

**Wanda Beach Estate  
Neighbourhood Management Statement**

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## APPROVED FORM 30

### COMMUNITY LAND DEVELOPMENT ACT NEIGHBOURHOOD MANAGEMENT STATEMENT

#### WARNING

The terms of this Management Statement are binding on the neighbourhood association and each person who is a proprietor, lessee, occupier or mortgagee in possession of a neighbourhood lot.

#### PART 1 – BY-LAWS FIXING DETAILS OF DEVELOPMENT

These By-Laws relate to the management, administration, control, use or enjoyment or Lots in an association scheme or the association property or to the control or preservation of the essence or theme of the Community Scheme (see section 128 of the *Community Land Management Act 2021*).

##### By-Law 1     Theme of Development

- 1.1    This By-Law relates to the control and preservation of the essence or theme of the Neighbourhood Scheme.
- 1.2    The purpose of this Neighbourhood Scheme is to provide a gated residential scheme.
- 1.3    This By-Law 1 may only be amended or revoked by a Unanimous Resolution of the Association in accordance with section 19(1) of the Management Act.

##### By-Law 2     Building Guidelines

- 2.1    The Association, each Owner and Occupier must comply with the Guidelines in place from time to time for the Neighbourhood Parcel.
- 2.2    The Developer must, prior to registration of the Neighbourhood Plan, prescribe Guidelines for the Neighbourhood Parcel which will bind, and be enforceable against the Association and each Owner and Occupier.
- 2.3    The Developer or the Association must provide a copy of the Guidelines to an Owner or Occupier when requested to do so.
- 2.4    Notwithstanding any other By-Law, the Developer is not bound by the Guidelines.
- 2.5    Subject to By-Law 2.3, all Improvements, including alterations and additions, on the Neighbourhood Parcel must be constructed and maintained in accordance with the Guidelines.

- 2.6 Prior to making any Application to Council to carry out any alterations or additions, or to demolish any existing Improvements or construct new Improvements, an Owner or Occupier must first make an Application under By-Law 2.7 for the approval of the Association.
- 2.7 An Owner must make an Application to the Developer, or where the Developer has ceased to be an Owner in the Neighbourhood Scheme, the Association for approval to make alterations or additions to demolish and rebuild any Improvements.
- 2.8 An Application must contain sufficient details of the proposed amendments to enable the Association and the Developer to understand with reasonable certainty the nature and extent of the proposed alterations or building works.
- 2.9 The Association may appoint a Design Review Committee to review Applications under this By-Law.

### By-Law 3 Use of the Neighbourhood Parcel

- 3.1 Owners and Occupiers, but excluding the Developer, must unless otherwise directed or permitted by the Association:
  - (a) regularly maintain and keep clean and in a state of good repair and condition the Owner's or Occupier's Lot including any Improvement on the Owner's or Occupier's Lot unless otherwise required by the Association and in accordance with the Approval, this Management Statement, the Guidelines and to a standard acceptable to the Association and, for so long as the Developer is an owner of a lot in Wanda Beach Estate, to a standard acceptable to the Developer;
  - (b) keep the landscaped areas of the Lot clean and tidy, in good repair and condition and in accordance with the Approval, this Management Statement, the Guidelines and to a standard acceptable to the Association and for so long as the Developer is an owner of a lot in Wanda Beach Estate, to a standard acceptable to the Developer;
  - (c) effect all maintenance and repairs to the Owner's or Occupier's Lot and Improvements on the Lot in a proper and workmanlike manner and in accordance with the Approval, this Management Statement, the Guidelines and to a standard acceptable to the Association and for so long as the Developer is an owner of a lot in Wanda Beach Estate, to a standard acceptable to the Developer;
  - (d) only build and undertake construction works between the hours of 7am and 6pm Monday to Friday inclusive (but excluding public holidays) and 7am to 1pm Saturday or as otherwise permitted by the Council;
  - (e) only use hydraulic rock hammers and other equipment or activities likely to contravene the provisions of the *Protection of the Environment Operations Act 1997*, between the hours of 8am to 6pm Monday to Thursday inclusive and 8am to 4pm Friday excepting public holidays or as otherwise permitted by the Council;
  - (f) not use anything on the Neighbourhood Parcel for any purpose other than that for which it was intended;
  - (g) promptly notify the Association of any damage to or defect in Neighbourhood Property;

- (h) not interfere with, damage or obstruct the use of Neighbourhood Property;
- (i) not construct any building or structure or Improvement on Neighbourhood Property;
- (j) not attach anything to or alter Neighbourhood Property;
- (k) not, except with the approval of the Association, use or store on any part of the Neighbourhood Parcel any explosive, toxic or flammable solid, liquid or gas other than where it is intended to be used solely for domestic purposes;
- (l) not conduct any auction or sale on a Lot or Neighbourhood Property;
- (m) not erect any sign on a Lot or Neighbourhood Property without the prior written approval of the Association; and
- (n) not conduct a business (other than a Home Business as defined in the Port Stephens Local Environmental Plan 2013) from a Lot, unless approved by the Association and the Council.

3.2 Where an Occupier fails to maintain their Lot in accordance with the Approval, this Management Statement, the Guidelines and to a standard acceptable:

- (a) to the Developer, for so long as the Developer is an owner of a lot in Wanda Beach Estate; and
- (b) the Association,

either the Association or the Developer may maintain the Lot, at the expense of that Owner. The Association may recover any money owing to it by an Owner for the maintenance of a Lot as if it were a debt under By-Law 18, including maintenance costs, administration costs, legal fees and any other costs incurred by the Association as a result of the failure by an Owner to maintain their Lot.

