

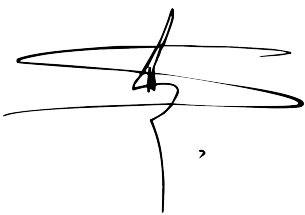
Certificate of Incorporation

WAIMANA RISE RESIDENTS SOCIETY INCORPORATED

50054308

NZBN: 9429048813914

This is to certify that WAIMANA RISE RESIDENTS SOCIETY INCORPORATED was incorporated under the Incorporated Societies Act 1908 on the 20th day of November 2020 and was reregistered to become a society under the Incorporated Societies Act 2022 on 28th day of April 2025



Registrar of Incorporated Societies
28th day of April 2025



To check the validity of this certificate visit
<https://app.businessregisters.govt.nz/sber-businesses/verify/9429048813914/IncorporatedSociety-33634786.html>

Constitution of Waimana Rise Residents Society Incorporated

1. NAME AND REGISTERED OFFICE

1.1 **Name:** The name of the Society shall be Waimana Rise Residents Society Incorporated.

2. DEFINITIONS AND INTERPRETATIONS

2.1 In these rules, unless the context otherwise requires:

Access Lot means the land described as Lot 100 on Deposited Plan 545705 and being the shared access way, including pedestrian access way, gardens, lawn, landscaping and associated lighting and secure areas provided for rubbish collection and other share purposes used and enjoyed by Members in conjunction with their Lots and held as to an undivided share by each of the Members in conjunction with their Lots.

Act means the Incorporated Societies Act 2022.

Bank means a bank registered under the Reserve Bank of New Zealand Act 1989.

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

Committee means the committee members from time to time elected to manage the affairs of the Society pursuant to this Constitution, and each of the Committee members is an officer for the purposes of Schedule 2.

Constitution means this constitution as amended or added to, including all Schedules to this Constitution.

Default Interest Rate means five percent above the Society's Bank's overdraft rate applicable during the period of default.

Developer means Waimumu Road Limited or other successor in title as developer of the Subdivision.

Expense Year means each twelve month period commencing on 1 April and ending on 31 March or such other twelve month period set by the Committee from time to time.

First Members means those people listed on the Incorporation as being First Members of the Society.

Lot means each and any of the Lots within the Subdivision for which a separate Record of Title has been issued.

Invitees means any person who enters a Lot as a result of an express or implied invitation of the Owner or Occupier of such Lot for their mutual gain or benefit.

Management Agreement means the management agreement in respect of the Access Lot to be agreed between the Controlling Member or the Committee (as the case may be) and the Manager.

Manager means the manager or management company of the Society appointed under this constitution.

Member means each person who shall from time to time be the registered proprietor of a Lot and a member of the Society as required by this constitution.

Member's Proportion means the proportion that the Member's Lot together with the associated parking and Member's share of the access Lot bears to the total area of the Subdivision.

Objects means the objects and purposes of the Society set out herein.

Occupier means any person occupying any lot under any lease, licence, or other occupancy rights and shall include all members of an Owner's family or employees of an Owner's business.

Operating Expenses means the total sum of all rates, taxes, costs and expenses of the Society properly or reasonably assessed or assessable, paid or otherwise, incurred in respect of the Access Lot and the operation of the Society (including, without limitation, maintenance, repair, alteration and replacement costs, Management Expenses and Management Fees).

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

Owner's Title means the Record of Title issued for an Owner's Lot.

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

Resource Consent means the resource consent for the Subdivision.

Secretary means the Secretary/Treasurer of the Society appointed at a General Meeting, provided that any professional Secretary will not be an officer of the Society.

Society means Waimana Rise Residents Society Incorporated or such replacement name or society as may from time to time exist.

Special Resolution means a resolution of the Society in general meeting passed by a majority of not less than 75% of such Members as being entitled to do so, voting in person, or by electronic means, or by proxy at such general meeting.

Subdivision means the subdivision of Lot 11 on Deposited Plan 49956 being the land at 105 Waimumu Road, Massey, Auckland in accordance with Resource Consent obtained for this purpose by the Developer and substantially in accordance with the plan of subdivision.

2.2 In this constitution, under context otherwise requires:

- a) Headings: clause and other headings are for ease of reference only and do not form any part of the context or affect the interpretation of this Constitution;
- b) Plural and Singular: words importing the singular include the plural and vice versa;
- c) Schedules: the Schedules to this Constitution and the provisions and conditions contained in those Schedules have the same effect as if set out in the body of this Constitution;
- d) Joint and Several: any covenant or agreement on the part of two or more persons shall bind those persons jointly and severally;
- e) Rules and Schedules: references to rules and schedules are reference to rules and schedules respectively of this Constitution;
- f) Persons: references to persons include references to individuals, companies, corporations, firms, partnerships, joint ventures, associations, organisations, trusts, states or agencies of state, government departments and local and municipal authorities
- g) Negative Obligations: any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done.
- h) Statutes and Regulations: references to a statute include references to regulations, orders or notices made under that statute and references to a statute or regulation include references to all amendments to that statute or regulation whether by subsequent statute or otherwise and a statute or regulation passed in substitution for the statute or regulation referred to or incorporating any of these provisions

3. OBJECTS

General

3.1 The primary objects and purposes of the Society are to promote for the benefit of Members:

- a) The proper operation, maintenance, repair, renovation and replacement of the Access Lot by levying of Members for the purpose of providing funds for and meeting the costs and expenses of such work;
- b) The full and proper use of the Access Lot by Members and others;
- c) To promulgate and enforce rules and covenants benefitting Members and the subdivision generally;
- d) To promulgate and enforce bylaws and covenants to ensure the obligations regarding the management of the Access Lot including compliance with the relevant laws and the requirements of any local authority having any authority in relation to the subdivision or Access Lot.

