facie Certificate.....	14
By-Law 30 Communications.....	14
By-Law 31 Community Association Approvals.....	14
By-Law 32 Reimbursement of the Cost, Charges and Expenses.....	14
By-Law 33 Statutory Easements.....	14
PART 5 - BY-LAW REQUIRED BY PUBLIC AUTHORITY	16
PART 6 - SERVICES WORKS PLAN.....	18

COMMUNITY LAND DEVELOPMENT ACT 2021

Definitions

In these by-laws the following words have the following meanings, unless the context otherwise requires-

"Community Association" means the corporation that: -

- (a) Is constituted by section 8 of the Community Land Development Act 2021 on registration of the Community Plan; and
- (b) Is established as a Community Association.

"Community Plan" means the plan for Lot 12 DP 560852 and Lot 131 DP262057.

"Community Property" means Lot 1 in the Community Scheme together with any fixtures and fitting attached to the land comprised in Lot 1 including (without limitations) facilities for the provisions of electricity, water, sewerage, gas and telephone.

"Community Scheme" means the community scheme created by the registration of the Community Plan.

"Council" means City of Newcastle.

"88B Instrument" means the instrument created and registered pursuant to Section 88B of the Conveyancing Act, 1919 at the time of registering this Community Plan.

"Lot" means a lot in the Community Plan which is not Community Property, a public reserve or a drainage reserve and is not land that has been severed from this Community Scheme.

"Management Act" Means the Community Land Management Act 2021.

Approved Form 28

Community Land Development Act 2021 Community Land Management Act 2021

Neighbourhood Management Statement

Warning

The terms of this management Statement are binding on the Community Association, each subsidiary body within the community scheme and each person who is a proprietor, lessee, occupier or mortgagee in possession of a community development lot, precinct development lot, neighbourhood lot or strata lot within the Community Scheme.

PART 1

BY-LAWS FIXING DETAIL OF DEVELOPMENT

These by-laws relate to the management, administration, control, use or enjoyment of lots in an associated scheme or the association property and to the control or preservation of the essence or theme of the Community Scheme (see section 128 of the Community Land Management Act 2021).

2. BY-LAW 2: ARCHITECTURAL STANDARDS AND LANDSCAPING STANDARDS

- 2.1** Each proprietor of a lot must comply with the landscaping and architectural requirements as approved by council.
- 2.2** Each Proprietor of a lot must not damage, remove or groom trees within the Community Property.

3. BY-LAW 3: SOLAR ENERGY DEVICES

- 3.1** The proprietor or occupier of a Lot may with the approval of the Council (if required), construct, install or attach: -
 - (a) Any transmitting tower or aerial;
 - (b) Any solar energy collector panels and equipment associated with them;
 - (c) Any energy conversion equipment;
 - (d) A solar hot water system and equipment associated with it; or
 - (e) Any other device.

To the outside of any building on a Lot or the outside of any building containing a Lot of a structure on a Lot.

4. BY-LAW 4: ALTERATIONS TO BUILDINGS ON A LOT

- 4.1** A proprietor or occupier of a Lot must not, except with the approval of Council: -
- (a) Make any substantial alteration to the outside of the building or any other structure or any fence on the Lot; or
 - (b) Change any colour on the outside of the building or any structure or any fence of the Lot.

5. BY-LAW 5: MAINTAINING OF BUILDINGS ON A LOT

- 5.1** A proprietor or occupier of a Lot must keep the Lot and any building erected on the Lot clean and tidy and in good repair and condition.
- 5.2** A proprietor or occupier of a Lot, must carry out all maintenance and repairs to the exterior of any building on the Lot in a proper and workmanlike manner to the reasonable satisfaction of the Community Association with the materials of the same or similar quality and colours as those used in the construction of the building.
- 5.3** The Community Association may give a notice to a proprietor or occupier of a Lot requiring compliance with the terms of this by-law.

6. BY-LAW 6: MAINTENANCE AND USE OF LANDSCAPE AREAS

- 6.1** A proprietor or occupier of a Lot must keep the landscaped areas on the Lot clean and tidy and in good repair and condition.
- 6.2** A proprietor or occupier of a Lot must carry out all maintenance and repairs in a proper and workmanlike manner to the reasonable satisfaction of the Community Association.
- 6.3** A proprietor of a Lot must not construct, install, maintain or allow to remain on any Lot item in the reasonable opinion of the Community Association is not keeping with the building or the landscaped areas.