3.3 Without limiting By-Law 3.2, where in the opinion of the Association an Occupier fails to maintain the Lot or fails to construct or maintain the Improvements in accordance with the Approval, this Management Statement and the Guidelines, or the Occupier carries out works without an Approval, the Association may:

- (a) serve a notice requiring the Owner or the Occupier to comply with the Approval, this Management Statement and the Guidelines; and/or
- (b) retain any bond (or part of any bond) held by the Association in connection with an Application until such time as the Association is satisfied that the Occupier has rectified the non-compliance referred to in this By-Law 3.3.

## PART 2 – ASSOCIATION PROPERTY RIGHTS

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

### By-Law 4 Development of the Parcel and Wanda Beach Estate

- 4.1 Use of the Neighbourhood Property is restricted under this By-Law to the Developer for the purposes of carrying out the Development Activities. If access is required by an Owner then the Owner may request consent from the Developer to access the Association Property, such consent may not be unreasonably withheld.
- 4.2 Restricted use of the Neighbourhood Property referred to in this By-Law 4 will cease when the Developer serves on the Association a notice informing the Association that Development Activities on Neighbourhood Property have ceased, and construction of all Improvements on the Neighbourhood Property have been completed (hereinafter called “the **Completion Date**”).
- 4.3 The Developer must serve the notice referred to in this By-Law 4.2 on the Association within one (1) month of the Completion Date.
- 4.4 The conditions relating to use of the Neighbourhood Property are that all damage to or interference with the Neighbourhood Parcel caused by the carrying out of the Development Activities, must be made good at the expense of the Developer.
- 4.5 Access to Neighbourhood Property may be exercised by the Developer, its employees, agents or assigns by access ways or such other method as may be reasonably required by the Developer subject to By-Law 4.4, including by a public road system in and around the Neighbourhood Parcel.
- 4.6 The restricted use rights conferred on the Developer under this By-Law 4 may be exercised between the hours of 7am and 6pm Monday to Friday inclusive and 7am to 1pm Saturday or such other times as may be permitted by the Council. The use of hydraulic rock hammers and other equipment or activities likely to contravene the provisions of the *Protection of the Environment Operations Act 1997* is to be restricted to 8am to 6pm Monday to Thursday inclusive and 8am to 4pm Friday, excepting public holidays or such other times as may be permitted by Council.
- 4.7 Subject to By-Law 4.5, the rights of the Developer will not relieve the Association of its obligation to repair and maintain Neighbourhood Property and the Association warrants that notwithstanding the exclusive rights of the Developer granted in this By-Law 4, the Association must repair and maintain the Neighbourhood Property at the cost of the Association and without the Developer being liable to the Association for any additional or special levy for the exclusive rights granted to the Developer.
- 4.8 The Association must levy Contributions on Owners for any costs associated with maintaining the Neighbourhood Property referred to in this By-Law.

4.9 The Developer has the exclusive right to procure installation of the Services and the Additional Services to service all Lots in the Neighbourhood Scheme.

4.10 The Developer has the exclusive right to carry out the Development Activities on the Neighbourhood Parcel.

4.11 The matters set out under clause 11 Schedule 2 of the Development Act apply to and form part of this By-Law 4 unless the context indicates to the contrary. It is acknowledged that the Developer and all persons authorised by it have the rights to develop the Neighbourhood Parcel and Neighbourhood Property in stages and carry out Development Activities on the Neighbourhood Parcel and the Neighbourhood Property. The staging and timing of stages of development of the Neighbourhood Parcel, the Neighbourhood Property, Neighbourhood Facilities and Wanda Beach Estate will be as determined by the Developer in its sole discretion and the Developer gives or makes no warranty as to the date of completion of construction of Neighbourhood Facilities, Development Activities or construction of Neighbourhood Facilities that comprise the Neighbourhood Parcel, the Neighbourhood Property or the Neighbourhood Facilities.

4.12 The Developer and all persons authorised by it have the following rights for the purpose of enabling those persons to complete the development of the Neighbourhood Parcel (including Lots) and Wanda Beach Estate in stages and carry out Development Activities on the Neighbourhood Parcel and Wanda Beach Estate:

- (a) **(Access Rights)** complete and unrestricted access by foot or Vehicle or such other machinery or equipment deemed necessary by the Developer to, on and over the Neighbourhood Property or the Neighbourhood Parcel.
- (b) **(Parking Rights)** the right to park Vehicles, machinery and equipment on the Neighbourhood Property or the Neighbourhood Parcel.
- (c) **(Temporary Facilities)** the right to place on or attach to the Neighbourhood Property or the Neighbourhood Parcel temporary offices, sheds, depots, building materials, cranes and other equipment.
- (d) **(Right to Install and Maintain Services and Additional Services)** the right to install and maintain Services and Additional Services on the Neighbourhood Property or the Neighbourhood Parcel.
- (e) **(Right to Connect Services and Additional Services)**- the right to connect Services and Additional Services within the Neighbourhood Property or the Neighbourhood Parcel.
- (f) **(Right to Attach Signs)** the right to attach and place marketing and advertising signs, placards, banners, notices or advertisements on the Neighbourhood Property or the Neighbourhood Parcel.
- (g) **(Right to Conduct Auctions and Sales)** the right to conduct auction and sales activities on the Neighbourhood Property or the Neighbourhood Parcel.

4.13 As a condition of the restricted use rights conferred on the Developer pursuant to this By-Law 4 the Developer must not unreasonably prevent Owners and Occupiers from using the

Neighbourhood Parcel including but not limited to Neighbourhood Property for any purpose permitted by the Management Statement.