Pecuniary or financial gain not to be an object

- 3.2 The Society does not have as an object the pecuniary or financial gain of Members and no Member shall be entitled to receive any dividend out of any levy, fee, donation or other income or funds of the Society.

Members may contract

- 3.3 Notwithstanding clause 3.2, a Member may enter 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. MEMBERSHIP

First Members

- 4.1 The First Members of the Society shall be those listed as Members at the date of formation of the Society.
- 4.2 The First Members shall resign from the Society as soon as there are more than fifteen 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 obligation as Members.

Owners to be members

- 4.3 Subject to this Constitution each Owner shall be a Member, and only Owners shall be Members and for that purpose:

- a) An encumbrance and/or covenant shall be noted against each Owner's Title in favour of the Society whereby each owner covenants to become and remain a Member while an Owner, and perform the obligations as a Member as set out in this constitution.
- b) Each Member shall prior to settling the sale of a Lot procure the Purchaser to enter into execute and deliver to the Society a Deed of Covenant in favour of the Society whereby the Purchaser consents and covenants to become contemporaneously with the transfer of the lot 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 the selling Member and the selling Member shall pay the reasonable legal fees and disbursements of the Societies Solicitors (if any) in such matter.
- c) The selling Member shall at least five (5) days prior to settlement of such Members sale of its Lot request from the Manager a certificate of indebtedness and the selling Member shall pay such amount as required by such certificate including the Managers reasonable fee for providing such certificate.
- d) A Member shall be deemed to have resigned from the Society immediately when that member is no longer 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.
- e) 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 these rules and shall upon entry of the details into the register become a Member.

Controlling Member

- 4.4 Until the Development is fully completed and the Developer is no longer the registered proprietor of any Lot 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 obligations of a Member.

Register of Members

- 4.5 The Society shall maintain and where necessary update a register of Members recording:
- a) For each Member (other than the first Members): name, address, occupation, telephone numbers, and email address (at home and work) and similar details for a third party to be contacted in the event of absence or emergency;
 - b) For each Occupier: name, address, occupation, telephone numbers, and email address (at home and work) and similar details for a third party to be contacted in the event or absence or emergency;
 - c) The date upon with each Member became a member;

- d) Mortgagee: name, contact person, telephone number, and email address (if any) of any person holding a mortgage over the Member's Lot.

Not Assignable

- 4.6 The rights, privileges and obligations of a Member are not assignable.

More than one Owner

- 4.7 If there is more than one Owner for a Lot, such Owners shall collectively constitute one Member for the purposes of voting in matters relating to the operation of the Society. In the event of any disagreement between those Owners, the first-named Owner on the record of title for the Owners' property shall have the right (to the exclusion of all other Owners) to cast a vote in relation to that Lot. For the avoidance of doubt, all Owners of a Lot are jointly and severally responsible for the performance of obligations of the Owners of the Lot as Members.

5. OBLIGATIONS OF MEMBERS

Levies

- 5.1 Prior to or as soon as practicable after the commencement of each Expense Year, the Society shall by written notice advise each Member of:
- a) The Society's Estimate of each Member's Proportion of Operating Expenses for that Expense Year; and
 - b) Such contingency sum as the Society shall in its sole discretion fix.
- 5.2 As soon as practicable after the end of each Expense Year the Society shall determine by resolution each Member's Proportion of the actual Operating Expenses for the previous Expense Year and, following such resolution, the Society shall provide to each Member an itemised statement of the actual operating expenses for the previous Expense Year. If the Member's Proportion of actual Operating Expenses.

Special Levies

- 5.3 The Committee:
- a) Shall from time to time by resolution 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 considered are necessary for it to meet its

obligations under this Constitution, provided that any levy payable by a Member under this rule shall be equal to that Member's Proportion of the total estimated costs to be provided for and met from the proceeds of the levies paid by all Members.

Application of Levies

5.4 For the avoidance of doubt, all monies payable by Members to the Society under these rules and otherwise under this Constitution shall be applied only for activities related to the Objects.

Sale of a Lot

5.5 Where a Member ("Vendor") sells a Lot:

- a) Notwithstanding any other rule in this Constitution, the Vendor shall remain liable for sums owed to the Society by that Vendor.
- b) The Vendor shall continue to be liable as primary and principal debtor for all indebtedness of the purchaser of the Lot to the Society until such time as the deed of covenant specified in these rules is received by the Society.
- c) The purchaser of the Lot shall on and from the date it acquires the Lot be liable as a Member for all indebtedness of the Vendor to the Society in respect of the Lot purchased, and a certificate of the Society given pursuant to these rules shall be conclusive as to the sum of the Vendor's indebtedness.
- d) Comply with their obligations under clause 4.3 hereof.