7. BY-LAW 7: ENCROACHMENTS

- 7.1** Any fixtures of plant and equipment servicing a Lot which encroaches upon the Community Property as at the date of registration of the Community Plan may continue to encroach upon the Community Property provided that: -
- (a) the proprietor or occupier of the Lot obeys all reasonable request of the Community Association in relation to such fixtures;
 - (b) the proprietor or occupier indemnifies the Community Association from and against any claims, demands, liability of any kind which may arise in respect of the damage to any property or death of injury to any person arising out of the existence of such fixtures and fitting and plant and equipment; and
 - (c) the proprietor of the occupier of such fixtures and fittings and plant and equipment may move it to a position which is not on the Community Property at any time proved that it could make good any damages thereby caused.

PART 2

RESTRICTED COMMUNITY PROPERTY

These by-laws may only be amended after the expiry of the initial period by special resolution and with the written consent of each person entitled by the by-law to use the restricted property (see section 135 of the Community Land Management Act 2021).

8. BY-LAW 8: RESTRICTED COMMUNITY PROPERTY

8.1 No part of the Community Property is restricted Community Property.

PART 3

MANDATORY MATTERS

9. BY-LAW 9: PERMITTED USES OF AND SPECIAL FACILITIES OF THE COMMUNITY PROPERTY

- 9.1** There are no special facilities provided on the Community Property.
- 9.2** The Association is responsible for the control, management, operation, maintenance and repair of Community Property.
- 9.3** The Community Association may appoint a contractor who will be responsible for the maintenance of lawn and the gardens within the Community Property.
- 9.4** All Lot owners in the Community Scheme have equal right to quiet enjoyment of the Community Property.

10. BY-LAW 10: INTERNAL FENCING

- 10.1** No fencing is to be located on any common boundary between the Community Property and the Lots unless approved by council if approval is required.
- 10.2** Should the council approve the installation of a fence separating any Lot and the Community Property then the installation, maintenance, repair, replacement and removal of such fence must be made without cost to the Community Association.
- 10.3** A proprietor or occupier of a Lot may fix or place a fence on that Lot provided that; -
 - (a) it is consistent with the theme (if any) of the Community Scheme; and
 - (b) the approval of the Council has been given (if required); and
 - (c) that proprietor or occupier of that Lot is at its cost responsible for the maintenance, installation and removal of such fence; and
 - (d) it is of a kind commonly or usually used in residential development.

11. BY-LAW 11: GARBAGE

- 11.1** A proprietor or occupier of a Lot
 - (a) Must maintain within his Lot, or on such part of the Community Property as may be authorised by the Community Association, in clean and dry condition and adequately covered, a receptacle for garbage.
 - (b) For the purpose of having the garbage collected, shall not more than twelve hours before the time at which garbage is normally collected, place the receptacle within the area designated for that purpose by the Community Association.
 - (c) When the garbage has been collected shall promptly return the receptacle to his Lot or other area referred to in paragraph (a);

- (d) Shall not leave anything in the receptacle of the proprietor or occupier of any other Lot except with the permission of that proprietor or occupier; and
- (e) Shall promptly remove anything which the garbage collector may have spilt from the receptacle and shall take such action that may be necessary to clean the area within that thing was spilled; and
- (f) Shall at all time meet the requirements of the relevant authority.

12. BY-LAW 12: SERVICES

- 12.1** On installation of a service line a statutory easement will be created over parts of the Association Property for the provision of services through the service line.
- 12.2** The service providers and other owners of service lines will operate, maintain and repair their respective service lines.
- 12.3** Water and sewer services are supplied by Hunter Water Corporation to the boundary of the lot owned by the Community Association. The Community Association is responsible for the provision and maintenance of the internal water and sewer services and for the payment of Hunter Water Corporation accounts.
- 12.4** Electricity will be delivered to the scheme by Ausgrid or under such other arrangements as may be made by the Community Association from time to time.
- 12.5** Telephone services will be delivered to the scheme by Telstra or under such other arrangements as may be made by the Community Association from time to time.
- 12.6** Gas services will be delivered to the scheme by Agility or under such other arrangements as may be made by the Community Association from time to time.
- 12.7** The Community Association will be responsible for all stormwater services located on the Community Property as well as any stormwater services located within an easement to which the Community Association is a beneficiary. If appropriate, the Community Association will create a drainage easement over the Community Property.
- 12.8** Each Lot Owner is responsible for all stormwater services located on their respective lots.
- 12.9** Other services may be provided to any Lot at the expense of the proprietor of the Lot(s) benefiting the services. These services may be located within the Community Property with the consent of the Community Association. This consent shall not be withheld provided that the Community Association is given satisfactory written assurance that: -
 - (a) the services are located a minimum 400mm below ground level at the time of construction of the service line;
 - (b) construction of the service facilities will not interfere with existing services;
 - (c) the location of the services will result in no loss to any Lot proprietors or the Community Association, of any existing amenity or enjoyment right;
 - (d) all reasonable precautions are taken to ensure as little disturbance to the surface as possible and that the surface will be restored.
- 12.10** The maintenance and repair of any existing line supplying water, electricity, telephone or other services to a Lot is the responsibility of the Community Association.