## PART 3 – MANDATORY MATTERS

### By-Law 5 Use, Maintenance and Management of Neighbourhood Property

- 5.1 The Association is responsible for the control, management, operation, maintenance and repair of Neighbourhood Property, the Neighbourhood Facilities and the Services specified in By-Law 9.1 for which it is responsible. The Neighbourhood Property, the Neighbourhood Facilities, Services and Service Lines provided by the Association must be maintained at all times.
- 5.2 Neighbourhood Property comprises Private Access Ways, open space areas, Community facilities, Services and Service Lines owned by the Association.
- 5.3 Neighbourhood Property is available for use by:
  - (a) Owners and Occupiers; and
  - (b) Invitees.
- 5.4 In addition to the Developer's rights to construct Neighbourhood Facilities and Services on Neighbourhood Property, the Association may also construct Neighbourhood Facilities and Services on Neighbourhood Property. The Association's right to construct Neighbourhood Facilities and Services must be in accordance with this Management Statement, the Guidelines and subject to Council approval.
- 5.5 The Association is responsible for the control, management, maintenance and use of Drainage located on Neighbourhood Property and the control, management and maintenance of all Private Access Ways and verges and guttering adjoining Private Access Ways.
- 5.6 It is intended to create statutory easements, for the benefit of the Association, over inter-allotment drainage and other Drainage located on the Neighbourhood Parcel (as shown in the Prescribed Diagram). The covenants contained in section 36 of the Development Act are incorporated for this purpose.
- 5.7 Where damage is caused by an Owner or Occupier to Neighbourhood Property, Drainage or Services and Service Lines owned by the Association, the Association may recover from that Owner or Occupier the cost of repairing the damage caused by that Owner or Occupier and any other costs incurred by the Association in connection with the damage (including legal, recovery and enforcement costs).
- 5.8 The Association must contract with persons named and for the term stated in **Error! Reference source not found.** for the management, maintenance, control and administration of Neighbourhood Property and Neighbourhood Facilities.

## By-Law 6 Access ways and Restrictions on Vehicles

6.1 The Neighbourhood Association is responsible for the control, management, use and maintenance of the Private Access Way and street lighting for the Private Access Way.

6.2 Owners and Occupiers must:

- (a) not drive Vehicles on the Neighbourhood Parcel in a manner that is dangerous or creates excessive noise, emits excessive levels of exhaust or other fumes or is a nuisance to other motorists, pedestrians or Owners or Occupiers;
- (b) not drive, park or repair (excluding emergency repairs) a Vehicle on the Neighbourhood Property except on an area of Neighbourhood Property (if any) designated by the Association from time to time as being an area where a Vehicle may be driven, parked or repaired by Owners and Occupiers;
- (c) comply with the Rules and any applicable laws in force from time to time dealing with the use and operation of Vehicles on the Neighbourhood Parcel and in particular Private Access Ways;
- (d) make good at the expense of the Owner or Occupier, to the satisfaction of the Association, any damage caused to Neighbourhood Property by the Owner or Occupier or their Invitees;
- (e) not drive a Vehicle on the Private Access Ways at a speed in excess of 15 kilometres per hour; and
- (f) not drive a Vehicle on the Private Access Way unless the Vehicle is registered for use on public roads in accordance with the relevant laws enforced from time to time.

6.3 The Association Committee may make rules regarding the use of roller skates, blades, skateboards and bicycles on the Neighbourhood Parcel for the better enjoyment of Owners and Occupiers of Neighbourhood Property.

6.4 Owners and Occupiers, but excluding the Developer, must:

- (a) not access a Lot with a Vehicle other than via the Private Access Ways or public road;
- (b) house Vehicles parked on a Lot in accordance with the Guidelines;
- (c) unless otherwise authorised by the Association and except for:
  - (i) the delivery of furniture or household items;
  - (ii) the construction or maintenance of Improvements on a Lot; or
  - (iii) garbage trucks, mail and emergency vehicles,

not permit any Vehicle in excess of three (3) tonnes unloaded or with a length of 12.5m rigid on the Neighbourhood Parcel.

- 6.5 The Association must grant to Owners and Occupiers reasonable access to pass and repass over Neighbourhood Property including the right to construct driveways and pedestrian pathways to their Lot in accordance with the Guidelines, to enable Owners and Occupiers to access their Lot whether on foot or by Vehicle.
- 6.6 Subject to any provisions contained in these By-Laws which must take priority, the provisions of the *Road Transport (General) Act 1999* and *Road Transport (Safety and Traffic Management) Act 1999* apply so far as they apply to road use and road use offences.

## By-Law 7 Fencing

- 7.1 The *Dividing Fences Act 1991* applies as between Lots on the Neighbourhood Parcel, excepting that the Developer and the Association shall not be bound by the provisions of the *Dividing Fences Act 1991* nor be liable to Owners or Occupiers for contributions for any fence.
- 7.2 Owners must construct and maintain fencing and retaining walls in accordance with the Guidelines.

## By-Law 8 Garbage and Recycling

- 8.1 Subject to the requirements of Council, which prevail over these By-Laws, each Owner must ensure the removal of garbage from that Owners' Lot on a regular basis.
- 8.2 Subject to the requirements of Council, which prevail over these By-Laws, the Association must either arrange with Council or contract with a garbage and recycling contractor to ensure that garbage and recyclable materials from Lots within the Neighbourhood Parcel are collected on a regular basis at such times as determined by the Association.
- 8.3 Owners and Occupiers must:
  - (a) sort, store, dispose of and make garbage and recyclable materials available for collection from the main access way within the Neighbourhood Parcel in accordance with the Rules of the Association and any requirements of Council;
  - (b) not obstruct or interfere with garbage and recycling services or deposited garbage or recyclable materials on Neighbourhood Property;
  - (c) keep all garbage and recycling bins on their Lot secure and screened using either screen fences or landscaping or a combination of both so as not to be visible from other Lots or Neighbourhood Property;
  - (d) not dispose of toxic or dangerous substances in garbage or recycling bins; and
  - (e) return garbage and recycling bins to storage areas on their Lot within twenty four (24) hours after emptying of garbage and recycling bins.
- 8.4 An Owner or Occupier must comply with any Rules or By-Laws concerning garbage collection and recycling of garbage made by:

- (a) Council;
- (b) the Association; or
- (c) under this Management Statement.