Covenants and Rules

5.7 Each Member agrees to promptly and fully comply with any rules made by the Society from time to time.

5.8 Before granting any mortgage over a Lot, a Member shall notify the Society of its intention to enter into a mortgage and the Society may at the Society's discretion at the cost of the Member require the mortgagee to enter into a Deed with the Society covenanting to observe and perform all the rules of the constitution upon exercising any powers as mortgagee.

6. MEMBER'S ASSISTANCE

6.1 The Members acknowledge that development of the Subdivision may be ongoing, and that the Society is required to allow the Developer such access to, and interests in, the Access Lot as is necessary for the Development to proceed and for the Developer to add, remove or alter structures and services forming part of the Access Lot as reasonable required in order to complete the subdivision. Each Member agrees to allow the Developer reasonable access to the Access Lot and if necessary, to the Members Lot for the purpose of completing the Subdivision.

7. BREACH OF OBLIGATIONS

Occupiers and Invitees

- 7.1 A reference to an act or omission by any Member shall include any act or omission by the Occupiers of such Member's Lot, the Invitees of such Occupier and the Invitees of such Member. A Member must advise the Society of such details of the Occupiers of the Member's Lot as are required by the Society, and if required by the Society, shall procure such Occupiers before they enter into occupation of the Lot to enter into a deed of covenant with the Society (in a form acceptable to the Society), covenanting to be bound by this Constitution. Each Member must take all reasonable steps (including enforcing the terms of any lease) to ensure Occupiers comply with this Constitution. In any case of persistent default by an Occupier, the Owner shall on demand by the Society terminate the Occupier's right to occupy the Lot. A copy of this Constitution shall be attached to every lease, licence or other document defining occupancy rights.
- 7.2 Upon any breach of this Constitution by a 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 expense 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 (including but not limited to seeking injunctive relief and/or specific performance), 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.

8. OBLIGATIONS OF THE SOCIETY

Rules

- 8.1 The Society shall promulgate, amend and distribute to Members from time to time rules for the use of the Access Lot including any restrictions on use for security, maintenance or other

reasons, rules concerning the behaviour of Owners, Occupiers and Invitees, and rules governing the use of Lots. The first such rules shall be those rules attached as Schedule 1 to this Constitution.

Maintenance and Repair of Access Lot

8.2 The Society shall ensure the proper operation, maintenance, repair, renovation and replacement of the Access Lot, and shall undertake such Capital Improvements as are necessary for this purpose.

Insurance

8.3 The Society shall affect and maintain all insurances as it considers prudent with respect to the Access Lot and the Society's affairs and shall in the first instance meet all costs of such insurance (which shall include all valuations and professional fees required or deemed desirable for the purposes of such insurances and the cost of certificates relating to such insurances). The costs incurred pursuant to this clause shall be recovered as an Operating Expense.

Compliance with Resource Consent

8.4 The Society shall at all times comply with the terms of the Resource Consent insofar as such terms relate to the Subdivision.

Audited Financial and Other Statements

8.5 The Society shall ensure that all financial statements complying with the Financial Reporting Act 1993 are prepared and audited annually and are distributed to Members as soon as reasonably practicable after each audit is completed and, in any event, no later than 5 months after the Society's balance date; provided that subject to any legal requirement to the contrary, Members of the Society may resolve at a general meeting not to have the financial statements audited if it is deemed by Special Resolution that an audit is not required.

Contact Person

8.6 The Society must have a contact person, who will be:

- a) The chairperson of the Committee; and
- b) Such other or additional delegate/s of the Committee or Society from time to time (for example, a professional Secretary).

9. LIMITATIONS OF THE SOCIETY

No indebtedness

9.1 The Society shall not borrow any money, other than short-term borrowings to cover any temporary shortfall in meeting the Society's obligations under this Constitution, except by Special Resolution.

No Investment

9.2 The Society shall hold all funds with a Bank and shall not invest those funds other than by deposit with a Bank, except by Special Resolution.

OPERATION OF THE SOCIETY

10. COMMITTEE POWERS

10.1 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 all the 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, provided that the powers, authority and discretions as exercised by the Committee are subject always to any limits which may from time to time be imposed by the Society. The Committee may delegate any of its powers to a subcommittee consisting of such members or members of their body as they think fit or to the Manager. Any subcommittee so formed shall in the exercise of the powers so delegated conform to directions of the Committee.

10.2 In addition to its statutory powers, the Society:

- a) May use such of its funds to pay the costs and expenses of furthering or carrying out its Objects, and for that purpose may employ such people as may seem expedient; and
- b) May purchase, lease, hire or otherwise acquire, may exchange, and may sell, lease or otherwise dispose of property, rights or privileges to further carry out its Objects as may seem expedient.

