

The Incorporated Societies Act 1908

**RULES
OF THE
GRANDVIEW RESIDENTS ASSOCIATION INCORPORATED**

AGREEMENT

1 NAME

1.1 The name of the Association is the Grandview Residents Association Incorporated.

2 DEFINITIONS AND INTERPRETATIONS

Definitions

2.1 In these Rules, unless the context otherwise requires:

(a)	"the Act"	means the Incorporated Societies Act 1908.
	"Annual General Meeting"	means the annual general meeting of the Association, convened and conducted in accordance with these Rules.
	"Association"	means the Grandview Residents Association Incorporated
	"Board"	means the board of Directors for the time being elected to manage the affairs of the Association pursuant to these Rules.
	"Body Corporate"	means a Body Corporate established under the Unit Titles Act 1971 or any Act in substitution thereof.
	"Bylaws"	means the bylaws of the Association contained in Schedule 2 as amended from time to time.
	"Capital Improvements"	means structural repairs to, and the replacement or renewal of, or any additions to, the Common Facilities.
	"Chairperson"	means the chairperson of the Association, appointed in accordance with these Rules.
	"Common Facilities"	means all Infrastructure within Grandview together with the roads and open space and walkways which are the common areas identified on Plan 2 attached as Schedule 4 together with any land or further facilities

intended for common use by all Owners which may be created, designated, vested, transferred, installed, erected or constructed on any of the Lots by the Vendor or the Association from time to time.

"Design Guidelines"	means: (a) the Encumbrance Instrument and Land Covenants which govern landscaping planting, site development and the construction and design of the Dwelling and accessory buildings; and (b) the procedures for approval of the design of the Dwelling and accessory buildings.
"Development Lot"	means Lot 15 on DP 350755 (South Auckland Registry).
"Director"	means an Owner appointed to the Board in accordance with these Rules.
"Dwelling"	means each dwelling to be erected by each Owner on each Lot.
"Emergency Levy"	means a levy imposed by the Owners constituting the Board on all the Owners for the purposes of meeting any one-off costs for emergency items of repair or replacement where the same has been approved by the Board as provided by Rule 6.6.
"Encumbrance Instrument"	means the Encumbrance Instrument in the form annexed as Schedule 6 or any amended form which is or will be registered against the titles to each Lot.
"Expense Year"	means each 12 month period commencing on 1 April and ending on 31 March, or such other 12 month period as the Board from time to time sets and includes the broken period commencing on the date of incorporation of this Association, and ending on the 31 March next following.
"Grandview"	means the property located in Acacia Bay, Taupo comprising 37.5270 hectares more or less and being legally described as Part Lot 3 Deposited Plan South Auckland 67095 and being all of the Land in Certificate of Title 54D/829 (South Auckland Registry).
"Grandview Subdivision"	means the staged subdivision of Grandview

"House Site"	means that part of each Lot shown on any subdivisional plan and designated as the site for the construction of a Dwelling, and "House Sites" shall have a corresponding meaning but excluding the Development Lot.
"Infrastructure"	means the items and works constructed or to be constructed by the Vendor, or the Association at Grandview Subdivision and initially comprising the items set out in Schedule 5 annexed.
"Invitee"	means any Occupier, or any invitee, visitor or guest of either an Owner or an Occupier authorised or approved by an Owner or an Occupier (as the case may be) in accordance with the Rules of the Association.
"Land Covenants"	means the Land Covenants in the form annexed as Schedule 3 or any amended form which are or will be registered against the titles to each Lot. Different Land Covenants may apply to each Lot.
"Lot"	means each of the separate certificates of title held or to be held by Owners and "Lots" shall have a corresponding meaning. Should Scenic Ventures Limited subdivide the Development Lot further for instance by way of unit titling then in such circumstances a Lot is the original Lot and in the case of unit titling the body corporate would equate to the "Owner".
"Memorandum of Encumbrance"	means the memorandum of encumbrance registered against the Lots securing payment of the Owner's Proportion of the Operating Expenses, and Special Contribution and Emergency Levy.
"Objects"	means the objects of the Association as set out in clause 3.5
"Occupier"	means a person or persons occupying a Lot for an extended period pursuant to a specifically agreed arrangement with the relevant Owner, and shall include any mortgagee in possession.
"Operating Expenses"	means the total sum of all rates, taxes, costs and expenses incurred by the Association on behalf of the Owners collectively and properly assessed or assessable paid or payable in respect of Grandview Subdivision and the operation of the Association on behalf of the Owners.

"Owner"	means the person or persons registered as the proprietor of a Lot created by Scenic Ventures Limited with a designed house site but shall not mean any land of which Scenic Ventures Limited is the registered proprietor and is intended for subdivision into further Lots to become a part of the Grandview Subdivision.
"Owner's Proportion"	means each Owner's share of the Operating Expenses based on the proportion each Lot bears to the total number of Lots.
"Registered Office"	means the Registered Office of the Association for the time being, as determined in accordance with these Rules.
"Registrar"	means the person holding the office from time to time of Registrar of Incorporated Societies in terms of the Act.
"Relevant Authority"	means any corporation, including any government, local statutory or non-statutory authority or body having jurisdiction over the Property or any part of it.
"Rules"	means these rules, including the Bylaws, as originally framed or as from time to time altered by resolution of the Association.
"Secretary"	means the secretary of the Association, appointed in accordance with these Rules.
"Special Contribution"	means a levy imposed by the Owners constituting the Board on all the Owners for the purposes of meeting the costs incurred in exercising the Objects of the Association where the same has been approved by the Board as provided by rule 6.5.
"Working day"	means a day on which registered banks are open for customary retail banking business in Taupo, but does not include Saturday and Sunday.

