AURANGA RESIDENTS' ASSOCIATION INCORPORATED
CONSTITUTION

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1. NAME AND REGISTERED OFFICE

1.1 **Name:** The name of the Association is "**Auranga Residents' Association Incorporated**".

1.2 **Registered office:** The registered office of the Association is at 183 Bremner Road, Auckland, 2578, New Zealand or such other place as the Committee decides from time to time.

2. DEFINITIONS AND INTERPRETATION

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

Act means the Incorporated Societies Act 1908;

Annual General Meeting means an annual general meeting of the Association, convened and conducted in accordance with this Constitution;

Annual Levy has the meaning given in rule 15.3;

Association means the Auranga Residents' Association Limited, an incorporated society registered under the Act;

Auranga ARAL means Auranga ARA Limited (company number 7856217) and its executors, administrators, successors and assigns;

Authority means any local body government or other authority having jurisdiction or authority over or in respect of any part of Auranga or its use;

Auranga means the overall residential and commercial development being undertaken (including through facilitation and direction) and planned by the Developer, comprising a master planned community to be developed and constructed on the Development Land, whether known as "Auranga" or by any other name;

Body Corporate means a body corporate resulting from the subdivision of any part of the Development Land under the Unit Titles Act 2010;

Bylaws means the bylaws of the Association as in force from time to time subject to rules 5.1, 5.2 and 24.5, and including, for the time being, those bylaws set out in Schedule 1;

Capital Improvements means the construction and/or the acquisition of new Common Facilities and/or structural repairs to, and replacement or substantial renewal of, the Common Facilities;

Chairperson means the chairperson of the Committee as nominated, appointed or elected from time to time under rules 17.5 and 17.11;

Commercial Member means, if appropriate, a Member whose Property is designated to be used for commercial purposes at Auranga by an instrument on the Owner's Title or whose property is reasonably determined by the Association to be, or as being, used primarily for commercial purposes;

Committee means the Committee of the Association established in accordance with this Constitution in order to manage the affairs of the Association;

Committee Member means a Member who is a member of the Committee and, where the context permits, the Chairperson;

Common Facilities means all land, natural features, buildings, structures, plant, equipment, facilities, services and other amenities owned by the Association or under the control or management of the Association for the benefit of Members, which may include, subject to the discretion of the Developer, Master Facilities;

Constitution means the rules and constitution of the Association and any amendments, supplements or addendums to the same and, where the context permits, the Bylaws;

Controlling Member means Auranga ARAL, or, in respect of any Precinct, Auranga ARAL's nominee or nominees;

Design Controls means all design controls, procedures and guidelines that will, once developed, form part of the Bylaws and includes the Residential Design Guidelines;

Design Review Committee means the Committee from time to time appointed under rule 17 to consider design approval applications for the purposes of the Design Controls;

Developer means Auranga ARAL and includes, where the context requires, any entity under any degree of common control or ownership with Auranga ARAL or otherwise associated with Auranga ARAL (except to the extent Auranga ARAL determines otherwise);

Development Land means:

(a) all land which has registered against it a Land Covenant at any particular time; and

(b) such further land which the Developer at any time during the Development Period designates as being incorporated within and as part of the Development Land,

such land being indicatively shown on the plan attached as Schedule 3,

(c) but excluding any land which the Developer at any time during the Development Period determines is to be treated as excluded from the Development Land;

Development Period means a period which has commenced and which will end at such time as the Developer may nominate in its absolute discretion with the intention that this period should include as long as the Developer considers necessary or desirable for the completion of the whole of the Auranga development (including the issue of all titles, construction of all dwellings and other improvements and the construction and installation of all Common Facilities, infrastructure, roads and services) and any additional period considered by the Developer to be necessary or desirable;

Excluded Property means any Property that is owned by the Controlling Member;

Facility Expenses means in each Financial Year the total sum of all rates, taxes, payments, costs, liabilities and expenses incurred or which are anticipated will be incurred by the Association, and which have been properly and reasonably assessed and paid (or assessable and payable) or otherwise incurred:

(a) in connection with the Association's compliance with this Constitution or the furtherance of the objects of the Association;

(b) in respect of the Common Facilities and, if applicable, the Master Facilities, including the cost of Capital Improvements and amounts payable to a Master Association (if any);

(c) in the operation of the Association (including any management fees and management expenses as payable under any Management Agreement)

(d) in the administration and enforcement of a scheme for the provision of services, benefits and facilities to or in respect of the Properties;

Financial Year means:

(a) the period from the date of incorporation of the Association to the following 31 March; and

(b) each 12 month period commencing on 1 April and ending on 31 March in the following year or such other period selected by the Committee;

GST means goods and services tax charged under the Goods and Services Tax Act 1985;

Invitee means any person invited or permitted by an Owner or Occupier or any visitor to an Owner or Occupier;

Kāinga Ora-Homes and Communities means Kāinga Ora-Homes and Communities established by the Kāinga Ora-Homes and Communities Act 2019;

Land Covenant means any land covenant or encumbrance registered against the record of title to any land for the benefit of the Association which includes a covenant, among other matters, by the owner of that land that the owner shall be deemed to have joined the Association as a Member;

Lease means any change in possession of a Property for consideration including any form of lease, tenancy, licence, occupancy right or assignment and includes providing accommodation to any paying guest;

Levy means any and all levies fixed, set or determined by the Association under rules 15 and 16 or as otherwise provided for under this Constitution;

Management Agreement means any agreement or agreements under which the Association may engage a Manager for the provision of administration and/or management services in respect of the Association, as contemplated by clauses 20.1 and 20.2;

Master Facilities means all land, natural features, buildings, structures, plant, equipment, facilities, services and other amenities of Auranga or contributed by the Developer and associated with Auranga, where such facilities are, in the Developer's unfettered opinion, for the general benefit of the Auranga development (not any particular Precinct) and which the Developer designates as being Master Facilities;

Manager means any person, firm or company appointed to manage the Association under rule 20. Where no Manager has been appointed, any reference to *Manager* in this Constitution will be deemed, where appropriate, to refer to the Committee;

Master Association has the meaning given to that term in rule 3.3;

Member means a member of the Association pursuant to clauses 9.1 and 9.2 and as otherwise provided for in this Constitution;

Member's Proportion means, in respect of each Member, the proportion represented by that Member's Property relative to the total number of Properties on an equal sharing basis at the relevant time, or, if the context requires and rule 15.2 applies, the proportion represented by the Member's Property relative to the total number of Properties comprised in the category of membership which includes the Member's Property on an equal sharing basis at the relevant time, provided that the Association may in respect of any Financial Year depart from an equal sharing basis when the Committee determines it is fair and reasonable to do so;

Member's Annual Levy means the share of the Annual Levy payable by a Member in a particular year and as defined in rule 15.3;

Occupier means, in respect of a Property, a Tenant or any other occupier of the Property which may include the Owner and members of the Owner's family;

Other Association means any other residents' association or incorporated society established in respect of a Precinct by the Developer, where that other association has resolved to maintain the Precinct as provided in rule 3.2, and if more than one, all such other associations in respect of related Precincts

Owner means each person registered as an owner (whether individually or with others) of a Property;

Owner's Title means the title identifier issued by Land Information New Zealand for an Owner's Property;

Postal Vote means a vote by a Member eligible to vote cast in legible writing (including but not limited to verifiable email or portal votes by authenticated users) in favour of or against a resolution of the Association received by the Secretary in the prescribed form at or prior to a general meeting in respect of a motion to be voted on at that general meeting without material amendment (materiality to be determined by the Chairperson in accordance with clause 22.4(f));

Precinct means each part of Auranga which the Developer designates as being a Precinct under rule 3.2, each Precinct being defined by a geographical area and/or the properties which are to comprise the Precinct as determined by the Developer in its sole discretion;

Property means a property in Auranga for which a separate title has issued and against which a Land Covenant is registered, but does not include any property capable of further subdivision and which is intended by the Developer to be further subdivided;

Register means the register of Members to be established by the Committee;

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

Rental Agency means such entity or entities as is appointed or approved by the Association to control and administer the letting of the Properties for residential accommodation purposes;

Reserve means any public reserve or other property within or adjoining Auranga which the Association has resolved to maintain;

Residential Design Guidelines means the guidelines developed by the Developer providing guidance and regulating the types of residential dwellings a Residential Member may build on their Property;

Residential Member means a Member whose Property is intended for residential purposes or is reasonably determined by the Association to be, or as being, used primarily for residential purposes;

Secretary means the person appointed pursuant to clause 17.2(b) to carry out the duties of the Secretary, and where the context so requires means any individual appointed by the Secretary to provide services to the Society;

Social Housing Provider means any of the following:

(a) Kāinga Ora-Homes and Communities and any subsidiary company of it;

(b) any central or local government body or a private body who provides housing to tenants on a subsidised basis;

(c) any central or local government body or a private body who intends to use the relevant Property for providing public or institutional housing;

Special Members means persons admitted as Special Members in accordance with clause 9.2;

Special Resolution means a resolution of the Association in general meeting passed by a majority of not fewer than 75% of the Members and the Controlling Member (if any) voting on the resolution, whether in person by proxy or by Postal Vote;

Tenant means any person occupying or taking possession of a Property under a Lease, whether alone or with any other person;

Working Day means any day in New Zealand other than:

(d) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, Waitangi Day and the Provincial Anniversary of Auckland;

(e) if Waitangi Day falls on a Saturday or Sunday, the following Monday; and

(f) a day in the period commencing with the 24th day of December in any year, and ending with the 5th day of January in the following year, both days inclusive.

2.2 **Interpretation:** In this Constitution where the context permits:

(a) words importing the singular include the plural and vice versa;

(b) words which are gender neutral or gender specific include each gender;

(c) other parts of speech and grammatical forms of a word or phrase defined in this Constitution have a corresponding meaning;

(d) reference to a person includes an individual, company, partnership, joint venture, association, corporation or other body corporate, a trust and a Government Agency;

(e) a reference to a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgement, rule of common law or equity or a rule of an applicable stock exchange and is a reference to that law as amended, consolidated or replaced;

(f) a reference to a document includes all amendments or supplements to that document, or replacements or novations of it;

(g) reference to a party will include that party's executors, administrators, successors and assigns;

(h) a reference to a statute includes:

(i) all regulations under that statute;

(ii) all amendments to that statute; and

(iii) any statute substituting for it which incorporates any of its provisions;

(i) reference to currency will mean New Zealand dollars (NZ$) exclusive of GST;

(j) GST will be paid by any party in receipt of a taxable supply in addition to any consideration therefore;

(k) the table of contents and headings are for convenience only and will not affect the interpretation of this document;

(l) where rule 3.2(b) applies, and only where necessary to give meaning to the context, references to "Auranga" shall be deemed to be references to the relevant Precinct as designated; and

(m) references to rules are references to the paragraphs/rules in this Constitution.

3. SCOPE OF THE ASSOCIATION

3.1 **Application of this rule:** The provisions of this rule 3 will apply as a paramount provision of this Constitution. To the extent, on exercise of any powers given to the Developer under rule 3.2, any other provision of these rules is inconsistent with the intent of this rule 3, the Developer shall be entitled to require the Association to alter the Constitution as the Developer requires to remove the inconsistency.

3.2 **Other Associations:** Each Member acknowledges and agrees that:

(a) at any time the geographical scope and therefore inclusion of Properties within the jurisdiction of the Association may be uncertain as Auranga is a large scale development likely or intended to be developed in a number of stages and/or Precincts;

(b) the Developer shall have the right at any time at its unfettered discretion to designate any part or parts of Auranga as comprising one or more Precincts by way of reference to the geographic area or the particular properties which will be subject to each such Precinct; and

(c) following the designation of Precincts, the Developer may designate a Precinct to be under the administration and jurisdiction of the Association and/or may cause to be established Other Associations to administer one or more Precincts, each such Other Association to be subject to constitutions on terms reasonably similar to this Constitution, and including this rule 3.

(d) The Owners within each Precinct shall be required to be members of the Association which has been designated to the relevant Precinct. If the Developer designates Precincts under this rule 3.2(d), interpretation rule 2.2(l) shall apply.

3.3 **Association to join any Master Association:** If the Developer designates one or more parts of Auranga as comprising Precincts, the Developer may at its discretion at any time it considers necessary, desirable or convenient, cause to be established a master association (**Master Association**) as an incorporated society under the Act. The purpose and objects of the Master Association shall be to provide a vehicle for the management, administration and funding of any expenses related to any Master Facilities. The Master Association, if established, shall have as its members only the Association and Other Associations set up as contemplated by rule 3.2, and shall not have individual or other members, and shall be set up with such constitution and rules as the Developer may determine at its unfettered discretion. If the Developer requires that the Association be a member of a Master Association, the Association will accept such membership and the obligations and duties associated with that membership.