- 12.11** Each proprietor or occupier of a lot will be responsible for the maintenance and repair of any line supplying water, electricity, telephone or service to a Lot after the registration of the Community Plan.

13. BY-LAW 13: INSURANCE

- 13.1** The Community Association must maintain the following insurances:

- (a) Workers Compensation;
- (b) Damage;
- (c) Public Liability Cover;
- (d) Voluntary Workers;
- (e) Any other insurance required by the Management Act.

- 13.2** The Association must annually review:

- (a) all insurances effected by it; and
- (b) the need for new or additional insurances.

- 13.3** Notice of an Annual General Meeting must include a form of motion to decide whether insurances effected by the Association should be confirmed, varied or extended.

- 13.4** The Association must immediately affect new insurances or vary or extend existing insurances if there is an increase in risk or a new risk to Community Property.

- 13.5** A proprietor or occupier of a lot must not knowingly, except with the approval of the Community Association, do anything which might: -

- (a) Void or prejudice and insurance policy effected by the Community Association; or
- (b) Increase any insurance premium payable under an insurance policy effected by the Community Association.

14. BY-LAW 14: ASSOCIATION COMMITTEE

- 14.1** Pursuant to Section 33 of the Management Act each Lot owner is entitled to be a member of the Association Committee. The Association Committee shall, from its numbers, elect Chairperson, a Secretary and a Treasurer. The function of each officeholder will be determined by the member from time to time.

- 14.2** The Association Committee may employ for and on behalf of the Community Association such agents and servants as it thinks fit in connection with the exercise and performance of the power, authorities, duties and functions of the Community Association.

15. BY-LAW 15: ASSOCIATION COMMITTEE PROCEEDINGS

- 15.1** The Association Committee of the Community Association must be established in accordance with Division 2 of Part 2 of the Management Act.

- 15.2** The Association Committee must affix a notice board to some prominent part of the Community Property or in such places as otherwise determined.
- 15.3** The Association Committee may, subject to anything contrary in these By-Laws or the Management Act, meet together for the conduct of business, adjourn and otherwise regulate its meeting as it thinks fit.
- 15.4** The secretary or the member of the Association Committee who convenes a meeting must, for not less than three days immediately before the Association Committee holds a meeting, serve on committee members:
- (a) the notice of intention to hold the meeting; and
 - (b) the proposed agenda for the meeting.
- 15.5** The agenda for a meeting must include details of all the business to be heard at the meeting
- 15.6** No other business will be dealt with other than what is set out on the agenda for the meeting
- 15.7** The secretary or in his/her absence any member of the Association Committee must at the request of not less than two of the members of the Association Committee convene a meeting within the period of time specified in the request, and if no time is specified within 14 days of the making of the request.
- 15.8** A proprietor of a Lot or where the proprietor is a corporation, the company nominees of the corporation, may attend a meeting but that person may not address the meeting unless authorised by a resolution of the Association Committee,
- 15.9** Minutes of the meeting must be kept properly and held with the minutes of the General Meetings of the Community Association.
- 15.10** The Association Committee must within 14 days after holding a meeting circulate a copy of the minutes of that meeting to the committee members.
- 15.11** The functions of the Secretary include:
- (a) The functions under section 47 of the Management Act;
 - (b) preparing and distributing minutes of meeting of the Community Association and Association Committee;
 - (c) giving, on behalf of the Community Association and the Association Committee, notices required to be given under the Management Act;
 - (d) maintaining the Community Association roll;
 - (e) answering communications addressed to the Community Association or the Association Committee
 - (f) convening the meetings of the Association Committee and the Community Association (other than the first annual general meeting);
 - (g) performing administrative or secretarial functions on behalf of the Community Association;

- (h) performing administrative or secretarial functions on behalf of the Association Committee
- (i) keeping any records required under the Management Act.