Interpretation

2.2 Unless the context otherwise requires, in these Rules:

- (a) headings are inserted for convenience only and shall be ignored in construing any matter;
- (b) words denoting the singular number only shall include the plural and vice versa and words denoting any gender shall include all genders;
- (c) words denoting individuals shall include corporations and vice versa;

- (d) references to any legislation or to any provision of any legislation shall be deemed to be references to that legislation or provisions as from time to time amended, re-enacted or substituted and, unless otherwise stated, to New Zealand legislation and further, unless the context otherwise requires, shall also include any statutory instruments or regulations issued under any such legislation or provision;
 - (e) references to a "party", "person" or "entity" includes a natural person, individual, firm, company, corporation, association, or other entity, whether incorporated or not and whether or not having a separate legal personality, and includes their respective successors, assigns, executors and administrators;
- 2.3 "written" and "in writing" includes all means of reproducing words in a tangible and permanently visible form.

3 OBJECTS

General

- 3.1 Scenic Ventures Limited is developing Grandview into a premium lifestyle subdivision. The Association plays a key role in preserving the financial and lifestyle interests of all owners in maintaining infrastructure and regulating the common access and other co-operative features of Grandview Subdivision.
- 3.2 Membership of the Association is restricted to owners of Lots in the Grandview Subdivision. The total membership of the Association will be no greater than 60 being the maximum number of Lots containing House Sites that may be developed at Grandview. As Grandview will be developed in stages the number of members will change over time.
- 3.3 The Owners appoint the Association to manage their collective interests as co-owners of the Common Facilities and as Owners of individual Lots and agree to be bound by the Rules of the Association which will operate to govern the use and enjoyment of the Common Facilities and which will constitute a binding agreement between the Owners for the use and enjoyment of the Common Facilities.
- 3.4 The Association through its Rules provides the mechanism for the regulation of Owners' rights in relation to each other and, as such, the Association will, on the Owners' behalf, comply with and enforce the Rules of the Association and the Land Covenants. No Owner shall be entitled to take any action in law or otherwise against any other Owner in respect of any matter or thing done or omitted to be done pursuant to these Rules or the Land Covenants and the Owners explicitly waive their rights to take any such action against their co-owners for any alleged breach of the Rules or the Land Covenants. In the event of an Owner wishing to claim against another Owner due to an alleged breach of these Rules or the Land Covenants the Owner shall raise the issue with the Board or at a general meeting for determination of appropriate action to be taken (if any).
- 3.5 The objects ("Objects") of the Association are:
 - (a) To maintain, preserve and enhance the unique character, size and recreational capabilities of Grandview Subdivision as a premium lifestyle community;
 - (b) To enable the Owners to enjoy the assets and facilities of the Grandview Subdivision;

- (c) To maintain and improve, or develop where not already developed, the Common Facilities, and the recreational opportunities within Grandview Subdivision in accordance with the resolutions of the Association to that effect from time to time;
- (d) To enforce compliance with the Land Covenants registered against the certificates of title comprising Grandview Subdivision in accordance with their terms;
- (e) To promulgate and enforce the Rules of the Association;
- (f) To do all things as may appear necessary to achieve the Objects of the Association.

Interpretation of Objects

- 3.6 In interpreting the Objects of the Association set out in clause 3.5 each of the Objects, except where otherwise expressed or implied, shall be an independent main Object and shall in no way be limited or restricted by reference to or inference from any other Object or the name of the Association.

Pecuniary gain not an Object

- 3.7 The Association does not have, as an Object, the pecuniary gain of Owners and no Owner shall be entitled to receive any dividend out of any subscriptions, fees, donations or other income or funds of the Association in accordance with these Rules (provided that any Owner may enter into any agreement or arrangement with the Association for the sale or supply of any services for such consideration as may be reasonable and as that person would be entitled to receive if not an Owner).

4 MEMBERSHIP

Membership and eligibility

Initial Owners

- 4.1 The initial members of the Association shall be those persons who have subscribed to these Rules and whose signatures are attached to these Rules as Schedule 1. The initial members shall elect the first Board and exercise all rights of members and Board members as set out in these Rules.

Owners to be Members

- 4.2 Each and every Owner shall be a member of the Association, and (with the exception of certain initial members of the Board, who are not Owners and who are on the Board only until such time as they are replaced by Owners) only Owners shall be members of the Association, and for that purpose:
- (a) The Land Covenants shall be noted against each Lot in favour of the Association, whereby the Owner is deemed to be a member of the Association and covenants to become and remain a member of the Association, and thereby bound by the Rules of the Association and will perform the obligations of a member of the Association as set out in the Rules.
 - (b) An Owner shall resign and be deemed to have resigned from the Association immediately that Owner ceases to be the registered proprietor of a Lot, provided

that such resignation shall not relieve a person of any obligation or liability arising before that person ceased to be an Owner.

- (c) Each Owner shall, immediately upon becoming an Owner (and thereafter as any details change), provide the Association with the details necessary for maintenance of the register of Owners pursuant to rule 4.3

Register of Owners

4.3 The Association shall maintain a register of Owners recording:

- (a) **For each Owner:** Name, address, occupation, telephone number and facsimile number (at home and at 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 number and facsimile number (at home and at work) and similar details for a third party to be contacted in the event of absence or emergency.
- (c) **Membership:** The date upon which each Owner became an Owner.
- (d) **Mortgagee:** The name, contact person, telephone number and facsimile number of any person holding a mortgage or charge or other encumbrance over the Owner's property.

No notice of trust

4.4 No notice of any trust express, implied or constructive will be entered on the register of Owners. Nothing in this clause shall prevent a family or other trust from owning a Lot.

Not assignable

4.5 The rights, privileges and obligations of an Owner are not assignable.

Nomination

4.6 Where a company is an Owner that company shall nominate a person being an officer of that company to represent the company in matters requiring the involvement of the company as a member of the Association. Nothing in this clause shall relieve such company of its obligations to comply with the Rules.

5 USE OF GRANDVIEW SUBDIVISION

Use of Grandview Subdivision

5.1 Subject to any Rules of the Association and the Land Covenants relating to the use of Grandview Subdivision, each Owner, Occupier and their respective Invitees shall be entitled to make full use of the Common Facilities within Grandview Subdivision. For the purpose of this Rule Scenic Ventures Limited should be considered an Owner for so long as Scenic Ventures Limited is the registered proprietor of any part of Grandview.

6 SUBSCRIPTIONS, FEES AND FINANCIAL YEAR

Levies

- 6.1 Prior to or as soon as practicable after the commencement of each Expense Year, Association shall by written notice advise each Owner of the Association's estimate ("Association's Estimate") of each Owner's Proportion of Operating Expenses for that Expense Year, plus such contingency sum as the Association shall, in its sole discretion, fix.

Payment of levies

- 6.2 Subject to rule 6.4(c), each Owner (and where there is more than one Owner for each Lot each Owner of a Lot shall be jointly and severally liable), on the first of each month of April, July, October and January in each Expense Year to pay one quarter of the Association's Estimate applicable to that Expense Year. Payment shall be made by the Owner in the manner set by the Association.

Statement of Operating Expenses

- 6.3 As soon as practicable after the end of each Expense Year the Association shall provide to each Owner an itemised statement of the actual Operating Expenses for the previous Expense Year. If the Owner's Proportion of actual Operating Expenses for the previous Expense Year is greater than the total of the monthly payments made by the Owner pursuant to rule 6.2 or 6.4(c), as appropriate, the Owner shall forthwith pay to the Association the difference. If the Owner's Proportion of actual Operating Expenses for the previous Expense Year is less than the total of the monthly payments made by the Owner pursuant to rule 6.2 or 6.4(c), as appropriate, the Association shall credit the difference to the Association's Estimate for the then current Expense Year.

Failure of Association to advise Association's Estimate

- 6.4 If the Association has failed to advise an Owner of the Association's Estimate for an Expense Year before the date the first payment is due under rule 6.2, the Owner shall on that date and every other date on which a payment is due under rule 6.2 pay one quarter of the Association's Estimate applicable to the previous Expense Year. On the Association's Estimate for the Expense Year being advised to that Owner:

- (a) Rule 6.2 shall apply thereafter;
- (b) If the aggregate of an Owner's payments made under this rule during the Expense Year exceeds the aggregate of payments which should have been made under rule 6.2, the Association shall credit the difference to the Association's Estimate;
- (c) If the aggregate of an Owner's payments under this rule during the Expense Year is less than the aggregate of payments which should have been made under rule 6.2, the Owner shall immediately pay the Association the difference.

Special Contribution

- 6.5 The Board shall from time to time fix an additional quarterly levy to be paid by each Owner together with the quarterly instalments of the Association's Estimate for that Owner, to be set aside as a sinking fund to allow for and meet the costs of Capital improvements or the enforcement of the Objects of the Association provided that any levy payable by an Owner under this rule shall be equal to that Owner's Proportion.

Development Lot Contribution

- 6.6 The Board shall from time to time fix an additional quarterly levy to be paid by the Owner of the Development Lot that is payable in addition to the Owner's Proportion of Operating Expenses and that properly and fairly reflects such Owner's share of the Operating Expenses. The Association and the Owner of the Development Lot may alternatively enter into an Agreement covering such matters as the parties see fit.

Emergency Levy

- 6.7 The Board may from time to time borrow such sums as the Board shall determine from a New Zealand trading bank or such other respectable institution in order to undertake emergency repairs and maintenance at Grandview Subdivision and shall thereafter fix an additional levy to be paid by each Owner on such terms and at such times as the Board shall determine to meet the costs of such emergency items of repair and maintenance provided that such levy payable by an Owner under this rule shall not exceed that Owner's Proportion.

Association to provide statement

- 6.8 The Association shall, on application by an Owner, or any person authorised in writing by such Owner, provide the Owner or authorised person with a statement of the indebtedness of the Owner to the Association calculated to the date specified in the application. The statement shall show:
- (a) the Association's estimate of such Owner's Proportion of Operating Expenses for the current Expense Year;
 - (b) payments made by the Owner on account of Operating Expenses in the current Expense Year;
 - (c) payments due from the Owner on account of Operating Expenses in the current Expense Year, and not paid by the Owner; and
 - (d) any accumulated unpaid default interest.

Memorandum of Encumbrance

- 6.9 In order to secure payment of the Owner's Proportion of the Operating Expenses, Special Contributions, Development Lot Contributions, Emergency Levies and any other sums due to the Association by any Owner a Memorandum of Encumbrance shall be registered against each of the Lots.

7 COVENANTS AND BYLAWS

- 7.1 Each Owner agrees to comply promptly and fully with each and every Rule and bylaw set out herein and made by the Association from time to time, and any further covenants given in favour of the Association by such Owner.
- 7.2 Each Owner acknowledges that such owner will take all reasonable care in using the Common Facilities and acknowledges that all rights are exercised at the Owner's own risk, or at the risk of the Owner's Invitee (as the case may be) and the Owner will not hold any other Owner or the Association liable in any way for any loss, damage or injury sustained by that Owner or Invitee.

- 7.3 The Association will indemnify each Owner for any losses, damages, costs or expenses incurred by that Owner in respect of any claim brought against that Owner by any other Owner, Invitee or member of the public except where such claim results from any act or omission by that Owner or their Invitees which is in breach of the terms of the Rules and bylaws of the Association.

8 BREACH OF OBLIGATIONS

Occupiers and Invitees

- 8.1 A reference to an act or omission by any Owner, shall include any act or omission by any mortgagee in possession of that Owner's Lot or the Occupiers of such Owner's Lot, the Invitees of such Occupier and the Invitees of such Owner or the mortgagee in possession of that Lot. An Owner must advise the Association of details of the occupiers of the Owner's Lot and each Invitee shall be deemed to have knowledge of the Rules and each Owner is responsible and shall be held liable for acquainting the Invitee with the Rules. In the case of occupiers of the Owner's Lot, each Owner must take all reasonable steps (including enforcing the terms of any lease/licence) to ensure occupiers comply with these Rules. In any case of persistent default by an occupier of these Rules, the Owner shall on demand by the Association, terminate the occupier's right to occupy the Lot. A copy of these Rules shall be attached to every lease, licence, or other document defining occupancy rights and any such document must contain an obligation on the occupier to observe and comply with the Rules and Land Covenants.

Consequences

- 8.2 Upon any breach of these Rules by an Owner (or the Invitees of an Owner) ("Offending Owner"):
- (a) Where damage has been caused to any part of the Common Facilities (including but not limited to the Infrastructure) the Offending Owner shall immediately make good such damage at its own cost. Where the offending Owner constitutes more than one Owner, all such Owners will be jointly and severally liable for such damage.
 - (b) If such default continues for seven days after notice is given by the Association to the Offending Owner to remedy the default, the Association may do anything, including paying money, necessary to remedy the default.
 - (c) All money paid and expenses incurred by the Association (including any legal costs of the Association) in remedying, or attempting to remedy, any breach by an Offending Owner of these Rules, or incurred in the exercise, or attempted exercise, or enforcement or attempted enforcement of any power, right or remedy of the Association in respect of such breach, shall be a debt due from the Offending Owner to the Association.
 - (d) If any money payable by an Offending Owner to the Association 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 rate of 5% above the Association's banker's overdraft rate (or in the absence of such rate such other benchmark lending rate (as nominated by the Board)) applicable during the continuance of the default, computed on a daily basis from the due date until the date of payment in full.

9 CANCELLATION OF MEMBERSHIP

All Owners

- 9.1 Without prejudice to the Association's rights and remedies against each and every Owner as provided by Rule 8.2, any Owner who fails to make due and punctual payments of the Owner's Proportion of the Operating Expenses, the Emergency Levies or Special Contribution or any other sums due to the Association will be in breach of the terms of the Memorandum of Encumbrance which breach will give rise to an entitlement on the part of the Association through the Board to exercise the power of sale in favour of the Association in respect of the Owner's Lot as provided for in the Memorandum of Encumbrance.

10 OBLIGATIONS OF THE ASSOCIATION

Bylaws

- 10.1 The Association shall promulgate, amend and distribute to Owners from time to time bylaws for the use of the Common Facilities by Owners (including any restrictions on use for security, maintenance or other reasons) and bylaws concerning the behaviour of Owners, occupiers and Invitees. The first such bylaws shall be those bylaws attached as Schedule 2 to these Rules.

Repair of Common Facilities

- 10.2 The Association shall ensure the proper operation, maintenance, repair, renovation and replacement of the Common Facilities, and shall undertake such Capital Improvements as are necessary for this purpose.

Services

- 10.3 The Association shall, inter alia, procure that:
- (a) appropriate security arrangements will be in place including the provision of gates and fencing at the entrances to Grandview Subdivision;
 - (b) appropriate receptacles for refuse disposal are provided for the disposal of refuse and for the regular collection and disposal of refuse from Grandview Subdivision;
 - (c) suitable qualified individuals are engaged for the maintenance of the Common Facilities.

Insurance

- 10.4 The Association shall effect and maintain all insurances as it considers prudent with respect to the Common Facilities and the Association's affairs, and shall meet all costs of such insurance (which shall include all valuations and other professional fees required or deemed desirable for the purposes of such insurances and the cost of certificates relating to such insurances).

11 ADMINISTRATION AND SECRETARY

Administration

- 11.1 The administration of the Association shall be vested in the Association in general meeting, and shall be delegated to the Board and the Secretary, as provided in these Rules.

Signing documents

- 11.2 All documents and written announcements requiring execution or signing on behalf of the Association must be signed by the Chairperson or the Secretary (and in the case of a Secretary which is a body corporate, by a duly authorised representative of that body).

Appointment of Secretary

- 11.3 The Secretary shall be the person (who need not be a natural person) appointed by the Board from time to time upon such terms as the Board considers appropriate in its absolute discretion.

Duties of Secretary

- 11.4 The duties of the Secretary shall include:
- (a) convening Annual General Meetings and other general meetings of the Association when required to do so in accordance with these Rules and likewise convening meetings of the Board;
 - (b) giving all such notices as the Association in general meeting or the Board may instruct or which the Association may be required to give to Owners in the manner provided in these Rules;
 - (c) keeping minutes of all meetings of the Association and of the Board and entering the same in the minute book kept for that purpose;
 - (d) performing or supervising the performance of the clerical work for, and the maintenance of proper records of, the Association;
 - (e) maintaining a membership register for the Association;
 - (f) giving all such notices, certificates or information to the Registrar as may be required by the Act or by the Registrar pursuant to the Act;
 - (g) issuing and receiving correspondence on behalf of the Association;
 - (h) receiving all fees, subscriptions, levies and other moneys paid to the Association and issuing receipts;
 - (i) opening and operating a current bank account in the name of the Association;
 - (j) making such deposits and investments in the name of the Association as the Board may determine from time to time;
 - (k) paying all accounts and making all advances passed for payment by the Board;
 - (l) keeping all financial records of the Association and ensuring their safe-keeping together with any security documents; and

- (m) reporting to the Board any Owner who shall fail to pay fees, subscriptions or other moneys properly payable by that Owner within the prescribed period.

12 BOARD OF DIRECTORS

Number of directors

- 12.1 The Board shall consist of a maximum of ten and a minimum of two Directors. The initial Board shall comprise the nominees of Scenic Ventures Limited.

13 APPOINTMENT/RETIREMENT OF DIRECTORS

Duration of Directorship

- 13.1 Subject to clause 13.4, a Director shall hold elected position until the earlier of:
 - (a) the next Annual General Meeting following election (when the Board member shall be eligible for re-election);
 - (b) the date written resignation from a position is received by the Association;
 - (c) the date of removal from such position by the Board in general meeting; or
 - (d) the date of cessation of ownership of a Lot.

Appointment of new Directors

- 13.2 Directors will be elected or re-elected at general meetings of the Association on a majority vote by the Owners at a general meeting in the manner prescribed by these Rules.

Casual vacancies on Board

- 13.3 In the event of any casual vacancy on the Board (whether caused by the death, resignation, or ineligibility of a Director or by some other circumstance) the Chairperson shall call for written nominations and, if necessary, conduct a written ballot to fill such casual vacancy at the earliest reasonable opportunity. For the avoidance of doubt, the appointment of any Director as Chairperson shall not create a casual vacancy on the Board.

Alternate Directors

- 13.4 Each Director shall have power from time to time by written notice to appoint any person to act as an alternate director in place of such Director whenever that Director is unable to attend to his or her duty as a Director. Any such alternate Director may be removed or suspended from office by notice in writing to the Association from the Director by whom such alternate Director was appointed or by the resolution of the Board.
- 13.5 Alternate Directors shall be entitled to:
 - (a) receive notice of meetings of the Board and to attend and vote at such meetings if the Director by whom such alternate Director was appointed is not present, and to
 - (b) exercise all the powers (except the power to appoint an alternate Director) and perform all the duties of a Director insofar as that Director by whom he or she was appointed has not exercised or performed them.

- 13.6 Alternate Directors shall, whilst acting as a Director, be responsible to the Association for his or her own acts and defaults and shall not be deemed to be the agent of the Director by whom he or she was appointed.

Reimbursement for expenses only

- 13.7 Directors shall not be entitled to any remuneration for their services as such, but Directors and their alternates shall be entitled to reimbursement for reasonable expenditure by way of travelling and accommodation expenses and other out-of-pocket expenses incurred in connection with the business of the Association (other than in attending meetings).

14 POWERS OF THE BOARD

- 14.1 The affairs of the Association shall be managed by the Board, which may exercise all powers of the Association and do on its behalf all such acts as it may deem necessary or expedient to achieve the Objects of this Association and as are not by these Rules required to be exercised or done by the Owners in general meeting, and may exercise such authority powers and discretions as may by these Rules be vested in the Board, but subject always to any limits which may from time to time be imposed by the Owners in general meeting on the exercise by the Board of any such powers.

- 14.2 To achieve the Objects of the Association the Board may (without limitation to the generality of clause 14.1):

- (a) Make all necessary arrangements for the undertaking of Capital Improvements for the benefit of the Owners as provided by an annual budget approved by the Owners in general meeting;
- (b) Manage any Common Facilities;
- (c) Contract with, employ or otherwise procure the services of any person, persons, firm, company or other organisation for the purpose of achieving the Objects of the Association. This includes but is not limited to procuring the services of a security firm to protect the integrity of the residential community at Grandview Subdivision, architects, landscape architects, environmental consultants and such other professional advisors as the Board shall determine from time to time.
- (d) Enforce compliance with the Land Covenants registered against the Lots including, but not limited to, adjudicating on and seeking the enforcement of the building and use restrictions imposed on the Lots as specified in the Land Covenants.
- (e) Levy additional fees, Special Contributions or Emergency Levies on the Owners required in order to exercise its powers under these Rules.
- (f) Raise money from reputable established lending institutions in order to carry out the Objects of the Association.
- (g) Appoint a manager in order to perform such administrative functions as they deem appropriate for such periods of time and for such terms and conditions (including salary) as they shall deem appropriate.

15 PROCEEDINGS OF THE BOARD

Conduct of Meetings

- 15.1 The Board may meet together, adjourn and otherwise regulate its meeting and procedures for conducting its business as it thinks fit. A majority of the members of the Board from time to time shall form a quorum for a meeting. No business of the Board shall be conducted at any time when less than a quorum is present at the same time and place. The Board may meet at any time and the Secretary shall, upon the request of the chairperson or any three members, convene a meeting of the Board.

Chairperson

- 15.2 The Board from time to time shall appoint, remove and replace a chairperson for such term as it sees fit from one of their number to chair these Board meetings and otherwise exercise the powers of the chairperson set out in these Rules. Provided that for the first five years from the date of incorporation of this Association the Chairperson shall be nominated by Scenic Ventures Limited.

Chairperson's vote

- 15.3 The chairperson has one vote as a Director but may not exercise a casting vote.

Voting

- 15.4 Resolutions of the Board shall be passed by majority. Each Board member shall be entitled to exercise one vote. Notwithstanding any contrary provision in these Rules, a resolution in writing signed by such of the Board members as would constitute a quorum at a meeting shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and constituted.

Validity of Board's actions

- 15.5 All acts properly done by any meeting of the Board or by any person acting as a member, notwithstanding that it may afterwards be discovered that there was some defect in the appointment or continuance in office of any such Board 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 Board member.

Board minutes and records

- 15.6 The Board shall cause proper minutes to be kept of the proceedings of all meetings of the Association and of the Board. All business transacted at each such meeting and the minutes of such meeting 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.

16 GENERAL MEETINGS

Annual General Meeting

- 16.1 The Association shall in each year hold an Annual General Meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling such meeting. The first Annual General Meeting shall be held within 12 months following the first settlement of the purchase of a Lot from Scenic Ventures Limited. Not more than 18

months shall elapse between the date of one Annual General Meeting and that of the next. Each year's Annual General Meeting shall be held at such time and place as the Board shall determine.

Other general meetings

- 16.2 A general meeting other than an Annual General Meeting shall be convened by the Secretary whenever required by the Chairperson or the Board or by written requisition signed by not less than 50% of the Owners.

Powers of the Association in general meeting

- 16.3 The Association in general meeting may, by resolution of not less than 75% of the Owners present and voting at such meeting, exercise all powers, authorities and discretions of the Association notwithstanding any such power, authority or discretion may have been vested in the Board by or pursuant to these Rules.

Quorum

- 16.4 No business shall be transacted at any general meeting of the Association unless a quorum is present when the meeting proceeds to business. A quorum shall be not less than 25% of all Owners eligible to vote at general meetings, present in person or by proxy.

Notice of general meeting

- 16.5 A notice of general meeting of the Association shall be sent to every Owner 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 motion to be considered at such meeting and no business or notice of motion which is not specified shall be discussed or transacted at such meeting. Notwithstanding any contrary provision, the requirements of this clause relating to notice and limiting the business to be transacted at any meeting may be modified in any particular case with the consent in writing of all Owners entitled to attend a meeting of the Association (provided that the modification of such requirements for any given meeting shall not be so construed or deemed to affect such requirements in any respect of any other meeting of the Association).

Failure to give notice

- 16.6 The accidental omission to give notice to or the non-receipt of any notice by any Owner or any other person entitled to such notice shall not invalidate the proceedings of any general meeting to which such notice relates.

Chairman of general meetings

- 16.7 The Chairperson shall be entitled to chair any general meeting of the Association at which he or she is present. If the Chairperson shall not be present or being present shall be unwilling to take the chair then those Directors who are present may choose one of their number to chair such meeting or if for any reason no chairman is selected by such Directors then those Owners entitled to vote at that meeting may elect any person entitled to be present as chairman of that meeting.

Voting at meetings

- 16.8 At any general meeting:

- (a) a poll may be directed by the Chairperson or other chairman or demanded by any Owner present at the meeting and entitled to vote;
- (b) a poll may be demanded either before the declaration of the result of a vote by a show of hands or immediately thereafter before the meeting moves to the next business or it adjourns;
- (c) the Chairperson or such other chairman shall determine whether resolutions are to be put to the vote of the meeting by a show of hands, a poll, or by some other means;
- (d) In the case of a resolution put to the vote of the meeting by a show of hands, a declaration by the Chairman that such resolution has been carried or lost, unanimously or by a particular majority, and an entry to the effect in the Association's minute book, shall be conclusive evidence of the fact without further proof of the number or proportion of votes recorded in favour of or against such resolution.

Adjournments

- 16.9 If within half an hour from the time appointed for the holding of a general meeting a quorum is not present, the meeting if convened on requisition of Owners, shall be dissolved. In any other case it 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 Board shall determine. If at such adjourned meeting a quorum is not present within half a hour from the time appointed for holding the meeting, the Owners present shall be a quorum.

17 VOTES OF MEMBERS

One vote per Owner

- 17.1 Subject to rule 17.2 each Owner present at a general meeting of the Association shall be entitled to one vote per Lot owned by that Owner, which may be exercised either in person or by proxy. An Owner may vote by fax, telephone or email, by addressing such correspondence to the Secretary prior to the General meeting. The Secretary shall advise the Chairperson of the vote so long as the Secretary is satisfied that the vote is made by the Owner, that the Owner is aware of what the vote is for and the likely effect of that vote.
- 17.2 Where there is more than one Owner in respect of any Lot, 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 Owner's Lot shall be entitled to exercise that vote. On the death of any Owner, and pending the transfer of that Owner's property, the executor of that Owner's estate shall be entitled to exercise that Owner's vote.

No Vote if subscriptions/fees unpaid

- 17.3 Unless all annual subscriptions and additional fees presently payable by any Owner to the Association have been paid in full, such Owner shall not be entitled to vote at any general meeting of the Association, whether in his or her own right or as a proxy for another person.

Form of proxy

17.4 The instrument appointing a proxy shall be in writing and signed by the appointer and, in all other respects, shall be in such other form as the Board may determine from time to time. A proxy must be:

- (a) the Chairperson; or
- (b) an Owner of the Association, or an employee, officer, agent or shareholder of an Owner, where that proxy is entitled to vote in its, his or her own right at the relevant general meeting.

Delivery of instrument appointing proxy

17.5 The instrument appointing a proxy shall be delivered to the Registered Office before the time fixed for holding the meeting or adjourned meeting at which the person named in such instrument is authorised to vote, failing which the instrument appointing a proxy shall not be treated as valid.

18 NOTICES

Forms

18.1 All notices and other communications required under these Rules shall be in writing and shall be delivered by hand or by properly addressed prepaid fastpost or airmail postage or sent by facsimile transmission and, in the case of notices to or communications with:

- (a) any Owner, shall be addressed to that Owner at its address as set out in the application for incorporation of the Association (for first Owners) or in that Owner's application for membership, or at such other address as the Owner may from time to time notify the Secretary in writing;
- (b) the Association, the Chairperson, the Secretary or the Board, shall be addressed to the intended recipient, care of the Registered Office.

Time of delivery

18.2 Any notice or communication given in terms of clause 18.1 shall be deemed to have been delivered:

- (a) in the case of delivery by prepaid fastpost or airmail postage, if:
 - (i) posted within New Zealand to a destination within New Zealand, 2 working days after posting;
 - (ii) posted within New Zealand to a destination outside New Zealand, 5 working days after posting;
 - (iii) posted outside New Zealand to a destination within New Zealand, 5 working days after posting; and
- (b) in the case of transmission by facsimile, on receipt by the sender of a transmission report showing full transmission free of error to the intended recipient.

- (c) The Association shall not be held liable in any way for failure to give notice to any Owner provided it has delivered such notice by any means specified under these Rules to the last address provided by the Owner to the Association.

19 ACCOUNTS

Accounts to be kept

- 19.1 The Board shall cause proper accounts to be kept with respect to:
- (a) all sums of money received and expended by the Association and the matters in respect of which the receipts and expenditure take place;
 - (b) any sales and purchase of goods by the Association; and
 - (c) the assets and liabilities of the Association.

Secretary to keep accounts

- 19.2 The Association's accounts shall be kept by the Secretary (or such other person as may from time to time be designated by the Board) who shall produce them to the Board or any Director, on demand.

Accounts at Board and general meetings

- 19.3 The Secretary shall from time to time cause to be prepared and to be laid before the Board and/or the Association in general meeting such income and expenditure accounts, balance sheets and reports as are from time to time required by the Board, and shall in any event cause to be prepared and laid before the Association in general meeting an annual income and expenditure account, balance sheet and report.

Copies to Owners

- 19.4 A copy of all balance sheets, accounts and reports which are to be laid before the Association in general meeting, together with a copy of the auditor's report (if any), shall be sent to every Owner not less than 10 working days before the date of the relevant general meeting.

20 REGISTERED OFFICE

- 20.1 The Registered Office shall be at such place as the Board shall from time to time determine and until the Board otherwise determines, shall be situated at Grandview Residents Association Incorporated, Level 3, 23 Waring Taylor Street, P O Box 3139, Wellington, Fax: (04) 478 1606, Attention: Robert Montgomery.

21 CHEQUES, BILLS, ETC

- 21.1 All cheques, bills of exchange and promissory notes shall be signed, drawn, made, accepted or endorsed (as the case may be) for and on behalf of the Association by the Chairperson, the Secretary or by some other officer authorised by the Board, or in such other manner as the Board determines from time to time.

22 LIABILITY OF MEMBERS

- 22.1 No Owner shall be under any liability in respect of any contract or other obligation made or incurred by the Association.

23 ALTERATION OF RULES

- 23.1 These Rules, and any by-laws made under these Rules, shall not be amended, added to or rescinded except by resolution of not less than 75% of the current Owners present and entitled to vote 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 Owners in accordance with these Rules provided that for the first five years from the date of incorporation of this Association no such amendment, addition or rescission of these Rules may be made without the consent of Scenic Ventures Limited.

24 WINDING UP

- 24.1 The Association may be wound up in accordance with section 24 of the Act. If, upon such winding up, there remains after satisfaction of all debts and liabilities of the Association, any property and/or assets, such property and/or assets shall be disposed of in the manner directed by a resolution to wind up the Association and, failing any such direction, shall be distributed amongst the Owners in equal shares.

SCHEDULE 1

SIGNATURES

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SCHEDULE 2

ASSOCIATION BYLAWS

1 DEALING WITH THE LAND

- 1.1 The Lots shall not be further divided or subdivided and ("subdivide" shall have the meaning ascribed to subdivision of land in section 218(1) of the Resource Management Act 1991).
- 1.2 The Owner's interest in the land comprised in its Lot and the Owner's proportionate interest in the Common Facilities shall in all circumstances be transferred together and shall not be transferred, charged or disposed of or encumbered in anyway separately.
- 1.3 The restriction in 1.1 above does not apply to the Development Lot.

2 USE OF THE HOUSE SITES

- 2.1 The House Sites shall be used solely for residential purposes and there shall not be constructed on any House Sites or maintained thereon more than one detached single dwelling, which may be comprised of one or more interconnecting buildings, together with any accessory buildings that comply in all respects with the resource management consents obtained by the Vendor for each stage of the Grandview Subdivision and the Land covenants.

3 BUILDING, LANDSCAPING AND PLANTING REQUIREMENTS

- 3.1 The design and construction of the dwelling (and any accessory buildings and any improvements to such dwelling) on the House Site and the Development Lot and any landscaping and planting shall be undertaken strictly in accordance with:
 - (a) the Land Covenants; and
 - (b) the Encumbrance Instrument; and
 - (c) the current District Plan and any resource consent issued by the District Council or any variation thereto and any further resource consent granted by the District Council in respect of Grandview Subdivision.
- 3.2 Each Owner of a House Site must obtain prior written approval for the design and construction of the dwelling (and any accessory buildings and any improvements to such dwelling) in the form and in the manner specified in the Land Covenants.

4. VEGETATION CONTROLS

- 4.1 Each Owner shall ensure the planting and vegetation on the Lot complies with the Encumbrance Instrument to be registered against the Title to the Lot in favour of the Local Authority.

5. REPAIR OF BUILDINGS

- 5.1 All buildings and approved improvements on the House Sites and Development Lot shall at all times be kept in good condition and repair and adequately maintained by the relevant Owner and when exercising the right and responsibility of repair, maintenance, replacement or remodelling the buildings and improvements shall not alter in any manner whatsoever the colour and exterior appearance of the buildings or improvements located on the House Sites and Development Lot except in accordance with the Land Covenants.

6 SIGNS

- 6.1 No sign of any kind, including, without limitation signs advertising the House Sites or Development Lot for sale or lease, shall be displayed without the express prior written approval of the Association.

7 SWIMMING POOLS

- 7.1 Swimming pools are only permitted on the House Site or at an agreed location of the Development Lot and any swimming pool constructed must be enclosed with a fence or other enclosure device or embankment completely surrounding the swimming pool which, at a minimum, satisfies the criteria set out in the Fencing of Swimming Pools Act 1987.

8 ROADS

- 8.1 No Owner shall park any vehicle on the roads or at any Common Facilities, other than in areas specified by the Association from time to time as suitable for that purpose.
- 8.2 All vehicles shall be driven in a safe manner with consideration for the safety of others and their enjoyment of Grandview Subdivision. All Owners shall be responsible for ensuring that their Invitees comply with the requirements of this provision.

9 NO BUSINESS

- 9.1 No commercial activities of any nature to which the general public is invited shall be conducted on the House Sites except that the House Sites may be let for residential purposes (for short term or long term accommodation) provided that any accommodation or lease agreement must be in writing and must be made specifically subject to the Land Covenants and the Rules of the Association.

10 HAZARDOUS ACTIVITIES

- 10.1 No activities may be conducted on Grandview Subdivision which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged at Grandview Subdivision without the prior written approval of the Association and no hazardous materials shall be disposed of thereon, and no open fires shall be lighted or permitted except in contained cooking units unless approved in writing by the Association. Any such approval shall be subject to the requirements of the Local Authority.

11 RUBBISH AND DEBRIS

- 11.1 No rubbish or debris of any kind shall be placed or permitted to accumulate upon any part of Grandview Subdivision including any part of the House Site or Development Lot and no odours shall be permitted to arise therefrom so as to render any part of Grandview Subdivision or any portion thereof unsanitary, unsightly, offensive, or detrimental to any Lot or the Common Facilities or to the occupants of any House Site or Development Lot. Refuse, garbage, and rubbish shall be kept at all times in covered containers, and such containers shall be kept within enclosed structures or otherwise appropriately screened from view. No rubbish or debris permitted to be maintained on the Lots shall be burned on the Lots or Common Facilities.

12 **CONDUCT AND NOISE**

- 12.1 No exterior speakers, horns, whistles, bells, other devices (other than security devices used exclusively for security purposes) shall be located, used, or placed on any part of Grandview Subdivision including the House Sites and the Development Lot. No noise or other nuisance shall be permitted to exist or operate upon any portion of any part of Grandview Subdivision so as to be offensive or detrimental to any Owner or including, without limitation, unmuffled vehicles, motorcycles and motor scooters.
- 12.2 The Association reserves the right to exclude or evict from the Common Facilities and any other Lot not owned by the Owner, any person who in the opinion of the Association is under the influence of intoxicating liquor, drugs or substances, or who in any manner acts in violation of these Rules.

13 **DRAINAGE**

- 13.1 There shall be no interference with the established drainage patterns on Grandview Subdivision unless adequate provision is made for proper drainage and approval in writing by the Association.

14 **BORE WATER QUARRYING**

- 14.1 The Association reserves the right to bore for water and extract water from the Common Facilities for the purposes of supplying water for household use or irrigation on the Common Facilities and for the individual Lots.

15 **UNSIGHTLY ARTICLES/VEHICLES**

- 15.1 No article or vehicle deemed to be unsightly by the Association shall be permitted to remain on any part of Grandview Subdivision. No clothes lines or other structures intended for drying laundry shall be located so as to be highly visible from the roadways on the Common Land and no laundry shall be draped over plants, trees or fences anywhere on any part of Grandview Subdivision.

16 **ANIMALS**

- 16.1 With the exception of the animals which are permitted under the Land Covenants, Invitees are strictly prohibited from bringing any animals onto Grandview Subdivision and each Owner shall procure that their Invitees do not breach this rule.

17 **KEYS**

- 17.1 No Owner shall make or retain any duplicates or copies of any keys or access cards relating to Common Facilities. Additional keys or access cards can be provided by the Association, on payment of the fee charged by the Association. In the interests of effective security the Association shall have the right (at the Association's sole discretion) to restrict the number of keys or access cards issued.
- 17.2 No person shall be allowed by any Owner to use a key or access card, other than the Owner and the Owner's Invitee.
- 17.3 If any key or access card is lost, stolen, destroyed or mutilated, the Owner shall immediately report such to the Association.

17 **RIGHT TO CONVEY WATER**

17.1 The Association reserves to Scenic Ventures Limited alone the benefits of and rights to convey water specified in Easement Certificate B192889.3 and Transfers B290310.3, B390310.4 and B393967.

18 **LOCATION OF COMMON FACILITIES**

18.1 The Common Facilities are the areas identified as such on Plan 2.

18.2 The tennis court and clubhouse to be constructed shall be situated in the location indicated on Plan 2. Access to and from the Common Facilities shall only be permitted across or over any Lot owned by the Association or as agreed with the Owner of the Development Lot.

18.3 Owners and their Invitees shall only be permitted to pass and repass over the Common Infrastructure (excluding the roads) on foot or by bicycle.

SCHEDULE 3
LAND COVENANTS
FORM OF LAND COVENANTS

SCHEDULE 4

Plan 1

Plan 2

SCHEDULE 5
INFRASTRUCTURE WORKS

? **Power**

Underground reticulation of electric power to the boundary of the Lot.

? **Telephone**

Underground reticulation of telephone line to the boundary of the Lot.

? **Water**

Underground reticulation of water to the boundary of the Lot.

? **Sewerage**

Underground sewer pipe to the boundary of the Lot.

? **Roading**

- (a) Construct Grandview Drive to asphaltic concrete finish over a basecourse as designed by a Registered Engineer to N.Z. Standards. The road to have a mountable kerb. Stormwater from the road to be collected and discharged to a soakage system adjacent to Grandview Subdivision.
- (b) Upgrade the existing Highland Drive road as to formation and geometry from the current private entrance to the first stage of the Grandview Subdivision. Asphaltting of the road will occur during Stage 2 of the Grandview Subdivision.

? **Gates and Gate security**

Formal entry gates to be erected at the entrance to Grandview being coloured steel security gates designed by a Registered Architect. Access will be via a code security system. On each side of the gates will be a natural stone wall.

Stormwater soakage for the Lot will be undertaken by the Owner of the Lot in accordance with all applicable regulations.

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The Incorporated Societies Act 1908

RULES

OF

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