4. OBJECTS, POWERS AND DUTIES

4.1 **Objects:** The Association aims to preserve the financial and lifestyle interests of the Members in maintaining infrastructure and regulating the Common Facilities and access and other cooperative features of Auranga, and to promote the following objects for the benefit of Members:

(a) the maintenance, preservation and enhancement of Auranga as a safe, vibrant, caring and healthy community and neighbourhood;

(b) to ensure a strong community with good communication, engagement and respect between Members; and with regular opportunities for participation in, the Common Facilities and community events;

(c) the ownership, leasing, licensing or control and continued ownership, leasing, licensing and control of the Common Facilities by the Association;

(d) to establish, amend and ensure compliance of the Bylaws;

(e) to establish codes of conduct applicable to Members to benefit Members, the Common Facilities and Auranga generally;

(f) to ensure the proper and reliable operation, supply, maintenance, repair, renovation and replacement of the Common Facilities;

(g) to create, regulate and implement appropriate Design Controls to ensure a continuity of building style and prevent the use of different and extreme building themes that are not in harmony with each other;

(h) to manage the use of the Common Facilities and develop further Common Facilities;

(i) to maintain the Common Facilities and Auranga generally as a safe, clean, tidy, accessible and well-presented environment having regard to the age, appearance and aesthetics of Auranga as a whole;

(j) to act sustainably and preserve the natural environment affected by the development of Auranga;

(k) to manage the full and proper use of the Common Facilities by Members and, where appropriate, members of the public;

(l) to liaise and consult with the Body Corporates and any other associations within Auranga which have Members as members, if any, to ensure an integrated management plan for Auranga as a whole;

(m) to engage in any other enterprise or activity which the Association considers to be in the interests of the Members;

(n) to preserve the value and integrity of Auranga;

(o) to levy Members for the purposes of meeting the objects set out in this rule 4.1; and

(p) to do any act or thing incidental or conductive to the attainment of any of the above objects.

4.2 **Excluded objects:** The Association does not have as an object:

(a) the pecuniary gain of Members, and (subject to rule 6.9 and 24.1) no Member will be entitled to receive any dividend out of any Levy, fee, donation or other income or funds of the Association or benefit from property value increases caused by specific expenditure of the Association (except value increases that are consequences of pursuance of other purposes that benefit Auranga generally);

(b) the improvement of specific Properties to the exclusion of others in Auranga (except aesthetic improvements that are consequences of pursuance of other purposes that benefit Auranga generally); or

(c) the carrying on of trading activities; or

(d) the carrying on of business for profit.

4.3 The Association must not operate for the purpose of, or with the effect of:

(a) Any Member deriving any personal monetary gain from membership of the Association, other than as may be permitted by law, or

(b) Returning all or part of the surplus generated by its operations to Members, in money or in kind, or

(c) Conferring any kind of ownership of the Association's assets on Members

but the Association will not operate for the monetary gain of Members in breach of the Act simply if the Association:

(d) trades on its own behalf;

(e) provides a Member with payments that are incidental to the purposes of the Association, and that Member is a body corporate or trust that is prevented by its constitutional documents or deed from acting for the monetary gain of its members;

(f) reimburses a Member for reasonable expenses legitimately incurred on behalf of the Association or while pursuing the Association's purposes;

(g) it provides benefits to the public some of whom may be Members or their families;

(h) provides a Member with salary, wages or other payment for services to the Association, so long as such payment is at arm's length and in accordance with normal commercial terms and does not include any profit share, percentage or revenue or other reward linked to gains made by the Association; or

(i) provides a Member with incidental benefits such as prizes or discounts on products or services, provided that the purpose of the provision is in accordance with the purposes of the Association.

4.4 **Honoraria:** Despite any other provision in this constitution, Committee members, and members of its sub-committees:

(a) May be offered such honoraria as may be approved by resolution of a general meeting; and

(b) Shall be entitled to be reimbursed by the Association for any reasonable actual expenses incurred by them on behalf of the Association as approved by resolution of the Committee.

5. DUTIES OF THE ASSOCIATION

5.1 **Bylaws:** The Association has established the Bylaws contained in Schedule 1 of this Constitution:

(a) for the use of the Common Facilities (including any restrictions on use for security, maintenance or other reasons);

(b) to regulate the behaviour and conduct of Owners, Occupiers and Invitees; and

(c) to govern the use of the Properties.

5.2 The Association will and is empowered to:

(a) subject to rule 24.5, review, amend, modify, repeal and establish new, Bylaws from time to time; and

(b) enforce the Bylaws, taking such action in this regard as the Association thinks fit.

5.3 **Common Facilities:** The Association will own, operate, manage and, where applicable lease or let out on hire, the Common Facilities and all improvements located on the Common Facilities. The Association will ensure the proper use, operation, maintenance, repair, renovation and replacement of the Common Facilities, so as to keep the Common Facilities in good order consistent with standards generally proposed or adopted in superior communal facilities of similar nature, and to prevent them from becoming a danger or nuisance, and undertake such Capital Improvements as are necessary for this purpose. Each Member agrees and allows the Association (and parties engaged by it under rule 5.8) access to the Member's Property for the purposes of this rule 5.3. However, the Association will make good any damage caused by such access within a reasonable time after completion of any work carried out to give effect to this rule 5.3.

5.4 **Insurance:** The Association will effect and maintain all insurances as it considers prudent with respect to the Common Facilities, the Association's affairs and members of the Committee, and will meet all costs of such insurance (which will include all valuations and other professional fees required or deemed desirable for the purposes of such insurances and the costs of certificates relating to such insurances).

5.5 **Rates and Taxes:** The Association will pay all local and governmental authority rates and other taxes and charges levied on or with respect to the Common Facilities. The Association has all rights granted by law to contest the legality and the amount of those rates, taxes and charges.

5.6 **Books of Account:** The Association will keep books and records of the Association's affairs (whether electronically or otherwise in its sole discretion). A member is entitled to access information that the Association holds about that Member (but not about other Members) and is only entitled to other information as expressly permitted by resolution of the Committee from time to time (subject always to rule 5.10), but not otherwise.

5.7 **Body Corporate Secretary:** If there is a Body Corporate, the Association and/or the Manager may from time to time act as Body Corporate manager for all or some of the Bodies Corporate within Auranga.

5.8 **Service contractors and utility suppliers:** The Association may, from time to time, nominate a service contractor (with respect to management, maintenance, security, landscaping or other such services as the Association considers desirable for Auranga) or a utility supplier (with respect to the supply of utilities to the Common Facilities) as a service contractor (on an exclusive or non-exclusive basis) to Auranga. Any Member wishing to contract for services within Auranga will, where a service contractor has been nominated in respect of those services, wherever reasonably possible, use that nominated service contractor.

5.9 **Register of Members:** The Association will maintain the Register which must record:

(a) the name, address, occupation, contact details (at home and work) of each Member, or if the Member is not a natural person, of a contact person for that Member. No notice of any trust express, implied or constructive will be entered on the Register;

(b) the name, address, occupation, contact details (at home and work) of each Occupier, or if the Occupier is not a natural person, of a contact person for that Occupier;

(c) the date on which each Member became a member of the Association;

(d) where there is more than one Owner of a Property, which of such Owners is entitled to vote on behalf of the Member in accordance with rule 22.1;

(e) the name, contact person and contact details of any mortgagee over a Property.

5.10 **Privacy:**

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

(b) To ensure personal and contact details are kept private, no Member shall be permitted to inspect the Register (except for that Member's details which form part of the Register). Where a Member wishes to communicate to all other Members, the Committee shall determine whether the requested communication is for the necessary and proper purposes of the Association, and if approved by the Committee, the Secretary shall make such communication (by such means as determined by the Committee) to the Members on behalf of the requesting Member.

5.11 **Audit of Register:** The Committee will ensure that the Register is audited by a qualified auditor after all Properties have been completed for habitation and sold to Members and thereafter once every two years, an audit being to determine whether all expenditure by the Association is in accordance with the requirements of this Constitution.

5.12 **Transfer of Facilities:** The Association acknowledges that the Developer may, from time to time, transfer land and/or facilities for communal use of the Association, and the Association must accept transfer of such land and/or facilities.

5.13 **Drainage Infrastructure:** The Association shall maintain, repair and renew the drains for which the Association agrees or has agreed to take responsibility.

5.14 **Reserves:** The Association will ensure the proper maintenance of any Reserve(s) for which the Association agrees or has agreed to take responsibility.

5.15 **Incidental Activities:** The Association may carry out any other duty or activity which is necessary or incidental to any other specific duty contained in this Constitution.

6. POWERS OF ASSOCIATION

6.1 **Powers of the Association:** Subject to the express terms of this Constitution and the Act, the Association will have all the powers as are expressly set out in this Constitution or as are necessary to further the objects and duties set out above.

6.2 **Powers vested in Committee:** Without limiting the above, the administration of the Association will be vested in the Association in general meeting, and will be delegated as provided for under rule 17.4.

6.3 **Bank Accounts:** The Association will establish an account or accounts at a bank, and any drawings on such account(s) (including any cheque(s) drawn on such account(s)) will be made only under the signature of the Manager or any the Chairperson and another Member of the Committee.

6.4 **Legal Proceedings:** The Association may initiate and pursue legal proceedings for itself or on behalf of any or all of the Members.

6.5 **Granting Access:** The Association may, from time to time, grant access to the Common Facilities to any person for the purpose of constructing, erecting, operating or maintaining the Common Facilities.

6.6 **Management:** Subject to rule 20.1, the Association may enter into a management agreement or agreements for such period, at such remuneration and on such terms and conditions as the Association may think fit, for the delegation of its responsibilities to ensure the proper operation, repair, maintenance and replacement of the Common Facilities and to fulfil any other duties of the Association.

6.7 **Deeds:** Any contract, if made between private persons, will be entered into by the Association in writing and signed by the Chairperson or under the common seal of the Association. During the Development Period the Chairperson must act (and only act) under the direction of the Controlling Member in this regard, but otherwise the Chairperson must act in accordance with a resolution of the Committee.

6.8 **Other Documents:** All other documents and written announcements, requiring execution on behalf of the Association, must be signed by the Chairperson. During the Development Period the Chairperson must act (and only act) under the direction of the Controlling Member in this regard.

6.9 **Members may contract:** A Member may enter any agreement or understanding with the Association 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.

7. LIMITATION OF POWERS

7.1 **Limitations:** Notwithstanding any other provision of this Constitution or any other enabling power, except as otherwise authorised by Special Resolution, the Association's powers will be restricted as follows:

(a) the Association may not borrow any money other than short-term borrowing to cover any temporary shortfall in meeting the Association's obligations under this Constitution;

(b) the Association will hold the Common Facilities in its own name and will not mortgage, charge, encumber, transfer or otherwise deal with such Common Facilities provided that where the Association is obliged to grant any interest in or right in respect of the Common Facilities by any agreement with the Developer, such interests or rights may be granted by the Committee;

(c) the Association will hold all funds with a Bank registered under the Reserve Bank of New Zealand Act 1989, and will not invest those funds other than in term deposits not exceeding 180 days;

(d) the Association will not permit Common Facilities designed for recreational purposes to be used for non-recreational purposes

8. MEMBERSHIP

8.1 **First Members:** The first Members of the Association will be those individuals who sign the Companies Office form for the application to incorporate the Association (the **First Members**). The First members will be entitled to vote at any meeting of the Association, to elect a Committee, and exercise all rights of Members set out in this Constitution, but will have no obligations as Members. No reference in this Constitution to a Member will be taken as including a reference to the First Members.

8.2 **Resignation:** All of the First Members (other than the Controlling Member) will be deemed to have resigned from the Association, without any act required by the First Members, at

such time as there are more than 15 Owners (other than the Controlling Member) as Members.

9. OWNER MEMBERS

9.1 **Owners to be Members:** Subject to rule 8.1 and 9.2, each Owner will be a Member, and only Owners will be Members, and for that purpose:

(a) Each Owner must duly execute and return to the Association a deed of covenant in favour of the Association and the Developer by which the Owner consents to becoming a Member and agrees and covenants:

(i) to remain a Member while owning the Member's Property;

(ii) to observe and perform the obligations of a Member as set out in this Constitution;

(iii) that it will cease to be a Member on the transfer of the Member's Property to a third party and that third party becoming a Member in relation to the Member's Property;

(iv) that the Property is subject to and is to remain subject to the Land Covenant.

The deed of covenant to be executed by the Owner will be in the form required by the Association and shall be prepared by the Association's solicitors and the Owner will pay the reasonable legal costs and disbursements incurred by the Association's solicitors in connection with this deed of covenant. A template version, subject to modification at the recommendation of the Association's solicitors, of the deed of covenant is attached as Schedule 2.