## By-Law 9 Services

9.1 The following Services will be supplied to the Neighbourhood Parcel by the following Service Providers and where specified, the Association:

<b>Statutory Services</b>	<b>Service Provider</b>
Electricity:	
Low voltage	Association
High voltage	Ausgrid
Water	Hunter Water Corporation
Sewer	Hunter Water Corporation
Stormwater	Association
Telecommunications:	
Telephone	National Broadband Network Co
Internet/data	National Broadband Network Co

9.2 Subject to any requirements of Service Providers detailed in Part 5 of this Management Statement or law or regulation to the contrary, Service Providers will be responsible for the maintenance of those Services, Additional Services and associated Service Lines owned by that Service Provider.

9.3 The Developer and the Association:

- (a) provide or contract with Service Providers for Additional Services for Owners and Occupiers; and
- (b) arrange for the installation and maintenance of Service Lines for Additional Services, by Service Providers.

9.4 Where the Association is the Service Provider of the Services or the Additional Services and damage, other than fair wear and tear, to the Services or the Additional Services, is caused by an Owner or Occupier, the Association may in its absolute discretion recover from the

Owner or Occupier the cost of repairs and materials for the damage, legal costs and any other costs incurred by the Association.

- 9.5 Owners and Occupiers must not without the written consent of the appropriate Service Providers or the Association carry out any works which interfere with Services or Additional Services or obstruct access to, overload or damage Services, or any Additional Services.
- 9.6 Owners and Occupiers must promptly notify the Association of any damage to or defective operation of Services, any Additional Services or Drainage.
- 9.7 It is proposed to create statutory easements, pursuant to section 36 of the Development Act, in accordance with the Prescribed Diagram. Where a statutory easement is created, the covenants contained in section 36 of the Development Act are incorporated.
- 9.8 In the case of Private Services, the Association grants to the Service Provider of Private Services, all those rights and covenants contained in Part 5 Division 2 of the Development Act as though the Private Service were a statutory service and the Service Provider a statutory service provider.
- 9.9 In the case of Services not mentioned in By-Law 9.1, which traverse or encroach onto or under the Neighbourhood Parcel and benefit any one or more Lots in the Neighbourhood Parcel, will be deemed Services under By-Law 9.1.

## By-Law 10 Insurance

- 10.1 The Association must, effect all insurances necessary pursuant to Community Title Legislation, and any other insurance deemed necessary by the Association.
- 10.2 The Association must annually review:
  - (a) all insurances effected by it; and
  - (b) the need for new or additional insurances.
- 10.3 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.
- 10.4 The Association must immediately effect new insurances or vary or extend existing insurances if there is an increase in risk or a new risk to Neighbourhood Property.
- 10.5 Owners and Occupiers must not, except with the prior written consent of the Association, do anything that might invalidate, suspend or increase the premium for any insurance policy effected by the Association.

## By-Law 11 Association Committee Proceedings

- 11.1 The Association Committee of the Association will be established in accordance with Division 1 of Part 3 of the Management Act.

11.2 Subject to By-Laws 11.3 to 11.9 and the Management Act, the Association Committee may meet to conduct business, adjourn and otherwise regulate its meetings as it thinks fit.

11.3 The Secretary or the member of the Association Committee who convenes a meeting must, not less than two (2) days immediately before the Association Committee holds a meeting, circulate to all Owners:

- (a) a notice of intention to hold the meeting; and
- (b) the proposed agenda for the meeting.

11.4 The agenda for a meeting must include details of all business to be dealt with at the meeting.

11.5 No business may be dealt with at a meeting unless details of that business are set out in the agenda for that meeting.

11.6 The Secretary or in the Secretary's absence any member of the Association Committee must, at the request of not less than one-third of the members of the Association Committee, convene a meeting within the period of time specified in the request or, if no time is specified, within fourteen (14) days of the making of the request.

11.7 Where:

- (a) By-Law 11.3 has been complied with in relation to a meeting;
- (b) each member of the Association Committee has been served with a copy of a motion for a proposed resolution to be submitted at the meeting; and
- (c) the resolution has been approved in writing by a majority of members of the Association Committee,

then the resolution will, subject to clause 4 of Schedule 2 of the Management Act, be as valid as if it had been passed at a duly convened meeting of the Association Committee even though the meeting was not held.

11.8 Owners may attend meetings of the Association Committee but may not address the meeting unless authorised by a resolution of the Association Committee.

11.9 Minutes of meetings must be kept properly and held with the minutes of the General Meetings of the Association.

11.10 The Association Committee must, within fourteen (14) days after holding a meeting, circulate a copy of the minutes to all Owners.

11.11 The functions of the Secretary include:

- (a) preparing and distributing minutes of meetings of the Association and the Association Committee;
- (b) giving, on behalf of the Association and the Association Committee, notices required to be given under the Management Act;

- (c) maintaining the Association roll;
- (d) supplying certificates in accordance with section 174 of the Management Act;
- (e) answering communications addressed to the Association or the Association Committee;
- (f) convening meetings of the Association Committee and the Association (other than the First Annual General Meeting);
- (g) performing administrative or secretarial functions on behalf of the Association;
- (h) performing administrative or secretarial functions on behalf of the Association Committee; and
- (i) keeping records under Part 3 of Schedule 1 to the Management Act.

