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Certificate - Alteration of rules

Section 21 Incorporated Societies Act 1908

1. Name of society

Station Street Shared Lane Society Incorporated

2. Society number

258082

I certify that the alteration has been made in accordance with the rules of the society.

Name

Nicole Warner

Position

Solicitor

Signature

26 / 01 / 2018

3. Complete this checklist before filing your application

- This certification has been completed by an officer of or a solicitor for the society.
- A copy of the rule alteration(s) is attached. **NOTE** | This can either be a complete copy of the updated rules with the alterations underlined or in bold type, or a copy of the particular rule(s) that were altered.
- The copy of the alteration to rules has been signed by three members of the society.

For society name changes --

- This rule alteration also includes a name change for the society, and
- We have checked that the new name of the society is available by conducting Register Searches at both www.societies.govt.nz and www.companies.govt.nz.

What must be included in your rules?

Section 6 of the Incorporated Societies Act 1908 requires that a society's rules include the following:

- The name of the society (ending with the word Incorporated)*
- The objects for which the society is established*
- How people become members of the society and cease being members of the society*
- How meetings of the society will be called and held and how voting will take place*
- How officers of the society will be appointed*
- Control and use of the common seal*
- How the society's funds will be controlled and invested*
- The powers (if any) that the society has to borrow money*
- How any property of the society will be distributed in the event of the society being wound up*
- How the rules of the society can be altered*



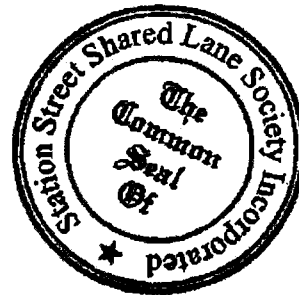
4. Your contact details

Name and postal address

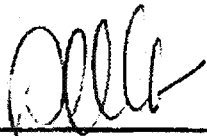
Nicole Warner
c/- Glaister Ennor
Norfolk House, 18 High Street
Auckland

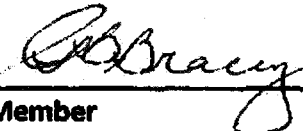
Telephone







Amended Constitution of Station Street Shared Lane Society Incorporated

 DAVID HARROCCAT. 2/12/17
Member

 Gillian Bracey 2/12/17.
Member

 William Song 3/12/17
Member

 Muthia Mudliar 15/01/17
Witness:



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1 Name and Registered Office

- 1.1 **Name** The name of the Society shall be Station Street Shared Lane Society Incorporated.
- 1.2 **Registered office** The registered office of the Society shall be at Auckland, or such other place as the Committee shall nominate from time to time.

2 Definitions and Interpretation

- 2.1 **Definitions** In this Constitution, unless the context otherwise requires:

"Access Lot" means the land described in Computer Freehold Register Identifier 610868 being Lot 12 on Deposited Plan 455874 and being the shared access lane and pedestrian access ways used and enjoyed by Members in conjunction with their Lots.

"Act" means the Incorporated Societies Act 1908.

"Bank" means a registered bank as defined in the Reserve Bank of New Zealand Act 1989.

"Capital Improvements" means structural repairs to, and the replacement or renewal of the Access Lot.

"Carpark" means areas designated for carparking on the Access Lot.

"Committee" means the committee members from time to time elected to manage the affairs of the Society pursuant to this Constitution.

"Consent" means all resource consents and approvals issued by the Relevant Authority for the Subdivision.

"Constitution" means this Constitution as amended or added to, including all schedules to this Constitution.

"Default Interest Rate" means 6% above the Society's banker's overdraft rate applicable during the continuance of the default.

"Developer" means Hobsonville Land Company Limited and its transferees and assigns.

"Development" means the residential development of the Land into multiple lots together with the Access Lot as shown on the plan annexed as Schedule 2 to this Constitution.

"Expense Year" means each 12 month period commencing on 1 April and ending on 31 March, or such other 12 month period as the Committee from time to time sets.

"First Members" means those people listed on incorporation as being the first Members of the Society.

"Hobsonville Point Development" means the subdivision and housing development being undertaken at Hobsonville Point by the Developer.

"Invitee" means any invitee of or any visitor to an Owner and/or Occupier.

"Land" means all of the Land comprising of Lot 1 on Deposited Plan 441749, Lots 1 and 2 on Deposited Plan 472678 and Lot 3 on Deposited Plan 465969 and any lots which are created from these lots.

"Land Covenants" means the covenants registered by the Developer against each of the Owners Titles.

"Lot" means Lots 1 to 11 on Deposited Plan 455874, Lots 1 and 2 on Deposited Plan 472678 and Lot 3 on Deposited Plan 465969 all within the Development.

"Management Agreement" means the agreement between the first Manager and the Society dated on or about the date of this agreement.

"Manager" means the manager appointed pursuant to clause 11.

"Member" means each person who shall from time to time be a member of the Society, as required by clause 5.

"Member's Proportion" means the equal share of Operating Expenses.

"Occupier" means any person occupying (permanently or temporarily) of the whole or any part of any Lot or Residential Property under any lease, license or other occupancy right and shall include all members of an Owner's family.

"Operating Expenses" means the total sum of any rates, taxes, costs and expenses of the Society property or reasonably assessed or assessable paid or payable or otherwise incurred in respect of the Access Lot and the operation of the Society (including, without limitation, the Management Expenses and Management Fee) but shall exclude any costs payable for a Special Levy.

"Owner" means each person registered as a proprietor (whether individually or with others) of a Lot.

"Owner's Title" means the Computer Freehold Register issued for an Owner's Residential Property.

"Registrar" means the person holding office from time to time as Registrar of Incorporated Societies in terms of the Act.

"Relevant Authority" means any statutory or local authority having jurisdiction over the Development.

"Residential Property" means a residential property on a Lot within the Development for which a Certificate of Title has been issued.

"Rules" means rules promulgated by the Society including the clauses in this Constitution and the Society Rules attached hereto as Schedule 1.

"Society" means Station Street Shared Lane Society Incorporated.

"Special Levy" means a levy made on a Member under clause 6.2.

"Special Resolution" means a resolution of the Society in general meeting passed by a majority of not less than 75% of such Members present in person or by proxy and entitled to vote provided however that it must include both the Controlling Member (if there is one).

"Working Day" means any day of the week, which shall be deemed to commence at 9.00am and to terminate at 5.00pm, other than:

- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday and Labour Day; and
- (b) A day in the period commencing on the 23rd day of December in any year and ending on the 5th day of January in the following year, both days inclusive; and
- (c) The day observed as the anniversary of any province in which an act is to be done.

2.2 Interpretation In this Constitution, unless the context otherwise requires:

- (a) words denoting the singular shall include the plural and vice versa;
- (b) one gender includes the other genders;
- (c) words denoting persons shall include any individual, company, corporation, firm, partnership, joint venture, association, organisation, trust, state, agency of a state, municipal authority, government or any statutory body in each case whether or not having separate legal identity;
- (d) any covenant or agreement on the part of two or more persons shall bind those persons jointly and severally;
- (e) reference to anything of a particular nature following upon a general statement shall not in any way derogate from, or limit the application of the general statement, unless the particular context requires such derogation or limitation;
- (f) any reference to "month" or "monthly" shall mean, respectively, calendar month or calendar monthly;
- (g) references to rules are references to Rules to this Constitution;
- (h) the table of contents, section headings and clause headings have been inserted for convenience and as a quick guide to the provisions of this Constitution and shall not form part of this Constitution or affect its interpretation in any way;
- (i) reference to any statute, regulation, ordinance or bylaw shall be deemed to extend to all statutes, regulations, ordinances or bylaws amending, consolidating or replacing the same.

3 Objects

3.1 Objects The Society is formed to promote the following objects for the benefit of Members:

- (a) the ongoing ownership, leasing or control of the Access Lot by the Society;

- (b) to ensure the proper operation, maintenance, repair, renovation and replacement of the Access Lot by the levying of Members for the purpose of providing funds for and meeting the costs and expenses of such work;
- (c) the full and proper use of the Access Lot by Members.
- (d) to promulgate and enforce of Rules and covenants benefiting members and the Development generally and specifically the land covenant registered against each of the Owner's Titles.
- (e) to promulgate and enforce bylaws and covenants to ensure the obligations regarding the management of the Access Lot including compliance with all relevant laws and requirements of governmental departments are upheld.
- (f) to maintain the Access Lot generally as a safe, clean and well presented environment as a whole;

3.2 No Pecuniary Gain The Society does not have any of the following as an object:

- (a) The pecuniary gain of Members, and (subject to clause 15.1) no Member shall be entitled to receive any dividend out of any levy, fee, donation or other income or funds of the Society; or
- (b) The carrying on of trading activities; or
- (c) The carrying on of business for profit.

4 Members May Contract

4.1 Ability to Contract A Member may enter into any agreement or understanding with the Society for the supply of any goods or services for such consideration and on such other terms and conditions as would be reasonable if that person were not a Member.

5 Membership of Society

5.1 First Members The First Members shall be deemed to have resigned from the Society as soon as there are more than seven Owners (excluding the Developer) as Members. The First Members shall be entitled to vote at any meeting of the Society to elect a Committee and exercise all rights of Members set out in this Constitution but shall have no obligations as Members.

5.2 Owners to be Members Subject to clause 5.1, each Owner shall be a Member and only Owners can be Members, and for that purpose:

- (a) An Encumbrance shall be noted against each Owner's Title in favour of the Society whereby each Owner covenants to become and remain a Member and to perform the obligations to the member as set out in this Constitution. Each Member shall prior to settling the sale of a Residential Property procure the Purchaser to enter into, execute and deliver to the Society a Deed of Covenant in favour of the Society,

wherein the Purchaser covenants to become contemporaneously with the transfer of the Residential Property and remain a Member, and to observe and perform the obligations of a Member as set out in this Constitution. The Deed of Covenant shall be in the form attached and prepared by the solicitors for selling Member, and the selling Member shall pay the reasonable legal fees and disbursements of the Society's solicitors (if any) in such matter.

- (b) The selling Member shall at least 5 days prior to settlement of such Members sale of its property request from the Manager a certificate of indebtedness and the selling Member shall pay such amount as required by such certificate including the Manager's reasonable fee for providing such certificate.
- (c) A Member shall be deemed to have resigned from the Society immediately upon that Member ceases to be an Owner, provided that such resignation shall not relieve a person of any obligation or liability arising before that person ceased to be a Member.
- (d) Each Owner shall immediately upon becoming an Owner, (and thereafter as any details change), provide the Society with the details necessary for maintenance of the register of Members pursuant to clause 5.4, and shall upon entry of the details into the register, become a Member.

5.3 Developer as Controlling Member Until the Development and the adjoining Hobsonville Point Development is fully completed, the Developer shall be the controlling member ("Controlling Member") of the Society, regardless of whether the Developer is at any time a Member. The Controlling Member shall have only the rights specified in this Constitution, and shall have no other rights or any obligations of a Member. No reference in this Constitution to a Member shall be taken as including a reference to the Controlling Member. Upon the Development and the Hobsonville Point Development being completed, the Developer shall be deemed to have resigned as Controlling Member, and thereafter, there shall be no Controlling Member in respect of the Society.

5.4 Register of Members The Society shall maintain a register of Members recording:

- (a) **For each Member:** name, address, occupation, telephone number, facsimile number, email address and car registration.
- (b) **Membership:** the date upon which each Member became a Member.
- (c) **Voting:** where there is more than one Owner of a Residential Property, which of such Owners is entitled to vote in accordance with clause 13.1.
- (d) **Mortgagee:** name, contact person, telephone number and facsimile number of any person holding a mortgage over the Member's Residential Property.

5.5 Not Assignable The rights, privileges and obligations of a Member are not assignable.

5.6 More than one Owner If there is more than one Owner for a Residential Property, such Owners shall collectively constitute one Member.

5.7 Access to Information

- (a) On reasonable notice and at reasonable times the Society shall make available for inspection by Members copies of this Constitution, the Rules and the Financial Reports presented to the last Annual General Meeting and the minutes of previous Annual General Meetings.
- (b) Members shall not be permitted to inspect the Membership register.

6 Obligations of Members

6.1 Levies

- (a) Prior to or as soon as practicable following a resolution, by the Members or the Committee, passed in accordance with the Rules and after the commencement of each Expense Year, the Society shall by written notice advise each Member of their share of Operating Expenses for that Expense Year ("Society's Estimate"), plus such contingency sum as the Society may, in its sole discretion, fix. The levies shall be based on an even share for each lot in the Development and shall be set annually at the relevant annual general meeting of the Society based on a budget provided by the Manager for such purpose.
- (b) Each Member shall pay in each Expense Year their share applicable to that Expense Year. Payment shall be made by each Member in the manner set by the Society from time to time.
- (c) As soon as practicable after the end of each Expense Year, the Society shall provide to each Member an itemised statement of the actual Operating Expenses for the previous Expense Year. If the actual Operating Expenses for the previous Expense Year are less than the total payments made by the Members pursuant to clause 6.1(b), the Society shall determine what to do with such difference at the next following annual general meeting of the Society.

6.2 Special Levies The Committee:

- (a) May from time to time fix an additional levy to be paid by each Member together with the Society's Estimate for that Member, to be set aside as a sinking fund to allow for and meet the costs of Capital Improvements; and
- (b) May from time to time fix such special levies, payable by each Member at such times as are set by the Society, as the Society considers are necessary for it to meet its obligations under this Constitution. Any levy payable by a Member under this clause shall be an equal share of the total estimated cost to be provided for and met from the proceeds of the levies paid any Members.

6.3 Sale of Residential Property

- (a) Where a Member ("the Seller") sells a Residential Property:
 - (i) Notwithstanding any other clause in this Constitution, the Seller shall remain liable for sums owed to the Society by that Seller.

- (ii) The Seller shall continue to be liable as a primary and principal debtor for all indebtedness of the purchaser of the Residential Property to the Society until such time as a Deed of Covenant specified in clause 5.2(a) is received by the Society.
 - (iii) The buyer of the Residential Property shall be liable as a Member for any indebtedness of the Seller to the Society in respect of the Residential Property purchased and a certificate issued by the Society showing the indebtedness of the Seller to the Society shall be conclusive as to the sum of this indebtedness.
- (b) The Society shall on application by a Member, or any person authorised in writing by such Member, provide the Member or authorised person with a statement of the indebtedness of the Member to the Society calculated to the date specified in the application. The statement shall show:
- (i) The Society's estimate of such Member's Proportion of Operating Expenses for the current Expense Year;
 - (ii) Payments made by the Member on account of Operating Expenses in the current Expense Year;
 - (iii) Payments due from the Member on account of Operating Expenses in the current Expense Year, and not paid by the Member; and
 - (iv) Any accumulated unpaid default interest.
- 6.4 **Covenants and Rules** Each Member agrees to promptly and duly comply with any rules made by the Society from time to time.
- 6.5 **Staged Development** The Members acknowledge that the Development is to be developed in stages with new Owners becoming Members as each stage is completed.
- 6.5.1 **Where in any Expense Year new Lots become available:**
- (a) The Society shall charge such new Owner their annual share of the Operating Expenses calculated on a pro rata basis for the period from the date the new Owner acquired the new Lot to the end of the then current Expense Year.
- 6.6 **The Members acknowledge that the Development is on-going and that the Society is required to allow the Developer such access to, and use of the Access Lot as is necessary or desirable for the Development to proceed. Each Member agrees:**
- (a) To and hereby allows the Developer access to the Access Lot for the purpose of proceeding with the Development;
 - (b) Not to prevent, hinder or obstruct the use by the Developer or anyone so authorised by the Developer of the Access Lot;
 - (c) That neither the Member nor the Society shall oppose or take part in any opposition to the Development or the Developer's on-going Hobsonville Point Development.

- 6.7 Covenants regarding the matters set out in clause 6 shall be noted against each Owner's title in favour of the Society. The Society shall not, agree to the alteration to the terms of the covenants as first noted against each Owner's title.

7 Breach of Obligations

- 7.1 **Occupiers and Invitees** A reference to an act or omission by any Member shall include any act or omission by any mortgagee in possession of that Member's Residential Property or the occupiers of such Member's Residential Property, the invitees of such occupier and the invitees of such Member.
- 7.2 **Consequences** Upon any breach of this Constitution by a Member ("**Offending Member**"):
- (a) Where damage has been caused to the Access Lot, the Offending Member shall make good such damage.
 - (b) If such default continues for seven days after notice is given by the Society to the Offending Member to remedy the default, the Society may do anything, including paying money, necessary to remedy the default.
 - (c) All money paid and expenses incurred by the Society (including any legal costs of the Society) in remedying, or attempting to remedy, any breach by an Offending Member of this Constitution, or incurred in the exercise, or attempted exercise, or enforcement or attempted enforcement of any power, right or remedy of the Society in respect of such breach, shall be a debt due from the Offending Member to the Society.
 - (d) If any money payable by an Offending Member to the Society is in arrears and unpaid for seven days (whether or not formal demand for payment has been made and without any formal demand being necessary) such money shall be payable on demand and shall bear interest at the Default Interest Rate, computed on a daily basis from the due date until the date of payment in full.