(b) The Land Covenant and restrictive covenants will be registered against the Owner's Title in favour of the Association and the Developer, whereby each Owner covenants to become and remain a Member, and to perform the obligations of a Member as set out in this Constitution and otherwise containing terms required by the Association.

(c) Upon a Member granting a mortgage in respect of their Property, the Owner must procure that such mortgagee covenants with the Association and the Developer on the terms contained in the deed of covenant attached as Schedule 2. A Member must notify the Association that it intends to grant a mortgage in respect of the Property so that a deed of covenant can be prepared. The Member will pay the reasonable legal costs and disbursements incurred by the Association's solicitors in connection with this deed of covenant.

(d) Each Member will, prior to transferring ownership of a Property, procure the transferee(s) (whether by way of purchase or otherwise) and the transferees' mortgagee (if any) to enter into, execute and deliver to the Association a deed of covenant as required under clause 9.1(a) by which, among other matters, the transferee must consent to becoming a Member of the Association and covenants to observe and perform the obligations of a Member as set out in this Constitution. The transferring Member must notify the Association of their intended transfer so that a deed of covenant can be prepared for execution.

(e) The rights, privileges and obligations of a Member are not assignable (except by transfer of the Property to which Membership is associated).

(f) If there is more than one Owner of a Property, such Owners shall collectively constitute one Member and the liability of such Owners, in relation to their Membership, will be joint and several.

(g) Membership of the Association cannot be terminated and an Owner cannot resign as a Member.

(h) A Member ceases to be a Member immediately on the registration of a transfer of the Owner's Title (subject to the Association having consented to the transfer in terms of rule 10.2(b) and the requirements of rule 9.1(d) having been satisfied) provided that such cessation will not relieve a person of any obligation or liability arising before that person ceased to be an Owner.

(i) Each Member will, immediately before ceasing to be an Owner, provide the Association with the details and documents necessary for maintenance of the Register pursuant to rule 5.9 in respect of the new Owner of the Property. Upon a new Owner being recorded as an Owner in the register the Association shall be entitled to treat the new Owner as a Member, provided the Owner shall be liable for all obligations of Membership as accrued since the Owner was registered as owner of their Property.

9.2 **Special Members:**

(a) The Association may admit other persons who are not Owners as Special Members where the Association is satisfied that such persons have a sufficient connection to Auranga, including by geographical proximity and shared interests with Auranga. For example (but without limitation), the Association may admit the operator and residents of a retirement village in the vicinity of Auranga as Special Members.

(b) As a condition to making such an admission, the Association shall determine and record in writing the extent to which the Special Members shall be entitled to enjoy the rights and benefits of (ordinary) Members, the extent to which the obligations and duties of (ordinary) Members must be satisfied by the Special Members in consideration for enjoying those rights and benefits (including, for example, the obligation to pay levies), the duration the Special Members shall remain admitted as Special Members and any other matters the Association deems relevant to the admission of the Special Members. In making this determination, the Association shall take into account the extent to which other Members may be affected by the admission of persons as Special Members.

(c) Acceptance of this determination by the Association shall be a precondition to a person being admitted as a Special Member and that person's status as a Special Member may be terminated at any time by the Association in the event of that person's non-compliance, provided a person admitted as a Special Member shall remain liable for all their obligations and duties arising during their admission as a Special Member notwithstanding the termination of their admission.

(d) Except to the extent the Association determines in each case that a Special Member shall not be entitled to the full rights and benefits of Members and shall not be bound by the full obligations and duties of Members, otherwise for the purposes of this Constitution, to the extent the context permits, reference to a "Member" shall be deemed to include a Special Member.

9.3 **Fee:** The Association will be entitled from time to time to set such reasonable fee in relation to the issue of a Membership or transfer of a Membership as the Association in its sole discretion determines. If the Association incurs third party costs in relation to the issue, or transfer, of a Membership, the applicant or seller will meet those reasonable third party costs.

9.4 **Members of Staged Development:** The Members acknowledge that the Auranga may be developed in stages, with new Owners becoming Members as additional land is added to Auranga and/or as each stage is completed.

9.5 **Companies and trusts:** Where a company, trust or other non-natural person is an Owner, that company, trust or non-natural person must nominate a natural person (being a Committee Member, officer, trustee or equivalent of that non-natural person) to be the Member or and on behalf of that non-natural person.

9.6 **Categories of Membership:** In addition to categorising Members as being Residential Members and Commercial Members, the Association may also, at any time, create or merge additional categories of Membership (including, for example, by having regard to different geographical areas and usages and the nature of the rights and benefits attached to particular properties) to recognise any category of usage that may be appropriate.

10. OBLIGATIONS OF MEMBERS

10.1 **Compliance with Constitution and Bylaws:** Each Member agrees to promptly and fully comply with the terms of this Constitution, the Bylaws and any covenants given in favour of the Association by such Member (whether by separate deed of covenant or as noted against each Owner's Title). No amendment to this Constitution will be made which results in there being any conflict between the provisions of this Constitution (including any rule or Bylaw) and the provisions of any such covenant.

10.2 **Sale of a Property:** Where a Member (**Transferor**) wishes to transfer ownership of a Property (whether by way of sale, gift, settlement or otherwise):

(a) the Transferor must pay and satisfy all outstanding sums and obligations of the Transferor to the Association and, to the extent the Transferor fails to do so will, notwithstanding any other provision in this Constitution, in any event remain liable for sums and obligations owed to the Association by that Transferor or payable in respect of that Property until such time as:

(i) the person(s) to whom the Property is to be transferred (**Transferee**) is registered as the owner of the Property at the Land Information New Zealand;

(ii) the deed of covenant, as required under rule 9.1(d), is received by the Association; and

(iii) the Transferor has otherwise complied with its obligations under this rule 10.2;

(b) the Transferor must obtain the consent of the Association to the transfer of the Transferor's Property prior to the intended date of transfer, which the Association will not be obliged to provide unless the Transferor has:

(i) paid all sums owed by it to the Association in full (including all Levies, and all fees charged or costs incurred under rules 15 and 16); and

(ii) provided the Transferee's particulars and documentation in accordance with rule 9.1(i);

(c) the Transferor will not be entitled to any refund of any Levies or any other amount paid to the Association;

(d) where a Transferee accepts a transfer of the Property without the requirements of this rule 10.2 and clause 9.1(d) having been satisfied, the Transferee will assume liability for any outstanding obligations of the Transferor on a joint and several basis with the Transferor.

10.3 **Lease of Property:**

(a) No Member will grant or permit a Lease in respect of the Member's Property for any period of 32 days or longer without first notifying the Association of such Lease and the names and contact details of the Tenant. A Rental Agency is permitted to disclose those details to the Association to enable the Association to monitor and manage security within Auranga.

(b) If the Committee has a reasonable belief or suspicion that a Tenant in respect of a Property may be in breach of this Constitution, the Committee may require the provision of the Tenant's Lease, provided rental details and other reasonable redactions may be made for the purpose of protecting privacy.

(c) Only those Tenants under a Lease are permitted to reside in Auranga.

(d) Tenants are responsible for ensuring they and all their Invitees abide by this Constitution and the Bylaws.

(e) Members must ensure that their Tenants are provided with a complete and up-to-date copy of the Bylaws and any changes to the Bylaws as they occur.

10.4 **Lease to a Social Housing Provider:** Prior to granting a Lease to a Social Housing Provider, without limitation to any other applicable requirements, the Member must notify the Association of the grant of such a Lease including details as to the Social Housing Provider, the affected Property and the duration of the Lease.

10.5 **Payment of Rates and Compliance with Obligations:** Each Member acknowledges that it is liable to pay rates and charges levied by the Auckland Council, Watercare and any other relevant authority and to otherwise comply with all legal obligations in respect of the Member's Property.

10.6 **Agreement to grant access and easements:** Each Member agrees to grant the Association:

(a) access to; and

(b) any easements, encumbrances and/or covenants over or under,

that Member's Property as reasonably necessary to enable the Association (including its agents, consultants and contractors and the Committee members) to give effect to this Constitution and any Bylaw.

11. COMPLIANCE BY OCCUPIERS AND INVITEES

11.1 **Application to Occupiers and Invitees:** A reference to an act or omission by any Member will include any act or omission by any mortgagee in possession of that Member's Property, the Occupiers of that Member's Property, and any Invitees in respect of that Member's Property.

11.2 **Compliance with Constitution and Bylaws:** This Constitution is intended to bind all Occupiers who must comply with this Constitution and the Bylaws and a Member must ensure such compliance by any Occupier of that Member's Property. In any case of persistent default by an Occupier who is not an Owner, without limitation to any other rights or remedies available against that defaulting Occupier, the Member must, on demand by the Association, exercise all rights and remedies available to the Member to terminate the Occupier's right to occupy the Property.

12. MEMBERS' ASSISTANCE TO DEVELOPER FOR COMMON FACILITIES

12.1 **Future Development:** The Members acknowledge that development of Auranga is ongoing. The Association is required to allow the Developer such access to, and interests in, the Common Facilities as are necessary or desirable for the development of Auranga to

proceed, and to allow the Developer to add, replace, alter or remove structures and services forming part of the Common Facilities, and to procure that its Members amend this Constitution if such amendment is necessary or desirable for the development to proceed. The Members further acknowledge that the provisions of this rule 12.1 do not limit any other obligations agreed to by a Member or otherwise binding on a Member. The Association and each Member individually agrees:

(a) to grant and now grants to the Developer access to the Common Facilities and the Member's Property with such vehicles, machinery and tools as the Developer desires for the purpose of proceeding with the development. However, the Developer will make good any damage caused by the Developer accessing a Member's Property under the provisions of this rule 12.1;

(b) to grant and now grants such easements in favour of the Developer, any Member and/or the Association over or under the Member's Property as are required for Auranga to proceed or as may be necessary or desirable for development of Auranga, that easement to include terms equivalent to those set out in rule 12.1(a);

(c) not to prevent, hinder or obstruct the use by the Developer of the Common Facilities, the addition, replacement, alteration or removal where not required of structures and/or services forming part of the Common Facilities by the Association to the Developer;

(d) not to oppose, or permit or take part in any opposition to the development of Auranga;

(e) to support any resolution to amend this Constitution, where the Association is bound by agreement with the Developer, to procure such amendment;

(f) to sign any document or do any other thing reasonably necessary to support any resource consent or other authorisation applied for by or on behalf of the Developer in respect of Auranga;

(g) to permit the Association to temporarily close the Common Facilities as may be required for the development to proceed or as may be necessary or desirable for the development of Auranga.

12.2 **Land Covenant:** The Land Covenant must be registered against each Owner's Title in favour of the Association and the Developer as the benefiting party. The Association must not, except with the prior written consent of the Controlling Member (if there is one), agree to any alteration of the terms of the covenants as first noted against each such Owner's Title. If there is no Controlling Member, any alteration to a Land Covenant shall require approval by Special Resolution.

13. USE OF COMMON FACILITIES BY MEMBERS, OCCUPIERS AND INVITEES

13.1 **Use of Common Facilities:** Subject to this Constitution and the Bylaws relating to the use of the Common Facilities, and subject to rule 13.4, each Member and Occupier will be entitled to use the Common Facilities for the proper purposes for which they were designed.

13.2 **Use by Invitees:** A maximum of eight (8) Invitees per Property will be entitled to use the Common Facilities at any one time, unless the prior consent of the Manager or Committee is obtained.

13.3 **Designated Use of the Common Facilities:** The Association from time to time may determine that:

(a) some or all of the Common Facilities (**Designated Facilities**) are to be available for the use by one or more of the Members (**Designated Members**) and by Occupiers of those Designated Member Properties and their Invitees, where such Properties

are located within one or more discrete areas within Auranga and have common interests by reason of their proximity, use, size and/or demand on the Common Facilities; and

(b) Other Members (**Non-Designated Members**) and their Occupiers and Invitees are not entitled to use those Designated Facilities, and in those circumstances Designated Facilities will only be available for use by Designated Members and their Occupiers and Invitees.

13.4 **User Charges for Use:** The Association will be entitled to set a user fee or charge for persons who wish to use any of the Common Facilities. The Manager will collect or arrange for the collection of the user fees and charges on behalf of the Association and these will be paid into the Association's bank account and will form part of its general assets provided that the Developer, Controlling Member and Manager will be entitled to use the Common Facilities at any time and invite any number of guests to view or use the Common Facilities and will not be required to pay any user fees and charges.