11.12 The functions of the Treasurer include:

- (a) the functions set out in section 48(1) and (2) of the Management Act;
- (b) receiving, acknowledging, banking and accounting for any money paid to the Association;
- (c) preparing any certificate applied for under paragraphs (a), (b), (c), (d) and (e) of section 174(1) of the Management Act;
- (d) keeping prescribed accounting records under section 100 of the Management Act;
- (e) preparing financial statements under Part 5 Division 3 of the Management Act;
- (f) notifying Owners of any Contribution levied under this Management Statement and collecting such Contribution;
- (g) recovery of any debt owing to the Association by Owners or Occupiers; and
- (h) preparation of budgets and tax returns for the Association.

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

- (a) conduct investigations;
- (b) perform duties and functions on behalf of the Association Committee; and
- (c) report the findings of the sub-committee to the Association Committee.

11.14 A member of the Association Committee will not be liable for any loss or damage occurring by reason of an act done in their capacity as a member of the Association Committee except where the loss or damage occurs as a result of fraud or negligence on the part of that Association Committee member.

## PART 4 – OPTIONAL MATTERS

### By-Law 12 Acknowledgements and Obligations of Owners and Occupiers

12.1 Owners and Occupiers, but excluding the Developer, must:

- (a) provide any lessee or licensee of the Owner's or Occupier's Lot with a copy of this Management Statement and take all reasonable steps, including any action available under the lease or licence agreement, to ensure that any lessee or licensee of the Lot and any person on the Neighbourhood Parcel with the consent of the lessee or licensee complies with these By-Laws;
- (b) take all reasonable steps to ensure that Invitees comply with these By-Laws and if the Invitee does not comply with these By-Laws then the Owner or Occupier must take all reasonable steps to ensure that the Invitee immediately leaves the Neighbourhood Parcel;
- (c) promptly pay to the Association all Contributions as and when they fall due on the Owner's Lot and pay or reimburse the Association on demand for any expenses of the Association in connection with the contemplated or actual enforcement or preservation of any rights under these By-Laws concerning the Owner or Occupier including, without limitation, expenses incurred in retaining any independent consultant or other person to evaluate any matter of concern and its administration costs in connection with those events;
- (d) do anything which the Owner or Occupier is required to do under these By-Laws at the cost of the Owner or Occupier;
- (e) comply on time with all requirements and orders of authorities, all laws in connection with the Lot and the use or occupation of that Lot;
- (f) comply with the terms of any notice sent to that Owner or Occupier by the Association, the Manager, the Association Committee, a Service Provider or other relevant authority;
- (g) not directly or indirectly instruct agents, employees or contractors of the Association unless authorised to do so by the Association;
- (h) comply with the reasonable directions of, and not hinder emergency services personnel or vehicles;
- (i) not make undue noise or behave in a way that might interfere with or cause offence to other Owners or Occupiers or their Invitees.

12.2 Owners and Occupiers acknowledge that this By-Law 12 goes to the theme of the development pursuant to section 128(2) of the Management Act and can only be amended by unanimous resolution.

## By-Law 13 Behaviour of Owners, Occupiers and Invitees

### 13.1 **Noise**

- (a) An Owner, Occupier or Invitee must not create any noise on a Lot, Neighbourhood Property which might interfere with the peaceful enjoyment of another Owner, Occupier or Invitee.
- (b) An Owner, Occupier or Invitees must:
  - (i) undertake appropriate attenuation measures to reduce noise on a Lot from motors and mechanical equipment such as air conditioning units and pool pumps; and
  - (ii) comply with all regulations, guidelines and recommendations from the NSW Environmental Protection Agency regarding the installation, operation and running times for motors, mechanical and associated equipment.
- (c) The Association Committee may issue a notice requiring an Owner, Occupier or Invitee to undertake reasonable attenuation measures to reduce noise on a Lot and Neighbourhood Property from motors and mechanical equipment on a Lot if the Association Committee has reasonable grounds to form the view that an Owner, Occupier or Invitee is in breach of Law 13.1(b)(ii).

### 13.2 An Owner, Occupier or Invitee must not:

- (a) obstruct the lawful use of Neighbourhood Property or use of the Lots by Owners, Occupiers or the Manager; or
- (b) use language or behave in a manner likely to cause offence or embarrassment to an Owner or Occupier of another Lot.

### 13.3 **Children**

An Owner or Occupier must ensure a child under the care and control of that Owner or Occupier:

- (a) plays only on Neighbourhood Property which is a designated open space area that is not dangerous or hazardous to children; and
- (b) only remains in or on Neighbourhood Property comprising an area of possible danger or hazard to children if the child is accompanied by an adult exercising effective control.

### 13.4 **Invitee**

An Owner or Occupier must ensure that an Invitee does not behave in a manner likely to interfere with the peaceful enjoyment of another Owner or Occupier or any other Invitee.

## By-Law 14 Keeping of Animals

- 14.1 Owners and Occupiers may, with the prior consent of the Association, keep or permit an Animal excluding a cat, on the Neighbourhood Parcel.
- 14.2 The Association must not unreasonably withhold its approval for the keeping of an Animal other than a cat on a Lot or on the Neighbourhood Property.
- 14.3 Subject to By-Law 14.1, Owners and Occupiers must:
  - (a) keep Animals within the confines of that Owner's or Occupier's Lot;
  - (b) clean up any waste or mess created by the Animal;
  - (c) tether and control the Animal if it is on any part of another Lot or Neighbourhood Property; and
  - (d) take all appropriate steps to minimise noise or disturbance by the Animal to other Owners and Occupiers.