THE SOCIETY

8 Obligations of the Society

- 8.1 **Rules** The Society shall promulgate, amend and distribute to Members from time to time rules in respect of the use and maintenance of the Access Lot (including any restrictions on use for security, maintenance or other reasons). The first such rules shall be those rules attached as Schedule 1 to this Constitution.
- 8.2 The Society shall ensure the proper operation, maintenance and repair of the Access Lot as may from time to time be necessary for the reasonable use and enjoyment of the Access Lot by the Owners.
- 8.3 **Insurance** The Society shall effect and maintain any insurance as it considers prudent with respect to the Access Lot and the Society's affairs, and shall meet any costs of such insurance

(which shall include any valuations and other professional fees required or deemed desirable for the purposes of such insurance and the cost of certificates relating to such insurances).

8.4 Private and Pedestrian Access The Society shall ensure that courier services and emergency service vehicles have a practicable right of access over the Access Lot at all times.

8.5 Access Lot

(a) The rights and obligations of the Members to use the Access Lot shall be the same as the rights and obligations of grantee as set out in the provisions of Schedule 5 of the Property Law Act 2007 and Schedule 4 of the Land Transfer Regulations 2002 in respect of the rights of way.

(b) In the event that any dispute arises between the Members and/or the Society, clauses 15.5 and 15.6 shall apply.

8.6 Consents & Territorial Authority

The Society shall comply with the conditions of any Consent issued by any Relevant Authority in respect of the Access Lot.

8.7 Financial Reports

(a) The Society shall provide to a prospective purchaser of developed property, within 5 working days after receiving a request, a copy of the most recent financial statements of the Society;

(b) The Society shall ensure that financial statements of the Society are provided to Members. The Society shall audit such financial statements if so required to do by a majority of Members voting at a meeting in accordance with and pursuant to clause 12.3.

9 Limitations of the Society

9.1 No Indebtedness The Society shall not borrow any money other than short-term borrowing to cover any temporary shortfall in meeting the Society's obligations under this Constitution, except by Special Resolution.

9.2 No Investments The Society shall hold all funds with a bank registered under the Reserve Bank of New Zealand Act 1989 and shall not invest those funds other than by deposit with such a bank, except by Special Resolution. All moneys paid to the Society by the Members shall only be applied for one or more of the activities referred to in clause 9.4.

9.3 No Improper Use The Access Lot shall be used only for its proper purposes and the Members shall have the right to use the Access Lot in accordance with the Rules.

9.4 No Activities Except Permitted Activities The Society shall only be permitted to carry on one or more of the following activities:

(a) Owning, leasing, licensing, maintaining, administering, or operating the Access Lot;

- (b) Issuing licences to members or shareholders of the specified entity that confer rights on those members or shareholders to use the Access Lot, and administering and enforcing those licences in accordance with the rules;
- (c) Managing and administering the specified entity and administering and enforcing the rules;
- (d) Any incidental activities that the specified entity considers are beneficial for members or shareholders of the specified entity.

OPERATION OF THE SOCIETY

10 Committee

- 10.1 Powers** The administration of the Society shall be vested in the Society in general meeting and shall be delegated to the Committee. The Committee may exercise any powers, authority and discretions of the Society as permitted by this Constitution and do on its behalf all such acts as they deem necessary or expedient. The powers, authority and discretions as exercised by the Committee are subject always to any limitation which may from time to time be imposed by the Society.
- 10.2 Delegation of Powers to Subcommittee or Manager** The Committee may delegate any of its powers to committees consisting of such member or members of their body as they think fit or to a Manager. Any committee so formed or Manager so appointed shall in the exercise of the powers so delegated conform to directions of the Committee.
- 10.3 Bank Accounts** The Society shall establish a bank account (and may do so by delegating such matter to the Manager) and any drawings on that account (including any cheque drawn on that account) shall be made only under the signature of the Chairman and one other member of the Committee or the signature of the Manager.
- 10.4 Documents** All documents and written announcements requiring execution on behalf of the Society must be signed by the chairperson with the exception of the Deed of Covenant attached as Schedule 4 which may be signed in accordance with clause 10.10 of this Constitution.
- 10.5 Composition** The Committee shall comprise the following persons:
- (a) A chairperson; and
 - (b) A minimum of 3 and a maximum of 7 general Committee members, as determined by the Society in a general meeting before election of Committee members.
- 10.6 Committee Members**
- (a) The Controlling Member (if there is one) shall be a general Committee member. The balance of the Committee shall be elected by the Society at every annual general meeting and may be elected at any other time by the Society in the general meeting, provided that the Society shall only elect persons as members of the Committee and shall not elect any person specifically as chairperson.

- (b) A Committee member shall hold elected position until the earliest of:
 - (i) The next annual general meeting following election (when the Committee member shall be eligible for re-election);
 - (ii) The date written resignation from the position is received by the Society;
 - (iii) The date of removal from such position by the Society in general meeting; or
 - (iv) The date of cessation of membership.
- (c) In the event of a casual vacancy in any position on the Committee (whether caused by death, cessation of membership from the Society or some other means) the remaining Committee members may appoint another Member to fill the vacancy until the position is filled by the Society in general meeting.
- (d) Notwithstanding any other clause in this Constitution, the Controlling Member shall remain as a general Committee member for so long as they remain Controlling Member, and the Society shall not be entitled to remove either from those positions for any reason whatsoever.

10.7 Duties of Treasurer/Secretary The Committee shall appoint, remove and replace a treasurer/secretary from time to time to carry out such of the obligations of the treasurer/secretary as the Committee shall see fit. The treasurer/secretary shall be the Manager where a Manager has been appointed and all duties shall be delegated to the Manager accordingly:

- (a) Convene general meetings when requested to do so in accordance with this Constitution;
- (b) Attend all meetings of the Committee and have full speaking rights at such meetings;
- (c) Give all notices required to be given by these clauses or as directed from time to time by the Society or the Committee;
- (d) Be and undertake all duties required of a "statutory officer" or similar pursuant to the Act (if any).
- (e) Keep minutes at all general meetings and Committee meetings, make these available to Members on request and enter into the minute book:
 - (i) The time, date and venue of such meeting; and
 - (ii) All business considered and resolutions passed at such meeting;
- (f) Hold in safe custody the common seal of the Society;
- (g) Receive and issue receipts for all annual levies, additional fees and any other moneys paid to the Society;
- (h) Operate and maintain a current bank account in the name of the Society;
- (i) Pay accounts properly incurred by or on behalf of the Society;

- (j) Report immediately to the Society any Member who fails to pay annual levies or additional fees within the prescribed period;
- (k) Keep all financial records and any security documents in safe custody;
- (l) Compile proper accounting records from time to time as required by the Act or by the Committee which give a true, fair and complete account of the financial affairs and transactions of the Society; and
- (m) Compile the financial statements immediately following each financial years as required by the Act and if required provide for the auditing of those records and the distribution of the audited financial statements to Members.

10.8 Conduct of Meetings The Committee may meet together, adjourn or otherwise regulate its meeting and procedures for conducting its business as it thinks fit. A majority of the members of the Committee from time to time, provided that such majority includes the Controlling Member (if there is one) shall form a quorum for a Committee meeting. No business of the Committee shall be conducted at any time when less than a quorum is present at the same time and place. The Committee may meet at any time and the secretary shall upon the request of the chairperson or not less than 50% of Committee members or the Controlling Member, convene a meeting of the Committee.

10.9 Chairperson

- (a) The Committee from time to time shall appoint, remove and replace a chairperson for such term as it sees fit from one of their number (provided that the Controlling Member shall not be the chairperson) to chair Committee meetings and otherwise exercise the powers of the chairperson set out in this Constitution.
- (b) In the case of a tie in votes the chairperson may exercise a casting vote.

10.10 Seal The Committee shall obtain a common seal for the use of the Society and shall provide for its safe custody. The common seal shall not be used except by resolution of the Committee. Every instrument to which the common seal is affixed shall be signed by two members of the Committee or the Manager.

Notwithstanding the foregoing, while there is a Controlling Member, the Controlling Member's signature shall bind the Society to such instruments, agreements or deeds as are reasonably necessary to facilitate the completion of the Development and/or the Hobsonville Point Development such as (without limitation) Consent Forms and Authority & Instrument forms for plan deposits, subdivisions and unit title developments. Any deed signed by the Controlling Member must be signed with the common seal in accordance with the Act.

10.11 Voting Resolutions of the Committee shall be passed by majority. Each Committee member shall be entitled to exercise one vote provided that the treasurer/secretary shall not be entitled to vote and further provided that the Controlling Member (if there is one) shall be entitled to exercise a number of votes equal to one more than the number of other Committee members present at any Committee meeting. Notwithstanding any contrary provision in this Constitution a resolution in writing signed by such of the Committee members as would constitute a quorum at a Committee meeting shall be as valid and effectual as if it had been passed at a meeting of the Committee duly convened and constituted.

- 10.12 **Validity of Committee's Actions** All acts properly done by any meeting of the Committee or by any person acting as a Committee member notwithstanding that it may afterwards be discovered that there was some defect in the appointment or continuance in office of any such Committee member or that they were disqualified, shall be as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a Committee member.
- 10.13 **Committee Minutes and Records** The Committee shall cause proper minutes to be kept of the proceedings of any meetings of the Society and of the Committee. All business transacted at such meetings signed by the chairperson shall be accepted as a correct and accurate record of the business transacted at such meetings without any further proof of the facts contained in such minutes.

11 Manager

- 11.1 **First Manager** The first manager shall be Crockers Property Management Limited or any other manager nominated by the Controlling Member which shall manage the Society in accordance with the Management Agreement. On expiry or termination of the Management Agreement, a manager shall be appointed by the Committee under clause 10.
- 11.2 **Appointment and Duties** Subject to clause 11.1, the Committee shall appoint, remove and replace a Manager from time to time to carry out such of the obligations of the Society, and exercise such of the discretions and powers of the Society, as the Committee shall see fit. Such appointment shall be for the term, at the remuneration and on such terms and conditions as the Committee may agree with the Manager.

12 General Meetings

- 12.1 **Annual General Meeting** In addition to any other meetings in that year the Society shall hold an annual general meeting each year. Not more than 18 months shall elapse between the date of one annual general meeting and that of the next. The Committee will determine the time and place of each year's annual general meeting.
- 12.2 **Special General Meetings** A general meeting other than an annual general meeting may be requested by the Committee or by written requisitions signed by not less than 25% of current Members or by the Controlling Member. The secretary shall call a special general meeting within 14 days of receiving an effective request.
- 12.3 **Powers of the Society General Meeting** The Society in general meeting may, by resolution, exercise all powers, authorities and discretions of the Society notwithstanding that any such power, authority and discretion may have been delegated to the Committee by or pursuant to this Constitution. Notwithstanding any contrary provision in this Constitution a resolution in writing signed by 75% of the Members entitled to vote in person, by proxy or by postal vote at general meetings together with the controlling Member (if there is one), shall be as valid and effectual as if it had been passed at a general meeting of the Society duly convened and constituted.
- 12.4 **Quorum** No business shall be transacted at any general meeting of the Society unless the quorum is present when a meeting proceeds to business. Quorums shall be not less than

25% of the Members eligible to vote at general meetings, present in person or by proxy, or present and participating in the meeting by means of audio, audio and visual, or electronic communication, or by those who have cast postal votes, together with the Controlling Member (if there is one).

- 12.5 Notice of General Meeting** A notice of general meeting of the Society shall be sent to every Member not less than 10 working days before the date of such meeting. Such notice shall specify the date, time and venue of such meeting. In the case of a general meeting other than an annual general meeting such notice shall specify all business and all notices of motions to be considered at such meeting. No business or notice of motion which is not specified shall be discussed or transacted at such meeting.

If postal voting is permitted the notice of the meeting must state the name of the person authorised by the Committee to receive and count postal votes at that meeting. If no person has been authorised to receive and count postal votes at that meeting, or if the Committee has been named as so being authorised, every member of the Committee is deemed to be so authorised.

- 12.6 Failure to Give Notice** The accidental omission to give notice or the non-receipt of such notice by any Member shall not invalidate the proceedings at any such meeting.

- 12.7 The Chairperson** The chairperson at any general meeting shall be:

- (a) the chairperson of the Society; or
- (b) if the Chairperson is unavailable or unwilling then the Society's Manager; or
- (c) if neither the chairperson or the Manger is present or neither is willing to take the chair then those Committee members who are present may choose one of their number to chair the meeting.

- 12.8 Adjournment**

- (a) If a quorum is not present within half an hour from the time appointment for the holding of a general meeting convened on requisition of Members, the meeting shall be dissolved.
- (b) If a quorum is not present within half an hour from the time appointed for the holding of an Annual General Meeting or a general meeting requested by the Committee or by the Controlling Member, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Committee shall determine (such date not to be later than 14 days from the date of the adjourned meeting). If at such adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting, the Members present together with the Controlling Member (if there is one) shall constitute a quorum.

- 12.9 Adjourned Meetings** No business other than that business which might have been transacted at the meeting from which the adjournment took place shall be transacted at any adjourned meeting. Members shall not be entitled to receive any notice in respect of adjourned meetings.

- 12.10 **Information that must be presented at a General Meeting** The Chairperson shall be responsible (or the Manager where these responsibilities have been delegated) for presenting at a General Meeting the annual report, financial statements, disclosure of interests made by officers and minutes from the last annual general meeting.

13 **Voting**

- 13.1 **One Member - One Vote** Each Member of the Society (not at that time being in breach of the Constitution) shall be entitled to one vote for each Residential Property of which that Member is a registered proprietor, which may be exercised either in person, or by proxy, or by postal vote. Where there is more than one Owner in respect of any property within the Development and such Owners are collectively a Member pursuant to clause 5.6, only one such Owner shall be entitled to vote. In the absence of agreement between such Owners as to who shall exercise this vote, the Owner appearing first on the certificate of title to the property within the Development shall be entitled to exercise that vote. On the death of any Member and pending the transfer of that Member's property within the Development, the executor of that Member's estate shall be entitled to exercise that Member's vote.
- 13.2 **Controlling Member's Vote** The Controlling Member (if there is one) shall be entitled to exercise a number of votes equal to one more than the number of Members present at any general meeting.
- 13.3 **Corporation Representatives** Any corporation which is a Member may by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Society, and the person so authorised shall be entitled to exercise the same powers of the corporation which that person represents as that corporation could exercise if it were an individual Member, and references in this Constitution to a Member being present in person shall mean and include a representative appointed pursuant to this clause, and such person may also stand for election to the Committee.
- 13.4 **Not Vote if Fees Unpaid** Unless all annual levies and additional fees presently payable by the Member to the Society have been paid in full the Member shall not be entitled to vote at any general meeting of the Society, whether in his own right or as a proxy for another person.
- 13.5 **Voting at Meetings** At any general meeting:
- (a) A resolution may be put to the vote by the chairperson or by any Member present at the meeting and entitled to vote.
 - (b) Resolutions put to the vote shall be decided on voices, a show of hands, by proxy or by postal vote unless a poll is demanded on or before declaration of the result by:
 - (i) the chairperson of the meeting; or
 - (ii) at least 50% of the Members present in person or by proxy.
 - (c) In the case of a resolution put to the vote of the meeting by voices, a show of hands, by proxy or by postal vote, a declaration by the chairperson that such resolution has been carried or lost or an entry to that effect in the Society's minute book, shall be

conclusive evidence of that fact without further proof of the number or proportion of votes recorded in favour of or against such resolution.

- (d) Resolutions shall be passed by a majority of votes except where Special Resolution or the unanimous resolution of all Members is required by this Constitution.
- (e) In the case of a tie in votes the chairperson may exercise a casting vote.

13.6 Postal Vote A Member may exercise the right to vote at a meeting by casting a postal vote in accordance with the following provisions:

- (a) A Member may cast a postal vote on all or any of the matters to be voted on at the meeting by sending a notice of how that Member has voted to a person authorised to receive and count postal votes at that meeting. The notice must reach that person not less than 48 hours before the start of the meeting.
- (b) It is the duty of a person authorised to receive and count postal votes at a meeting to collect together all postal votes received and to count the number of votes in favour and against each resolution to be voted on at the meeting, and present the results of the counts in a certificate to the chairperson of the meeting.
- (c) The chairperson must ensure the certificate of postal votes is annexed to the minutes of the meeting.
- (d) A postal vote may be cast using electronic means permitted by the Committee.

13.7 Form of Postal Vote The instrument containing the postal vote may be in the following form or in a common or usual form:

I _____ of _____ being a member of Station Street Shared Lane Society Incorporated hereby vote at the [annual] general meeting of Station Street Shared Lane Society Incorporated to be held on the _____ day of _____ and at any adjournment thereof in favour of/against the following resolutions:

Signed this _____ day of _____ 20 _____

13.8 Good Faith Members shall in exercising any vote at any general meeting, or as a Committee Member, exercise such vote in good faith with a view to ensuring that all Members are treated equally by the Society and that each Member shall bear and pay that Members Share of all Operating Expenses and of all costs and expenses to be met by levies made by the Society under clauses 6.1 and 6.2 irrespective of whether any expenditure by the Society benefits all Members.