13.5 **Restrictions and Reservations:** The Association will be entitled to refuse any person (including a Member) access to the Common Facilities if in its sole discretion it considers that:

(a) the Common Facilities are at or near full capacity;

(b) to do so is in the interests of safety; or

(c) admittance of any further persons would interfere with the use and enjoyment of the Common Facilities by Members and Occupiers using the Common Facilities at that time.

13.6 **Health and Safety:** As an essential requirement of this Constitution, Members and Occupiers acknowledge and accept their personal responsibility for protecting and preserving their own health and safety when using the Common Facilities and undertake to exercise all appropriate care and precautions to avoid accidents and the suffering of harm or injury by either themselves or those for whom they are responsible when using the Common Facilities.

13.7 **No warranty as to capacity:** The Association makes no warranty as to the availability and capacity of the Common Facilities or their suitability for use as recreational facilities at any particular time.

13.8 **Ownership of the Common Facilities:** From the date that the ownership of any of the Common Facilities is transferred to the Association, the Developer will not be responsible for them.

13.9 **Persons not entitled to use Common Facilities:** No person, other than those persons described in rules 13.1 to 13.3, will be entitled to use the Common Facilities.

14. BREACH OF OBLIGATIONS

14.1 **Breach of obligations:** Upon any breach of this Constitution or any Bylaw by a Member (a **Defaulting Member**):

(a) where damage has been caused to the Common Facilities or any other Member's Property, the Defaulting Member will immediately make good such damage or, at the option of the Association or other Member, as the case may be, reimburse the Association/Member for the costs of such making good;

(b) if the breach continues for five (5) Working Days after notice is given by the Association or the Manager to the Defaulting Member to remedy the breach, the Association and Manager may:

(i) do anything and take any action the Association or Manager considers necessary or expedient to remedy or attempt to remedy the breach or any consequential damage (but will have no obligation to do any such thing), including (without limitation) by engaging a debt collection agency to recover unpaid amounts, by commencing legal proceedings, by paying any amounts or by undertaking any works (including building and demolition works);

(ii) impose a daily fee (which may be at a flat or escalating rate but in no circumstances will be less than $100 per day) on the Defaulting Member as set by the Committee from time to time acting reasonably and having regard to such matters as the Association considers relevant but including (without limitation) the nature of the breach, the impact of the breach on other Members and the Association and the administrative burden on the Association and/or the Manager as arising out of the breach, such fee to continue to be imposed for so long as the breach remains unremedied;

(c) all money paid, fees imposed and expenses and costs incurred by the Association or Manager (including any legal costs) in remedying, or attempting to remedy, a breach of this Constitution or any Bylaw by a Defaulting Member, 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, will be a debt due from the Defaulting Member to the Association;

(d) if any money payable by a Defaulting Member to the Association or the Manager is in arrears and unpaid for five (5) Working Days (whether or not formal demand for payment has been made and without any formal demand being necessary) such money will be payable on demand and will bear interest at the rate of 15% per annum applicable during the continuance of the default computed on a daily basis from the due date until the date of payment in full;

(e) once the Defaulting Member has been notified by the Association of its default, until the default is remedied the Defaulting Member will not be entitled to exercise the rights and benefits of Membership of the Association, their voting rights as a Member will be suspended and they will not be entitled to use the Common Facilities (except roads and access ways). This rule will not relieve the Defaulting Member from the obligation to pay all monies due to the Association or the Manager under the terms of this Constitution. Any Tenant of a Defaulting Member will be similarly disentitled from using Common Facilities.

14.2 **Enforcement of covenants:** Without prejudice to rules 14.1(a) to 14.1(e), in the event of the Defaulting Member's breach of this Constitution and/or any Bylaw, the Association may:

(a) take such enforcement action as is available under the Land Covenant; and

(b) take any other action at law or in equity that may be available to the Association for the enforcement of this Constitution.

14.3 **Controlling Member may take action:** Notwithstanding any other rule in this Constitution, the Controlling Member is irrevocably authorised, at any time and in its sole discretion, on behalf and in the name of the Association, to enforce and exercise all rights and remedies of the Association against a Defaulting Member and to take action, including court or tribunal proceedings, against any Defaulting Member in relation to a breach by the Defaulting Member of this Constitution. The Controlling Member will not be required to obtain the prior consent of the Association to any such action, proceeding or claim and the Association will give its full co-operation to the Controlling Member, including the prompt reimbursement of the Controlling Member's costs (including solicitor/own client costs) of any such action, proceeding or claim.

14.4 **Persistent default of an Occupier:** In the event of a persistent default by an Occupier of a Member's Property of this Constitution or the Bylaws, the Member will, on demand by the

Association and at the Member's cost, use its best endeavours to terminate the Occupier's rights to use and occupy the Member's Property.

15. FACILITY EXPENSES

Computation and Payment of Levies

15.1 **Setting of Levies:** Each Financial Year, the Association will set the Levies described in this rule 15. The Levies for the Financial Year will be set taking into account the estimated Facility Expenses for the Financial Year and any contingency sums/special Levies contemplated under rule 15.3. The Association will not be required to take into account anticipated receipts of New Dwelling Levies under rule 15.6 when setting Levies.

15.2 **Categories of Membership:** Members may be categorised as Residential Members, Commercial Members, Designated Members (under rule 13.3) or any other category of membership as may be created under rule 9.6. If more than one category of membership exists in respect of a Financial Year, the Committee will allocate the estimated Facility Expenses between each of those categories for that Financial Year.

15.3 **Sharing of Facility Expenses:** Prior to or as soon as practicable after the commencement of each Financial Year, the Association will determine an annual levy to be raised from Members for the Financial Year in accordance with its estimate of the Facility Expenses for that Financial Year which may include any contingency sum which it determines, in its sole discretion, as appropriate for that Financial Year (together, **Annual Levy**). The Association, by written notice, will advise each Member of that Member's share of the Annual Levy calculated in accordance with the Member's Proportion (**Member's Annual Levy**).

15.4 **Payment of Facility Expenses:** The Association will determine the manner and due date for payment of the Annual Levy and invoice each Member in respect of the Member's Annual Levy accordingly. Each Member will pay to the Association the amount invoiced by the Association in the manner and by the due date set by the Association. Unless the Association resolves otherwise, the Annual Levy will be payable by Members in a single instalment by 20 July in the applicable the Financial Year.

15.5 **Invoice not issued:** Pending a Member being invoiced for the Annual Levy in respect of a Financial Year, that Member shall pay, on an interim basis, the Member's Annual Levy in respect of that Financial Year in the same instalments and on the same dates as were applicable to the Member's Annual Levy in the previous Financial Year. On the Member being invoiced for the current Financial Year under rule 15.4:

(a) rule 15.4 will apply thereafter;

(b) if the Member has made an interim payment or payments under this rule 15.5 which exceed the aggregate of payments which should have been made in accordance with the invoice issued to the Member, the Association will credit the difference against subsequent amounts payable to the Association by the Member;

(c) if the aggregate of a Member's interim payments made under this rule during the Financial Year is less than the aggregate of payments which should have been made in accordance with the invoice issued to the Member, the Member will immediately pay the difference to the Association.

15.6 **New Dwelling Levies:** Where in any Financial Year a Member becomes a Member in relation to a Property whose previous owner was not a Member (for example, in relation to a new build) that new Member will pay a new dwelling Levy (**New Dwelling Levy**) to the Association of such an amount as the Association may set from time to time immediately upon that new Member becoming a Member. New Members shall then pay any Levies otherwise established under the rule 15 for the following Financial Year and each subsequent Financial Year or part Financial Year that they remain a Member.

15.7 **Late charges:** If a Member defaults in paying a Levy or any instalment of any Levy when due (whether under this rule 15 or under rule 16), the defaulting Member may be required by the Association to pay a late charge including reasonable handling costs and interest in accordance with rule 14.1(d).

15.8 **Personal Obligation:** Levies are the personal and individual debt of the Member. No diminution or abatement of Levies is allowed for inconveniencies arising from the unavailability of Common Facilities, carrying out of maintenance or the making of repairs or improvements to the Common Facilities. A Member is not exempted from liability for any Levies through non-use of Common Facilities or otherwise. Payment or non-payment of Levies by a Member will not diminish or reduce the Member's responsibilities and obligations otherwise provided for in this Constitution.

15.9 **Certificate of Indebtedness:** The Association will, on the application of a Member, or any person authorised in writing by such Member, provide the Member or authorised person with a certificate of the indebtedness of the Member to the Association calculated to the date specified in the application and any Levies charged to the Member in respect of the relevant Financial Year. The statement will show in respect of the relevant Financial Year:

(a) the Member's Annual Levy and any other Levies charged to the Member;

(b) the manner and time of payment of the Member's Annual Levy and other Levies;

(c) payments made by the Member on account of the Member's Annual Levy and other Levies in the current Financial Year;

(d) payments due from the Member on account of the Member's Annual Levy and any other Levies and not paid by the Member;

(e) any accumulated unpaid default interest and other costs and amounts payable by the Member,

and, absent manifest error, the certificate will be conclusive evidence of the matters certified therein. The Member may only apply for a certificate of indebtedness once in any year and on each occasion that a Member transfers ownership of a Property. For any additional requests, the Association or Manager may charge a reasonable fee.

15.10 **Excluded Property:** For the purposes of setting and collecting Levies under this rule 15 or rule 16 the Association must not issue any Levy in respect of any Excluded Property.

16. SINKING FUND, SPECIAL AND DIFFERENTIAL LEVIES

16.1 **Capital Improvements Levy:** In addition to the Levies set under rule 15, the Association may, at any time and from time to time, fix an additional Levy to be paid by each Member together with the instalments of the Member's Annual Levy, to be set aside as a sinking fund to allow for and meet the costs of Capital Improvements which are projected to be incurred at any time beyond the current Financial Year (including contingency sums determined on a projected basis).

16.2 **Special Levies:** In addition to the Levies set under rule 15, the Association may, at any time and from time to time, make a special Levy, payable by any or each Member at such times as are set by the Association, as the Association considers necessary, including:

(a) for the Association to meet its obligations under this Constitution;

(b) to meet costs which are incurred as a result of a Member's breach of any provisions of this Constitution, provided that in the case of wilful or negligent damage caused by, or purposeful work undertaken at the request of, one or more but not all of the Members or their respective agents, contractors, employees, Members or Invitees,

then such cost will be at the sole expense of the Member(s) creating or being responsible for the damage or who requested the work;

(c) where circumstance and fairness dictates that particular costs should be otherwise allocated then such costs will be fairly allocated between the particular Members having the benefit of the matters for which those costs were or will be incurred.

16.3 **Levies for Designated Members:** Where the Association has made a determination under rule 13.3, notwithstanding any other provision in this Constitution the Association may in setting or fixing any Annual Levy or special Levy, to the extent that the amount to be set or fixed relates to any Designated Facility, calculate the amount required from Members on the basis that only Designated Members are liable to contribute to that Levy and that Non-Designated Members are not required to contribute to that Levy.

16.4 The provisions applicable to Annual Levies under rule 15 will similarly apply, *mutatis mutandis*, to the Levies set or fixed by the Association under this rule 16, unless the Association determines otherwise. For the avoidance of doubt, Levies under this rule 16 shall be set and allocated having regard to different categories of membership as contemplated by rule 15.2.

17. OPERATION OF THE MEMBERS' ASSOCIATION

The Committee

17.1 **Delegation to Committee:** Subject to rule 17.4, the powers, authorities and discretions of the Association are delegated to and may be exercised, enforced and performed by the Committee.

17.2 **Composition:** The Committee shall comprise:

(a) the Chairperson;

(b) a Secretary (previously referred to as the "treasurer/secretary");

(c) subject to rule 17.2(d), a minimum of three and a maximum of nine general Committee Members (including the Chairperson and Secretary who may be the same person); and

(d) while the First Members of the Association remain Members, a minimum of one and a maximum of three general Committee Members (including the Chairperson and Secretary who may be the same person), who shall be nominated by the Controlling Member.

17.3 **Election to Committee:** The Controlling Member may, at its discretion, establish a process (and may alter any process previously established) from time to time for the election of Members to the Committee. The Controlling Member shall notify the Association as to any such process for election and the Committee shall take the steps necessary to implement such process. A process established by the Controlling Member may include, for example, that:

(a) any Members seeking election must be nominated for election and must consent to that nomination;

(b) the nomination of a Member must be made using a prescribed form which may include a requirement for the provision of information regarding the Member which the Controlling Member considers relevant to membership of the Committee;

(c) Members seeking election being required to attend and speak at a public meeting; and

(d) Measures to improve the demography of the Committee relative to the demography of the Membership.

17.4 **Delegation of Powers:**

(a) Until the expiry of the Development Period, the administration of the Association and all powers, authority and discretions of the Association and the Committee will, subject to rule 17.4(d), be delegated to and exclusively exercisable by the Controlling Member and the Controlling Member will be permitted to do on the Association's behalf all acts as it deems necessary or expedient.

(b) On and from the expiry of the Development Period (or such earlier date at the Controlling Member may nominate in its absolute discretion), the administration of the Association and all powers, authority and discretions of the Association will be vested in the Committee in accordance with this rule 17.

(c) Without limitation to rule 17.4(a), the powers, authority and discretions exercisable by the Committee are subject always to any limits which may from time to time be imposed by the Association.

(d) The Controlling Member and/or the Committee (as applicable) may, at its discretion, delegate any one or more of the powers, authorities and discretions (including under the Bylaws) delegated to it to the Committee, a sub-committee of Committee Members, a Committee Member, the Manager or any other person(s). In exercising any delegated powers, authority or discretions, any delegate must comply with any directions that the delegator may impose. Any such delegation may be terminated by the delegator at any time.

17.5 **Committee Members:**

(a) The Chairperson will be the nominee of the Controlling Member at its option (if there is one), or, where there is no Controlling Member, the Chairperson will be elected out of the Committee Members by the Committee at the first meeting of the Committee following each Annual General Meeting or pursuant to rule 17.11.

(b) The Secretary will be the nominee of the Controlling Member at its option (if there is one), or, where there is no Controlling Member, the Secretary will be elected out of the Committee Members by the Committee from time to time. Subject to the approval of the Committee, the Secretary may delegate his or her responsibilities under this Constitution to the Manager.

(c) Subject to rule 17.2(d), the balance of the Committee will be elected by the Association at every Annual General Meeting, and may be elected at any other time by the Association in general meeting.

17.6 **Eligibility for appointment/election to the Committee:** No person may be elected or appointed to the Committee who:

(a) has not attained the age of 18 years; or

(b) is or becomes an undischarged bankrupt; or

(c) is prohibited from being an officer of an incorporated society under the Act; or

(d) is prohibited from being a director or taking part in the management of an incorporated or unincorporated body under the Companies Act 1993, the Securities Act 1978, the Securities Markets Act 1988 or is subject to a banning order under the Financial Markets Conduct Act 1993;

(e) is subject to a property order made under the Protection of Personal and Property Rights Act 1988; or

(f) is suffering from a mental disorder within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or

(g) has been convicted of any offence for which a convicted person may be imprisoned for a term of 2 years or more; or

(h) is not or ceases to be a Member or the contact person of a Member which is not a natural person (provided this provision does not apply to any person the Controlling Member may nominate for the Committee).

17.7 **Retirement:** A Committee Member will hold his or her elected or appointed position until the earliest of:

(a) the next Annual General Meeting following election (where the Committee Member will be eligible for re-election);

(b) the date written resignation from position is received by the Association;

(c) the date of removal from such position by the Association in general meeting; or

(d) the date the Committee Member would cease to be eligible for election or appointment to the Committee under rule 17.6.

Upon a Committee Member ceasing to be a Committee Member, that former Committee Member shall deliver to the Chairperson all books, papers and other property of the Association possessed by or under the control of such former Committee Member.

17.8 **Casual Vacancy:** In the event of a casual vacancy in any position on the Committee (including the Chairperson subject to rule 17.11) (whether caused by death, cessation of Membership from the Association, resignation or some other means) the remaining Committee Members may appoint another Committee Member to fill the vacancy until the position is filled by the Association in general meeting.

17.9 **Duties of Secretary:** The Secretary will:

(a) convene general meetings when requested to do so in accordance with this Constitution;

(b) attend all meetings of the Committee and have full speaking rights at such meetings;

(c) give all notices required to be given by these rules or as directed from time to time by the Association 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) hold in safe custody the common seal of the Association;

(f) receive all annual and special Levies, additional fees and other moneys paid to the Association;

(g) operate and maintain a current bank account in the name of the Association;

(h) pay all accounts properly incurred by or on behalf of the Association;

(i) report immediately to the Association any Member who fails to pay special Levies or additional fees within the prescribed period;

(j) keep all financial records and any security documents in safe custody;

(k) compile all proper accounting records from time to time as required by the Act or by the Committee which give a true, fair and complete account of the financial affairs and transactions of the Association; and

(l) compile the financial statements immediately following each Financial Year as required by the Act, and provide for the auditing of those records and the distribution of the audited financial statements to Members as soon as is reasonably practicable after each audit is completed and, in any event, no later than five (5) months of the end of the Financial Year.

17.10 **Conduct of Meetings:** The Committee may meet together, adjourn and otherwise regulate its meetings and procedures for conducting its business, as it thinks fit. A majority of Members of the Committee from time to time will constitute a quorum for a Committee meeting, provided that if a meeting he held which is inquorate, that meeting shall be adjourned to the same time and place 7 days later.. No business of the Committee will be conducted at any time when less than a quorum is present at the same time and place. The Committee may meet at any time and the Secretary will, upon the request of the Chairperson or any three Committee Members, convene a meeting of the Committee.

17.11 **Chairperson:** Subject to rule 17.5, the Committee from time to time will appoint, remove and replace the Chairperson for such term as it sees fit from one of their number to chair Committee meetings and otherwise exercise the powers of the Chairperson set out in this Constitution.

17.12 **Casting Vote:** Subject to rule 17.14, in the case of an equality of votes the Chairperson may exercise a casting vote.

17.13 **Seal:** The Committee will obtain a common seal for the use of the Association and will provide for its safe custody. The common seal will not be used except by resolution of the Committee. Every instrument to which the common seal is affixed must be signed by the Chairperson and any other Member of the Committee.

17.14 **Voting:** Subject to rules 19.4(a) and 19.4(d), resolutions of the Committee will be passed by the majority of Committee Members. Each Committee Member will be entitled to exercise one vote. Notwithstanding any contrary provision in this Constitution but expressly subject to rules 19.4(a) and 19.4(d), a resolution in writing signed by such of the Committee Members as would constitute a quorum at a Committee meeting shall be as valid and effectual as if it had been passed at a meeting of the Committee duly convened and constituted. In addition, the Committee may act by resolution approved in the course of a telephone or electronic conference call or through a written ballot conducted by email or mail.

17.15 **Validity of Committee's action:** Subject to rules 19.4(a) and 19.4(d), 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, will 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. The foregoing shall similarly apply even if the minimum composition requirements of the Committee under clause 17.2 have not been satisfied if this has occurred due to an insufficiency of valid nominations for election to the Committee or the retirement or disqualification of Committee Members.

17.16 **Committee Minutes and Records:** The Committee will cause proper minutes to be kept of the proceedings of all meetings of the Association and of the Committee. All business transacted at such meetings signed by the Chairperson will 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.

18. THE DESIGN REVIEW COMMITTEE

18.1 **Composition:** The Design Review Committee will comprise the Controlling Member and its nominees, and, after the resignation of the Controlling Member, such person or persons as may be appointed by the Committee from time to time.

18.2 **Design Controls:** The Design Review Committee may revise and publish from time to time the Design Controls in respect of any dwelling, commercial premises or other development or improvement within Auranga. Each Member will fully comply with the Design Controls and any other rule relevant to design control.

18.3 **Design approval:** Before commencing any alteration, addition or modification to any building or other structure (including fencing, garden features) within Auranga, the Member must first submit plans and specifications for the design for the proposed work to the Design Review Committee for its written approval in accordance with the Design Controls. The Design Review Committee may refuse to approve any design which, in its reasonable opinion, does not comply the Design Controls.

18.4 **Approval costs:** All costs of the design approval process will be met by the Member seeking approval in accordance with the schedule of fees to be set by the Association.

19. CONTROLLING MEMBER

19.1 **Controlling Member:** Until the expiry of the Development Period or such earlier date as Auranga ARAL may nominate in its absolute discretion, Auranga ARAL will be the Controlling Member, regardless of whether Auranga ARAL is at any time an Owner.

19.2 **Limited rights:** The Controlling Member will have only the rights and obligations specified in this Constitution and will have no other obligations as a Member. No reference in this Constitution to a Member will be taken as including a reference to the Controlling Member except where the Controlling Member determines otherwise.

19.3 **Resignation of Controlling Member:** At the end of the Development Period or such earlier date as Auranga ARAL may nominate in its absolute discretion, Auranga ARAL will be deemed to have resigned as Controlling Member and, thereafter, there will be no Controlling Member.

19.4 **Controlling Member:** Until the expiry of the Development Period and while the Controlling Member is in that position in accordance with rule 19.3, notwithstanding any other provision in this Constitution:

(a) the full governance and control of the Association will be vested in the Controlling Member, which may exercise all the powers, authorities and discretions vested in the Committee and in addition may exercise all the powers of the Association which are not by statute required to be exercised by the Association in general meeting;

(b) the Controlling Member will be entitled to exercise the number of votes equal to one more than the number of all other votes being cast by Members in relation to any resolution of the Association (whether in person, by proxy, by Postal Vote or otherwise), except in relation to a proposed resolution which may only be passed as a Special Resolution the Controlling Member will be entitled to exercise the number of votes equal to one more than the number which is three times the number of all other votes being cast in relation to the proposed Special Resolution;

(c) any minute entered in the minute book of the Association's proceedings signed by the Controlling Member will, in any matter not expressly required by the statute to be done by the Association in general meeting, have the effect of a resolution of the Association;

(d) the Committee will under the control of the Controlling Member, whose opinion will prevail in the event of any difference of opinion, and they will be bound to conform to the Controlling Member's directions in regard to the Association's business. For the avoidance of doubt, the Committee will act in an advisory role to the Controlling Member to enable the Controlling Member to form its opinions and make decisions under this rule. No resolution passed by the Committee will be of any effect unless approved by the Controlling Member.

19.5 **Effect on Meetings:** Notwithstanding anything contained or implied in this Constitution:

(a) so long as the Controlling Member is in office, no resolution that is passed by the Association in general meeting or by the Committee will have any force unless the resolution is in writing and signed by the Controlling Member; and

(b) so long as the Controlling Member is in office, it is not necessary to hold the formal meetings of the Committee, but any resolution signed by the Controlling Member will be as valid and effectual as if it were a resolution unanimously passed at any meeting of the Committee.

19.6 **Right to Convene General Meetings:** The Controlling Member may at any time convene upon such notice as it thinks fit a general meeting of the Association and, to the extent permissible by law, may regulate all proceedings at such meetings and from time to time determine the quorum for any meeting whether of Members or of the Committee, notwithstanding anything to the contrary to this Constitution.

19.7 **Controlling Member Provisions Paramount:** This Constitution in so far as it relates to the proceedings and powers of the Committee and/or the Association will in all respects be read subject to the provisions relating to the Controlling Member in this rule 19. Should there be any inconsistency or contradiction, the provisions relating to the Controlling Member in this rule 19 will be paramount.

20. MANAGER

20.1 **First Manager:** The first Manager will be appointed by the Controlling Member, to manage the Association in accordance with the Management Agreement (if any).

20.2 **Duties:** Subject to rule 20.1 and following the resignation, expiry of term or dismissal of the first Manager (and its successors and assigns), the Committee will appoint, remove and replace a Manager from time to time to carry out such of the obligations and duties of the Association, and exercise such of the discretions and powers of the Association, as the Committee sees fit. Such appointment will be for the term, at the remuneration and on such terms and conditions as the Committee may agree with the Manager.

20.3 **Rights and responsibilities:** Without limiting the generality of clause 20.2, the Manager will also be responsible for, on request or approval of the Committee (amongst other things):

(a) the appointment and management of cleaning, maintenance, landscaping and grounds-keeping contractors to maintain the Common Facilities;

(b) management of the security arrangements for the Association and employment of relevant contractors (if necessary);

(c) the monitoring and enforcement of by the Bylaws, to a level deemed generally acceptable by a majority of Members as determined by the Committee;

(d) coordination of rubbish collections for the Association, where not undertaken by any Authority;

(e) coordination of repairs/maintenance with subcontractors;

(f) the bulk purchase of utility services for Auranga;

(g) operation and maintenance of an 'intranet' for communications between Members;

(h) management of a booking system (if required) for any Common Facilities;

(i) maintenance of the cleanliness of all Common Facilities through employment of external contractors;

(j) the operation of any Rental Agency with Auranga.

The Manager will comply with any directions of the Committee given in relation to the provision of these services. The scope of services to be supplied by the Manager may be altered by the Committee as the Committee sees fit. Should the scope of services be materially altered, the Committee will consider whether an alteration to the management fee is appropriate. If it considers that it is, it will seek to negotiate an alteration to the fee with the Manager. The Manager may contract with Members to provide management and other services to the Association including for the provision of services and consumable items.

20.4 **Reporting:** The Manager must report on a regular basis to the Committee.

21. GENERAL MEETINGS

21.1 **Annual General Meeting:** In addition to any other meetings in that year, the Association will hold an Annual General Meeting each year. Not more than 18 months will 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.

21.2 **Special General Meeting:** 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 the Members, or by written notice of the Controlling Member (if there is one). The Secretary will call a special general meeting to be held within 15 Working Days of receiving an effective request.

21.3 **Powers of the Association in General Meeting:** Subject to rule 17.4, the Association in general meeting may, by resolution, exercise all powers, authorities and discretions of the Association notwithstanding that any such power, authority and discretion may have been delegated to the Committee by or pursuant to this Constitution. Notwithstanding any contrary provision in this Constitution, a resolution in writing signed by 40% of the Members entitled to vote in person or by proxy at general meetings together with the Controlling Member (if there is one), will be as valid and effectual as if it had been passed at a general meeting of the Association duly convened and constituted.

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

21.5 **Quorum:** No business will be transacted at any general meeting of the Association unless the quorum is "present" when a meeting proceeds to business. "Present" shall include present by any technological means which provides a Member with a reasonable opportunity to participate. Subject to rule 21.10, quorums will be not less than 15% of all Members or 10 Members (whichever is the lesser) eligible to vote at general meetings,

present in person or by proxy or by Postal Vote and the Controlling Member (if there is one).

21.6 **Notice of General Meeting:** A notice of general meeting of the Association will be sent to every Member not less than 10 Working Days before the date of such meeting. Such notice will specify the date, time and venue of such meeting. In the case of a general meeting, other than an Annual General Meeting, such notice will specify all business and all notices of motions to be considered at such meeting. No business or notice of motion which is not specified will be discussed or transacted at such meeting.

21.7 **Failure to give notice:** The accidental omission to give notice, or the non-receipt of such notice by any Member, will not invalidate the proceedings at any such meeting.

21.8 **The Chairperson:** The chairperson at any general meeting will be:

(a) the Chairperson; or

(b) if the Chairperson is not present or is unwilling to take the chair, then those Committee Members who are present may choose a Member present and willing to take the chair 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 proxy.

21.9 **Adjournment:** 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 will be dissolved. In any other case the meeting will stand adjourned to the same day in the next week, at the same time and place, or to such other day and such other time and place as the Committee will determine (such date not to be later than 14 days from the date of the adjourned meeting).

21.10 **Adjourned Meetings:** No business other than that business which might have been transacted at the meeting from which the adjournment took place, will be transacted at any adjourned meeting. Members will not be entitled to receive any notice in respect of adjourned meetings. If at an 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) will constitute a quorum.

22. VOTING

22.1 **One Member One Vote:** Each Member present at a general meeting of the Association (not at that time being in breach of the Constitution) will be entitled to one vote for each Property of which that Member is a registered proprietor, which may be exercised either in person or by proxy. Where there is more than one Owner in respect of a Property, and such Owners are collectively a Member pursuant to rule 9.1(f) only one such Owner will be entitled to vote. In the absence of agreement between such Owners as to who will exercise this vote, the Owner appearing first on the certificate of title to the Property will be entitled to exercise the vote. On the death of any Member, and pending the transfer of the Member's Property, the executor of that Member's estate will be entitled to exercise that Member's vote.

22.2 **Corporation representatives:** Any corporation which is a Member may, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Association, and the person so authorised will 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 will mean and include a representative appointed pursuant to this rule, and such person may also stand for election to the Committee.

22.3 **No vote if fees unpaid:** Unless all Levies and any other fees or money presently payable by the Member to the Association have been paid in full, the Member will not be entitled to vote at any meeting of the Association, whether in his/her/its own right or as a proxy for another person. For clarity, this rule does not apply to the Controlling Member.

22.4 **Voting at meetings:** At any general meeting:

(a) a resolution may be put to the vote by the chairperson of the meeting or by any Member present at the meeting and entitled to vote;

(b) resolutions put to the vote will be decided on voices or a show of hands and shall include Postal Votes, 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 proxy;

(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 of the meeting that such resolution has been carried or lost or any entry to that effect in the Association's minute book, will be conclusive evidence of that fact, without further proof of the number or proportion of votes recorded in favour of or against such resolution;

(d) a motion may be put to the vote prior to the meeting by Postal Vote, with Postal Votes cast being included in the count of votes on the motion at a general meeting or adjourned general meeting at which the motion is to be voted on (but Members' votes shall not be counted twice);

(e) every Postal Vote must be in the form prescribed by the Secretary from time to time;

(f) in the event that an amendment to a motion is moved at a general meeting, the chairperson shall determine whether that amendment is material (acting reasonably in all respects) and if determined to be a material amendment, no Postal Votes will be counted in respect of that affected motion;

(g) resolutions will be passed by a majority of votes, except where a Special Resolution is required by the Constitution;

(h) in the case of a tie in votes, the chairperson of the meeting may exercise a casting vote.

22.5 **Good Faith:** Members will, 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 Association, and that each member will bear that Member's Proportion of all Facility Expenses and of all costs and expenses to be met by Levies made by the Association under rule 15 and/or 16, irrespective of whether any particular expenditure by the Association benefits all Members.

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

22.7 **Form of Proxy:** No particular form of instrument appointing a proxy is required.

22.8 **Notice of Proxy:** The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a solicitor-certified copy of that power or authority (if applicable) shall be deposited at the Association's registered office or at such other place within New Zealand as is specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named on the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll and in default the instrument of proxy shall not be treated as valid.

22.9 **Validity of Proxy:** A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the Instrument was executed if no intimation in writing of such death, unsoundness of mind or revocation as aforesaid has been received by the Secretary by the commencement of the meeting or adjourned meeting as which the instrument is exercised.

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

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

23. NOTICES

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

(a) Delivered personally to the Member;

(b) Sent by post or delivered to the address of the Member appearing in the Register; or

(c) Transmitted to the Member's email address appearing in the Register.

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

(a) Delivered personally to the Secretary;

(b) Delivered to the registered office of the Association; or

(c) Transmitted to the email address for the Secretary.

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

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

(a) Delivered personally to the Controlling Member;

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

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

24. GENERAL

24.1 **Dissolution:** The Association may be wound up in accordance with section 24 of the Act. If permitted under the Act, upon the winding up of the Association:

(a) ownership of the Common Facilities will vest in; and

(b) the then balance of any sinking fund collected for Capital Improvements or other purposes under rule 16.1 will be distributed to,

the Members as tenants in common in shares allocated in accordance with the Member's Proportions as at the date of winding up, and the Association will take all necessary steps to vest legal title to the Common Facilities in the Members. If not permitted by the Act, the Committee shall nominate such other incorporated society or not-for-profit entity that consents to the Common Facilities and sinking fund vesting in it or them.

24.2 **Alteration of Constitution:** This Constitution will not be amended, added to or rescinded except at an Annual General Meeting, or a general meeting convened for that purpose, and unless written notice of the proposed amendment, addition or rescission will have been given to all Members in accordance with this Constitution. Notwithstanding any other rule in this Constitution, this Constitution will not be amended, added to or rescinded without the prior written consent of the Controlling Member (if there is one) or, except to the extent the Controlling Member (if there is one) considers reasonable and appropriate, so as to alter, add to or rescind rules 6.1, 6.2, 9.1, 12.1, 12.2, 14.2, 14.3, 15.8, 17.1, 17.4, 17.5, 18, 19, 20.1, 22.2 and 22.3 or otherwise so as to detrimentally affect the rights of the Controlling Member. The Members each irrevocably appoint the Controlling Member their attorney for the purposes of signing any alteration, addition or rescission of rules pursuant to section 21 of the Act.

24.3 **Alteration of Certain Rules:** Notwithstanding rule 24.2, rules 4.2, 4.3 and any rule which if altered would have the effect of the Association no longer meeting the requirements for an applicable exemption under the Financial Markets Conduct Act 2013 may not be altered unless the alteration is approved by a Special Resolution and the Controlling Member (if there is one).

24.4 **Certain Rules Cannot be Amended:** Rules 4.2 and 4.3 are not to be amended, added to or rescinded under any circumstances whatsoever except as necessary to ensure the exemption of the Association from Financial Markets Conduct Act 2013.

24.5 **Introduction, Alteration or Cancellation of Bylaws:** If the Committee wishes to promulgate new Bylaws or vary or repeal any Bylaws, the new Bylaw or variation or repeal will not be effective until it is approved at an Annual General Meeting or a general meeting and by the Controlling Member (if there is one).

24.6 **Acceptance by Registrar:** No amendment, addition or rescission to this Constitution will be valid unless and until accepted by the Registrar.

24.7 **Liability of Members:** No Member will be under any liability in respect of any contract or other obligation made or incurred by the Association.

24.8 **Association to Indemnify:** The Association will indemnify and keep indemnified:

(a) each Member against any liability properly incurred by such Member in respect of the affairs of the Association (excluding, for the avoidance of doubt, in respect of any Levies payable by the Member), to the extent of the property owned by the Association;

(b) Members of the Committee from and against any liability in respect of any act or omission in their capacity as a Committee Member, to the extent of property owned by the Association, except where criminal liability is adjudged in respect of that Committee Member; and

(c) the Controlling Member against any liability properly incurred by the Controlling Member in respect of the affairs of the Association, to the extent of the property owned by the Association,

and the Association may take out insurances for the purposes of these indemnities.

24.9 **Action in Law:** No action in law or otherwise will lie in favour of any Member against any other Member or the Committee or any Committee Member in respect of any act or omission pursuant to this Constitution. Nothing in this rule will prevent an action in respect of any loss or expense arising from the wilful default of the person against whom such action is taken.

24.10 **Member to Indemnify Association:** Each Member will indemnify and keep indemnified the Association from and against any action, claim, demand, loss, damage, cost, expense and liability which the Association may suffer or incur, or for which the Association may become liable, in respect of or arising from any breach of this Constitution or the Bylaws by the Member.

24.11 **Dispute Resolution:**

(a) Any difference or dispute which may arise between a Member and the Association concerning this Constitution or any act or thing to be done, suffered or omitted under this Constitution, or concerning the construction of this Constitution will be first referred to mediation using the process under rule 24.12 and then if resolution is still not achieved, to arbitration for resolution under rule 24.13.

(b) If 25% of more of all Members wish to raise a dispute with the Controlling Member concerning the Controlling Member's compliance with this Constitution when exercising its powers or performing its duties under this Constitution, those Members may by resolution require that their dispute be referred to mediation under rule 24.12. The Members in question must promptly give the Controlling Member full written particulars of their dispute. If resolution is not achieved by mediation, 25% or more of all Members may resolve to refer the dispute to arbitration for resolution under rule 24.13.

24.12 **Mediation:** In relation to a dispute or difference to be referred to mediation for resolution, the process is as follows:

(a) the parties will appoint a mediator and if they fail to agree the mediator will be appointed by the President of the New Zealand Law Society or the President's nominee;

(b) the parties must co-operate with the mediator in an effort to resolve the dispute;

(c) if the dispute is settled, the parties must sign a copy of the terms of settlement;

(d) if the dispute is not resolved within 14 days after the mediator has been appointed, or within any extended time that the parties agree to in writing, the mediation must cease;

(e) the cost of the mediator's fees and costs including travel, room hire, refreshments etc must be met by contributions in equal shares from each party involved in the dispute or difference;

(f) the terms of settlement are binding on the parties;

(g) the terms of settlement may be tendered in evidence in any legal proceedings;

(h) the parties agree that written statements given to the mediator or to one another, and any discussions between the parties or between the parties and the mediator, during the mediation period are not admissible in any arbitration or legal proceedings.

If the dispute is not resolved after following the mediation process, the Members may refer the dispute for resolution by arbitration by the process under rule 24.11.

24.13 **Arbitration:** In relation to a dispute or difference to be referred to arbitration for resolution, the dispute or difference will be referred to a single arbitrator if the parties can agree upon one, but otherwise to two arbitrators (one to be appointed by either 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 will be determined by the arbitrator. The arbitration will be conducted in accordance with and subject to the provisions of the arbitration statutes for the time being in force in New Zealand.

24.14 **Interlocutory relief:** Mediation and arbitration will be a condition precedent to the commencement of any action at law, provided nothing in these rules will prevent an application for urgent interlocutory relief when required to restrain a breach or threatened breach of this Constitution.

24.15 **Severability:** In the event any one or more of the provisions contained in this Constitution shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not impair the enforceability of the remaining parts of this Constitution, which will remain in full force and such provision shall be deemed to be modified to the extent necessary to render it legal, valid and enforceable.

24.16 **Approval:** Where in this Constitution any reference is made to the approval or consent of the Association or the Controlling Member:

(a) such approval or consent will be given at the sole discretion of the Association, or the Controlling Member, as appropriate;

(b) no approval or consent given on any occasion by either of the Association or the Controlling Member will serve as a precedent for, or be binding in any way with respect to, any future application for consent or approval; and

(c) such reference will mean the prior written approval or consent of the Association or the Controlling Member as appropriate.

SCHEDULE 1

BYLAWS

1. INTRODUCTION

1.1 **Constitution:** These Bylaws are those adopted by the Association under the provisions of the Constitution.

1.2 **Effective date:** These Bylaws come into force and effect on and from the date of adoption of the Constitution. The Bylaws may be added to, amended or modified from time to time as provided for in the Constitution.

1.3 **Interpretation:** Terms and expressions used in these Bylaws are defined and guidelines for interpretation are set out in the Constitution. All references to Member(s), in these Bylaws, is deemed to include reference to Occupier(s) and Invitee(s) unless the context otherwise requires.

1.4 **Objectives:** The Members have agreed upon Objectives for the development management and operation of Auranga, in the form of principles and guidelines to apply to the development and then operation of Auranga over time intended to encourage and allow for coordination, preservation and enhancement of amenity and value for all as follows through:

(a) high levels of design, design standards and specifications;

(b) high level environmental standards balancing commercial with ecologically sustainable principles, for example through the efficient use of energy;

(c) professional and consistent management apply to all parts of the Common Facilities;

(d) building and growing a place of harmony and community within Auranga.

1.5 **Application of the Bylaws:** The Bylaws apply to:

(a) all Properties in which the Members have an interest and to the land owned, leased, licensed or otherwise held by the Association from time to time; and

(b) all Members and Occupiers of, and Invitees to, Auranga.

1.6 **Delegation:** The Committee may, at the Committee's sole discretion from time to time, delegate, from time to time and in any particular instance, the exercise of any of the discretions and authorities under the Bylaws to the Manager. Unless a Member is advised otherwise by the Manager or Committee or a Bylaw otherwise provides, a Member shall assume that the Committee's discretions and authorities under the Bylaws have been delegated to the Manager.

2. CONDUCT

2.1 **Considerate behaviour:** Each Member will make no noxious, noisy, improper, offensive or unlawful use of any Property or the Common Facilities, and will use the Member's Property and the Common Facilities only for the purposes for which they were designed. No Member will undertake any activity which is or may become a nuisance, cause unreasonable embarrassment, disturbance or annoyance to the other Members in the use and enjoyment of their Properties.

2.2 **No obstruction:** No Member will fetter, obstruct or impede the use of any Common Facilities by any other Member or any contractor engaged by the Association.

2.3 **Don't void insurance:** No Member will do any act which may prejudice or add to the premium payable in respect of any insurance of the Common Facilities.

2.4 **Social gatherings:** Following on from 2.1 above, and with regard to the Resource Management Act, Members must not without the prior consent in writing of the Committee (given in the Committee's discretion and then subject to any conditions imposed by the Committee) hold social gatherings or functions in or on the Member's Property which will or are reasonably likely to cause any noise which interferes with the peace and quietness of any neighbouring properties at any time, and with an additional degree of peace and quietness being required after 10 pm (Sunday to Thursday) and 12 midnight (Friday and Saturday). Furthermore, under no circumstance is the Member allowed to use, or permit the use of, any part of the Common Facilities for a private function unless with the prior approval of the Committee (given in the Committee's discretion and then subject to any conditions or restrictions imposed under rule 13 or any general requirements set by the Committee from time to time). This is to take account of the fact that Auranga is a residential development and "excessive or "unreasonable" noise is likely to disturb other residents.

2.5 **Vehicle repairs:** No Member is to undertake any vehicle or mechanical repairs on any part of the Common Facilities.

2.6 **Don't litter:** No Member will drop any litter in or on the Common Facilities.

2.7 **Don't damage the Common Facilities:** No Member will do any act which detracts from the attractiveness or state of repair of the Common Facilities.

2.8 **Temporary structures:** No structures of a temporary nature, including any trailer, tent, motor home, aviary, kennel or other outbuilding, may be installed or used on any Property or the Common Facilities at any time without the Committee's prior consent in writing and then only in accordance with any conditions specified by the Committee. A garden shed may only be installed on a Property provided the following requirements are met:

(a) the garden shed will be erected or placed in the rear courtyard and not in the front courtyard.

(b) the garden shed will be completed and constructed in new permanent materials and appropriately painted or be a new proprietary brand pre-coated with a factory colour finish that will not detract from the visible amenities of the subdivision.

(c) will in all respects comply with the Building Act 2004 so that it will be an exempt building in terms of Schedule 1 of that Act.

2.9 **Signs and placards:** Without prior written consent from the Committee, no sign, name-plate, signboard, advertisement, placard, banner or emblem of any kind may be kept or placed on any Property or mounted, painted or attached to any part of the Property (indoors or outdoors), fence, or other improvement on such Property so as to be visible from public view.

2.10 **Decency:** No Member will engage in, or allow any person to engage in, any criminal activity within Auranga and under no circumstances will the Member use or allow use of the Member's Property for any activity or purpose that is unlawful, immoral or indecent or which offends commonly accepted standard of decency. By way of example, any of the following is expressly prohibited:

(a) escort agency, brothel, massage parlour and/or sauna;

(b) "rap" parlour;

(c) striptease;

(d) topless bar and/or restaurant;

(e) the showing or supply of pornographic films or videos from Properties belonging to Commercial Members.

2.11 **Don't cause disturbance:** No Member will make or permit any improper or unseemly noises within Auranga, nor act in any fashion so as to annoy or disturb any other Member. All televisions, stereos, musical instruments, and other noise levels, must be kept at a reasonable volume, so as not to disturb other Members. Furthermore, no horns, bells, whistles or other sound devices, except for security devices which are used exclusively to protect persons and property, are to be placed in or used in Auranga.

2.12 **Consumption of alcohol:** If intoxicating liquor is consumed within Auranga, the Member will ensure all laws governing the consumption of intoxicating liquor are complied with.

2.13 **No bonfires, fireworks etc:** There are to be no exterior fires in Auranga except for barbecue fires in contained receptacles, adequately designed for such purpose and located on a Member's Property. No Member will burn any material or substance within Auranga, or light or display any fireworks or domestic explosives of any kind (unless the Committee has given prior written approval, such approval to be given in the Committee's discretion and then subject to any conditions imposed by the Committee) or do anything which may create a fire hazard or contravene fire regulations.

2.14 **Rubbish disposal:** No Member will store or dispose of any rubbish except into bins or receptacles for removal on usual days by the local authority or by independent contractors. Properly secured and sealed rubbish bags for disposal will be placed only where approved by the Committee and used only for the purpose for which they are provided. Roadside rubbish bins are to be placed out for collection on the day of pick up only and are to be removed as soon as practicable after collection and no longer than 24 hours after collection.

2.15 **Smoke free:** No Member may smoke in any part of, or within 10 metres of, the Common Facilities.

2.16 **Residential use:** No Residential Member will conduct any commercial activity from the property (including the garage) or store on that Property any plant or equipment used for commercial activities, without the prior written consent of the Committee.

2.17 **No dangerous substances:** No Member will permit anything to be done nor bring nor keep anything in the Property which may create a fire hazard or which may contravene the fire regulations or the rules, regulations, ordinances or by-laws of any Relevant Authority.

3. TENANT RULES

3.1 **Rules:**

(a) Only those Tenants under a Lease are permitted to reside in Auranga.

(b) Except as otherwise provided for in the Constitution and subject to the Tenant's and the relevant Owner's compliance with the Constitution, Tenants are permitted to use all of the Common Facilities.

(c) Tenants are responsible for ensuring they and all their Invitees abide by the Bylaws and any requirements of the Association.

3.2 Members must ensure that their Tenants are provided with a complete and up-to-date copy of the Bylaws and any changes to the Bylaws as they occur.

4. PETS

4.1 **Only family pets:** No animals, livestock or poultry of any kind may be raised, bred or kept on any Property except for domestic dogs and cats and, subject to the prior approval of the Committee, other household pets which are kept for the purpose of providing companionship for the Member or the Member's family. The Committee may take into account the type and nature of the proposed pet, how the pet may affect the quiet enjoyment of other Members and the proposed care and containment arrangements for the pet. Animals are not to be raised, bred or kept for commercial purposes or for food.

4.2 **Control and supervision:** All permitted pets must be under constant control and supervision of the Member, and for this purpose:

(a) all dogs will be on a leash when outside the boundaries of a Member's Property; except when at the dog park

(b) all pet debris and droppings will be immediately picked up and disposed of appropriately;

(c) no pet will make any noise as to disturb or otherwise cause a nuisance;

(d) all pets will be maintained in a healthy condition, and all laws and regulations relating to the keeping of pets are complied with; and

(e) all pets must be properly tagged for identification.

5. BUILDING APPEARANCE AND DESIGN CONTROLS

5.1 **Attractive appearance:** Each Member has a duty to keep the Property and all improvements on it in premium and attractive condition, and will not permit the accumulation of unsightly rubbish, equipment, implements or materials on the Property. If any graffiti is carried out on any Property, regardless of who was responsible for that graffiti the Member shall remove the graffiti, and rectify any damage caused by the graffiti, within 48 hours of the graffiti being carried out.

5.2 **Building standards:** No building may be erected, altered or maintained on a Property unless it complies with all applicable standards and the Design Controls and is approved in writing by the Design Review Committee.

5.3 **Building colours:** No Member is to alter in any manner whatsoever the colour and exterior appearance of the building erected on the Property except in accordance with the Design Controls and with the written permission of the Design Review Committee.

5.4 **Antennae, satellite dishes and solar collectors:** No Member may erect or maintain a television or radio receiving or transmitting antenna, satellite dish or similar implement or apparatus, or solar collecting panels or equipment on a Property unless such apparatus is approved in advance by the Committee and erected and maintained in such a way that it is screened from public view. No satellite dish may be over 1 metre in diameter and no antennae or satellite dish may extend higher than 2 metres above the roofline of the dwelling.

5.5 **Window treatments:** No Member will cover or coat any window or door with aluminium foil, reflective film, cardboard or similar treatment, except with the prior approval of the Committee which may stipulate particular specifications for the type and quality of the window treatment. A Member shall, within one calendar month of being the registered owner of any Property, ensure that either blinds or curtains (of a reasonable standard and quality) are installed on all windows of the Property.

5.6 **Repair of broken windows:** All windows are to be kept clean and if broken or cracked shall be promptly replaced, within one calendar month of the break or crack appearing, by the Member at his/her expense with fresh glass of the same or better quality and weight as at present.

5.7 **Seasonal decorations:** Outdoor seasonal decorations must be in working order, good repair and unobtrusive. Decorations will be set up and taken down in a timely manner.

5.8 **Air-conditioning:** No large air-conditioning or heat pump apparatus is to be installed on any Property in public view from the street front.

5.9 **Clean exteriors:** Each Member is to maintain or cause to be maintained in clean and sanitary condition and good repair the exteriors of the Property.

5.10 **Washing and clothes hanging devices:** No clothing, bedding or other articles will be hung on the windows, balconies or on the outside of the Property or its windows. These restrictions however shall not apply in respect to clothing, bedding or other articles hung on any clothesline installed or erected on the Property in accordance with consent given under rule 18.3 of the Constitution. All clotheslines must be obscured from direct view of the road.

5.11 **Mailboxes:** Where any mailbox constructed on a Property has been defaced, damaged, destroyed or removed, the Member shall, within 15 working days, arrange for the mailbox to be repaired, restored or replaced, as the case may be, using the same or equivalent materials so that the repaired, restored or replaced mailbox is substantially the same in appearance as the mailbox in its original state.

5.12 **Obligation to Rebuild:** If the dwelling (including any appurtenances) on any Property or any part thereof is destroyed or damaged by any cause whatsoever, the Member of that Property shall rebuild the dwelling:

(a) to substantially the same specifications to which the dwelling was originally constructed; and

(b) using materials which do not materially differ from the original materials used; and

(c) so that the dwelling has an appearance which does not materially differ from the original appearance of the dwelling.

The Member shall obtain all necessary consents and approvals and carry out all required building and other work in a good and workmanlike manner and in accordance with all requirements of any applicable legislation, regulations and the territorial authority.

6. GARDEN MAINTENANCE

6.1 **Grass and weeds:** All grass, hedges, shrubs, vines and planting of any type is to be kept trimmed and, at regular intervals, mowed, trimmed and cut so as to maintain the same in a neat and attractive manner. Trees, shrubs, vines and plants that die are to be removed and replaced with comparable plants. No weeds, vegetation or waste materials are to be placed or permitted to accumulate on any part of the Property.