## By-Law 15 Washing

- 15.1 Owners and Occupiers must only use the clothesline erected in the Neighbourhood Lot for the purpose of drying washing, towels, bedding, clothing or other articles of a similar nature.

## By-Law 16 Parking

### 16.1 **Restrictions**

- (a) Subject to By-Laws 16.1(b) and 16.1(c), an Owner or Occupier must not park a Vehicle on the Neighbourhood Parcel.
- (b) An Owner or Occupier may park a Vehicle other than a truck, trailer, caravan, motor home or boat:
  - (i) in a garage or driveway on that Owner or Occupier's lot; or
  - (ii) in an area on the Neighbourhood Parcel designated by the Association as being an area where a Vehicle may be parked (including in designated parking areas on Open Access Ways);
- (c) An Owner or Occupier may park a Vehicle in an area on the Neighbourhood Parcel designated by the Association or the Manager as being an area where vehicles may be parked.

### 16.2 **Repairs**

- (a) No repairs to any Vehicles are permitted to be undertaken on the Neighbourhood Property or the Subsidiary Body Property.
- (b) No Vehicles with a gross weight in excess of 3 tonnes are permitted to stand on the driveways of any lot or any part of the Neighbourhood Parcel.

## By-Law 17 Association not Liable for Damages

- 17.1 The Association is not liable for damage to or loss of property or injury to any person in or near the Neighbourhood Parcel due to any cause other than the negligence or fraud of the Association or any employee or agent of the Association.

## By-Law 18 Interest on Overdue Money and Right to Recover Money

- 18.1 The Association may recover any money owing to it under these By-Laws as a debt.
- 18.2 Owner's and Occupier's must pay the Association interest on any amount, other than a Contribution levied by the Association under the Management Act that is due for payment and remains unpaid from and including the date it is due for payment.
- 18.3 During the period that an amount under By-Law 18.2 remains unpaid, interest will be payable on demand or at times notified by the Association and will be calculated on daily balances at the rate equal to two per centum (2%) per annum above the rate quoted from time to time by the Association's bankers (as nominated by the Association) on overdraft accommodation in excess of \$100 000.00.
- 18.4 Interest may be capitalised by the Association at monthly intervals and interest is payable on capitalised interest at the rate and in the manner referred to in By-Law 18.3.
- 18.5 Nothing in this By-Law 18 prevents the Association from recovering any amount exceeding the interest calculated under this By-Law as a consequence of any amount not being paid when due.
- 18.6 Owners agree to pay any GST payable for any taxable supply supplied to that Owner by, through or at the direction of the Association, to the Association or as directed by the Association.

## By-Law 19 Rules

- 19.1 The Association, not the Association Committee, may make, and at any time add to, Rules for the control, management, operation, use and enjoyment of the Neighbourhood Parcel including, without limitation:
  - (a) the control, management, operation and use of Neighbourhood Property;
  - (b) the storage, disposal and collection of garbage; and

- (c) the supply of Additional Services.

19.2 The Association may at any time add to or change the Rules. An addition or change to a Rule must not be inconsistent with the Management Act, the Development Act, these By-Laws or the terms of the development consent from Council.

19.3 Rules bind the Association, Owners, Occupiers and Invitees.

## By-Law 20 Notices

- 20.1 Any complaint, notice, request or application to the Association must be addressed in writing to the Managing Agent or if there is no Managing Agent, to the Secretary.
- 20.2 A certificate signed by the Association, its Managing Agent or the Secretary about a matter or a sum payable to the Association in connection with these By-Laws is *prima facie* evidence of the amount or any other factual matter stated in it.
- 20.3 Any notice, approval or authorisation by the Association under these By-Laws must be in writing.

## By-Law 21 Approvals of Association

- 21.1 The Association may give conditional approval, unconditional approval or withhold its approval under these By-Laws in its absolute discretion unless expressly provided otherwise in these By-Laws.

## By-Law 22 Signs

- 22.1 An Occupier may erect one for-sale or for lease sign or, if required by law, one sign during construction of improvements, on the Occupier's Lot provided the sign must:
  - (a) not be erected on Neighbourhood Property;
  - (b) address the street frontage of the Lot;
  - (c) be located within the front boundary of the Lot;
  - (d) be single-sided; and
- 22.2 Except as provided under By-Law 22.1, an Occupier must not erect any signs on the Neighbourhood Parcel.
- 22.3 The Association may remove any sign which does not comply with this By-Law 22 and recover the cost of such removal from the Occupier.

## **PART 5 – BY-LAWS REQUIRED BY PUBLIC AUTHORITIES**

### **By-Law 23 Requirements of Public Authorities**

#### **23.1 Hunter Water Corporation**

- (a) Notwithstanding any other By-Law in this Management Statement, the terms of memorandum E476715 are incorporated into this Management Statement. The terms of the memorandum set out:
  - (i) the rights and privileges of the Hunter Water Corporation, its servants and agents which are ancillary to the rights and obligations conferred on the Hunter Water Corporation by Part 5 Division 2 of the Development Act; and
  - (ii) the obligations imposed on Owners within the Neighbourhood Scheme.
- (b) This By-Law 23.1 may only be revoked or amended with the written consent of the Hunter Water Corporation.