13.9 Instruments Appointing Proxies The instrument appointing a proxy shall be in writing under the hand of the appointor or the appointor's attorney duly authorised in writing or, if the appointor is a corporation or body corporate either under seal or under the hand of an officer or attorney duly authorised. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll. A member shall be entitled to instruct his or her proxy in favour of or against any proposed resolutions. Unless otherwise instructed the proxy may vote as he or she thinks fit.

- 13.10 **Form of Proxy** The instrument appointing a proxy may be in the following form or in a common or usual form:

I _____ of
 Shared Lane Society Incorporated hereby appoint
 _____ of _____ or failing him or her
 _____ of _____ as my
 proxy to vote for me on my behalf at the [annual] general meeting of Station Street
 Shared Lane Society Incorporated to be held on the _____ day of _____ and at
 any adjournment thereof.

My proxy is hereby authorised to vote in favour of/against the following resolutions:

Signed this _____ day of _____ 20 _____ .

- 13.11 **Notice of Proxy** The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office or at such other place within New Zealand as is specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named on the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll and in default the instrument of proxy shall not be treated as valid.
- 13.12 **Validity of Proxy** A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed if no intimation in writing of such death, unsoundness of mind or revocation was aforesaid has been received by the association at the registered office by the commencement of the meeting or adjourned meeting as which the instrument is issued.
- 13.13 **Objection to Proxy** No objection shall be raised to the qualifications of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered and every vote not disallowed at that meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairperson of the meeting whose decision shall be final and conclusive.
- 13.14 **Members of Unsound Mind** A member who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental health may vote, whether on a show of hands or on a poll, by such person as properly has the management of his or her estate and any such person may vote by attorney or by proxy.

14 Notices

- 14.1 **Notices to Members** A notice required or authorised to be served, delivered, given or sent to any member will be deemed to have been sufficiently served, delivered or sent if:

(a) Delivered personally to the Member; or

- (b) Sent by ordinary post addressed to the Member at the address of the Member appearing in the Register of Members; or
 - (c) It is transmitted to the email address appearing in the Register of Members.
- 14.2 **Notice to the Society** A notice required or authorised to be served, delivered, given or sent to the Society will be deemed to have been served, delivered, given or sent if:
- (a) Delivered to the registered office; or
 - (b) Sent by ordinary post addressed to the Society at the registered office; or
 - (c) Transmitted to the email address for the Society Manager.
- 14.3 **Deemed receipt** A notice sent by post pursuant to this clause will be deemed to have been received by the addressee 48 hours after time of posting.
- 14.4 **Omission** The accidental omission to give notice of a meeting to or the non receipt of a notice of a meeting by any Member entitled to receive notice will not invalidate the proceedings at the meeting.

GENERAL

15 General

- 15.1 **Dissolution** The Society may be wound up in accordance with section 24 of the Act. Upon winding up of the Society ownership of the Access Lot shall vest in the Members as tenants in common in equal shares and the Society shall take all necessary steps to vest legal title to the Access Lot in the Members.
- 15.2 **Alteration of Constitution**
- (a) This Constitution shall not be amended, added to or rescinded except at an annual general meeting or a general meeting convened for that purpose and unless written notice of the proposed amendment, addition or rescission shall have been given to all Members in accordance with this Constitution.
 - (b) No clause, including this one, shall be amended, added to or rescinded except by Special Resolution.
- 15.3 **Liability of Member**
- (a) No Member shall be under any liability in respect of any contract or other obligation made or incurred by the Society.
 - (b) The Society shall indemnify each Member against any liability properly incurred by such Member in respect of the affairs of the Society to the extent of property owned by the Society.
 - (c) No action in law or otherwise shall lie in favour of any Member against any other Member or the committee or any Committee member in respect of any act or omission pursuant to these Rules.

- (d) Nothing in this clause shall prevent an action in respect of any loss or expense arising from the wilful default of any person against whom such action is taken.

15.4 Indemnity Each Member shall indemnify and keep indemnified the Society from and against any action, claim, demand, loss, damage, cost, expense and liability which the Society may suffer or incur or for which the Society may become liable in respect of or arising from any breach of this Constitution by the Member.

15.5 Dispute Resolution

- (a) **Good Faith Discussion:** In the event that any dispute arises between the parties in any way arising out of or in connection with this agreement the parties shall enter into discussions in good faith with a view to resolving the dispute amicably as soon as practicable. Either party may terminate these discussions at any time.
- (b) **Notice of Mediation:** If any dispute or difference arises between the parties in any way arising out of or in connection with this agreement and such dispute has not been resolved within 15 Business Days of the commencement of discussions pursuant to clause 15.5(a), either party may give written notice of its intention to refer such dispute or difference to mediation.
- (c) **Agreement to Mediate:** If a request to mediate is made then the parties shall endeavor to agree on a mediator and shall submit the matter in dispute to the mediator. The mediator shall discuss the matter with the parties (separately or jointly in the discretion of the mediator) and endeavor to resolve it by their agreement. All discussions in the mediation shall be without prejudice and shall not be referred to in any later proceedings. The parties shall bear their own costs in the mediation and shall each pay half of the costs of the mediator.

15.6 Arbitration: If:

- (a) **No Resolution by Discussions:** the dispute has not been resolved by the discussions of the parties pursuant to clause 15.5(a); or
- (b) **No Mediation Notice:** the parties have agreed upon mediation but have been unable within 10 Business Days of such agreement to agree upon a mediator; or
- (c) **No Agreement:** no agreement has been reached in mediation within 1 month of the service of the notice of mediation, or within such further time as the parties may agree;
- then the matter in dispute may be referred to arbitration upon the service of a notice of intention to commence arbitration which shall be governed by the Arbitration Act 1996 except to the extent modified by this agreement.
- (d) **Arbitrator:** The arbitration shall be by a single arbitrator. If the parties cannot agree upon an arbitrator within 10 Business Days of service of the notice of intention to commence arbitration either party may request the president of the Arbitrators Institute of New Zealand Inc. to appoint a sole arbitrator. Either party may request the appointment of an assessor to sit with the arbitrator but any such assessor shall have an advisory role only and shall not have the authority to make a binding decision. If the parties cannot agree upon an assessor in a reasonable time then the arbitrator may appoint an assessor.

16 Encumbrance

- 16.1** Every Member of the Society from time to time shall encumber the land owned by that Member with a memorandum of encumbrance so that at all times every property will be subject to a memorandum of encumbrance in terms of these provisions.
- 16.2** The Memorandum of Encumbrance shall be in the following form and to the following effect (except as the same is varied from time to time by the Society) as attached as Schedule 3.

SCHEDULE 1

SOCIETY RULES

1 Definitions and Interpretation

1.1 Definitions In this Constitution, unless the context otherwise requires:

"Access Lot" means the land described in Computer Freehold Register Identifier 610868 being Lot 12 on Deposited Plan 455874 and being the shared access lane and pedestrian access ways used and enjoyed by Members to access their Lots.

"Carpark" means areas designated for carparking on the Access Lot.

"Committee" means the committee members from time to time elected to manage the affairs of the Society pursuant to this Constitution.

"Constitution" means the Constitution of Station Street Shared Lane Society Incorporated as amended or added to, including all schedules to this Constitution.

"Invitee" means any invitee of or any visitor to an Owner and/or Occupier.

"Manager" means the manager appointed pursuant to clause 11 of the Constitution.

"Occupier" means any person occupying (permanently or temporarily) of the whole or any part of any Lot or Residential Property under any lease, license or other occupancy right and shall include all members of an Owner's family.

"Owner" means each person registered as a proprietor (whether individually or with others) of a Lot.

"Residential Property" means a residential property on a Lot within the Development for which a Certificate of Title has been issued.

"Rules" means rules promulgated by the Society including the clauses in the Constitution and this Society Rules.

2 Use

2.1 Each Member shall make no improper, offensive or unlawful use of the Access Lot and shall use the Access Lot only for the purposes for which it was designed.

2.2 No Member shall fetter, obstruct or impede the use of the Access Lot by any other Member.

2.3 No Member shall place anything in or on the Access Lot without the approval of the Committee.

- 2.4 No Member shall do any act which may prejudice or add to the premium payable in respect of any insurance of the Access Lot.

3 Prohibited Acts

- 3.1 No Member shall drop any litter in or on the Access Lot.
- 3.2 No Member shall do any act which detracts from the attractiveness or state of repair of the Access Lot. Any Member who discovers any damage to the Access Lot shall immediately report such damage to the Chairman.
- 3.3 No Member shall use any vehicle other than on a sealed area and for transportation purposes only and in particular shall not drive any such vehicle recklessly and/or at excessive speed on the Access Lot in such a manner that constitutes a nuisance in the opinion of the Society.

4 Compliance with Traffic Regulations

- 4.1 Every Member must when using the Access Lot in the Development comply with all traffic regulations including but not limited to the Land Transport Act 1993 and the Land Transport (Road User) Rule 2004.

5 Carpark

- 5.1 Carparking on the Access Lot is subject to these Rules and shall be binding on all Occupiers of the Centre accordingly.
- 5.2 The Carpark (if any) shall only be used by the Owner, Occupier and Invitees of the Occupier on a casual or impermanent basis. All Owners and Occupiers shall co-operate with the Society and shall provide such information as the Society may reasonably require in order to ensure that all Owners and Occupiers comply with the requirements of this rule, including supplying the Society with registration particulars of all vehicles owned by the Owner, Occupier and/or, when the carparking is used by the Invitees of the Occupier at any time, such Invitees. The Society shall have the right to procure that offending vehicles are towed away from the Access Lot, and the costs thereof shall be payable by the Owner and Occupier jointly and severally.
- 5.3 Carparking on the Access Lot may be subject to time limits on parking and display of parking permits as directed from time to time by the Society.
- 5.4 The Society will issue to the Owner sufficient parking permits as the Society reasonably considers the Owner and Occupier require to enable the Owner and Occupier and the invitees of the Occupier to use any carparking that may be available.
- 5.5 The parking permits will remain the Society's property at all times. On termination of the Owner's right to occupy the Residential Property for any reason, the Owner will return all parking permits to the Society and shall not permit any parking permits to come into the

possession of any other person. Additional cards may be provided on request but subject to the Society's entire discretion and at the Owner's and Occupier's cost.

- 5.6 No Owner, Occupier or their invitees shall park any vehicle on the Access Lot, other than in any spaces specified by the Society from time to time as Carpark.
- 5.7 The Owner, Occupier and their invitees shall:
- (a) comply with all directions by the Society as to the type and size of vehicles which may use the Carpark;
 - (b) comply with the Society's requirements as to any other matters which the Society may consider reasonably necessary or desirable for the control, use and enjoyment of the Carpark; and
 - (c) ensure that all persons permitted by the Owner or Occupier to use any of the Carpark comply with all of the obligations of the Owner and Occupier as are set out or implied in these Rules; and
 - (d) observe all the obligations imposed on the Owner and Occupier under these Rules in relation to the Owner with all necessary modifications.
- 5.8 The Owner, Occupier and persons under the control of either or both of the Owner and/or Occupier shall not park motor vehicles or place any object or thing on the Carpark in such a way as to obstruct any other motor vehicle or any other user of the Carpark or the Access Lot or block access to or egress from the Access Lot. If, in the Society's sole opinion, any car parked in a Carpark is incorrectly parked, the Society may remove the car without being liable for any resulting loss, damage or expense. The Owner and Occupier shall reimburse the Society for any cost incurred by the Society pursuant to this rule and the Society may recover such cost from the Owner and Occupier jointly and severally.
- 5.9 The Owner, Occupier and persons under the control of either or both of the Owner and/or Occupier shall not damage any surface of any of the Access Lot (including but not limited to placing oil, petrol, other spillage or rubbish on or allowing oil, petrol or other spillage and from rubbish to be placed on the Access Lot) nor make nor permit to be made any alterations or additions to the Access Lot nor install or place any equipment, signage, fixture, fitting or machinery (other than motor vehicles) on any part of the Access Lot. If, in the Society's sole opinion, the Owner or Occupier (including persons under their control) fails to comply with this obligation, the Society may take any action it thinks fit to remedy the damage and may recover the cost of doing so from the Owner and Occupier jointly and severally.
- 5.10 The Society shall not be responsible to the Owner, Occupier or to any other person:
- (a) for removal of any vehicle or other object or thing from the Access Lot;
 - (b) for any loss or damage sustained by the Owner, Occupier or any of their invitees in respect of any motor vehicle parked on the Access Lot or entering or leaving the Access Lot; or
 - (c) for theft or loss of any articles from any such motor vehicle.
- 5.11 The Society is entitled to remove any motor vehicle or other thing which, in the Society's sole opinion, is parked or placed on the Access Lot without complying with these Rules and in

doing so the Society or any person authorised by the Society to remove motor vehicles or any other things pursuant to this power will be deemed:

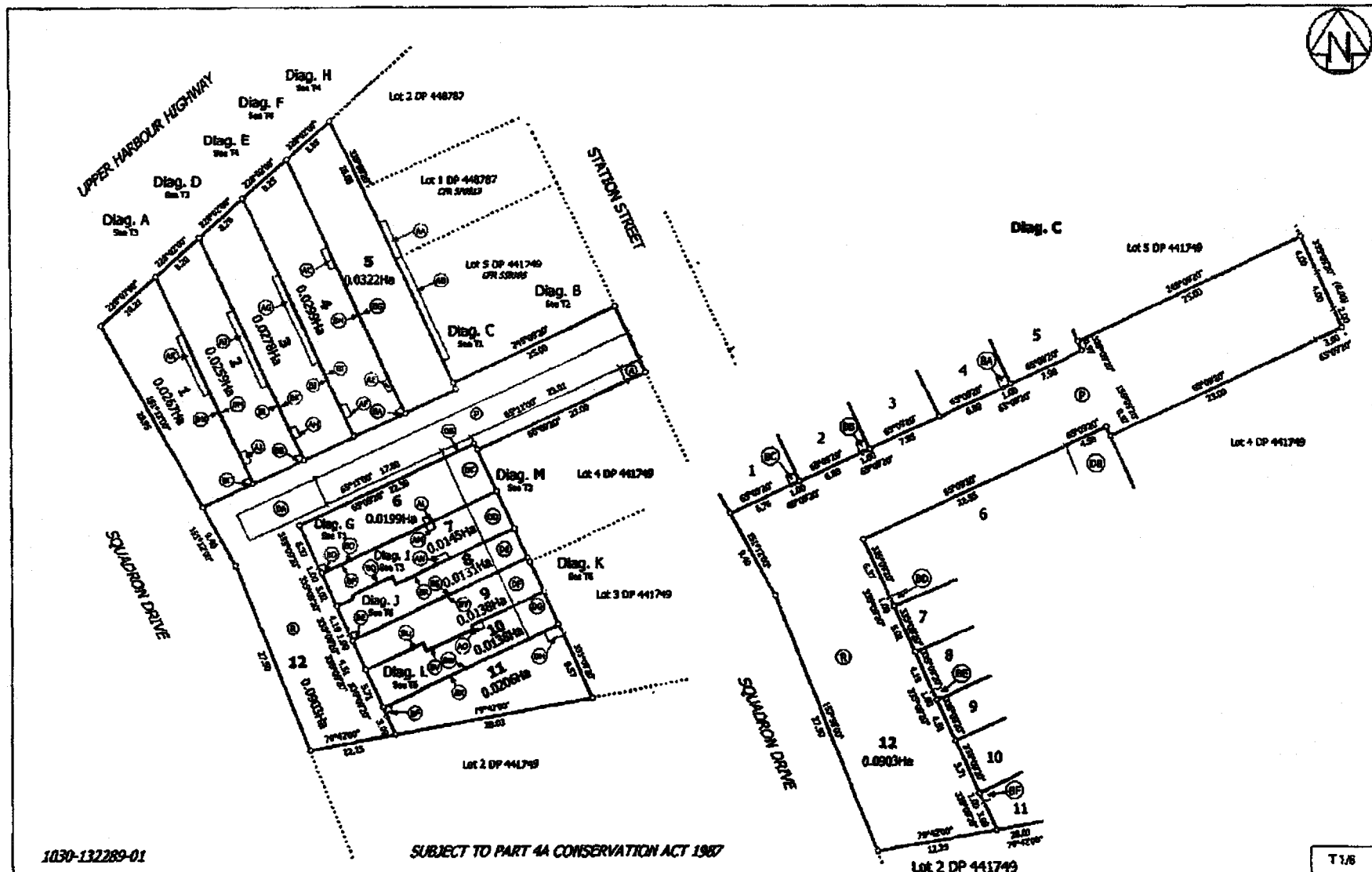
- (a) to have the full authority of the Owner, Occupier and their Invitees;
- (b) to carry out the removal as agent for the Owner, Occupier and their Invitees and at the Owner's and Occupier's cost; and
- (c) in all respects carry out the removal at the risk of the Owner and Occupier.