10.3 Notwithstanding any other provision, the Society shall not expend any money:

- a) Other than to further purposes recognised by law; nor
- b) For the sole personal or individual benefit of any Member.

10.4 Any transaction between the Society and any Member, or any associated persons, shall be at arms' length and in accordance with prevailing commercial terms on which the Society would

deal with third parties not associated with the Society, and any payment made in respect of such transactions shall be limited to:

- a) A fair and reasonable reward for services performed;
- b) Reimbursement of expenses properly incurred;
- c) Usual professional, business or trade charges; and
- d) Interest at no more than current commercial rates; and

where a Committee member is involved, will be subject to the conflict of interest disclosure requirements of the Act.

Bank accounts

10.5 The Society shall establish a bank account, and any drawings on that account shall be made only under the signature of two members of the Committee or a professional Secretary.

Documents

10.6 All documents and written announcements requiring execution on behalf of the Society must be signed by:

- a) The chairperson of the Committee; or
- b) A professional Secretary; or
- c) Such other delegate as appointed by the Committee or Society from time to time.

Composition

10.7 The Committee shall comprise the following persons:

- a) A chairperson;
- b) A minimum of three and a maximum of 5 general Committee members, which may include a treasurer/secretary, as determined by the Society in general meeting before election of Committee members; but
- c) If there is a professional Secretary, then such person shall not be a member of the Committee.

Committee Members

10.8 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 general meeting, provided that the Society shall only elect persons as members of the Committee and shall not elect any person specifically as chairperson.

10.9 A Committee member shall hold elected position until the earliest of:

- a) The next annual general meeting following election (when the Committee member shall be eligible for re-election);
- b) The date written resignation from the position is received by the Society;
- c) The date that committee members is or becomes ineligible to hold office under section 47 of the Act, such committee member being deemed to have resigned from the date of ineligibility;
- d) The date of removal from such position by the Society in general meeting; or
- e) The date of cessation of membership of the Society;

10.10 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.

10.11 Notwithstanding any other rule in this Constitution, the Controlling Member shall remain as a general committee member for so long it remains the Controlling Member, and the Society shall not be entitled to remove it from that position for any reason whatsoever.

Duties

10.12 The Treasurer/Secretary (if any) or a Professional Secretary or other delegate of the Committee, and failing any such appointment the chairperson of the Committee, shall:

- a) Convene general meetings when requested to do so in accordance with this Constitution;
- b) If there is a professional Secretary who is not a member of the Committee, that person may attend all meetings of the Committee and have speaking rights at such meetings, provided that a professional Secretary may be required to leave the meeting for any deliberation or voting on that Secretary;
- c) Give all notices required to be given by these rules or as directed from time to time by the Society or the Committee;
- d) Keep minutes at all general meetings and Committee meetings and enter into the minute book:
 - (i) the time, date and venue of such meeting;
 - (ii) all business considered, and resolutions passed at such meeting;
- e) Operate and maintain a current bank account in the name of the Society;
- f) Pay all accounts properly incurred by or on behalf of the Society;
- g) Report immediately to the Society any Member who fails to pay annual levies or additional fees within the prescribed period;
- h) Keep all financial records and any security documents in safe custody;

- i) Compile all paper 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
- j) Compile all financial statements immediately following each financial year as required by the Act and (if an audit is required under this Constitution or by law) arrange for the auditing of those records and the distribution of the audited financial statements to Members.

Conduct of Meetings

10.13 The Committee may meet together, adjourn and otherwise regulate its meetings and procedures for conducting its business as it thinks fit. A majority of the members of 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. The Committee may meet at any time and a meeting shall be convened upon the request of the Committee chairperson or any three Committee members. For the avoidance of doubt, the Committee may meet in person and/or by electronic, audio, or audiovisual means (including a combination thereof), as long as the chairperson of the Committee is able to identify every attendee and confirm that a quorum is in attendance.

Chairperson

10.14 The Committee from time to time shall appoint, remove and replace a chairperson for such term as it sees fit from one of their Members (provided that the Controlling Member shall not be chairperson) to chair meetings and otherwise exercise the powers of the chairperson set out in this Constitution.

10.15 In the case of tie votes on the Committee, the chairperson may exercise a casting vote.

10.16 [Deleted.]

Voting

10.17 Resolutions of the Committee shall be passed by majority. Each Committee member shall be entitled to exercise one vote, 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 member 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.

Validity of Committee's actions

10.18 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.

Committee minutes and records

10.19 The Committee shall cause proper minutes to be kept of the proceedings of all 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.

Committee Member Interests

10.20 Each member of the Committee must disclose details of any interest in a matter to the Committee and in an interests register kept by the Committee in accordance with section 63 of the Act. Sections 64(3) and 65(1) of the Act are expressly negated in accordance with section 67(1) of the Act.

11. MANAGER

11.1 The first manager shall be an approximately qualified person to be appointed by the Controlling Member, which shall manage the Access Lot in accordance with a management Agreement. On expiry or termination of the Management Agreement, a manager may be appointed by the Committee under these rules.

