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# Community Management Statement

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Mountain Blue Alpine Retreat & Residences Estate



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Approved Form 28  
Community Land Development Act 1989  
Community Management Act 1989

## Community Management Statement

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### **WARNING**

The terms of this Management Statement are binding on the Association, each subsidiary body within the Community Scheme and each person who is a proprietor, lessee, occupier or mortgagee in possession of a community development lot, precinct development lot, neighbourhood lot or strata lot within the Community Scheme.

# **Part 1- By-Laws fixing details of development**

These By-Laws relate to the control and preservation of the essence or theme of the Community Scheme and as such may only be amended or revoked by a Unanimous Resolution of the Association (see section 17(2) *Community Land Management Act 1989* (NSW)).

## **1 Theme of development**

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- 1.1 This By-Law relates to the control and preservation of the essence or theme of the Community Scheme, being a residential and hospitality development within the Mountain Blue Alpine Retreat & Residences Estate.
- 1.2 The purpose of this Community Scheme is to provide permanent residential accommodation, serviced apartments, hospitality, amenities and landscaped areas adjacent to a natural bushland environment.
- 1.3 The Association, Owners and Occupiers will:
  - (a) preserve the theme, being the operation and management of a residential accommodation and hospitality development within a Community Scheme in a natural bushland environment; and
  - (b) use their best endeavours to ensure that all activities carried on at the Community Parcel are consistent with the theme.
- 1.4 This By-Law 1 may only be amended or revoked by a Unanimous Resolution of the Association in accordance with Section 17(2) Management Act.

## **2 Changing the name**

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The Community Association may only change the name of Mountain Blue Alpine Retreat & Residences Estate by unanimous resolution and with the consent of the Developer.

## **3 Architectural and landscape guidelines**

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- 3.1 The Association, Owners Corporations, Owners and Occupiers must comply with the Guidelines in place from time to time for the Community Parcel.
- 3.2 The Developer must, prior to registration of the Community Plan, prescribe Guidelines for the Community Parcel which will bind, and be enforceable against the Association, Owners and Occupiers.
- 3.3 Notwithstanding any other By-Law, the Developer is not bound by the Guidelines.
- 3.4 Subject to By-Law 3.3, all Improvements on the Community Parcel must be constructed and maintained in accordance with the Guidelines.
- 3.5 The Developer, or once the Developer is no longer the owner of a Lot in the Scheme, the Association shall interpret the Guidelines and notwithstanding any By-Law to the contrary may, in its absolute discretion, consider designs and materials for Improvements, whether or not prescribed by the Guidelines, on a case-by-case basis.

## **4 Amending the Guidelines**

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- 4.1 Guidelines may, with the consent of Council, be amended:
- (a) whilst the Developer is an Owner in the Community Scheme, only by the Developer; or
  - (b) where the Developer ceases to be an Owner in the Community Scheme, only by Special Resolution of the Association.
- 4.2 An Owner or a Subsidiary Scheme may make Application to the Developer or Association requesting amendments to the Guidelines.
- 4.3 An Application must contain sufficient details of the proposed amendments to enable the Association and Developer to understand with reasonable certainty the nature and extent of the proposed amendments.
- 4.4 Where the Developer ceases to be an Owner in the Community Scheme, the Association must refer an Application to a General Meeting for its decision.
- 4.5 The Association and Developer, as applicable, may request additional information to enable it to make a decision on an Application.
- 4.6 The Association and Developer as the case may be, must, within two months after it has received all information required by it to make a decision, deliver to the Applicant a written decision, and where the Application has been approved, refer its decision to Council for approval.
- 4.7 Where the Developer or Association amend the Guidelines in accordance with this By-Law 4 and with the approval of Council, then the Developer or Association, as the case may be, must, within a reasonable time, deliver a copy of the amendments to each Owner and Occupier.
- 4.8 The Developer and Association must, when requested by an Owner or Occupier, at the reasonable cost of that Owner or Occupier provide that Owner or Occupier with an up-to-date copy of the Guidelines.
- 4.9 The Association, Owners and Occupiers release and indemnify the Developer, the Association, and its members and Council for any loss or damage caused by amendments to the Guidelines or any non-compliance of the Guidelines by the Developer, the Association, Owners and Occupiers.

## **5 Building and landscape works**

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- 5.1 Except for works already permitted by the Development Approvals, a Subsidiary Body, the Owners and Occupiers of Lots must have consent from the Association to:
- (a) build a new structure;
  - (b) change the external appearance of an existing structure;
  - (c) carry out new landscaping; or
  - (d) change existing landscaping.
- 5.2 A Subsidiary Body, the Owners and Occupiers of Lots must have written consent from the Council prior to carrying out works on any public footway or roadway.