#### **23.2 Ausgrid**

- (a) Ausgrid requires that the Association provide, at all times, Ausgrid and authorised Ausgrid employees with mechanical and keyed access to any of Ausgrid's Service Lines and any equipment which may in the future be located on the Neighbourhood Parcel.
- (b) Kiosk substations and high voltage reticulation located within Wanda Beach Estate remain the property of Ausgrid who shall repair and maintain the high voltage reticulation. All low voltage power lines servicing and traversing the Neighbourhood Parcel are the property of the Association. The Association is responsible for the supply of low voltage power to the Neighbourhood Parcel and must maintain and repair the low voltage power lines and electricity service lines located within the Neighbourhood Scheme. This obligation is in addition to any obligation to repair or maintain service lines and easements rights contained in registered easements benefiting the Association.
- (c) All electrical equipment including but not limited to, street lights, LV pillars, LV distribution cables and associated infrastructure, used for the reticulation of power within the Neighbourhood Scheme must be supplied by the Association and is the property of and must be repaired and maintained by the Association, not Ausgrid.
- (d) This By-Law 23.2 may only be revoked or amended with the written consent of Ausgrid.

# Signatures, Consents and Approvals

Dated **17TH** day of **MAY** 2022

## Executed as an agreement

Executed by **Wanda Beach Estate Pty Limited** ACN 101 804 077 in accordance with section 127 of the *Corporations Act 2001* (Cth) by:



.....  
Signature of Director



.....  
Signature of Director/Secretary



.....  
Print name of Director



.....  
Print name of Director/Secretary

## **CERTIFICATE OF APPROVAL**

It is certified:

- (a) that the consent authority has approved the development described in [ ]; and
- (b) that the terms and conditions of this Neighbourhood Management Statement are not inconsistent with that development as approved.

Date: .....

Signature on behalf

of consent authority .....

## PART 6 – DEFINITIONS, INTERPRETATION AND GENERAL

### By-Law 24 Definitions and interpretation

24.1 The following words have these meanings in the By-Laws unless a contrary intention appears:

**"Access Way"** means either an Open Access Way or a Private Access Way.

**"Access Way Plan"** means the plan attached in Part 8 of this Management Statement.

**"Additional Service"** means any service in addition to those listed in By-Law 9.1 running through or serving Lots or Neighbourhood Property including but not limited to statutory services, private services and security services.

**"Adjoining Owners"** means the first lot on either side of the Applicant's Lot excluding Neighbourhood Property within the Neighbourhood Plan.

**"Animal"** means any animal including but not limited to dogs, insect, reptiles, horses or birds.

**"Annual General Meeting"** means the annual general meeting of the Association other than the First Annual General Meeting.

**"Applicant"** means an Owner who submits plans and specifications to the Developer or the Association for approval pursuant to By-Law 3.

**"Application"** means a written application for approval of Improvements or alterations and additions to existing Improvements by the Association including, but not limited, to detailed architectural plans and specifications for all Improvements.

**"Approval"** means any and each of the Association's approval, including any conditions of such approval, of an Applicant's Application as it applies to an Owner's Lot.

**"Association"** means the corporation that:

- (a) is constituted by section 8 of the Development Act on registration of the Neighbourhood Plan; and
- (b) is established as an Association by the Management Act.

**"Association Committee"** means the association committee of the Association as constituted or elected from time to time under the Management Act.

**"Board"** means the Neighbourhood Schemes Board constituted under the Management Act.

**"By-Law"** means a by-law included in this Management Statement.

**"Community Legislation"** includes:

- (a) *Community Land Development Act 2021*;
- (b) *Community Land Management Act 2021*;

(c) *Community Land Development Regulation 2021*; and

(d) *Community Land Management Regulation 2021*,

as amended from time to time and all cognate legislation and regulations.

**"Community Titles Legislation"** means the Development Act, the Management Act and cognate legislation.

**"Contribution"** means the contribution required to be paid under the By-Law or agreement to the Association by Owners and is the amount X in the following formula:

$$X = \frac{A \times B}{C}$$

Where:

A = the total amount to be raised by the contribution;

B = the unit entitlement for the Owner's Lot; and

C = the aggregate of the unit entitlements for each Lot in the Neighbourhood Scheme.

**"Council"** means the relevant consent authority, being Port Stephens Council.

**"DCP"** means any Development Control Plan for Wanda Beach Estate.

**"Developer"** means Wanda Beach Estate Pty Limited ACN 101 804 077 and includes their authorised officers, employees, agents, contractors and assignees.

**"Development Act"** means the *Community Land Development Act 2021* and regulations made under it.

**"Development Activities"** means:

(a) any form of demolition work, building work or work ancillary to or associated with building work on the Neighbourhood Parcel or Wanda Beach Estate including, without limitation, the installation of Services and Additional Services and construction of improvements, roads and access ways;

(b) any form of landscaping work or work ancillary to or associated with landscaping work on the Neighbourhood Parcel or Wanda Beach Estate;

(c) any form or work other than the forms of work referred to in By-Laws 30.1(m) and 30.1(n) which is considered necessary or desirable by the Developer;

(d) the use of any part of the Neighbourhood Parcel or Wanda Beach Estate in connection with the forms of work referred to in By-Laws 30.1(m) and 30.1(n);

(e) the subdivision of any part of the Neighbourhood Parcel or Wanda Beach Estate; or

(f) work required by Council or any relevant authority in connection with the Neighbourhood Parcel or Wanda Beach Estate development.

**"Development Lot"** has the same meaning as in the Development Act.

**"Drainage"** includes but is not limited to underground piping, drainage structures (other than in public road carriageways), inter-allotment drainage and gross pollutant traps located on Neighbourhood Property or the subject of a statutory easement or easement in favour of the Association.

**"First Annual General Meeting"** means the General Meeting convened and held under section 12 of the Management Act.

**"Function"** includes a power, authority or duty.

**"General Meeting"** means a general meeting or special general meeting of the Association.

**"GST"** means the Goods and Services Tax as contained in *A New Tax System (Goods and Services Tax) Act 1999* and related acts of the Commonwealth and cognate rulings and regulations.