5.12 The Society may from time to time appoint a Manager for the operation and management of the Society (including but not limited to the operation and management of the Access Lot (and Carparks thereon)). The Manager appointed will have the full rights and powers of the Society. Occupiers shall comply with the requirements of the Manager.

5.13 Owner access ways shall only be used for the purpose of parking vehicles and access to and from.

SCHEDULE 2

PLAN



1030-132289-01

SUBJECT TO PART 4A CONSERVATION ACT 1987

T 1/6

Land District: North Auckland
Digitally Generated Plan
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Lots 1-12 Being A Subdivision of Lot 1 DP 441748 and Easements over Lot 1 DP 448787 & Lot 5 DP 441749

Surveyor: Ryan Bruce Healey
Firm: Harleco Gleson Consultants Ltd

Title Plan
DP 455874
Deposited on: 10/06/2013

SCHEDULE 3

MEMORANDUM OF ENCUMBRANCE

Memorandum of Encumbrance

Hobsonville Point

Parties

Her Majesty the Queen (for State Housing Purposes) ("Encumbrancer")

Station Street Shared Lane Society Incorporated ("Encumbrancee")

Introduction

- A. The Encumbrancer is registered as proprietor of the lots described in the schedule below ("together the Land").
- B. The Encumbrancer has developed the Land and has established the Encumbrancee for the purposes of owning and administering an Access Lot.
- C. The registered proprietor from time to time of each lot described in the schedule below, or of any lot or unit created from such lot ("Property") comprising the Land is required to become and, for so long as he/she/they continue to be the registered proprietor of a Property, remain a member of the Encumbrancee and abide by the Constitution of the Encumbrancee.
- D. The Encumbrancer has agreed to encumber each Property severally for the better performance of the obligations of the registered proprietor from time to time of a Property to the Encumbrancee.

Covenants

- 1 The Encumbrancer hereby encumbers the Land and each Property severally for the benefit of the Encumbrancee for a term of 999 years commencing on the date of this Encumbrance with an annual rent charge in respect of each Property being the greater of:
 - (a) \$2,000.00 per annum (plus GST); and
 - (b) Three times the amount of the Member's Operating Expenses for the relevant Expense Year (all as defined in the Constitution of the Encumbrancee) (plus GST) applicable to that Property.
- 2 The Encumbrancer covenants for itself and its successors in title with the Encumbrancee during the term of this Encumbrance that upon becoming the owner and/or registered proprietor of a Property the Encumbrancer shall join as a member of the Encumbrancee, and remain a member while owning a Property, and fulfil and continue to fulfil the obligations of a member as set out in the Constitution of the Encumbrancee (including, if required by the Encumbrancee, ensuring that any transferee of a Property executes a Deed of Covenant in favour of the Encumbrancee agreeing to be bound by the Constitution as a member of the Encumbrancee).

Encumbrance Consent

- 3 The Encumbrancee hereby consents to the registration of any of the following instruments executed by the Encumbrancer in respect of the Land:

- (a) The creation, variation or surrender of an easement (section 90E(3) Land Transfer Act 1952);
- (b) The variation of a mortgage instrument or priority of mortgages (section 102(4) and section 103(3) Land Transfer Act 1952);
- (c) The registration of a lease, a lease variation instrument or a surrender of a lease (sections 115(4), 116(7) and 120(5) Land Transfer Act);
- (d) The disposal of a licence or shares to which the licence relates (section 121(1) Land Transfer Act 1952).

This consent shall be deemed to be the consent of the mortgagee (which term includes the Encumbrancee) as specified in the Land Transfer Act 1952, to the registration of a particular instrument specified in subparagraphs (a) to (d) of this paragraph above.

- 4 Notwithstanding anything contained in clause 1 of this Encumbrance, for so long as the owner of a Property fully complies with the obligations of a member pursuant to the Constitution of the Encumbrancee, the rent charge reserved by this Encumbrance shall not apply to that Property.
- 5 Without prejudice to the Encumbrancee's rights of action at common law as a rent charger or Encumbrancee, and with the exceptions of section 185 of the Property Law Act 2007 and section 154 of the Land Transfer Act 1952, none of the rights, powers, remedies and implied covenants provided pursuant to the Land Transfer Act 1952 and the Property Law Act 2007 shall apply to this Encumbrance.
- 6 References to Encumbrancer shall mean the initial Encumbrancer named in this Deed and its successors in title to the land, and the terms of this Encumbrance shall bind the Encumbrancer only for as long as the Encumbrancer is the registered proprietor of the land.

Dated this day of

Execution

**SIGNED on behalf of
Her Majesty the Queen
by:**

SIGNED on behalf of
Station Street Shared Lane Society Incorporated
 by:

_____ Member

_____ Member

Schedule

Lot	Deposited Plan	CT
1	455874	588309
2	455874	588310
3	455874	588311
4	455874	588312
5	455874	588313
6	455874	588314
7	455874	588315
8	455874	588316
9	455874	588317
10	455874	588318
11	455874	588319
3	465969	621620
1	472678	645645
2	472678	645644

SCHEDULE 4

DEED OF COVENANT

Dated

Parties

[Name of Purchaser]

Purchaser

**Station Street Shared Lane Society Incorporated
Society**

Deed of Covenant

**In respect of Lot [] Deposited Plan []
(Title Identifier[])**

Deed dated

Parties

- 1 [Name of Purchaser] ("the Purchaser")
- 2 Station Street Shared Lane Society incorporated ("the Society")

Background

- A. The Purchaser has agreed to purchase a property at Hobsonville Point more particularly described in the Schedule ("the Property").
- B. There is an encumbrance registered against the title to the Property in favour of the Society whereby registered proprietors utilising the access lane at Station Street, Hobsonville Point covenant to become and remain members of the Society (whilst they are registered proprietors) and to adhere to the Society's rules.
- C. The rules of the Society require all those purchasing "Lots" as that term is defined in the Society rules to enter into a deed of covenant in favour of the Society.

Covenants

1. The Purchaser hereby agrees to be a member of the Society and acknowledges and confirms the rules of the Society and of the encumbrance and agree to be bound and comply with the same.
2. The Purchaser shall upon selling the Property procure the subsequent purchaser, as a precondition of sale, to enter into a deed of covenant with the Society as set out herein.
3. The Society being an Encumbrancee under Encumbrance Number *[enter details]* hereby consents to the registration of the transfer of the Property to the Purchaser (and registration of a mortgage if applicable).

The Schedule

Street address *[enter details]*

Lot *[enter details]* Deposited Plan *[enter details]*

SIGNED by the Purchaser)
in the presence of:-)

Signature of witness

Name of witness

Occupation of witness

Town of residence

SIGNED by the Society under
Common Seal:

Member

Member

INFORMATION FOR REGISTER OF MEMBERS**1. MEMBERS DETAILS**

Name:

Address:

Occupation:

Email:

Telephone/Fax Nos:

Residential:

Work:

Date of Membership:

Party Authorised to Exercise Member's Vote:

Mortgage:

Contact Person:

Telephone/Fax Nos:

2. EMERGENCY CONTACT OF MEMBER

Name:

Address:

Occupation:

Telephone/Fax Nos:

Residential:

Work:

3. OCCUPIER DETAILS

Name:

Address:

Occupation:

Telephone/Fax Nos:

Residential:

Work:

4. EMERGENCY CONTACT OF OCCUPIER

Name:

Address:

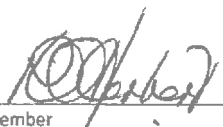
Occupation:


Telephone/Fax Nos:

Residential:

Work:


CONSTITUTION
of
**Hobsonville
Point Residents
Society
Incorporated**


Member


Member


Member

Signed in the presence of:


Witness Signature

Carly Edwards
Witness Full Name

Manager
Witness Occupation

525 Manukau Rd, Auckland
Witness Address



Glaister Ennor
Barristers | Solicitors | Notary Public

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Name and Registered Office

- 1.1 **Name:** The name of the Society shall be Hobsonville Point Residents Society Incorporated.
- 1.2 **Registered office:** The registered office of the Society shall be care of Crockers Property Management Limited, 525 Manukau Road, Epsom, Auckland or such other place as the Committee shall nominate from time to time.

2 Definitions and Interpretation

- 2.1 **Definitions:** In this Constitution, unless the context otherwise requires:

"**Act**" means the Incorporated Societies Act 1908 and any amendment, consolidation or replacement.

"**AGM**" means an annual general meeting of the Members held pursuant to clause 10.1.

"**Bank**" means a registered bank as defined in the Reserve Bank of New Zealand Act 1989.

"**Breach**" means any act or omission that constitutes or causes a breach or default of this Constitution, the Society Rules, encumbrances in favour of the Society and/or its Members, the terms and conditions for the supply of any Services by the Society and/or any other arrangements between the Society and Members ancillary to or related to the use, enjoyment and occupation of Hobsonville Point.

"**Business Association**" means any society (incorporated or un-incorporated) whose purposes include (in part or whole) coordinating, controlling and managing the implementation, development and growth of businesses and commercial, industrial and retail space in Hobsonville Point in a way that creates a harmonious and functional commercial environment for the benefit of Members and Occupiers.

"**Committee**" means the committee members from time to time appointed or elected to manage the affairs of the Society pursuant to this Constitution.

"**Committee Duties**" means the responsibilities of the Committee set out at Schedule 2.

"**Common Areas**" means any open areas of non-built upon land (but which may contain Facilities or Services) within Hobsonville Point, howsoever owned, and which the Society is required to maintain and/or manage or has agreed in writing to maintain and/or manage pursuant to Consents or other arrangements entered into by the Society with a Relevant Authority or any owner of any such land from time to time. For the avoidance of doubt, reserves, parks and other land within Hobsonville Point that have vested in a Relevant Authority remain the responsibility of that Relevant Authority, unless the Society has entered into maintenance and/or management arrangements.

"**Consents**" means all resource and building consents and approvals issued by the Relevant Authority for Hobsonville Point.

"**Constitution**" means this Constitution as amended or added to, including Schedule 2, Schedule 3 and Schedule 4 to this Constitution.

"**Controlling Member**" means Hobsonville Land Company Limited and its assigns.

"**Default Interest**" means interest accruing daily at an interest rate equivalent to the interest rate charged by the Inland Revenue Department on unpaid tax under the Tax Administration Act 1994 plus 5% per annum set annually as at the commencement of the Expense Year.

"**Design Guidelines**" mean the guidelines for property development, presentation, variation, design and colour at Hobsonville Point set by the Controlling Member from time to time.

"**Expense Year**" means each 12 month period commencing on 1 September and ending on 31 August, or such other 12 month period as the Committee from time to time sets.

"**Facilities**" means the improvements, infrastructure for Services, conveniences and equipment owned, leased or licensed by the Society for the use and enjoyment of Members as permitted by the Society from time to time.

"**Facilities Manager**" means a manager appointed by the Committee pursuant to clause 9.2 from time to time (if any).

"**Hobsonville Point**" means the land and improvements thereon generally known as Hobsonville Point and shown outlined in red on the plan attached as Schedule 4 to this Constitution.

"**Invitee**" means any person invited by or any visitor to an Owner and/or Occupier.

"**Land**" means all of the land within Hobsonville Point.

"**Land Covenants**" means any covenants and easements registered on any Title to any Property.

"**Laneways**" means the shared access lanes (including but not limited to any landscaping, vegetation and improvements thereon) vested, maintained and/or managed by any Laneway Society from time to time.

"**Laneway Society**" means any society (incorporated or un-incorporated) whose purposes include (in part or whole) owning, maintaining, operating, repairing and/or controlling or monitoring use of shared laneways within Hobsonville Point.

"**Long Term Maintenance Fund**" means a fund established from time to time to meet the expenses anticipated by the Society's Long Term Maintenance Plan (if any).

"**Long Term Maintenance Plan**" means a 10-year plan for future works and improvements to Common Areas (where this is a Society responsibility), Facilities and Services at Hobsonville Point endorsed by the Society from time to time.

"**Master Plan**" means the Controlling Member's master plan for Hobsonville Point as developed by the Controlling Member and as updated from time to time.

"**Member**" means each person who shall from time to time be a Member of the Society, as required by clause 5 and the Controlling Member.

"**Occupier**" means any person occupying (permanently or temporarily) the whole or any part of any Property under any lease, tenancy agreement, licence or other occupancy right and shall include all members of an Owner or Occupier's family.

"**Operating Expenses**" means the total sum of any rates, taxes, costs and expenses of the Society properly assessed or assessable paid or payable or otherwise incurred in respect of

the Common Areas and the operation of the Society (including, without limitation, any expenses and remuneration payable to the Security and/or Facilities Manager (if any)) but shall exclude any amount payable as a Special Levy.

"**Owner**" means each person registered as a proprietor (whether individually or with others) of a Property.

"**Postal Vote**" means a vote by a Member eligible to vote cast in legible writing (including but not limited to verifiable email or portal votes by authenticated users) in favour of or against a resolution of the **Society** received by the Secretary in the prescribed form at or prior to a general meeting in respect of a motion to be voted on at that general meeting without material amendment (materiality to be determined by the chairperson acting reasonably – see clause 11.5(e)).

"**Property**" means any dwelling for which a separate Title for a residential lot has issued within Hobsonville Point or any land for which a separate Title for a residential lot has issued upon which a dwelling is or will be completed and "**Properties**" means one or more of them.

"**Registrar**" means the person holding office from time to time as Registrar of Incorporated Societies in terms of the Act.

"**Relevant Authority**" means Auckland Council (or any other statutory or local authority having jurisdiction over Hobsonville Point).

"**Secretary**" means the person appointed pursuant to clause 9.12 to carry out the duties of the Secretary, and where the context so requires means any individual appointed by the Secretary to provide services to the Society.

"**Services**" means any utilities, technology or other convenience services that may be offered by the Society to the Members from time to time.

"**Society**" means Hobsonville Point Residents Society Incorporated, society number 2543330.

"**Society Rules**" means rules and operating regulations promulgated by the Society. The Society Rules current at the date of this Constitution (but subject to amendment from time to time) are set out in Schedule 1 but do not form part of this Constitution.

"**Special Levy**" means a levy payable by a Member under clause 6.3.

"**Special General Meeting**" means a meeting of the Members held pursuant to clause 10.2.

"**Special Resolution**" means a resolution of the Society in general meeting passed by a majority of not less than 75% of such Members present in person or by proxy or by Postal Vote and entitled to vote.

"**Title**" means the computer freehold register issued for a Property.

"**Working Day**" means any day of the week, which shall be deemed to commence at 9.00am and to terminate at 5.00pm, other than:

- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday and Labour Day; and
- (b) A day in the period commencing on the 23rd day of December in any year and ending on the 5th day of January in the following year, both days inclusive; and

- (c) The day observed as the anniversary of any province in which an act is to be done.

2.2 Interpretation: In this Constitution, unless the context otherwise requires:

- (a) words denoting the singular shall include the plural and vice versa;
- (b) one gender includes the other genders;
- (c) words denoting persons shall include any individual, company, corporation, firm, partnership, joint venture, association, organisation, trust, state, agency of a state, municipal authority, government or any statutory body in each case whether or not having separate legal identity;
- (d) any covenant or agreement on the part of two or more persons shall bind those persons jointly and severally;
- (e) reference to anything of a particular nature following upon a general statement shall not in any way derogate from, or limit the application of the general statement, unless the particular context requires such derogation or limitation;
- (f) any reference to "month" or "monthly" shall mean, respectively, calendar month or calendar monthly;
- (g) the table of contents, section headings and clause headings have been inserted for convenience and as a quick guide to the provisions of this Constitution and shall not form part of this Constitution or affect its interpretation in any way;
- (h) reference to any statute, regulation, ordinance or bylaw shall be deemed to extend to all statutes, regulations, ordinances or bylaws amending, consolidating or replacing the same.