Duties

11.2 Subject to these rules, 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.

12. GENERAL MEETINGS AND ANNUAL GENERAL MEETING

Annual general meetings

12.1 In addition to any other meetings in that year, the Society shall hold an annual general meeting each year, not more than 6 months after the balance date of the Society. Not more than 15 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. The business of the annual general meeting shall include:

- a) Presentation of an annual report on the operations and affairs of the Society during the Society's most recently completed accounting period, including such information as is required by Regulations made under the Act;
- b) Financial statements of the Society for that period; and
- c) Notice of disclosures or types of disclosures under section 63 of the Act during that period (including a brief summary of the matters, or types of matters, to which those disclosures relate);

and minutes must be kept of each annual general meeting.

Special general meetings

- 12.2 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. A special general meeting shall be called within 14 days of receiving an effective request.

Powers of the Society in general meeting

- 12.3 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 signed or otherwise assented to in writing by 75% of the Members entitled to vote in person, by electronic means, or by proxy 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.

Quorum

- 12.4 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 20% of all Members or five members (whichever is the lesser) eligible to vote at general meetings, present in person or by electronic means or by proxy, together with the Controlling Member (if there is one). For the avoidance of doubt, any Member may:
- a) attend a general meeting by electronic means (which includes by audio and/or audiovisual means); and
 - b) may be counted towards a quorum, discuss matters, and vote, and in all other respects is to be treated as a member present in person;
as long as:
 - c) the notice of the general meeting has specified the availability of electronic means and what those means are (including any link for electronic audiovisual attendance); and

- d) the chairperson or professional Secretary is able to identify every person attending by electronic means.

Notice of general meeting

- 12.5 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, and the electronic means of attendance (if any). 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.

Failure to give notice

- 12.6 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.

The Chairperson

- 12.7 The chairperson at any general meeting shall be:
- a) The chairperson of the Committee; or
 - b) If the chairperson is not present or is unwilling to take the chair, then those Committee members who are present may choose one of their member to chair the meeting; or
 - c) If for any reason no chairperson is selected by the Committee, any Member appointed by a majority of Members present in person, or by electronic means or by proxy.

Adjournment

- 12.8 If a quorum is not present within half an hour from the time appointed for the holding of a general meeting convened on requisition of Members, the meeting shall be dissolved. In any other case the meeting shall stand adjourned to the same day in the next week, at the same time and place, 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.

Adjourned meetings

- 12.9 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.

Minutes

- 12.10 Minutes must be kept of all general meetings.

13. VOTING

One Member one vote

- 13.1 Each Member present at a general meeting of the Society (not at that time being in breach of the Constitution) shall be entitled to one vote for each Lot of which that Member is a registered owner, which may be exercised in person, by electronic means (where applicable) or by proxy. In the absence of agreement between such Owners as to who shall exercise this vote pursuant to these rules, the Owner appearing first on the Record of Title to the Lot shall be entitled to exercise that vote. On the death of any Member, and pending the transfer of the Member's Lot, the executor of that Member's estate shall be entitled to exercise that Member's vote.

Controlling Member's vote

- 13.2 The Controlling Member (if there is one) shall be entitled (other than where a Special Resolution is required by this Constitution) to exercise a number of votes equal to one more than the number of Members present at any general meeting.

Corporation representatives

- 13.3 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 on behalf 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 rule, and such person may also stand for election to the Committee.

No vote if fees unpaid

13.4 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 meeting of the Society, whether in his own right or as a proxy for another person.

Voting at meetings

13.5 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 or a show of hands, unless a poll 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 five Members present in person, or by electronic means (where applicable) or by proxy; or
 - (iii) the Controlling Member, if there is one.
- c) In the case of a resolution put to the vote of the meeting by voices or a show of hands, 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) Resolution 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.

Good faith

13.6 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 that Member's Proportion of all Operating Expenses and all costs and expenses to be met by levies made by the Society under these rules, irrespective of whether any expenditure by the Society benefits all Members.

13.7 Proxies

- a) Form of Proxy

The instrument appointing a proxy may be in the following form or in a common or usual form:

of being a member of Waimana Rise Residents Society Incorporated hereby appoint of as my proxy to vote for me on my behalf at the (annual) general meeting of Waimana Rise Residents Society Incorporated to be held on the day of and at any adjournment thereof.

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

Signed this day of

[Member]

b) Notice of Proxy

The instrument appointing a proxy shall be delivered to such place within New Zealand as is specified for that purpose in the notice convening the meeting, not less than 24 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote.

14. GENERAL

Alteration of Constitution

- 14.1 The 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 revision shall have been given to all Members in accordance with this Constitution.
- 14.2 Subject to these rules, no rule, including this one, shall be amended, added to or rescinded except by Special Resolution, and with the written consent of the Controlling Member (if there is one).
- 14.3 The Society shall not make any rules which prohibit the Owners or Occupiers from using the Access Lot.
- 14.4 The Society shall not revoke the rules regarding compliance with Resource Consent or any other rule concerning compliance with the terms of the Resource Consent, without the prior written consent of the Auckland Council.

Liability of Members

- 14.5 No Member shall be under any liability in respect of any contract or other obligation made or incurred by the Society.

14.6 [Deleted.]

14.7 [Deleted.]