**"Guidelines"** means:

- (a) the Building Guidelines prescribed for the Community Association and amended from time to time in accordance with By-Laws 2 and 3;
- (b) the Building Guidelines which may be amended, replaced or added to from time to time.

**"Improvements"** includes building alterations, amendments, modifications, new constructions, structures, building works, buildings and strata buildings, existing or to be constructed (which require approval or have been approved by the Association), landscaping and external repairs whether or not requiring the approval of Council, but for the purposes of By-Law 4 only, exclude changes to the interior of a dwelling which:

- (a) do not require the approval of Council;
- (b) do not interfere with or involve connection to Services; and
- (c) are not visible from another Lot or Neighbourhood Property.

**"Invitee"** means a person on the Neighbourhood Parcel with the consent express or implied of an Owner, Occupier or the Association.

**"Lot"** means a lot within the Neighbourhood Scheme.

**"Management Act"** means the *Community Land Management Act 2021* and regulations made under it.

**"Management Statement"** means the statement registered with the Neighbourhood Plan from time to time added to, modified or amended in accordance with the Community Titles Legislation.

**“Managing Agent”** means an agent appointed under section 53 of the Management Act.

**“Neighbourhood Association”** means the corporation that:

- (a) is constituted by section 10(3) of the Development Act on the registration of a Neighbourhood Plan; and
- (b) is established as a Neighbourhood Association by the Management Act.

**“Neighbourhood Facilities”** means the facilities, amenities and Improvements which may from time to time be authorised improvements and located on Neighbourhood Property.

**“Neighbourhood Lot”** means a lot in the Neighbourhood Plan.

**“Neighbourhood Plan”** means a plan as defined under the Development Act.

**“Neighbourhood Property”** means the lot shown in the Neighbourhood Plan as neighbourhood property.

**“Neighbourhood Scheme”** means:

- (a) the manner of subdivision of land by a Neighbourhood Plan; and
- (b) the proposals in any related development contract; and
- (c) the rights conferred, and the obligations imposed, by the Development Act and the Management Act in relation to the Neighbourhood Association, its Neighbourhood Property and the proprietors and other persons having interests in, or occupying the Neighbourhood Lots.

**“Occupier”** means a resident and includes resident Owners, any lessee, licensee or assignee of a Lot.

**“Owner”** means the registered proprietor on title of a Lot or mortgagee in possession of a Lot, its successors and assigns.

**“Parties”** means the Association and each Owner or Occupier within the Neighbourhood Parcel.

**“Prescribed Diagram”** means the diagram relating to the Service Lines with the Neighbourhood Plan and prescribed in section 32 of the Development Act.

**“Private Access Way”** means a private access way within the Neighbourhood Parcel set apart under section 41 of the Development Act.

**“Private Services”** includes those services provided by a private corporation, body, entity or person other than a statutory authority as prescribed in Part 5 Regulation 25 of the Community Land Development Regulation 2021 or capable of creation as a statutory easement.

**“Rules”** means the rules made under By-Law 19.

**“Secretary”** means the secretary of the Association.

**“Services”** means the services referred to in By-Law 8.1 and includes Private Services and Statutory Services.

**“Service Line”** means a pipe, wire, cable, duct, conduit or pole by means of which a Service is or is to be provided.

**“Service Provider”** means, without limitation, Ausgrid, the Hunter Water Corporation, the Council and any authorities or private corporations, including the Developer and the Association assuming similar functions.

**“Special Resolution”** means a resolution that is passed at a duly convened meeting of the Association and against which not more than one-quarter of the value of votes is cast.

**“Statutory Service”** means a service provided by a statutory authority or proprietor of land that has or may have the benefit of a statutory easement in accordance with Part 5 Division 2 of the Development Act.

**“Treasurer”** means the treasurer of the Association.

**“Unanimous Resolution”** means a resolution passed by a duly convened General Meeting of the Association without a vote being cast against it.

**“Vehicle”** means any motorised and non-motorised vehicle whether or not registered unless the context requires otherwise and includes, but is not limited to, motor vehicles, Carts, trucks, caravans, trucks, trailers, boats and bicycles.

- 24.2 In these By-Laws, unless the contrary intention appears:
  - (a) a reference to the singular includes the plural and vice versa;
  - (b) a reference to a statute includes any variation, amendment, re-enactment or replacement of it;
  - (c) the word “person” includes a firm, a body corporate, an association or an authority;
  - (d) reference to a person includes a reference to the person’s executors, administrators, successors and assigns;
  - (e) a reference to an instrument includes any variation or replacement of it;
  - (f) a reference to a day is a reference to the period of time commencing at midnight and ending 24 hours later; and
  - (g) headings are inserted for convenience and do not affect the interpretation of this Management Statement.
- 24.3 Unenforceability of a part or provision of these By-Laws does not affect the enforceability of any other part or provision and the unenforceable part or provision is taken to be severed from this Management Statement without affecting the remainder of the document.
- 24.4 The Association may exercise a right, power or remedy at its discretion, and separately or concurrently with another right, power or remedy. A single or partial exercise of a right, power

or remedy by the Association does not prevent a further exercise of that or of any other right, power or remedy. Failure by the Association to exercise or delay in exercising a right, power or remedy does not prevent its exercise.

24.5 A reference to an authority, institute, association or body or to any officer of them is in the event of that authority, institute, association, body or officer ceasing to exist or being reconstituted, renamed or replaced or of their respective powers or functions being transferred to any other organisation or person deemed to be a reference to the organisation or officer established, constituted or appointed in lieu of or as replacement for or which or who serves substantially the same purposes or subject of that authority, institute, association, body or officer.

## **PART 7 – SERVICE WORKS PLAN**

## **PART 8 – ACCESS WAY PLAN**