3 Purposes

3.1 Purposes: The Society is formed to promote the following purposes for the benefit of Members:

- (a) to ensure Hobsonville Point is a strong community with good communication, engagement and respect between Members; and with regular opportunities for participation in community events, the Common Areas, Facilities and Services;
- (b) to ensure Hobsonville Point maintains its focus on sustainability;
- (c) to ensure Hobsonville Point and the Properties are kept to a high standard of repair, maintenance and appearance;
- (d) to ensure the proper control, operation, maintenance, repair, renovation and replacement of the Common Areas (where this is a Society responsibility), Facilities and Services by the levying of Members for the purpose of providing funds for and to meet the costs and expenses of such work;
- (e) the full and proper use of the Common Areas, Facilities and Services by Members;

- (f) to promulgate and actively enforce this Constitution, the Society Rules, encumbrances in favour of the Society and/or its Members, the terms and conditions for the supply of any Services by the Society and/or any other arrangements between the Society and Members ancillary to or related to the use, enjoyment and occupation of Hobsonville Point;
- (g) to maintain the Common Areas (where this is a Society responsibility), Facilities and Services generally as a safe, clean and well-presented environment as a whole;
- (h) to meet the Relevant Authority's requirements (if any) or any other agreed (in writing) obligations with relevant parties for maintaining Common Areas (where this is a Society responsibility), Facilities and Services;
- (i) to liaise and consult with the Laneway Societies and other societies that own land in Hobsonville Point to ensure an integrated management and maintenance plan for Hobsonville Point;
- (j) to liaise and consult with the Business Association to ensure the growth of businesses and commercial, industrial and retail space at Hobsonville Point is undertaken in a manner beneficial to and sensitive to the needs of Members, Occupiers and Invitees;
- (k) to comply with its financial recording and reporting obligations required by law and to maintain accounting records in accordance with accepted accounting practices and to maintain adequate funding through levying and Special Levies in order to meet both general expenditure and that anticipated by the Long Term Maintenance Fund;
- (l) when determined by the Society to be necessary and practically feasible from time to time, to establish, maintain and update a Long Term Maintenance Plan and supporting Long Term Maintenance Fund for future works and improvements to Common Areas (where this is a Society responsibility), Facilities and Services and to operate that fund generally pursuant to s.115 – s.120 of the Unit Titles Act 2010 (with such changes as necessary, required or implied by this Constitution);
- (m) where requested, agreed by the Society and practically feasible, to administer and manage on behalf of Laneway Societies those societies' purposes and activities
- (n) where requested, to assist with the resolution of disputes between societies whose purposes impact on Hobsonville Point;
- (o) to assist with funding the Society's purposes by entering into from time to time such marketing, sponsorship or advertising arrangements in respect of the Common Areas, Facilities and/or Services provided always the ambience, use and enjoyment of the Common Areas, Facilities and/or Services is not materially negatively impacted; and
- (p) to prevent and/or rectify Breaches;

AND the Society shall have power to do anything necessary to advance any of those purposes.

3.2 No Pecuniary Gain

3.2.1 The Society does not have any of the following as a purpose:

- (a) The pecuniary gain of Members, and (subject to clauses 3.5 and 13.1) no Member shall be entitled to receive any dividend out of any levy, fee, donation or other income or funds of the Society or benefit from Property value increases caused by specific expenditure (except value increases that are consequences of pursuance of other purposes that benefit Hobsonville Point generally); or
- (b) The improvement of specific Properties to the exclusion of others in Hobsonville Point (excepting aesthetic improvements that are consequences of pursuance of other purposes that benefit Hobsonville Point generally);
- (c) The carrying on of trading activities; or
- (d) The carrying on of business for profit.

3.2.2 The Society must not operate for the purpose of, or with the effect of:

- (a) Any Member of the Society deriving any personal monetary gain from membership of the Society, other than as may be permitted by law, or
- (b) Returning all or part of the surplus generated by its operations to Members, in money or in kind, or
- (c) Conferring any kind of ownership in the Society's assets on Members,

BUT the Society will not operate for the monetary gain of Members in breach of the Statute simply if the Society:

- (i) Trades on its own behalf,
- (ii) Provides a Member with payments that are incidental to the purposes of the Society, and that Member is a body corporate or trust that is prevented by its constitutional documents or deed from acting for the monetary gain of its members,
- (iii) Reimburses a Member for reasonable expenses legitimately incurred on behalf of the Society or while pursuing the Society's purposes,
- (iv) It provides benefits to the public some of whom may be Members or their families,
- (v) Provides a Member with salary, wages or other payment for services to the Society, so long as such payment is at arm's length and in accordance with normal commercial terms and does not include any profit share, percentage of revenue or other reward linked to gains made by the Society, or
- (vi) Provides a Member with incidental benefits such as prizes or discounts on products or services, provided that the purpose of the provision is in accordance with the purposes of the Society.

- 3.3 **Honoraria:** Despite any other provision in this constitution, Committee members, and members of its sub-committees:
- (a) May be offered such honoraria as may be approved by resolution of a General Meeting, and
 - (b) Shall be entitled to be reimbursed by the Society for any reasonable actual expenses incurred by them on behalf of the Society as approved by resolution of the Committee.
- 3.4 **Indemnity by Society:** The Society may indemnify Members and employees who act in good faith in seeking to advance the Society's activities, and may take insurance for the purposes of that indemnity.
- 3.5 **Ability to Contract:** A Member may enter into any agreement or understanding with the Society for the supply of any goods or services for such consideration and on such other terms and conditions as would be reasonable if that person were not a Member.

4 **Controlling Member**

- 4.1 The Controlling Member is currently undertaking, managing and guiding the development of Hobsonville Point. The Controlling Member shall offer information and advice to assist the Society and Members with resolving any development-related issues in an effective and timely manner, provided however that the Controlling Member shall be entitled to ensure that Society and Member activities (or omissions) do not impinge its development activities or have any other negative effect.
- 4.2 Having regard to clause 4.1, the Controlling Member shall:
- (a) be entitled to have (and will ensure that) a senior member of its management team is present at all Committee meetings and all general Society meetings;
 - (b) have the right to add matters to the agenda and speak to them at both forums;
 - (c) be promptly provided with full copies of Committee and Society agendas and meeting minutes;
 - (d) offer information and advice as it considers relevant or required;
 - (e) consult with the Committee on development-related issues as these arise from time to time; and
 - (f) discuss with the Committee operational concerns such as keeping the roads clean, tidiness, safety and ensuring construction noise levels and hours of work are within the boundaries set by the Relevant Authority.
- 4.3 Notwithstanding clause 4.2, the Controlling Member is not obliged by this clause to agree to do or not to do any matter or thing where it considers that such action or inaction may impinge on its development activities or have any other negative effect and further the Controlling Member may veto any resolution passed by the Society, but the Controlling Member shall not use its veto to:

- (a) prevent the Society from making legitimate complaints to the Controlling Member (as the developer of Hobsonville Point) where those complaints relate to operational matters such as cleanliness, tidiness, safety, noise and hours of work at Hobsonville Point; and/or
 - (b) prevent the Society from making legitimate complaints about material deviations from the Master Plan for Hobsonville Point where those have a materially negative impact on any Member's use, enjoyment or value of their Properties at Hobsonville Point.
- 4.4 Where the Society and Controlling Member disagree on any development-related issue or operational matter, the Controlling Member shall ensure that the Society's views are thoroughly considered and taken into account by the Controlling Member before making a final decision and shall ensure the Committee is kept appropriately informed.
- 4.5 Upon Hobsonville Point being fully completed (which shall be determined by the Controlling Member acting reasonably) the Controlling Member shall be deemed to have resigned as Controlling Member and thereafter there shall be no controlling member for this Society and this clause 4 shall have no further effect and the balance of references in this constitution to "Controlling Member" shall be ignored.

5 Membership of Society

- 5.1 **Owners to be Members:** Each Owner shall be a Member and only Owners can be Members, and for that purpose:
- (a) Encumbrances shall be noted against each Title in favour of the Society whereby each Owner encumbers his, her, or their title with covenants requiring them to become and remain a Member and to perform the obligations of a Member as set out in this Constitution. Each Member shall prior to transferring a Title procure the transferee to enter into, execute (electronically or otherwise) and deliver (electronically or otherwise) to the Society a Deed of Covenant in favour of the Society, wherein the transferee covenants to become contemporaneously with the transfer of the Title and remain a Member, and to observe and perform the obligations of a Member as set out in this Constitution. The Members and the Society agree to the Deed of Covenant being signed by one or both of them electronically, acknowledge that their electronic signatures shall be binding and valid and confirm that an electronic copy of the Deed of Covenant shall be deemed an original. The Deed of Covenant shall be in the form attached and prepared by the Secretary, and the transferring Member shall pay the reasonable legal fees and disbursements of the Society's solicitors (if any) in such matter.
 - (b) The transferring Member shall, at least five Working Days prior to settlement of such Title transfer, request from the Secretary a Deed of Covenant and certificate of indebtedness and the transferring Member shall pay such amount as required by such certificate including the Secretary's reasonable fee for providing such certificate.
 - (c) A Member shall be deemed to have resigned from the Society immediately upon that Member ceasing to be an Owner, provided that such resignation shall not relieve a person of any obligation or liability arising before that person ceased to be a Member.

- (d) Each Owner shall immediately upon becoming an Owner, (and thereafter as any details change), provide the Society with the details necessary for maintenance of the register of Members pursuant to clause 5.2, and shall upon entry of the details into the register, become a Member.

5.2 **Register of Members:** The Society shall maintain a register of Members recording:

- (a) For each Member: name, address, occupation, telephone numbers, email address and emergency contact details (and every Member shall advise the Society of any change in any of those details),
- (b) Membership: the date upon which each Member became a Member,
- (c) Voting: where there is more than one Owner registered on a Title, which of such Owners is entitled to vote in accordance with clause 11.1,
- (d) For each Member that is a corporation: name, contact person, telephone number and email address of the contact person who is the corporation's authorised representative (and every such corporation shall advise the Society of any change in any of those details), and that person shall be deemed to be the organisation's proxy for the purposes of clause 11 unless a different proxy is lodged for any Meeting pursuant to clause 11.3,

5.3 **Privacy:** Pursuant to the Privacy Act 1993, Members may request details of their information that is collected and held by the Society and may request that such information be updated or corrected. The Society shall utilise the information it collects on Members and Occupiers solely for the administration and enforcement of the rights and obligations of the Society and its Members pursuant to this Constitution and the Society Rules and for no other purposes. For the avoidance of doubt, the Society is permitted to share Member information with the Secretary. The Society shall use all reasonable endeavours to ensure the information kept on Members and Occupiers is securely stored.

To ensure personal and contact details are kept private, no Member shall be permitted to inspect the Membership Register. Where a Member wishes to communicate to all other Members, the Committee shall determine whether the requested communication is for necessary and proper Society Purposes, and if approved as such by the Committee, the Committee shall instruct the Secretary to make such communication (by such means as determined by the Secretary) to the Members on behalf of the requesting Member.

5.4 **Not Assignable:** The rights, privileges and obligations of a Member are not assignable.

5.5 **More than one Owner:** If there is more than one Owner registered on a Title, such Owners shall collectively constitute one Member.

5.6 **Owners of more than one Property:** Where an Owner or Owners are registered on the Title of more than one Property, such Owner or Owners shall be recognised and treated as a Member in respect of each such Property.

5.7 **Information for Members:** On reasonable notice and at reasonable times the Society shall:

- (a) Make available on its website (or otherwise make available for inspection) by Members copies of this Constitution and of any Society Rules,
- (b) Permit Members to inspect the interests register referred to in clause 9.11, and

- (c) Provide Members with access via its website (or otherwise make available for inspection) to the Financial Reports presented to the last Annual General Meeting and the minutes of previous Annual General Meetings.

6 Obligations of Members

6.1 Covenants and Society Rules: Each Member agrees to promptly and duly comply with this Constitution and any Society Rules made by the Society from time to time.

6.2 Fees and Levies

- (a) Each Member shall pay a \$300 new dwelling levy to the Society immediately upon becoming a Member. Thereafter, each Member shall pay the levy established under clause 6.2(c) and any Special Levies for each year or part thereof they remain Members.
- (b) Prior to or as soon as practicable following a resolution, by the Society or the Committee, passed in accordance with this Constitution and after the commencement of each Expense Year, the Society shall by written notice advise each Member of their share of Operating Expenses and Long Term Maintenance Fund contribution (if any) for that Expense Year ("Society's Estimate"), plus any such contingency sum as the Society may, in its sole discretion, fix.
- (c) Each Member shall pay, as an annual levy, an equal share of the Operating Expenses, Long Term Maintenance Fund (if any) and any contingency sum.
- (d) The levies shall be set annually or at such other intervals as the Committee may determine from time to time based on a budget provided by the Secretary for such purpose.
- (e) Each Member shall pay in each Expense Year their share applicable to that Expense Year by one payment due on or before the due date set by the Society at the AGM. Payment shall be made by each Member in the manner set by the Society from time to time.
- (f) If any portion of any levy or fee or other sum due to the Society is not paid on time, the Member shall pay to the Society Default Interest pursuant to clause 6.5(e) below together with any reasonable costs incurred in collecting the payment due.

6.3 Special Levies:

6.3.1 The Society may from time to time at a general meeting fix an additional levy payable by each Member at such times as are set by the Society, to be paid by each Member in addition to the Society's Estimate for that Member if necessary or expedient to meet material unforeseen maintenance or infrastructure repairs or other urgent and non-anticipated costs of any nature.

6.3.2 Nothing in this clause 6 prevents the Committee or the Society in accordance with this Constitution fixing additional levies or fees for additional services, activities or schemes as so resolved from time to time.

Breach of Obligations

6.4 **Occupiers and Invitees:** A reference to a Breach, act or omission by any Member shall include any Breach, act or omission by any mortgagee in possession of that Member's Property or the Occupier of a Property, the Invitees of such Occupier and the Invitees of such Member or the staff of a Member or Occupier, and the Member shall be responsible to the Society in respect of any such Breach, act or omission.

6.5 **Consequences:** Upon any Breach by a Member ("Offending Member"):

- (a) Where a Breach has occurred, the Offending Member shall make good that Breach.
- (b) Where damage has been caused to the Common Areas, Facilities or Services, the Offending Member shall make good such damage.
- (c) If such default continues for five Working Days after notice is given by the Society to the Offending Member to remedy the Breach or damage or reoccurs after such notice, the Society may:
 - (i) do anything, including paying money, necessary to remedy the Breach or damage; and/or
 - (ii) suspend access to Facilities, services or infrastructure to the Offending Member; and/or
 - (iii) impose a daily fine on the Offending Member as set by the Committee from time to time acting reasonably and having regard to the nature of the Breach.
- (d) All money paid, fines imposed and expenses incurred by the Society (including any legal costs of the Society) in remedying, or attempting to remedy, any Breach or damage, or incurred in the exercise, or attempted exercise, or enforcement or attempted enforcement of any power, right or remedy of the Society in respect of such Breach, shall be a debt due from the Offending Member to the Society.
- (e) If any money payable by an Offending Member to the Society is in arrears and unpaid for five Working Days (whether or not formal demand for payment has been made and without any formal demand being necessary) such money shall be payable on demand and shall bear interest at the Default Interest Rate, computed on a daily basis from the due date until the date of payment in full.

6.6 **Agreement to Mortgage:**

6.6.1 The Members each charge their Properties with the payment obligations recorded in clause 6.2, 6.3, 6.5(d) and/or 6.5(e) of this Constitution and shall forthwith on demand in writing by the Society execute in favour of Society a memorandum of mortgage (on the form reasonably required by the Society) to secure those payment obligations;

6.6.2 The Members each authorise the Society to lodge and maintain a caveat against the title to their Properties for the protection of that charge, obligation to execute the memorandum of mortgage and the payment obligations;

6.6.3 The Members agree this Constitution in itself constitutes an equitable mortgage and is capable of supporting a caveatable interest, following a demand made pursuant to clause 6.5(d) and/or 6.5(e) of this Constitution.

6.7 Sale of a Property

- (a) Where a Member (“the Seller”) sells a Property:
 - (i) Notwithstanding any other clause in this Constitution, the Seller shall remain liable for sums owed to the Society by that Seller.
 - (ii) The Seller shall continue to be liable as a primary and principal debtor for all indebtedness of the purchaser of the Property to the Society until such time as a Deed of Covenant specified in clause 5.1(a) is received by the Society properly executed and all costs and fees due to the Society are paid.
 - (iii) The buyer of the Property shall be liable as a Member for any indebtedness of the Seller to the Society in respect of the Property purchased and a certificate issued by the Society showing the indebtedness of the Seller to the Society shall be conclusive as to the sum of this indebtedness.
- (b) The Society shall on application by a Member, or any person authorised in writing by such Member, provide the Member or authorised person with a statement of the indebtedness of the Member to the Society calculated to the date specified in the application. The statement shall show:
 - (i) the Society’s estimate of levies for the current Expense Year during which the property is being sold;
 - (ii) the period covered by those levies;
 - (iii) the manner of payment of the levies;
 - (iv) the date/s upon which payments of levies are due;
 - (v) whether a levy, or part of a levy, due is unpaid and, if so, the amount of the unpaid levy; and
 - (vi) whether fines or legal action has been implemented in relation to any unpaid levy;
 - (vii) whether any levies or fees due to the Society for Services, activities or schemes are unpaid and, if so, the amount of unpaid charges;
 - (viii) whether any debt is due or fines imposed or legal action has been implemented in relation to a unremedied Breach by the seller; and
 - (ix) whether fines and/or Default Interest have been applied and remain unpaid and the rate at which fines and/or Default Interest continues to accrue on any money owing to the Society by the Seller.

6.8 Tenants, Occupiers and Invitees

- (a) Members are responsible for ensuring their Occupiers and Invitees comply at all times with the Constitution and the Society Rules. Breaches by Occupiers or Invitees are deemed to be Breaches made by the relevant Member. Breaches by Occupiers or Invitees are the Members liability and responsibility and the Society shall enforce

any necessary remedial action against the Member and the Member is obligated to make good that Breach.