14.8 Nothing in these rules shall prevent action in respect of any loss or expense arising from the wilful default of the person against whom such action is taken.

Indemnity

14.9 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.

Disputes and Complaints

14.10 Any dispute or complaint in relation to the Society will be resolved in accordance with Schedule 2, provided that if any dispute arises between any Member and the Developer and/or the Controlling Member concerning the Developer's or the Controlling Member's compliance with the rules when exercising its rights and powers or performing its duties as the Controlling Member or in its capacity as the Developer, if at least 25% of all Members (excluding the Developer and Controlling Member) vote to appoint a mediator, then an independent mediator shall be appointed to act in relation to such dispute.

14.11 Without limiting clause 7(1) of Schedule 2, if the Society refers a complaint, difference, or dispute to an external person under clause 7(1) of Schedule 2, the complaint, difference, or dispute shall be referred to the arbitration of a single arbitrator if the parties can agree upon one, but otherwise to two arbitrators (one to be appointed by each party) and an umpire (to be appointed by the arbitrators before entering upon the reference). Any dispute, difference or question as to the jurisdiction of the arbitrator shall be determined by the arbitrator. The arbitration shall be conducted for the time being in force in New Zealand. Such arbitration shall be a condition precedent to the commencement of any action at law.

Approval

14.12 Where in this constitution any reference is made to the approval or consent of the Society or the Controlling Member:

- a) Such approval or consent shall be given at the sole discretion of the Society, or the Controlling Member, as appropriate;

- b) No approval or consent given on any occasion by either the Society, or the Controlling Member, shall serve as a precedent for, or be binding in any way with respect of any future application for consent or approval; and
- c) Such reference shall mean the prior written approval or consent of the Society, or the Controlling Member, as appropriate.

Dissolution

14.13 The Society may be wound up or removed from the register in accordance with Part 5 of the Act, and:

- a) If permitted by the Act at the time of winding up of the Society, the ownership of any assets of the Society shall vest in the Members as tenants in common in shares equal to the Member's Proportion as at the date of winding up, and the Society and Members will take all steps necessary to vest legal title to the assets of the Society in the Members in those shares; but
- b) If the arrangement in clause 14.13(a) is not permitted by the Act, then the Society shall, by ordinary resolution, nominate another incorporated society or not-for-profit entity that consents to the assets of the Society vesting in them. If no nomination is made or the Society is unable to make such a nomination, then the assets of the Society shall vest in accordance with the Act.

Schedule 1 – Society Rules

**SCHEDULE 1
SOCIETY RULES**

MEMBERS SHALL:

1. Not make, or allow to be made, any improper, offensive or unlawful use of the Access Lot and shall only use the Access Lot for the purposes for which they were designed.
2. Ensure that their units are insured for full replacement material damage insurance cover at all times.
3. Not obstruct or impede the use of the Access Lot by any other Member.
4. Not place anything in or on the Access Lot without the approval of the Committee.
5. Comply with the following in relation to keeping animals/ pets.

An owner occupier of any unit may keep animals but the animal will be required to be permanently removed at any time if:

- (a) Such animal or pet interferes with the quiet and reasonable enjoyment of the other proprietors or occupiers or creates a nuisance, or
- (b) The keeping of such an animal or pet breaches any regulations of the territorial authority, or any Act.

Note: All pet droppings shall be immediately picked up and disposed of by the pet's owner. No dangerous pets are to be kept on the property including unit and common property.

6. Not use, or permit to be used, a Lot for any of the following purposes:
 - (a) any trade or activity which causes or which is likely to cause a nuisance; or create or is likely to create excessive odour, dust, fumes, smoke, noise or vibration;
 - (b) any purpose not permitted under current local body planning requirements.
7. At all times comply with the requirements of all statutes, regulations and local body bylaws as may apply to each Lot.
8. Not do any act which may prejudice or add premium payable in respect of any insurance held by the Society in relation to the Access Lot.
9. Not do any act which detracts from the attractiveness or state of repair of the Access Lot or any other Members Lot.
10. Make good all damage caused during construction of buildings on the Lots and otherwise restore the Access Lot to the state of repair and condition they were in prior to the construction
11. Immediately report any damage to the Access Lot discovered by that Member.

12. Comply with the following in relation to Vehicle Parking.
- (a) An Owner of the Unit, Invitee or Occupier must not park a vehicle or permit a vehicle to be parked on any part of the Access Lot unless authorised.
 - (b) An Owner of a Unit, Invitee or Occupier that is designated for use as a vehicle park must:
 - (i) Only use the vehicle park for the purpose of parking vehicles;
 - (ii) Ensure the vehicle park is kept tidy and free of litter, engine oil or any other matter;
 - (iii) Not use the vehicle park or permit it to be used for storage;
 - (iv) Ensure that any vehicle parked in the vehicle park is parked within the boundaries of the vehicle park;
 - (v) Must clearly mark any vehicle parks designated solely for use by employees or customers of the Owner;
 - (vi) Comply with the Societies requirement to any other matters that they may consider reasonably necessary or desirable for the control, use and enjoyment of the vehicle park; and
 - (vii) The Owner, Invitee or Occupier shall not damage any surface of the Access Lot or vehicle park including by not limited to placing of oil, petrol, other spillage or rubbish or allowing of oil, petrol, other spillage or rubbish to be placed on the Access Lot and shall if required by the Society to clean, repair and reinstate the Access Lot or vehicle park to the condition the Society considers at its sole discretion to be acceptable but at no time to be in any better condition than originally installed.
 - (c) The Society may remove any vehicle from the subdivision if the Society considers that it is in breach of these rules and the Society shall not be liable for any resulting damage, loss or costs.
 - (d) The Society shall not be responsible to the Owner, Invitee or Occupier or any other person for:
 - (i) The removal of any vehicle or other object from the Access Lot;
 - (ii) For any loss or damage sustained by the Owner, Invitee or Occupier;
 - (iii) For the theft or loss of any articles from such vehicle.