15.12 The functions of the Treasurer include:

- (a) the functions set out in 48(1) and (2) of the Management Act:
- (b) notifying proprietors of Lots offering any contributions for any money paid to the Community Association;
- (c) receiving, acknowledging, banking and accounting for any money paid to the Community Association
- (d) preparing any certificate applied under paragraphs (a), (b), (d) and € of section 174(1) of the Management Act;
- (e) keeping prescribed accounting records under section 100 of Schedule 1 of the Management Act;
- (f) preparing financial statements under Part 5, Division 3 of the Management Act;
- (g) notifying proprietors of Lots of any contributions levied under the Management Statement and collecting such contributions.

15.13 The Association Committee may from time to time appoint sub-committee comprising of one or more of its members to:

- (a) conduct investigations;
- (b) perform duties and function on behalf of the Association Committee.

15.14 Members of the Association Committee are not entitled to any remuneration for the performance of their functions but are entitled to reimbursement for reasonable out of pocket expenses incurred by them in the performance of their functions.

15.15 No member of the Association Committee shall be liable for any loss or damage occurring by reason of an act done in his capacity as a member of the Executive Committee except fraud or negligence on the part of that member.

15.16 A quorum of the Association Committee is constituted in accordance with clause 10, Schedule 2 of the Management Act.

15.17 The Association Committee must at all times constitute all proprietors' Lots.

15.18 Decisions arising at a meeting of the Association Committee are to be made in accordance with clause 7 of Schedule 2 of the Management Act.

15.19 No member of the Association Committee will be liable for any loss of damage occurring by reason of an act done in his or her capacity as a member of the Association Committee except negligence on the part of that member.

PART 4

OPTIONAL MATTERS

16. BY-LAW 16: KEEPING OF ANIMALS

- 16.1** A domestic pet may be kept within any Lot.

17. BY-LAW 17: OBLIGATION OF A PROPRIETOR OF A LOT

- 17.1** It is the responsibility of the proprietor or lessee or occupier of a lot not to interfere with the quiet enjoyment of another Lot of the Community Association or of any person lawfully using the Community Property.

18. BY-LAW 18: NOISE CONTROL

- 18.1** The provisions of the Protection of the Environment Operations Act 1997 apply to the Community Scheme.

19. BY-LAW 19: ROAD RULES

- 19.1** A proprietor or occupier of a Lot must not drive any motor vehicle on the Open Access Way or any other part of the Community Scheme;

- (a) Which is not registered for use on a public road in accordance with the laws of any state or territory in Australia;
- (b) If they are not licenced to drive the vehicle on a public road in accordance with the laws of any state or territory in Australia;
- (c) If it is excessively noisy or emits an excessive level of exhaust fumes.

- 19.2** To the extent that these By Laws do not govern road rules in the Community Scheme, the provisions of the Road Transport (General) Act, 2005 apply.

20. BY-LAWS 20: RESTRICTIONS ON PARKING

- 20.1** A proprietor or occupier of a Lot must not park a motor vehicle or any other vehicle within the Community Scheme unless it is parked in an approved or allocated parking space designated by the Community Association from time to time as being an area where a vehicle may be parked by a proprietor or occupier of a Lot.

- 20.2** Twenty car parking spaces on the Community Property must be identified and made available for the exclusive use by the Early Education Centre except during special events or general assemblies in connection with St James' Primary School.

21. BY-LAW 21: COMMUNITY ASSOCIATION'S RIGHT TO ENTER INTO CONTRACTS

- 21.1** The Community Association may, on its own behalf, contract with persons to:
- (a) Provide management, operation or maintenance and other services in connection with Community Property;
 - (b) Provide services or amenities to the proprietors or occupiers of Lots; and

- (c) Provide other services or amenities or Community Property of the Proprietors or occupiers of the Lots.

22. BY-LAW 22: CONTROL OF OCCUPIERS

- 22.1** All proprietors renting Lots must provide any occupier, lessee or licensee with a copy or summary of this Management Statement and take all reasonable steps to ensure that the licensee or occupier of the Lot complies with these By-Laws. If a By-Law prohibits a proprietor or occupier of a Lot from doing a thing, the proprietor or occupier must not allow or cause another person to do that thing.