- (b) Members shall ensure a copy of this Constitution and the Society Rules is included in and attached to every tenancy agreement, lease, licence or other document defining occupancy rights and provisions must be included in every tenancy agreement, lease, licence or other document requiring the Occupiers and Invitees to comply with this Constitution and the Society Rules.
- (c) Each Member must take all reasonable steps including (but not limited to) enforcing the terms of any lease or tenancy agreement or other document defining occupancy rights to ensure Occupiers and Invitees comply with this Constitution and the Society Rules.
- (d) Subject to compliance with clause 6.8(a)-(c), the Society may grant Occupiers the right to use and enjoy the Common Areas, Facilities and Services in the stead of the Member.

7 **Obligations of the Society**

- 7.1 **Society Rules:** The Society shall promulgate, amend, actively enforce and distribute to Members from time to time rules and regulations in respect of the use and maintenance of the Common Areas, Facilities and Services (including any restrictions on use for security, maintenance or other reasons). The first such Society Rules shall be those rules attached as Schedule 1 to this Constitution.
- 7.2 **Maintenance & Repair:** The Society shall ensure the proper operation, maintenance and repair of the Common Areas (where this is a Society responsibility), Facilities and Services as may from time to time be necessary for:
 - (a) the reasonable use and enjoyment of the Common Areas, Facilities and Services by the Owners, Occupiers and Invitees; and
 - (b) to keep Hobsonville Point (including, but not limited to the Common Areas (where this is a Society responsibility), Facilities and Services) to a high standard of repair, maintenance and appearance.
- 7.3 **Long Term Maintenance Plan:** When determined by the Society to be necessary and practically feasible, the Society may establish and regularly maintain and update a Long Term Maintenance Plan which must cover a period of at least 10 years from the date of the plan or the last review. Its purposes shall be those set out in s.116(3) of the Unit Titles Act 2010 and it shall be operated generally pursuant to s.115 – s.120 of the Unit Titles Act 2010 (with such changes are necessary, required or implied by this Constitution). The Society may maintain an operating account for the purpose of collecting contributions and meeting the expenses of the Society's Long Term Maintenance Plan (if any).
- 7.4 **Insurance:** The Society shall effect and maintain any insurance as it considers prudent with respect to the Facilities, Services and the Society's affairs, and shall meet any costs of such insurance (which shall include any valuations and other professional fees required or deemed desirable for the purposes of such insurance and the cost of certificates relating to such insurances) but excluding those improvements or affairs insured under the Bodies Corporate policies.

7.5 **Property Standards:** The Society shall promulgate, amend, actively enforce and distribute to Members from time to time the requirements for presentation of Properties within Hobsonville Point which shall include (but is not limited to) compliance with the Design Guidelines.

7.6 **Compliance:** The Society shall comply with:

- (a) the conditions of any Consents issued by any Relevant Authority;
- (b) any other proper requirements of the Relevant Authority; and
- (c) all statutes, regulations, ordinances and bylaws,

in respect of or affecting the Common Areas, Facilities, activities of the Society, operation of the Society and administration of the Society including those relating to public access.

For the avoidance of doubt, the Society's obligations extend only to Common Areas, Facilities and activities over which it has ownership, operational control or maintenance and management obligations and does not extend to assets vested in a Relevant Authority unless specifically agreed.

7.7 **Security:** The Society may install and maintain such security camera and monitoring equipment in the Common Areas and Facilities as the Society considers useful, beneficial and necessary from time to time for the purposes of securing and safeguarding the users and improvements therein.

7.8 **Services:** The Society may install and maintain useful, feasible and beneficial infrastructure and equipment in the Common Areas and Facilities (or elsewhere at Hobsonville Point) for the provision of services and utilities to Members and Occupiers from time to time. The Society shall determine (from time to time) the terms and conditions upon which Members and Occupiers may access and/or receive the benefit of such Services and that may include (but is not limited to) offering such Services on a "user-pays" basis.

7.9 **Financial Reports**

- (a) Financial statements and reports shall be prepared and distributed in accordance with best practice accounting principles so as to give Members a transparent and clear overview of the financial affairs of the Society and future expenditure commitments.
- (b) The Society shall ensure that financial statements of the Society are provided to Members on request and shall endeavour to make this available on the Society's website (for authenticated Members).
- (c) The Society shall have its financial statements audited or otherwise financially reviewed (as determined by the Society from time to time) annually unless this requirement is waived by Special Resolution.

8 **Limitations of the Society**

8.1 **No Indebtedness:** The Society shall not borrow any money except by Special Resolution.

8.2 **No Investments:** The Society shall hold all funds with a Bank and shall not invest those funds other than by deposit with such Bank, except by Special Resolution. All moneys paid to the

Society by the Members shall only be applied for one or more of the activities referred to in clause 8.4.

- 8.3 **No Improper Use:** The Common Areas, Facilities and Services shall be used only for their proper purposes and the Members shall have the right to use the Common Areas, Facilities and Services only in accordance with the Society Rules and any other agreements or terms required by the Society from time to time.
- 8.4 **No Activities Except Permitted Activities:** The Society shall only be permitted to carry on one or more of the following activities and only in pursuit of its purposes as set out in clause 3:
- (a) Owning, leasing, licensing, maintaining, administering, renovating, improving, replacing and/or operating the Common Areas (where this is a Society responsibility), Facilities and Services;
 - (b) Issuing licences and access rights to Members to use the Common Areas, Facilities and Services and administering and enforcing those licences and access rights in accordance with the Society Rules (and any other agreements or terms imposed from time to time);
 - (c) Managing, administering and enforcing the Constitution and the Society Rules, including ensuring compliance with the Land Covenants and Consents in respect of any Common Areas, Facilities and Services, by all relevant parties and doing all things reasonably necessary to remedy/rectify Breaches;
 - (d) Employing and/or contracting with and/or delegating to such persons and professionals and such other actions and omissions as is proper and necessary to ensure lawful and correct performance of the Society's purposes (as set out in clause 3), duties and obligations (as set out in this Constitution including but not limited to clause 7);
 - (e) Any incidental activities that the Committee considers are beneficial for Members.
- 8.5 For the avoidance of doubt, it is recorded that:
- (a) the maintenance and upkeep of Common Areas owned and/or managed by other societies, the Relevant Authority or other third parties remain the responsibility of that other society, Relevant Authority or third party and not the Society;
 - (b) the building and services maintenance and upkeep for each Laneway Society remains the responsibility of that Laneway Society and not the Society;
 - (c) the building and landscaping maintenance and upkeep for each Property remains the responsibility of each Property Owner and not the Society;
 - (d) Property security, personal property security and personal security remain the responsibility of each Owner, Member, Occupier and Invitee; and
 - (e) the building and service maintenance, upkeep and management for businesses and commercial, industrial and retail space remains the responsibility of owners and occupiers thereof and/or the Business Association (as the case may be).

OPERATION OF THE SOCIETY

9 Committee

- 9.1 **Duties and Powers:** The administration and management of the Society shall be vested in the Society in general meeting and, subject to any resolution of a General Meeting, shall be delegated to the Committee from the end of each Annual General Meeting until the end of the next Annual General Meeting. The Committee shall perform the Committee Duties and may exercise any powers, authority and discretions of the Society as permitted by this Constitution and do on its behalf all such acts as it deems necessary or expedient. The powers, authority and discretions as exercised by the Committee are subject always to any limitation which may from time to time be imposed by the Society.
- 9.2 **Delegation of Powers: to Subcommittee or Facilities Manager:** The Committee may delegate (without relieving responsibility) by written notice any of the Committee Duties, powers or obligations to a subcommittee or committees consisting of such Member or Members of their body as they think fit or to a Facilities Manager. Any subcommittee so formed or Facilities Manager so appointed shall in the exercise of the powers so delegated conform to directions of the Committee.
- 9.3 Any appointment of a Facilities Manager shall be for the term, at the remuneration and on such terms and conditions as the Society may agree with the Facilities Manager from time to time.
- 9.4 The duties and responsibilities of the Facilities Manager shall be determined, reviewed and updated by the Society annually.
- 9.5 **Bank Accounts:** The Society shall establish bank accounts (the number and nature of which shall be determined by the Committee from time to time) with a Bank and may do so by delegating such matter to the Secretary. All payments from that account shall be approved by the Committee and shall be made:
- (a) under the signature (electronic or otherwise) of two Committee Members; or
 - (b) by the Secretary with the Committee's prior approval; or
 - (c) by the Secretary within the then delegation range authorised by the Committee for permitted operational expenditure.
- 9.6 **Documents:** All documents and written announcements requiring execution on behalf of the Society must be signed in accordance with clause 9.17 of this Constitution.
- 9.7 **Composition of Committee:** The Committee shall include the following persons:
- (a) A chairperson;
 - (b) A deputy chairperson; and
 - (c) A minimum of three general Committee Members and a maximum of seven as determined by the Committee prior to calling for nominations from time to time.

9.8 **Eligibility for Appointment to the Committee:** No person may stand for office on the Committee, and any person who is on the Committee shall cease to be a Committee member, if that person:

- (a) Is or becomes an undischarged bankrupt, or
- (b) Is prohibited from being an officer of an incorporated society under the Act, or
- (c) Is prohibited from being a director or taking part in the management of an incorporated or unincorporated body under the Companies Act 1993, the Securities Act 1978, the Securities Markets Act 1988, or the Takeovers Act 1993,
- (d) Is subject to a property order made under the Protection of Personal and Property Rights Act 1988, or
- (e) Is suffering from a mental disorder within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992, or
- (f) Is convicted of any offence for which a convicted person may be imprisoned, or
- (g) Is not or ceases to be a Member or the contact person under clause 5.2(d) of a Member that is a corporation.

9.9 **Election and Appointment to the Committee:** The Committee Members shall be appointed or elected as follows:

- (a) The Society shall actively encourage nominations for Committee Membership from differing geographic locations and housing typologies across Hobsonville Point to help ensure the perspectives and interests of various Members are represented on the Committee.
- (b) Written nominations for nominees which are agreed to by both the nominee and nominator (agreement may be communicated electronically or otherwise) (which may include representatives of corporations pursuant to clause 11.3), for consenting nominees shall be received by the Secretary not less than 10 Working Days before the date of the AGM.

For the avoidance of doubt, there shall be no nominations from the floor at the AGM unless there are insufficient valid nominations (in which case, see clause 9.9(d))

- (c) Not less than five Working Days before the date of the AGM the Secretary shall email or post to all Members a voting paper listing all nominees with no more than 500 words of information about each nominee as may be supplied to the Secretary by or on behalf of each nominee in support of their nomination.
- (d) If there are insufficient valid nominations having regard to the composition of the Committee required under clause 9.7:
 - (i) further nominations may be received by the floor at the AGM; and then
 - (ii) if insufficient valid nominations are still not received, the Chairperson may co-opt consenting Members; and then

- (iii) if insufficient valid nominations are still not received due to Members declinations, all previous Committee members shall be deemed validly nominated.
- (e) If the number of nominations is no greater than the number of committee positions available, no vote need be held and those nominees shall be appointed to the Committee, and if there are more valid nominations than is required having regard to the composition of the Committee required under clause 9.7 an election shall be held and the required number of nominees winning the most votes will be deemed elected.
- (f) Votes shall be cast in such manner as the chairperson of the AGM shall determine.
- (g) The Secretary and at least 1 other Member (who is not a nominee) designated by the chairperson of the AGM shall act as scrutineers for the counting of votes and retention of any voting papers.
- (h) In the event of any vote being tied the tie shall be resolved by the incoming Committee.
- (i) The Committee may co-opt any person to the Committee for a specific purpose, or for a limited period, or generally until the next Annual General Meeting.

9.10 Chairperson Appointment and Duties

- (a) From its membership, the Committee from time to time shall appoint, remove and replace a chairperson and deputy chairperson for such term as it sees fit. The chairperson shall chair Committee meetings, and in the chairperson's absence the deputy chairperson shall deputise for and otherwise exercise the powers of the chairperson set out in this Constitution.
- (b) The Committee and/or the chairperson may delegate duties of the chairperson to the deputy chairperson from time to time. References in this Constitution to the "chairperson" shall include the deputy chairperson where duties of the chairperson have been so delegated to the deputy chairperson.
- (c) In the case of a tie in votes by the Committee the chairperson may exercise a casting vote.
- (d) The chairperson shall undertake the duties recorded elsewhere in this Constitution and shall also be responsible for delegation of the Committee Duties to the Secretary, Committee Members or sub-committees or the Facilities Manager (if any) as deemed appropriate from time to time.

9.11 Financial interests of Committee members:

- (a) A Committee member shall be considered to have a financial interest (not being an interest only by virtue of being an Owner of Property within Hobsonville Point) in a matter if he or she:
 - (i) May derive a financial benefit from the matter, or
 - (ii) Is the spouse, partner, child, or parent of a person who may derive a financial benefit from the matter, or

- (iii) May have a financial interest in an entity to which the matter relates; or
 - (iv) Is a partner, director, officer, board member, or trustee of a person who may have a financial interest in an entity to which the matter relates,
- but excluding the following interests:
- (v) Remote or insignificant interests of a nature that could not reasonably be regarded as likely to influence the Committee member when carrying out his or her responsibilities, and
 - (vi) An interest that the Committee member has in common with other Members as a result of membership of the Society.
- (b) Where any such financial interest in a matter has been disclosed:
- (i) That Committee member must not vote in any decision on the matter, but that person can be present at the time of the decision and can contribute to the discussion leading to the decision, but
 - (ii) The Committee may, where it considers it appropriate, exclude that person from any further discussion or involvement with the matter, but
 - (iii) The person who is prevented from voting on a matter because he or she has a financial interest in it may continue to be counted as part of the quorum of the Committee, and
 - (iv) Where 50 per cent or more of those forming the Committee's quorum are prevented from voting on the matter because they have disclosed a financial interest, then the remaining Committee members must call a Special General Meeting to determine the matter.

9.12 **Duties of Secretary:** The Committee shall appoint, remove and replace a Secretary from time to time to carry out such of the Committee Duties as the Committee shall see fit, the first Secretary being Crockers Property Management Limited. The Secretary shall be a qualified administrator and shall not being a Member of the Society. Such appointment shall be for the term, at the remuneration and on such terms and conditions as the Committee may agree with the Secretary from time to time.

9.13 **Committee Members**

- (a) A Committee member shall (subject in the case of co-opted Committee Memers to the earlier expiration of any term established under clause 9.9(i)) hold his or her position until the earliest of:
- (i) The next AGM following election (when the Committee members shall be eligible for re-election);
 - (ii) The date written and signed resignation (electronically or otherwise) from the position is received by the Society;
 - (iii) The date of removal from such position by the Society in general meeting; or
 - (iv) The date of cessation of Member-ship.
- (b) In the event of a casual vacancy in any position on the Committee (whether caused by death, cessation of membership from the Society or some other means) the Committee may appoint another person eligible for election for appointment pursuant to clauses 9.8 and 9.9(i) (by co-opting that person in such manner as the

Committee so chooses) to fill the vacancy (until the next AGM) so that the Committee composition conforms with clause 9.7.

- (c) In the event of casual vacancies that result in the Committee composition not conforming with clause 9.7, the Secretary shall call such General Meetings as are necessary to establish a Committee conforming with clause 9.7.
- (d) Committee members shall be available for discussions between the Committee members via email and telephone at all reasonable times.
- (e) Committee members shall report to the chairperson.
- (f) When exercising their powers and performing their functions Committee members must individually and collectively:
 - (i) Act in good faith and in the best interests of the Society, and use their powers for a proper purpose,
 - (ii) Comply with the Act and with this constitution, except where the constitution contravenes the Act,
 - (iii) Exercise the degree of care and diligence that a reasonable person with the same responsibilities within the Society would exercise in the circumstances applying at the time,
 - (iv) Not allow the activities of the Society to be carried on recklessly or in a manner that is likely to create a substantial risk of serious loss to the Society's creditors, or
 - (v) Not allow the Society to incur obligations that they do not reasonably believe will be fulfilled, and must comply with the duties required of them under the Act.

9.14 Indemnity for Committee:

- (i) No Committee member shall be liable for the acts or defaults of any other Committee member or any consequential loss caused by such acts or defaults, unless caused by their own wilful default or by their own wilful acquiescence.
- (ii) The Committee and each Committee member shall be indemnified by the Society for all liabilities and costs incurred by them in the proper performance of their functions and duties, other than as a result of their own wilful default or by their own wilful acquiescence.

9.15 Conduct of Meetings: The Committee may meet together, adjourn or otherwise regulate its meeting and procedures for conducting its business as it thinks fit. A majority of the members of the Committee from time to time shall form a quorum for a Committee meeting. No business of the Committee shall be conducted at any time when less than a quorum is present at the same time and place. The Committee may meet at any time and the Secretary shall upon the request of the chairperson or not less than 50% of Committee members, convene a meeting of the Committee.