Schedule 2 – Dispute Resolution

The Society has adopted the dispute resolution procedures set out in Schedule 2 of the Act.

Schedule 2 Optional dispute resolution procedures

s 40

1 Overview of this schedule

- (1) [Section 39](#) requires the procedures in a society's constitution relating to disputes to be consistent with the rules of natural justice.
- (2) A society may choose (but is not required) to include the procedures in this schedule in its constitution.
- (3) The procedures in a society's constitution must be treated as being consistent with the rules of natural justice if those procedures consist of—
 - (a) all of the procedures in this schedule; and
 - (b) any additional procedures that are consistent with those procedures.

2 How complaint is made

- (1) A member or an officer may make a complaint by giving to the committee (or a complaints subcommittee) a notice in writing that—
 - (a) states that the member or officer is starting a procedure for resolving a dispute in accordance with the society's constitution; and
 - (b) sets out the allegation to which the dispute relates and whom the allegation is against; and
 - (c) sets out any other information reasonably required by the society.
- (2) The society may make a complaint involving an allegation against a member or an officer by giving to the member or officer a notice in writing that—
 - (a) states that the society is starting a procedure for resolving a dispute in accordance with the society's constitution; and
 - (b) sets out the allegation to which the dispute relates.
- (3) The information given under subclause (1)(b) or (2)(b) must be enough to ensure that a person against whom an allegation is made is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response.
- (4) A complaint may be made in any other reasonable manner permitted by the society's constitution.

3 Person who makes complaint has right to be heard

- (1) A member or an officer who makes a complaint has a right to be heard before the complaint is resolved or any outcome is determined.
- (2) If the society makes a complaint,—
 - (a) the society has a right to be heard before the complaint is resolved or any outcome is determined; and
 - (b) an officer may exercise that right on behalf of the society.
- (3) Without limiting the manner in which the member, officer, or society may be given the right to be heard, they must be taken to have been given the right if—
 - (a) they have a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
 - (b) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
 - (c) an oral hearing (if any) is held before the decision maker; and
 - (d) the member's, officer's, or society's written statement or submissions (if any) are considered by the decision maker.

4 Person who is subject of complaint has right to be heard

- (1) This clause applies if a complaint involves an allegation that a member, an officer, or the society (the **respondent**)—
 - (a) has engaged in misconduct; or
 - (b) has breached, or is likely to breach, a duty under the society's constitution or bylaws or this Act; or
 - (c) has damaged the rights or interests of a member or the rights or interests of members generally.
- (2) The respondent has a right to be heard before the complaint is resolved or any outcome is determined.
- (3) If the respondent is the society, an officer may exercise the right on behalf of the society.
- (4) Without limiting the manner in which a respondent may be given a right to be heard, a respondent must be taken to have been given the right if—
 - (a) the respondent is fairly advised of all allegations concerning the respondent, with sufficient details and time given to enable the respondent to prepare a response; and
 - (b) the respondent has a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
 - (c) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
 - (d) an oral hearing (if any) is held before the decision maker; and
 - (e) the respondent's written statement or submissions (if any) are considered by the decision maker.

5 Investigating and determining dispute

- (1) A society must, as soon as is reasonably practicable after receiving or becoming aware of a complaint made in accordance with its constitution, ensure that the dispute is investigated and determined.
- (2) Disputes must be dealt with under the constitution in a fair, efficient, and effective manner.

6 Society may decide not to proceed further with complaint

Despite [clause 5](#), a society may decide not to proceed further with a complaint if—

- (a) the complaint is trivial; or
- (b) the complaint does not appear to disclose or involve any allegation of the following kind:
 - (i) that a member or an officer has engaged in material misconduct;
 - (ii) that a member, an officer, or the society has materially breached, or is likely to materially breach, a duty under the society's constitution or bylaws or this Act;
 - (iii) that a member's rights or interests or members' rights or interests generally have been materially damaged;
- (c) the complaint appears to be without foundation or there is no apparent evidence to support it; or
- (d) the person who makes the complaint has an insignificant interest in the matter; or
- (e) the conduct, incident, event, or issue giving rise to the complaint has already been investigated and dealt with under the constitution; or
- (f) there has been an undue delay in making the complaint.