23. BY-LAW 23: COMMUNITY ASSOCIATION'S RIGHT TO REMEDY

- 23.1** The Community Association may do or carry out a task at the expense of the proprietor of a lot if:
- (a) That task was required to be done by a proprietor or occupier of the Lot; and
 - (b) The proprietor or occupier of the Lot failed to carry out the task within a reasonable time after receipt of written notice to do so.

24. BY-LAW 24: DEBTS TO COMMUNITY ASSOCIATION

- 24.1** If monies are owing to the Community Association and have not been paid, the Community Association may recover such moneys owing under the By-Laws as a debt.

25. BY-LAWS 25: NON-LIABILITY OF COMMUNITY ASSOCIATION

- 25.1** Excepting negligence or fraud of the Community Association or any employee of the Community Association, the Community Association will not be liable for damage to or loss of property or injury to any person on any Lot or on the Community Property.

26. BY LAW 26: INTEREST ON OVERDUE MONEY

- 26.1** Interest must be paid by a proprietor or occupier of a Lot to the Community Association on any amount other than a contribution levied by the Community Association under the Management Act, that has become due for payment and remains unpaid from and including the date it becomes due for payment.
- 26.2** During the period that an amount under By-Law 25.1 remains unpaid, after demand or notification by the Community Association, interest will be calculated on daily balances at the rate equal to two per centum per annum above the rate quoted from time to time by the Community Association's bankers (as nominated by the Community Association).

27. BY-LAW 27: RULES

- 27.1** Subject to the By-Laws contained in the Management Statement, rules and regulation may be made by the Community Association on regulating the control, management, operation, use and enjoyment of the Community Scheme including without limitation on the following parts of the Community Property:
- (a) The control, management, operation and use of the Community Property; and
 - (b) The storage, disposal and collection of garbage.
- 27.2** The Community Association may alter, add to or vary at any time such rules and regulations

- 27.3** Rules and regulations made under this By-Law will bind a proprietor, occupier, mortgagee in possession and lessee of each lot.

28. BY-LAW 28: COMPLIANCE

- 28.1** All requirements and order or authorities and all laws in connection with any Lot and the use of occupation of any Lot must be complied with by a proprietor or occupier of such Lot.

29. BY-LAW 29: PRIMA FACIE CERTIFICATE

- 29.1** A certificate signed by Community Association, the Secretary or any managing agent appointed by the Community Association about a matter or sum payable to the Community Association in connection with the By-Laws in prima facie evidence of the amount or any other factual matters stated in it.

30. BY-LAW 30: COMMUNICATIONS

- 30.1** All communications, approvals, notices or authorizations by the Community Association under there By-Laws must be in writing and any complaints, notices or applications or request for consideration of matters by the Community Association must be in writing and forwarded to the Manager of the Community Association of the Secretary of the Community Association.

31. BY-LAW 31: COMMUNITY ASSOCIATION APPROVALS

- 31.1** The Community Association approvals required under these By-Laws may be given conditionally, unconditionally or withheld by the Community Association acting reasonably unless expressly provided otherwise in these By-Laws.

32. BY-LAW 32: REIMBURSEMENT OF THE COST, CHARGES AND EXPENSES

- 32.1** A proprietor of a Lot must pay or reimburse the Community Association on demand for the costs, charges and expenses of the Community Association in connection with the contemplated or actual enforcement or preservation of any rights under the By-Laws against any proprietor of a Lot.
- 32.2** The cost, charges and expenses set out in 34.1 must include, without limitation, all costs incurred in obtaining independent consultants and other people to evaluate any matter of concern and the Community Association's administration costs in connection with those events.

33. BY-LAW 33: STATUTORY EASEMENTS

- 33.1** It is intended to create statutory easements over the service lines shown in the Service Works Plan in accordance with section 34 of the Community Land Development Act 2021 upon registration of the plan.

PART 5

BY LAW REQUIRED BY PUBLIC AUTHORITY

There are no By-Laws required by a public authority in relation to the Community Scheme other than any By-Law required to comply with the terms of any Development Consent for subdivision creation the Community Scheme.

SIGNATURES, CONSENTS AND APPROVALS

CERTIFICATE OF APPROVAL

It is certified:

- (a) That the consent authority has approved the development described in Development Application No. DA2019/00966; and
- (b) That the terms and conditions of this Management Statement are not inconsistent with the development as approved.

Date:

Signature on behalf

of consent authority

PART 6

SERVICES WORKS PLAN

To be inserted prior to registration