9.16 Resolutions outside meetings: Notwithstanding any contrary provision in this Constitution a resolution in writing signed by such of the Committee members as would constitute a

quorum at a Committee meeting shall be as valid and effectual as if it had been passed at a meeting of the Committee duly convened and constituted. In addition, the Committee and any subcommittee may act by resolution approved in the course of a telephone or electronic conference call or through a written ballot conducted by email or mail.

- 9.17 **Seal:** The Committee shall obtain a common seal for the use of the Society and shall provide for its safe custody. The common seal shall not be used except by resolution of the Committee. Every instrument to which the common seal is affixed shall be signed by two members of the Committee or by the Secretary (after receiving appropriate delegation to do so), and it shall bind the Society to that instrument, agreement or deed. Notwithstanding the foregoing, while there is a Controlling Member, the Controlling Member's signature (with or without the common seal) shall bind the Society to the instrument, agreement or deed in question.
- 9.18 **Voting:** Resolutions of the Committee shall be passed by majority. Each Committee member shall be entitled to exercise one vote provided that the Secretary shall not be entitled to vote (the Secretary not being an elected Committee member).
- 9.19 **Validity of Committee's Actions:** All acts properly done by any meeting of the Committee or by any person acting as a Committee member notwithstanding that it may afterwards be discovered that there was some defect in the appointment or continuance in office of any such Committee member, shall be as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a Committee member.
- 9.20 **Committee Minutes and Records:** The Committee shall ensure that minutes are kept of the proceedings of any meetings of the Society and of the Committee. The minutes of such meetings signed by the chairperson shall be accepted as a correct and accurate record of the business transacted at such meetings without any further proof of the facts contained in such minutes.
- 9.21 **Member Access to Society Records:** A Member is entitled to access Society records as permitted under clause 5.7 and is entitled to access information the Society holds about that Member (but not about other Members) and is only entitled to other information as expressly permitted by resolution of the Committee from time to time (subject always to clause 5.3), but not otherwise.
- 9.22 **Member use of Society Property:** The Committee may decide what access or use Members may have to premises, facilities, equipment or other property owned, occupied or otherwise used by the Society, including any conditions of and fees for such access or use.
- 9.23 **Complaints against Committee Members:** Following any legitimate complaint about a Committee member ("legitimacy" being determined by the Committee) that person may be removed from the Committee by a resolution of the Committee or of a General Meeting (in either case, passed by a two-thirds majority of those present and voting, and after following the similar processes to those prescribed in clause 13.5(b)).
- 9.24 **Committee members' records:** Each Committee member shall within 10 Working Days of submitting a resignation or ceasing to hold office deliver to the Secretary all books, papers and other property of the Society possessed by such former Committee member.
- 9.25 **Registrar's contact person:** The Committee shall at its first meeting after each Annual General Meeting appoint one of their members to be the person whom the Registrar of Incorporated Societies can contact when needed, and that person must be at least 18 years

of age and must at all times be resident in New Zealand, and that appointment and any change in that person's name or contact details shall be advised to the Registrar of Incorporated Societies within 20 working days after the appointment or any change has occurred or after the Society became aware of the change.

10 General Meetings

10.1 **Annual General Meeting:** In addition to any other meetings in that year the Society shall hold an AGM each year. Not more than 15 months shall elapse between the date of one AGM and that of the next. The Committee will determine the time and place of each year's AGM. The agenda and business of the AGM shall include:

- (a) Minutes of the previous General Meeting(s),
- (b) Annual Report of the Committee,
- (c) Financial Reports for the most recent financial year,
- (d) A summary of the nature and extent of any disclosures made by Committee members of financial interest in matters being considered by or affecting the Society, recorded since the previous Annual General Meeting (see clause 9.11),
- (e) Election of the Committee in accordance with clause 9.9,
- (f) Motions of which notice has been given, and
- (g) General business.

10.2 **Special General Meetings:** A general meeting other than an AGM may be requested by the Committee or by written requisitions signed by not less than 10% of Members or by the Controlling Member. The secretary shall call a Special General Meeting within 10 Working Days of receiving an effective request. A Special General Meeting shall only consider and deal with the business specified in the Committee's request or the written requisition calling the Meeting.

10.3 **Notices of Motion by Members:** A Member wishing to give notice of any motion for consideration at the Annual General Meeting shall forward written notice of the same to the Secretary not less than 5 Working Days before the date of the Meeting. The Committee may consider all such notices of motion and may notify Members of its recommendations in respect of such notices of motion either before or at the Meeting.

10.4 **Powers of the Society General Meeting:** The Society in general meeting may, by resolution, exercise all powers, authorities and discretions of the Society notwithstanding that any such power, authority and discretion may have been delegated to the Committee and/or its officers by or pursuant to this Constitution.

Notwithstanding any contrary provision in this Constitution a general resolution approved by Postal Vote by more 40% or more of Members entitled to vote, shall be as valid and effectual as if it had been passed at a general meeting of the Society duly convened and constituted.

10.5 **Notices for General Meetings:**

- (a) A notice of intention to hold an AGM of the Society shall be sent to every Member not less than 6 weeks before the date of such meeting. Such notice shall specify the date, time, venue and agenda for such meeting and shall invite Members to propose matters for discussion at the AGM and the timeframe for making such proposals. The Committee shall determine whether such proposals are necessary and proper for the Society's Purposes and as such should be added to the agenda.
 - (b) A notice of an AGM of the Society shall be sent to every Member not less than 2 weeks before the date of such meeting. Such notice shall specify the date, time, venue and agenda for such meeting. No substantive motions may be received from the floor. No business or notice of motion which is not specified shall be discussed or transacted at such meeting.
 - (c) In the case of a Special General Meeting such notice shall be given at least 1 week before the date of such meeting and shall specify all business and all notices of motions to be considered at such meeting. No substantive motions may be received from the floor. No business or notice of motion which is not specified shall be discussed or transacted at such meeting.
- 10.6 **Failure to Give Notice:** The accidental omission to give notice or the non-receipt of such notice by any Member shall not invalidate the proceedings at any such meeting save that omission (howsoever arising) to give notice to the Controlling Member shall invalidate all proceedings and resolutions.
- 10.7 **The Chairperson:** The chairperson at any general meeting shall be:
- (a) the chairperson of the Committee; or
 - (b) the deputy chairperson of the Committee; or
 - (c) a member of the Committee chosen by the Committee if the chairperson and deputy chairperson are unavailable or unwilling to take the chair; or
 - (d) some independent person appointed by resolution of the Committee.
- 10.8 **Adjournment:** If a quorum is not present within half an hour from the time appointed for the holding of a general meeting:
- (a) in the case of a general meeting convened on requisition of Members, the meeting shall be abandoned; and
 - (b) in the case of any other general meeting, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Committee shall determine (such date not to be later than 10 Working Days from the date of the adjourned meeting) and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting, the Members present shall constitute a quorum.
- 10.9 **Quorum:** No business shall be transacted at any general meeting of the Society unless the quorum is "present" when a meeting proceeds to business. "Present" shall include present by any technological means which provides a Member with a reasonable opportunity to participate. Quorums shall be 15% of the Members eligible to vote at general meetings, present in person or by proxy or by Postal Vote and the Controlling Member (if any).

10.10 **Adjourned Meetings:** No business other than that business which might have been transacted at the meeting from which the adjournment took place shall be transacted at any adjourned meeting. Members shall not be entitled to receive any notice in respect of adjourned meetings.

11 **Voting**

11.1 **One Member - One Vote:** At a general meeting of the Society each Member (not at that time being in Breach) shall be entitled to one vote for each Title of which that Member is a registered proprietor, which may be exercised either in person or by proxy. Where there is more than one Owner in respect of any Title and such Owners are collectively a Member pursuant to clause 5.6, only one such Owner shall be entitled to vote. In the absence of agreement between such Owners as to who shall exercise this vote, the Owner appearing first on the Title shall be entitled to exercise that vote. On the death of any Member and pending the transfer of that Member's Title, the executor or trustee of that Member's estate shall be entitled to exercise that Member's vote.

11.2 **Controlling Member's Vote:** The Controlling Member (if there is one) shall be entitled to exercise a number of votes equal to one more than the number of Member's voting (by any means) at any Annual General Meeting or Special General Meeting or by Postal Vote.

11.3 **Corporation Representatives:** Any corporation which is a Member may by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative (proxy) at any meeting of the Society, and the person so authorised shall be entitled to exercise the same powers of the corporation which that person represents as that corporation could exercise if it were an individual Member. References in this Constitution to a Member being present in person shall mean and include a representative appointed pursuant to clause 5.2(d) or this clause, and such person may also stand for election to the Committee.

11.4 **Not Vote If Fees Unpaid or in Breach:** Unless all annual levies and other amounts (for example and without limitation: levies, fees, amounts payable for Services, costs for remedying Breaches or enforcement costs and Default Interest) that are from time to time payable by the Member to the Society have been paid in full and any Breaches have been remedied to the satisfaction of the Society the Member shall not be entitled to vote at any general meeting of the Society, whether in the Member's own right in person or by proxy for another person.

11.5 **Voting at Meetings:** At any general meeting:

- (a) A motion may be put to the vote by the chairperson.
- (b) Resolutions put to the vote shall be decided on voices or a show of hands and shall include Postal Votes unless a poll (being one vote per Member eligible and present and counted and including Postal Votes) is demanded on or before declaration of the result of the voices or show of hands by:
 - (i) the chairperson of the meeting; or
 - (ii) at least 50% of the Members present in person or by proxy.

- (c) A declaration by the chairperson that such motion has been carried or lost or an entry to that effect in the Society's minute book, shall be conclusive evidence of that fact without further proof of the number or proportion of votes recorded in favour of or against such resolution.
- (d) A motion may be put to the vote prior to the meeting by Postal Vote, with Postal Votes cast being included in the count of votes on the motion at a general meeting or adjourned general meeting at which the motion is to be voted on (but Members' votes shall not be counted twice).

Every Postal Vote must be in the form prescribed by the Secretary from time to time.

- (e) In the event that an amendment to a motion is moved at a general meeting, the chairperson shall determine whether that amendment is material (acting reasonably in all respects) and if determined to be a material amendment, no Postal Votes will be counted in respect of that affected motion.
- (f) Resolutions shall be passed by a majority of votes except where Special Resolution is required by this Constitution.
- (g) In the case of a tie in votes the chairperson may exercise a casting vote.
- (h) A resolution passed by the required majority at any General Meeting binds all Members and, for the avoidance of doubt, it is binding irrespective of whether they were present at the General Meeting when the resolution was adopted, whether or not they voted or whether or not they voted against it.

11.6 **Good Faith Members:** Members shall in exercising any vote at any general meeting, or as a Committee Member, exercise such vote in good faith with a view to ensuring that all Members are treated equally by the Society and that each Member shall bear and pay that Members Proportion of all Operating Expenses and of all costs and expenses to be met by levies made by the Society under clauses 6.2 and 6.3 irrespective of whether any expenditure by the Society benefits all Members.

11.7 **Instruments Appointing Proxies:** The instrument appointing a proxy shall be in writing under the hand of the appointor or the appointor's attorney duly authorised in writing or, if the appointor is a corporation or body corporate either under seal or under the hand of an officer or attorney duly authorised. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll. A Member shall be entitled to instruct his or her proxy in favour of or against any proposed resolutions. Unless otherwise instructed the proxy may vote as he or she thinks fit.

11.8 **Form of Proxy:** The instrument appointing a proxy may be in one of the following forms or in a common or usual form:

I _____ of _____ being a Member of Hobsonville Point Residents Society Incorporated hereby appoint _____ of _____ failing him or her _____ of _____ as my proxy to vote for me on my behalf at the (annual) general meeting of Hobsonville Point Residents Society Incorporated to be held on the _____ day of _____ and at any adjournment thereof.

My proxy is hereby authorised to use their discretion in determining my proxy votes.

Member

Signed this _____ day of _____ 20 .

OR

I _____ of _____ being a Member of Hobsonville Point Residents Society Incorporated hereby appoint _____ of _____ failing him or her _____ of _____ as my proxy to vote for me on my behalf at the (annual) general meeting of Hobsonville Point Residents Society Incorporated to be held on the _____ day of _____ and at any adjournment thereof.

My proxy is hereby authorised to vote in favour of/against the following resolutions:

[list]

And may use their discretion in the event resolutions are modified after the date of this proxy appointment.

Member

Signed this _____ day of _____ 20 .

- 11.9 **Notice of Proxy:** The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a solicitor-certified copy of that power or authority shall be deposited at the Society's registered office or at such other place within New Zealand as is specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named on the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll and in default the instrument of proxy shall not be treated as valid.
- 11.10 **Validity of Proxy:** A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was

executed if no intimation in writing of such death, unsoundness of mind or revocation as aforesaid has been received by the Secretary at the registered office by the commencement of the meeting or adjourned meeting as which the instrument is issued.

11.11 **Objection to Proxy:** No objection shall be raised to the qualifications of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered and every vote not disallowed at that meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairperson of the meeting whose decision shall be final and conclusive.

11.12 **Mentally Incapable Members:** A Member whose health practitioner has issued a certificate of mental incapacity pursuant to the Protection of Personal and Property Rights Act 1988 may vote only by such person as properly has the management of his or her estate or affairs and any such person may vote by attorney or by proxy.

12 Notices

12.1 **Notices to Members:** A notice required or authorised to be served, delivered, given or sent to any Member will be deemed to have been sufficiently served, delivered or sent if:

- (a) Delivered personally to the Member;
- (b) Delivered to the address of the Member appearing in the Register of Members; or
- (c) Transmitted to the Member's email address appearing in the Register of Members.

12.2 **Notice to the Society:** A notice required or authorised to be served, delivered, given or sent to the Society will be deemed to have been served, delivered, given or sent if:

- (a) Delivered personally to the Secretary;
- (b) Delivered to the registered office; or
- (c) Transmitted to the email address for the Secretary.

12.3 **Deemed receipt:** A notice sent by post pursuant to this clause will be deemed to have been received by the addressee 24 hours after time of delivery or transmission (as the case may be).

12.4 **Notice to Controlling Member:** A notice required or authorised to be served, delivered, given or sent to the Controlling Member will be deemed to have been sufficiently served, delivered or sent if:

- (a) Delivered personally to the Controlling Member;
- (b) Delivered to the registered office of the Controlling Member; or

It is transmitted to the email address provided by the Controlling Member to the Secretary for the purposes of this clause.

GENERAL

13 General

13.1 **Dissolution:** The Society may be wound up in accordance with the Act. If permitted by the Act, upon winding up of the Society ownership of the Facilities and Common Areas and any other assets of the Society shall vest in the Members equally. If not permitted by the Act, the Committee shall nominate such other incorporated society or not-for-profit entity that consents to the Common Areas, Facilities and Services vesting in it or them.

13.2 Alteration of Constitution

- (a) This Constitution shall not be amended, added to or rescinded except by Special Resolution and unless written notice of the proposed amendment, addition or rescission shall have first been given to all Members in accordance with this Constitution.
- (b) No clause, including this one, shall be amended, added to or rescinded except by Special Resolution.

13.3 Liability of Member

- (a) No Member shall be under any liability in respect of any contract or other obligation made or incurred by the Society.
- (b) The Society shall indemnify each Member against any liability properly incurred by such Member in respect of the affairs of the Society to the extent of property owned by the Society.
- (c) No action in law or otherwise shall lie in favour of any Member against any other Member or the committee or any Committee member in respect of any act or omission pursuant to this Constitution.
- (d) Nothing in this clause shall prevent an action in respect of any loss or expense arising from the wilful default of any person against whom such action is taken.

13.4 **Indemnity:** Each Member shall indemnify and keep indemnified the Society from and against any action, claim, demand, loss, damage, cost, expense and liability which the Society may suffer or incur or for which the Society may become liable in respect of or arising from any Breach by the Member.

13.5 Dispute Resolution

- (a) **Definition of Dispute or Difference:** A dispute or difference may arise in any of the following situations:
 - (i) In the event of a grievance arising, a Member raising a grievance must be able to provide evidence (oral or otherwise) satisfactory to the Committee of a significant negative effect on that Member, or on other Members in similar circumstances, or on all Members, or
 - (ii) In the event of a complaint arising, namely an allegation that the conduct or behaviour of any Member(s) has/have fallen short of expected standards of conduct for Society Members, and the complaint may allege a breach or failure

to observe a specific Society rule, by-law or policy, and/or other misconduct likely to cause distress, embarrassment or concern to other Members or members of the public or tend to damage the reputation of the Society,

BUT the Society is not concerned with Members' conduct outside of or away from Society activities, unless there is some identifiable connection with the Society, its purposes, and/or the reputation of the Society may be affected.

- (b) **Requirements of Natural Justice:** In the event that any dispute or difference arises in any way arising out of or in connection with the Constitution, the Society Rules, the alleged misconduct of Members, the alleged misconduct of Committee members, complaints, or grievances brought by Members:
- (i) The Member or Members or the Society involved or implicated in the dispute or difference must be advised of all details of the dispute or difference,
 - (ii) The Member or Members or the Society which is the subject of the dispute or difference must be given an adequate time to prepare for discussions, mediation or arbitration,
 - (iii) All those who or which are involved in the dispute or difference must be given an adequate opportunity to be heard during discussions, mediation or arbitration, and if the dispute or difference proceeds to arbitration to be heard either in writing or at an oral hearing if the arbitrator considers that an oral hearing is required, and
 - (iv) In any arbitration any written statements or submissions shall be considered by the arbitrator.
- (c) **Good Faith Discussions:** Initially, the parties shall enter into discussions in good faith with a view to resolving the dispute or difference amicably as soon as practicable, and
- (i) Independent experts or witnesses may be called to assist in these discussions where the parties agree that will assist (costs to be shared equally), and
 - (ii) Either party may terminate these discussions at any time.
- (d) **Notice of Mediation:** If any dispute or difference arises in any way out of or in connection with this Constitution, the Society Rules, the alleged misconduct of Members, the alleged misconduct of Committee members, or grievances brought by Members and such dispute has not been resolved within 15 Working Days of the commencement of discussions pursuant to clause 13.5(c), either party may give written notice of its intention to refer such dispute or difference to mediation.
- (e) **Agreement to Mediate:** If a request to mediate is made then the parties shall endeavour to agree on a mediator and shall submit the matter in dispute to the mediator. The mediator shall discuss the matter with the parties (separately or jointly in the discretion of the mediator) and endeavour to resolve it by their agreement. All discussions in the mediation shall be without prejudice and shall not be referred to in any later proceedings. The parties shall bear their own costs in the mediation and shall each pay half of the costs of the mediator.

- (f) **Design Guidelines Disputes:** Any dispute relating to the Design Guidelines shall require the appointment of an independent urban design professional familiar with the Design Guidelines to be in attendance and to provide advice on the dispute at the outset, make submissions on the dispute when he/she considers this necessary during discussions or mediation and provide further advice at the request of either party or the mediator thereafter.

The costs of the urban design professional shall be shared equally between the parties unless otherwise determined by the mediator. The urban design professional shall be agreed upon by the parties and in the absence of agreement shall be appointed by the New Zealand Planning Institute.

13.6 **Arbitration:** If:

- (a) **No Resolution by Discussions:** If the dispute has not been resolved by the discussions of the parties pursuant to clause 13.5(c); or
- (b) **No Mediation Notice:** the parties have agreed upon mediation but have been unable within 10 Working Days of such agreement to agree upon a mediator; or
- (c) **No Agreement:** no agreement has been reached in mediation within one month of the service of the notice of mediation, or within such further time as the parties may agree;

then the matter in dispute may be referred to arbitration upon the service of a notice of intention to commence arbitration which shall be governed by the Arbitration Act 1996 except to the extent modified by this agreement.

- (d) **Arbitrator:** The arbitration shall be by a single arbitrator. If the parties cannot agree upon an arbitrator within 10 Working Days of service of the notice of intention to commence arbitration either party may request the President of the Arbitrators and Mediators Institute of New Zealand Inc. to appoint a sole arbitrator. Either party may request the appointment of an assessor to sit with the arbitrator but any such assessor shall have an advisory role only and shall not have the authority to make a binding decision. If the parties cannot agree upon an assessor in a reasonable time then the arbitrator may appoint an assessor. Each party shall meet its own costs in preparing and attending for arbitration. The costs of the arbitrator shall be shared equally between the parties unless otherwise determined by the arbitrator.

SCHEDULE 1

SOCIETY RULES AS AT December 2016

*These are the **Society Rules** of the **Society** as at December 2016. The **Society** may change these **Society Rules** and will distribute any such revisions to **Members** from time to time. Please contact the Secretary to request a copy of the current **Society Rules**.*

It is noted that these Rules apply to Members, any Occupiers of Members' Properties and their Invitees.

1 Conduct and Noise

- 1.1 No Member shall use or permit to be used a Developed Property in manner that breaches local body regulations.
- 1.2 No Member shall make or permit any noise within Hobsonville Point which exceeds the noise control levels set by the local authority or such levels as may be set by the Committee from time to time, nor any other medium (i.e. lighting) that causes annoyance and/or nuisance to neighbours..
- 1.3 Members must take reasonable steps to ensure that external alarms do not cause a nuisance to neighbours, such as monitoring by a professional company or a neighbour.
- 1.4 No Member shall use or discharge any projectile fireworks of any kind on a developed Property or do anything which may create a fire hazard or contravene fire regulations..
- 1.5 No Member shall dispose of any rubbish except via the service provided by the local authority or by independent contractors. For the avoidance of doubt Members are permitted to take their rubbish off site for disposal, for example at a local recycling centre or landfill.

2 Members' residences

- 2.1 Each Member shall have the duty to keep their Property/ies and all improvements to those properties (including all fences) in a well maintained and attractive condition and shall not permit the accumulation thereon of unsightly rubbish or materials or in any other way permit the appearance of a Property to detract from the general standards established for Hobsonville Point.
- 2.2 Without limiting the generality of the foregoing, Members shall arrange for regular cutting of grass areas, and pruning of trees, removal of weeds and rubbish and the repair and maintenance of all buildings, driveways, footpaths and landscaping features upon the Member's Property.
- 2.3 No Member shall use or permit to be used a Developed Property for any purpose other than for a purpose permitted under current local body planning requirements.
- 2.4 No Member shall erect any notice or sign on a Developed other than as permitted under current local body planning requirements and the relevant Design Guidelines applicable to that Property.
- 2.5 No Member shall be entitled to undertake any house alterations or landscaping (including fencing) of their Developed Property otherwise than in accordance with the then current

design guidelines applicable to that Property and as prescribed by current local body regulations.

2.6 Members shall ensure that unless specifically approved by the Residents Society Committee:

- No changes are made to the exterior appearance of the property including building materials, paint colours, garage doors, fences, etc. For the avoidance of doubt, it is noted that landscaping in the rear yard in conjunction with local council regulations and the design guideline are permitted; and
- Additional pavers, concrete, decking or similar materials are not laid in the front yard.
- That existing landscaped planting zones remain planted and are not removed.
- Permanent or temporary structures including sheds, tents or caravans are not constructed or placed in the front yard; and
- Air-conditioning, heat pump units or gas bottles are not visible from a street or pathway, unless adequately screened; and
- Aerials and satellite dishes are installed to minimise visibility from the street as much as practicable; and
- Temporary window may only be installed on windows and doors for period of up to 6 weeks from the date of occupation; and
- Rubbish and recycling bins are stored in the appropriate places out of view from the street or in designated rubbish bin storage; and
- All permanent and temporary washing lines as much as practicable are not visible from a street, right of way or pathway.

3 **Vehicles**

3.1 Members shall

- Not store or park on the front yard vehicles, equipment (including boats and trailers), machinery or rubbish; and
- Not leave any immobile or broken down vehicles on any roads, reserves, front yards, Laneways or driveways; and
- Ensure all vehicles are parked either in the garage/carport, on the privately owned driveway (not being a Laneway) without protruding onto the footpath, or in designated parking bays.

SCHEDULE 2

COMMITTEE DUTIES

- (a) Overseeing operation of the Society;
- (b) Ensuring the Society Rules are followed;
- (c) Maintaining a general understanding of the Hobsonville Point site status;
- (d) Liaising with the Controlling Member;
- (e) Ensuring equal treatment of Members, Occupiers and Invitees in enforcement undertakings;
- (f) Organising community events and activities;
- (g) Implementing activities anticipated by the annual budget;
- (h) Liaising with societies, stakeholders and interest groups whose purposes impact on Hobsonville Point;
- (i) Implementing all compliance programmes/activities/policies as required by clause 7.6.;
- (j) Communicating with Members;
- (k) Maintaining the register of Members;
- (l) Preparing all documentation requested by Members selling a Property and obtain Deeds of Covenant from new Owners;
- (m) Convening general and committee meetings and arranging agenda items;
- (n) Preparing the annual report;
- (o) For each AGM, presenting the annual report, financial statements, disclosure of interests and minutes from the last AGM together with any other information required by the Act;
- (p) Acting as spokesperson for the Society;
- (q) Receiving and replying to correspondence;
- (r) Keeping minutes at all general meetings and Committee meetings, making these available to Members on request (and/or via any website) and entering into the minute book:
 - (i) The time, date and venue of such meeting; and
 - (ii) All business considered and resolutions passed at such meeting;
- (s) Holding in safe custody the common seal of the Society;

- (t) Operating and maintaining current bank accounts in the name of the Society;
- (u) Arranging all insurances for the Society;
- (v) Paying accounts properly incurred by or on behalf of the Society;
- (w) Recording any Member who fails to pay annual levies or additional fees within the prescribed period and managing any other debtors of the Society;
- (x) Keeping all financial and other records and any security documents in safe custody;
- (y) Compiling proper accounting records from time to time as required by the Act which give a true, fair and complete account of the financial affairs and transactions of the Society;
- (z) Compiling the financial statements immediately following each financial year as required by the Act and if required providing for the auditing of those records and the distribution of the audited financial statements to Members;
- (aa) Maintaining the Register of Disclosures for all Committee Members as required by clause 9.11, and actively requesting disclosure of all actual or potential conflicts of interest from Committee Members;
- (bb) Advising the Registrar of any changes in the Society's contact person under clause 9.25 and of any changes to the Constitution; and
- (cc) General administrative duties.

SCHEDULE 3

DEED OF COVENANT

Dated

2015

Parties

[Registered Proprietor]

Registered Proprietor

Hobsonville Point Residents Society Incorporated

Society

Deed of Covenant

*In respect of Lot [Lot Number] DP [DP Number] (Certificate of Title
[CT Number])*

Glaister Ennor
Barristers | Solicitors | Notary Public

Deed Dated

Parties

- 1 **[Purchaser's Name]** ("Purchaser")
- 2 **Hobsonville Point Residents Society Incorporated** ("Society")

Background

- A The Purchaser is to become the registered proprietor of the property at Hobsonville Point described as being Lot [Lot Number] DP [DP Number] containing more or less [Size]m² in Certificate of Title [CT Number] (North Auckland Registry) ("Property").
- B The Encumbrance registered against the title to the Property in favour of Hobsonville Point Residents Society Incorporated ("Society") provided, inter alia, that:
- (a) A covenant that each registered proprietor covenants to become and remain a member and perform the obligations of a member as set out in the constitution of the Society. Each member shall, prior to settling of the sale of a property at Hobsonville Point, procure the Purchaser to enter into, execute and deliver to the Society a Deed of Covenant in favour of the Society wherein the Purchaser covenants to become, contemporaneously with the transfer of the property, and remain a member and to observe and perform the obligations of a member as set out in the constitution of the Society. The Deed of Covenant shall be prepared by the solicitors for the Society and the selling member shall pay the reasonable legal fees and disbursements of the Society's solicitors.
 - (b) A member shall be deemed to have resigned from the Society immediately that member is no longer an registered proprietor of property at Hobsonville Point, provided that such resignation shall not relieve a person of any obligation or liability arising before that person ceased to be a member.
 - (c) Each Purchaser shall immediately upon becoming a registered proprietor of property at Hobsonville Point (and thereafter if any details change) provide the Society with the details necessary for maintenance of the register of members and shall upon entry of the details into the register, become a member.
- C. The Encumbrance registered against the title to the Property provides inter alia that the Purchaser as the Encumbrancer covenants for itself and its successors in title with the Society as the Encumbrancee during the term of the Encumbrance that upon becoming the registered proprietor of the Property to join as a member of the Society and remain a member while owning the Property and fulfil and continue to fulfil the obligations of the member as set out in the constitution of the Society, including, if required by the Society, ensuring that: any transferee of the Property executes a Deed of Covenant in favour of the Society agreeing to be bound by the constitution as a member of the Society.

The Purchaser Agrees:

- 1 The Purchaser hereby agrees to be a member of the Society and acknowledges and confirms the provisions of the Constitution and the Encumbrance and agrees to be bound by and comply with the same. Without limitation, the Purchaser shall upon selling the Property procure the transferee, as a precondition of sale, to enter into a similar deed of covenant with the Society as set out herein.

SIGNED by
Registered Proprietor
[Registered Proprietor's Name]
in the presence of:

Witness Signature

Witness Name

Occupation

Address

Information for Register of Member of Hobsonville Point Residents Society Incorporated

1 Member's Details:

Name:

Address:

Occupation:

Telephone/Fax No's:

Residential:

Work:

Email:

Date of membership:

Party authorised to exercise member's vote:

Mortgage:

Contact Person:

Telephone/Fax No's:

2 Emergency Contact of Member:

Name:

Address:

Occupation:

Telephone/Fax No's:

Residential:

Work:

Email:

3 Occupier's Details:

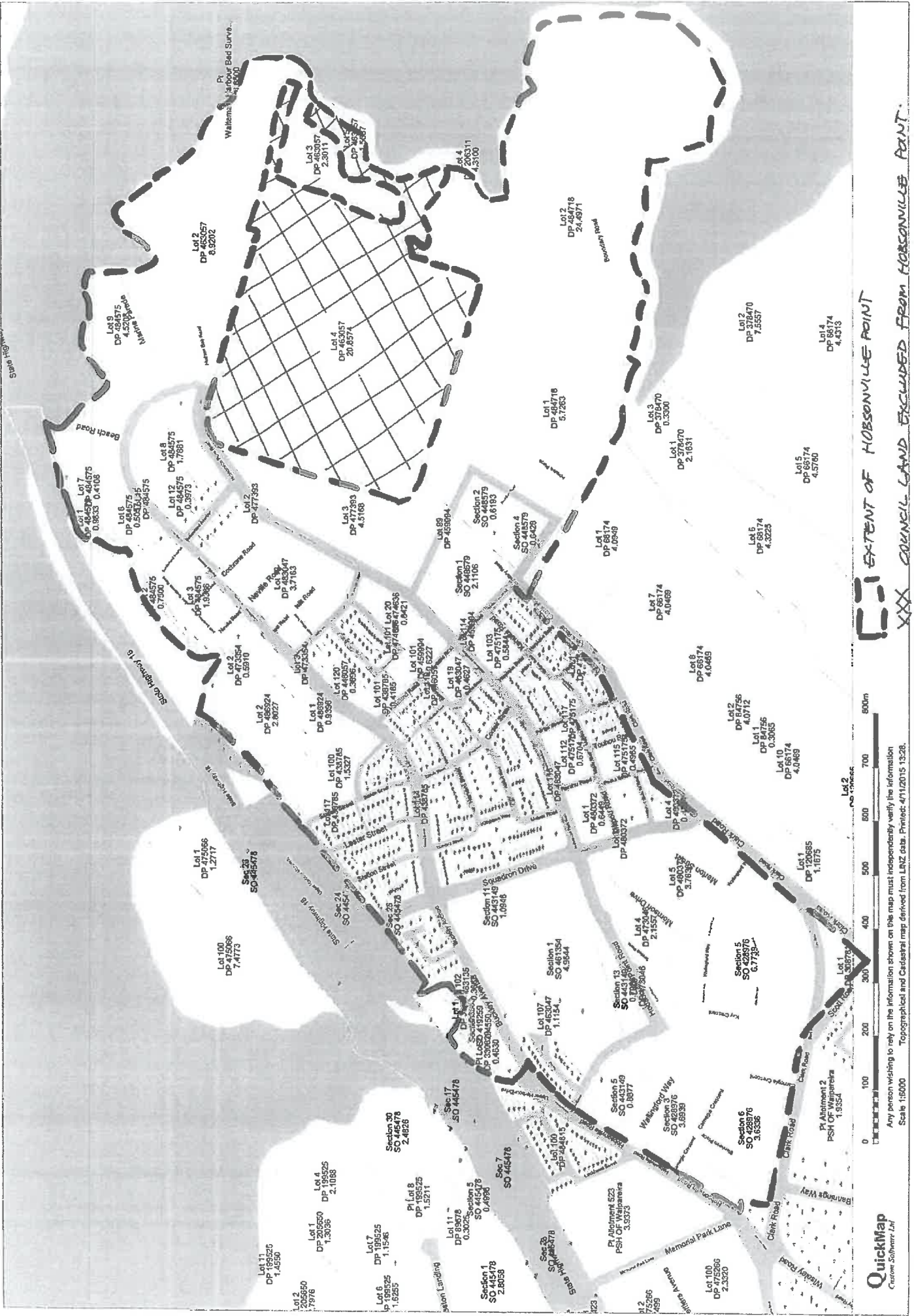
Name:

Address:

Occupation:

SCHEDULE 4

MAP OF HOBSONVILLE POINT



XXX EXTENT OF HOBSONVILLE POINT
 XXX COUNCIL LAND EXCLUDED FROM HOBSONVILLE POINT

0 100 200 300 400 500 600 700 800m
 Scale 1:6000
 Any person wishing to rely on the information shown on the map must independently verify the information
 Topographical and Cadastral map derived from LINZ data. Printref: 4712015.1328.
 QuickMap
 Custom Software Ltd