7 Society may refer complaint

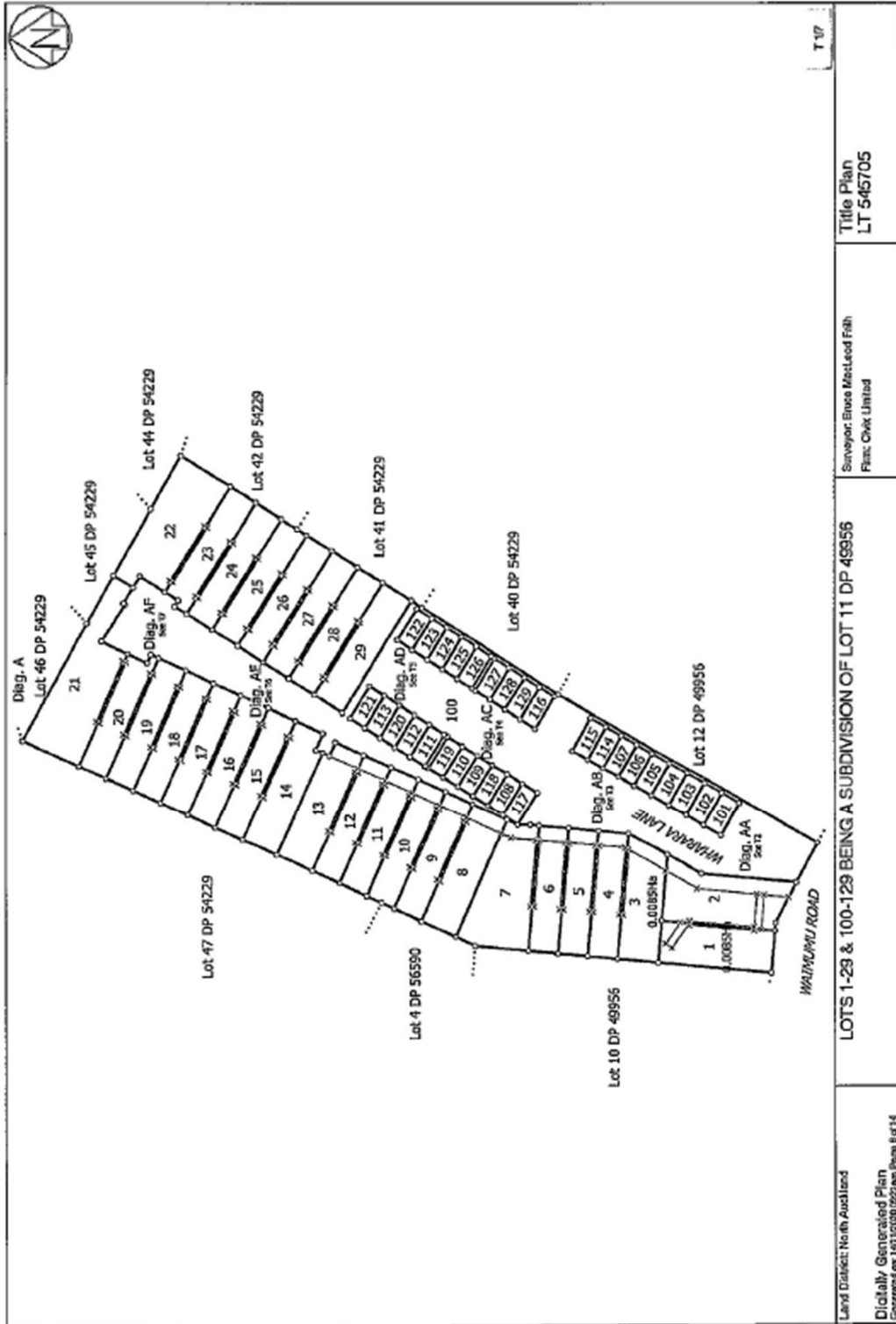
- (1) A society may refer a complaint to—
 - (a) a subcommittee or an external person to investigate and report; or
 - (b) a subcommittee, an arbitral tribunal, or an external person to investigate and make a decision.
- (2) A society may, with the consent of all parties to a complaint, refer the complaint to any type of consensual dispute resolution (for example, mediation, facilitation, or a tikanga-based practice).

8 Decision makers

A person may not act as a decision maker in relation to a complaint if 2 or more members of the committee or a complaints subcommittee consider that there are reasonable grounds to believe that the person may not be—

- (a) impartial; or
- (b) able to consider the matter without a predetermined view.

Schedule 3 – Plan



INFORMATION FOR REGISTERED MEMBERS

1. MEMBERS DETAILS

Name:

Address:

Occupation:

Email:

Telephone:

Date of Membership:

Party Authorised to Exercise Member's Vote:

Mortgage:

Contact Person:

Telephone:

2. EMERGENCY CONTACT OF MEMBER

Name:

Address:

Occupation:

Email:

Telephone:

3. OCCUPIER DETAILS

Name:

Address:

Occupation:

Email:

Telephone:

4. EMERGENCY CONTACT OF OCCUPIER

Name:

Address:

Occupation:

Email:

Telephone: