

# “ROSE MAREE” CYPRESS CRESCENT, CABARITA BEACH

## Strata Title Building Management Report

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# 1 Introduction

## 1.1 Purpose

The paper is to provide details relating to –

- Occupancy
- Management Systems
- Use of amenities
- Use of facilities
- Strata Scheme roles
- Strata Scheme responsibilities

## 1.2 Overview

- Strata Title offers a flexible form of community governance.
- There are financial costs associated with the community governance. In return the governance offers lifestyle advantages and operational sustainability for the management of the site.
- The use of Strata Title allows Tweed Coast Homes Pty Ltd to put together a package of urban lifestyle attributes for tourists and residents.
- The Strata Title model offers Tweed Coast Homes Pty Ltd an on-going governance mechanism that will continue after Tweed Coast Homes Pty Ltd chooses to implement their exit strategy to the Development.

# 2 Scheme description

## 2.1 Location

The scheme is located at Cypress Crescent, Cabarita Beach.

## 2.2 Legal Description

The Scheme is intended to be created using a strata plan from base parcel Lot 1, 2, 3 in DP 29748 and Lot 4 in DP31209.



## 2.3 Description of Proposed Building on Scheme Land

Proposed building will encompass urban design in the following product types and styles:

- Dual use Tourist and Residential Units – 6 x 3 Bedrooms
- Residential – 3 x 2 Bedrooms
- Residential – 15 x 3 Bedrooms

## 3 Occupancy

We note that occupancy has been categorized into dual use tourist accommodation and residential only components with an allocation between the categories of 6 tourist accommodation units to 18 residential units.

The proposed occupancy will, in general terms, be handled off site as there is no Letting Agreement to be entered into or initiated during the initial period that is currently proposed by the Developer. The Owners may at a later date propose or enter into a Letting Agreement with a nominated party if the agreement is put forward and approved at a general meeting of the Strata Scheme.

Owners purchasing would most likely place their unit into the hands of an off site Real Estate or Rental Agency for management.

Owners would be obligated to provide all occupants whether tourist or residential with a copy of the Strata Scheme by-laws. The by-laws can be tailored to take into consideration any restrictions or assessment requirements to ensure compliance within the area of occupancy guidelines.

## 4 Management System for the Scheme

### 4.1 Facilities Management Structure

The proposed management structure for the site will be initiated at the Inaugural meeting of the Strata Scheme through an appointed Facilities Management Company under an agreement.

The benefits of a Facility Manager will allow:

- Strata Scheme only communicates with one representative rather than multiple contractors.
- Facilities Manager is solely responsible for maintenance and upkeep (other than trade related duties).
- Fixed price for service and maintenance of common property.
- Easy to forecast budgets for the Strata Scheme.
- Fees are generally related to market standards of \$ for remuneration, rather than costs for each service.



- Generally reduced number of contractors attending the site.
- Increased staff who maintains an awareness for security.
- For owners the Facilities manager is on-site during the week carrying out duties and contactable after hours should there be an emergency.
- Response time for issues is exceptional.

The Facilities Manager will be responsible for the following:

- Carries out all work on behalf of the Strata Scheme as per schedule of duties e.g. gardening, cleaning, pool cleaning, gym cleaning, floors, Atrium, glass, carpet, bathrooms in common areas, bbq's etc as well as any other duties that do not require a tradesperson.
- Inspects trade qualified contractors work to ensure quality and completion of work.
- Checks insurance policies of individual trade qualified contractors to ensure private public liability in their capacity to perform the work.
- Generally gives first approval of the tax invoices of individual trade contractors to show quality and completion prior to payment.
- Reports to the Strata Scheme on the schedule of duties they have performed together with the attendance of individual trade contractors and work product.
- Instructs trade contractors as per resolutions by Committee and the Strata Scheme.
- Assist the Strata Scheme to enforce the by-laws set down and registered.
- Report to the Strata Scheme any non compliance with by-laws.
- Provide any evidence where possible to assist the Strata Scheme with further action to ensure occupiers comply with by-laws.

## 5 Use of Amenities

### 5.1 Common Amenities and Usage

Other than Lots, the scheme will comprise of common property amenities, which can be considered within a number of key areas i.e. building external and internal common areas, external areas and infrastructure.

Owners and occupiers will enjoy the benefit of these amenities whilst paying for the upkeep through the scheme administration and sinking fund levies.

The Strata Scheme will have an appointed committee elected as representatives of owners to ensure the upkeep and maintenance obligations of the Strata Scheme under the legislation are complied with.

Some of the current identified common property for the buildings are:

- Roof structures
- External walls of buildings
- Internal common stairwells
- Lifts



- Fences
- Basement parking

Common property external areas cover all outdoor areas and may include:

- Hard and soft landscaping
- Driveway and entry ramps
- Lights
- Walkways

Common property infrastructure includes both physical and services which may include:

- Electrical wiring
- Drainage

The appointed Facilities Manager will be acting under the terms of the agreement to ensure maintenance, cleaning and reporting to the Committee of the Strata Scheme takes place.

## 6 Use of Facilities

### 6.1 Common Facilities and Usage

The scheme will comprise of facilities on common property. Common property facilities are generally considered as areas or assets where the community may gather or use for enjoyment, in the proposed Strata Scheme they include:

- BBQ's
- Gym
- Pools
- Atrium Areas

The appointed Facilities Manager will be acting under the terms of the agreement to ensure behavior by the occupants are in harmony with the by-laws registered for the Strata Scheme. The Facilities Manager will report any inconsistencies to the Committee for action under the legislation maintenance, cleaning and reporting to the Committee of the Strata Scheme.



## 7 Strata Scheme Roles

The Strata Scheme exists to manage the issues of necessary and mutual interest to all the owners. These matters fall into two categories:

1. physical property issues; and
2. issues related to people living together

Physical property includes gardens, common building structures and shared assets such as pool. When people live together issues include behavior, noise and parking. Anything where the actions of one particular occupier may impact on other residents. Legislatively, strata schemes perform only a limited purpose.

They must:

- Administer the common property and the Strata Scheme assets for the benefit of the owners of lots included in the scheme;
- Maintain common property to the extent it is in a structurally sound condition;
- Enforce the by-laws and
- Carry out other functions given to the Strata Scheme under legislation.

The Strata Scheme is not legally able to do anything other than fulfill these mandatory responsibilities. In performing these duties, the Strata Scheme can enter into contracts, employ staff and generally deal with property. Unlike a commercial company, it cannot conduct businesses, such as a letting agency, tour operation or restaurant. However, the Strata Scheme may engage in any business activities necessary to properly carry out its functions (e.g. investing funds).

Decisions are made by owners in two ways:

1. At a meeting of all the owners (a general meeting); or
2. At a meeting of the committee for the Strata Scheme

No individual acting in isolation can make a decision.

Contributions (otherwise known as levies) are received from every lot owner of the Strata Scheme and are pooled to maintain the community and common areas. The size and frequency of the contributions required to properly run the Strata Scheme are decided by all owners at the annual general meeting.

There are two types of contributions set by the Strata Scheme:

1. The contributions to the administration fund; and
2. The contributions to the sinking fund





## 8 Strata Scheme Responsibilities

The scheme will be responsible for a number of key legislative requirements:

### *Record keeping*

The Strata Scheme must record all details of notices given under the Strata Schemes Management Act or any other Act. Orders under these Acts, or by a public authority, local council or a court, must also be recorded and kept for at least five years.

### *Financial records and statements*

The Strata Scheme must keep accounting records and financial statements.

### *Strata roll*

The Strata Scheme must prepare and keep a strata roll. The roll must be kept by mechanical, electronic or other means.

### *Insurances*

**Building insurance** - The Strata Scheme must insure the building under a damage policy with an approved insurer. A damage policy must cover the building for replacement (where destroyed) or the reinstatement (where damaged) of the building back to the same condition it was in when new, and payment for removal of debris and the payment of architects and others whose services are needed for the replacement or reinstatement.

**Public liability insurance** - The Strata Scheme must insure, with an approved insurer, against damage to property, death or injury for which the Strata Scheme could become responsible. The minimum amount of cover is \$10 million.

**Workers compensation insurance** - The Strata Scheme must have workers compensation insurance, with an approved insurer, where it is required under the Workers Compensation Act 1987.

**Voluntary workers insurance** - The Strata Scheme must insure, with an approved insurer, against any damage that it may become liable for when a person does voluntary work for the Strata Scheme in the building or on the common property.

### *Levies and the administrative and sinking funds*

The Strata Scheme must levy (charge) owners in the Strata Scheme to raise enough funds to carry out its duties. All levies must be worked out in proportion to the unit entitlements of each lot.

### *Administrative fund*

The administrative fund is for day-to-day recurrent expenses. The amount in it must be enough for the Strata Scheme to pay its expenses:

- for the cost of looking after common property and personal property of the Strata Scheme
- for the payment of insurance premiums





- for any other recurrent expenses other than amounts covered by the sinking fund or by a special levy.

#### *Sinking fund*

The sinking fund is to cover future capital needs. The amount in the fund must be enough to cover all the Strata Schemes expenses:

- for painting of common property
- for obtaining personal property of the Strata Scheme (e.g. mowers)
- for renewing or replacing any fixtures on the common property and any personal property owned by the Strata Scheme
- to replace, repair or make good the common property
- for any debts, other than amounts covered by the administrative fund
- for other capital expenses.

#### *Ten year sinking fund plans*

All schemes that came into existence on or after 7 February 2005 are required to have a ten year sinking fund plan for the life of the scheme. The plan has to be reviewed at least every five years.

#### *Other responsibilities*

Strata Schemes also have the following powers and obligations:

- To issue a notice on a person to comply with a by-law, when the Strata Scheme or its executive committee passes a resolution that there has been a contravention of the by-law in question.
- Provide Strata Scheme information as required by a Section 109 Certificate for prospective purchasers within 14 days of written request.
- Allow owner or a person with the owner's consent to inspect the records of the Strata Scheme, and collect an inspection fee.
- Power to grant, by special resolution, a license to a lot owner to use common property generally or for a 'once only' purpose. Adjudicators can make decisions on disputes or complaints which have not been resolved by mediation, and have power to settle disputes over the granting of licenses over common property.
- To dismiss some or all of its executive committee.
- To notify those holding a priority vote of all meetings where there are agenda items where a priority vote may be exercised.

Strata Scheme lot owners may be liable for land tax. For more information, visit [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au).



*How the Building Management / Strata will manage potential for conflict between permanent residential and short term tourist accommodation uses*

To minimise the potential impacts of short term tourist accommodation (dual use units 6, 7, 8, 14, 15 and 16) in close proximity of permanent residential dwellings the following matters are to be addressed through the use of Bylaws.

- (1) Details of the restriction of use on identified short term accommodation units, to the benefit of the owners corporation, in terms of:
  - (a) the location, control, management, use and maintenance of any part of the building or its site that is a means of access;
  - (b) safety and security measures;
    - (i) Preservation of fire safety
    - (ii) Prevention of hazards;
  - (c) the control of noise levels including, but not be limited to, amplified music, gatherings of occupiers and use of facilities;
  - (d) Management of Common Property including, but not be limited to, use of trafficable areas for recreational equipment, storage and gatherings of occupiers;
  - (e) Behaviour of owners, invitees and occupiers;
  - (f) Keeping of animals;
  - (g) Provision of amenities or services;
  - (h) Controls on hours of operation and use of facilities;
  - (i) Notification of short term accommodation residents of the Bylaws including notices in all tourist accommodation units;

The bylaws shall include the following restrictions in relation to any Short Term Tourist Accommodation Use of Units 6, 7, 8, 14, 15 and 16.

- *A Short Term Resident must do everything reasonably possible to minimize any detrimental impact to the amenity of other Residents (particularly those Residents who live permanently in a lot) caused by the Short Term Resident's use of the lot or Common Property.*
- *A Short Term Resident must not create any noise that is likely to cause a disturbance to other Residents after 10pm and before 7am.*
- *If a Short Term Resident breaches a By-law the Owner's Corporation is authorized to immediately request the Short Term Resident to vacate the Short Term Accommodation Unit.*
- *A Short Term Resident must endeavour to cause minimal disturbance to other Residents when moving into or vacating a Short Term Accommodation Dwelling and must not block access ways or obstruct any part of the Common Property.*
- *A Short Term Resident must take all reasonable steps to ensure that all security keys or devices used by it are returned to the Letting Agent at the time that the Short Term Resident vacates the Short Term Accommodation Unit. The Owner's Corporation is entitled to charge a fee to Short Term Residents for changing of security locks if required as a result of a breach of this By-law.*
- *Each owner of a lot containing Unit 6, 7, 8, 14, 15 or 16 who intends to offer its lot for the use of Short Term Residents must notify in writing the Owner's Corporation of such intention. The Owner's Corporation must keep a register of those owners who intend to offer their lots for the use of Short Term Residents and must regularly update this register. This register must be available for inspection by any owner of a lot or prospective purchaser of a lot.*
- *Each owner of a lot containing Unit 6, 7, 8, 14, 15 or 16 who intends to offer its lot for the use of Short Term Residents must:*
  - (1) *clearly display a copy of these By-laws in that lot and must ensure that the Short Term resident signs an acknowledgement that it has received and read a copy of the By-Laws prior to entering into occupation of the Short Term Accommodation Unit; and*
  - (2) *take all reasonable steps to ensure that Short Term Residents comply with these By-laws.*



## 9 Definitions Used in This Report

Term	Meaning
Legislation	the Strata Schemes Management Act 1996
Strata Scheme	the owners corporation for the proposed new strata plan
Scheme	the owners corporation for the proposed new strata plan
Lot	A part of the scheme that is allocated for separate occupation or a distinct parcel of land created on— (a) the registration of a plan of subdivision; or (b) the recording of particulars of an instrument.
Unit of Entitlement	Proportion lot entitlement that each owner is allocated under the strata plan. Used to calculate Administration Fund Levies and Sinking Fund Levies.

## 10 Conclusion

Based on the current consulting plans to implement and deliver the proposed Strata Scheme, there will be substantial sustainable outcomes for both owners and occupiers of the scheme, to live in an environment that will provide the governance and financial system to ensure the scheme management plans continue in perpetuity.