6.2 **Trees:** No living tree having height of 4 metres or more is permitted on the Property without prior written consent from the Committee.

6.3 **Fences:** No fence, wall or hedge having a height over 1.2m may be erected or maintained on the frontage of the Property except with the approval of the Association.

6.4 **Impermeable surfaces:** No additional impermeable surface, for example but without limitation, concrete, tiles, bricks, blocks, decking, gravel, stone or shell product is permitted to be placed, erected or laid in the grounds of a Property unless in replacement of existing impermeable surfaces which were in place when the code of compliance certificate was issued in respect of the Property or if approved by the Committee.

7. ROADS

7.1 **Parking restrictions:** Members will not park, or permit any guest or Invitee to park:

(a) any vehicle on the roads, tracks, paths or any other park of the Common Facilities other than in the spaces specified by the Association for that purpose;

(b) any vehicle on the front or rear courtyard of a Property apart from on a properly constructed driveway or parking bay; or

(c) any camper van, van, caravan, truck over one tonne, trailer or recreational vehicle (including boat, watercraft, jetski, motorhome or travel trailer) bus, immobile vehicle or aircraft on any roads or the Common Facilities except on those parts of the Common Facilities specified by the Association for parking purposes and only for a continuous period which does not exceed 4 hours in duration.

7.2 **Prohibited vehicles:** No camper vans, vans, caravans, trucks over one ton, trailers, vehicles with advertising signage, recreational vehicles (including boats, watercraft, jet skis, motor homes, travel trailers), buses, immobile vehicle, aircraft, motorcycles, motor scooters, motorised gardening equipment, garden implements, equipment or tools may be kept on any Property unless the same is fully enclosed within the garage located on the Property. This Bylaw does not apply to:

(a) commercial vans and pick-ups, service and delivery vehicles temporarily visiting a Property during normal business hours, or acting under instructions from the Manager;

(b) vehicles and equipment temporarily parked on a Property in connection with the maintenance of a Property and remaining for such period of time as is reasonably necessary to provide the service or to make the delivery to a Property or the Common Facilities.

7.3 Any vehicle, boat or equipment kept, stored or parked in breach of this Bylaw or the parking rules referred to in rule 7 above may be towed, without notice, by or on behalf of the Association and at the owner's cost and expense.

8. KEYS AND ACCESS CARDS

8.1 **Keys and cards:** No Member will keep or retain any duplicates or copies of any keys or access cards relating to the Common Facilities. Additional keys and access cards can be provided by the Manager on payment on a fee charged by the Manager. In the interests of effective security, the Committee has the right (at the Committee's discretion) to restrict the number of keys and access cards available for use.

8.2 **Invitees have restricted access:** No Invitee will be allowed by a Member to use a key or access card, other than in the presence of the Member of his/her immediate family.

8.3 **Lost keys:** If any key or access card is lost, stolen, destroyed or damaged, the Member is to report such to the Manager immediately.

9. EVICTION AND CLOSING THE COMMON FACILITIES

9.1 **Eviction:** The Association reserves the right to exclude or evict from the Common Facilities any person (including a Member) who, in the opinion of the Association is under the influence of intoxicating liquor, drugs or other substances, or who acts in a manner that breaches the Constitution or the Bylaws. This right may be delegated to the Manager.

9.2 **Closure:** The Manager may close any or all of the Common Facilities as the Manager or Committee considers necessary for security reasons, or for the purposes of maintaining or repairing the Common Facilities.

9.3 **Notice of closure:** The Manager will endeavour to give reasonable notice to the Members of any proposed closure unless the situation requires immediate closure in which case the Manager is not required to give notice.

SCHEDULE 2

DEED OF COVENANT

Dated 20

DEED OF COVENANT

In respect of Lot [Lot Number], DP [DP Number] (Record of Title [RT Number])

[Property Address]

Deed dated the day of 20

PARTIES

[ ] (**Transferee**)

Auranga Residents' Association Incorporated (**Association**)

Auranga ARA Limited (**Developer**)

BACKGROUND

A. The Transferee has agreed to accept a transfer (whether by way of sale, gift, settlement or otherwise) of the property described in Schedule A (**Property**).

B. The Property is subject to a registered land covenant (**Land Covenant**) by which the registered owner of the Property covenants to become and remain a member of the Association, whose details are set out in Schedule C, and to fulfil and continue to fulfil the obligations of a member of the Association as set out in the Constitution of the Association.

C. The Constitution of the Association requires all transferees of properties in the Auranga development to enter into a deed of covenant in favour of the Association and the Developer.

COVENANTS

1. The Transferee, whose details are set out in Schedule B, hereby consents to becoming a member of the Association and acknowledges and confirms the provisions of the Constitution of the Association and of the Land Covenant and covenants with each of the Association and the Developer with effect from the date the Transferee becomes the registered owner of the Property:

   (a) to be and remain a member of the Association at all times until the Transferee ceases to be the registered owner of the Property at which point the Transferee's membership shall terminate;

   (b) to be bound by, comply with and fulfil all obligations of membership of the Association under the Constitution, including and subject to any variations and alterations which may be made to the Constitution from time to time, whether approved by the Transferee or not;

   (c) to be bound by and comply with all requirements of the Land Covenant; and

   (d) to procure that upon the Transferee selling, transferring or otherwise disposing of the Property the purchaser, transferee or disposee (as the case may be) of the Property shall consent to becoming a member of the Association and shall enter into a deed of covenant with the Association and the Developer on the same terms as this deed, with the intent that the Transferee shall remain liable for all obligations and burdens (but none of the rights or benefits) of membership of the Association unless and until the requirements of this subclause (d) and clause 10.2 of the Constitution are satisfied.

2. Any mortgagee whose consent is annexed to this deed hereby covenants with the Association and the Developer that in the event of the mortgagee exercising any of the mortgagee's rights, powers, or remedies under any mortgage relating to the Property, it shall comply with the Constitution as if the mortgagee were a member of the Association.

3. The covenants of the Transferee and any mortgagee under this deed are for the benefit of and intended to be enforceable by, on a joint and several basis, the Association and the Developer, and the successors, nominees and assigns of each of them.

4. This deed may be executed in counterparts (including by facsimile or PDF email transmission) each of which is deemed to be an original. The transmission by email or facsimile by any party to the other party or parties the signed counterpart PDF copy of this deed, or a signed facsimile of this deed, will be deemed proof of signature of the original and the signed PDF copy of this deed or facsimile so transmitted will be deemed an original.

5. For the purposes of section 9 of the Property Law Act 2007, and without limiting any other mode of delivery, this deed will be delivered by and between the parties immediately on the earlier of:

   (a) physical delivery of an original of this deed into the custody of the other party or its or their solicitors; or

   (b) transmission by the party or its or their solicitors (or any other person authorised in writing by the party) of a facsimile, photocopied or scanned copy of an original executed version of this deed to other party or its or their solicitors.

EXECUTED AS A DEED

SIGNED by **[TRANSFEREE]** in the presence of:

_____
Signature of [Transferee]

_____
Signature of witness

_____
Name of witness

_____
Occupation of witness

_____
City/town of residence

MORTGAGEE'S CONSENT

SIGNED by the **[MORTGAGEE]** in the presence of:

_____
Signature of authorised person

_____
Signature of witness

_____
Name of authorised person

_____
Name of witness

_____
Occupation of witness

_____
City/town of residence

SCHEDULE A

[all details to be completed]

Street address [ ]

Lot [ ] DP [ ]

SCHEDULE B

INFORMATION FOR REGISTER OF MEMBERS

1. **MEMBERS DETAILS**

Name:
Address:
Occupation:
Phone number:
Work phone number:
Email address:

Date of commencement of Membership:

Person authorised to exercise Member's vote:

Mortgagee:
Contact Person:
Phone number:
Email address:

2. **EMERGENCY CONTACT OF MEMBER**

Name:
Address:
Phone number:
Work phone number:
Email address:

3. **OCCUPIER DETAILS**

Name:
Address:
Occupation:
Phone number:
Work phone number:
Email address:

4. **EMERGENCY CONTACT OF OCCUPIER**

Name:
Address:
Phone number:
Work phone number:
Email address:

SCHEDULE C

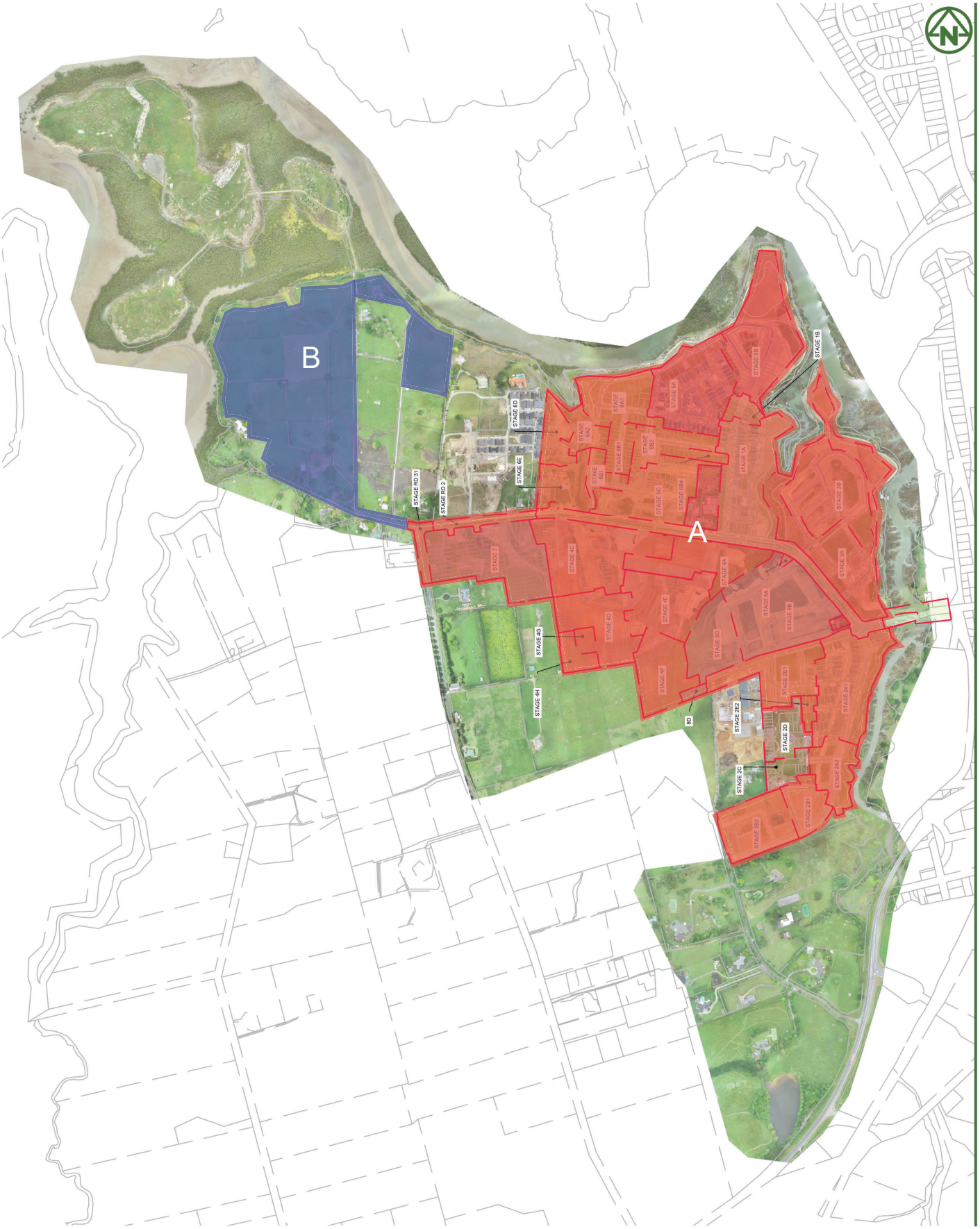
CONTACT DETAILS OF ASSOCIATON

Email address: ARA@auranga.co.nz

Registered office: 183 Bremner Road, Auckland, 2578, New Zealand

SCHEDULE 3

INDICATIVE PLAN OF DEVELOPMENT LAND



NOTES

1. BOUNDARIES SHOWN ON THIS PLAN HAVE BEEN EXTRACTED FROM LAND INFORMATION NZ DCDB AND HAVE NOT BEEN SURVEYED. A BOUNDARY RETRACEMENT (REDEFINITION) SHOULD BE CARRIED OUT TO ESTABLISH EXACT BOUNDARY POSITIONS ON SITE.

AURANGA

Auranga Map March 2022