- 5.3 Subject to the Development Contract, the Developer does not need consent from the Association to do the things listed in By-Laws 5.1 and 5.2.
- 5.4 A Subsidiary Body, an Owner or Occupier of a Lot must make a written Application to the Association for consent under this By-Law 5. The Application must:
- (a) include enough information to give the Association a clear understanding of what is proposed; and
  - (b) include plans and specifications according to this By-Law.
- 5.5 Plans and specifications for new structures and changing the external appearance of existing structures must:
- (a) show the design, height, width, colour, size, materials and location of the proposed works;
  - (b) show the location of the proposed works and how they relate to the surrounding area; and
  - (c) include a landscaping proposal.
- 5.6 Plans and specifications for new landscaping or changes to existing landscaping must:
- (a) show the design, types of plants, shape, colour, height, quantity and location of the proposed works;
  - (b) show the location of the proposed works and how they relate to the surrounding area;
  - (c) show the nature and type of proposed landscaping materials; and
  - (d) explain how the Applicant will deal with existing plants.
- 5.7 Further information:
- (a) The Association may ask an Applicant for more information about his or her Application.
  - (b) The Applicant must supply the requested information to the Association in a reasonable time.
- 5.8 The Association may refuse an Application if the Applicant does not supply the requested further information in a reasonable time.
- 5.9 For Applications under this by-law, the Association must consider the information in the Application and:
- (a) the suitability and quality of the proposed works;
  - (b) the harmony of the proposed works with existing structures and landscaping comprising the Mountain Blue Alpine Retreat & Residences Estate] generally; and
  - (c) this management statement.
- 5.10 The Association must refuse an Application under this by-law if the proposed works:

- (a) are not of at least the same quality as existing structures and landscaping in the Mountain Blue Alpine Retreat & Residences Estate] generally; or
  - (b) will not be in harmony with existing structures and landscaping in the Mountain Blue Alpine Retreat & Residences Estate] generally;
  - (c) Is inconsistent with the Development Contract or the Development Approvals.
- 5.11 The Association may make conditions if it gives consent under this by-law. The Applicant must comply with the conditions.
- 5.12 Without limiting By-Law 5.11, the Association may impose a condition requiring the Applicant to provide a bank guarantee (or other sufficient security) in favour of the Association for any damage that may be caused to Community Property. The bank guarantee or other security provided by the applicant must be returned to the Applicant on completion of the proposed works, subject to the right of the Association to deduct any such amount as is reasonably necessary to cover the cost of repairing any damaged caused by the Applicant to Community Property.
- 5.13 The Association must:
  - (a) make a decision about an Application within one month after receiving the application (unless the Association and the applicant agree otherwise);
  - (b) immediately advise the Applicant in writing of its decision and any conditions that apply to its decision; and
  - (c) if requested, promptly provide the Applicant with a copy of the Development Consent.

## **6 Building and landscaping work**

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- 6.1 Before a Subsidiary Body, an Owner or Occupier does building or landscaping works under this Part 1, the relevant Subsidiary Body, Owner or Occupier must obtain the necessary consents from the Association and Government Agencies.
- 6.2 A Subsidiary Body, an Owner or Occupier may apply for consent from Government Agencies only after the Association has consented to the proposal in accordance with By-law 5.
- 6.3 When a Subsidiary Body, an Owner or Occupier does building or landscaping works under this Part 1, the relevant Subsidiary Body, Owner or Occupier must:
  - (a) comply with this management statement;
  - (b) comply with the law;
  - (c) comply with the Development Approvals and any other development consents obtained for the building or landscaping works;
  - (d) use qualified, reputable and, where appropriate, licensed contractors;
  - (e) effect suitable insurances;
  - (f) do the work in a proper manner and to the reasonable satisfaction of the Association; and

- (g) immediately repair any damage caused as a consequence of the works to Community Property or the property of an Subsidiary Body, an Owner or Occupier.
- 6.4 When a Subsidiary Body, an Owner or Occupier does building or landscaping works under this Part 2, the Subsidiary Body, Owner or Occupier must not damage or interrupt Services unless the Subsidiary Body, Owner or Occupier has consent from the owner of the Service.

## **7 Past decisions**

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- 7.1 The Association may review Applications under this Part 1 and may give or refuse consent in its absolute discretion.
- 7.2 The Association is not bound by its past decisions.

## **8 Use of the Community Parcel**

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- 8.1 The Subsidiary Body, Owners and Occupiers, but excluding the Developer, must unless otherwise directed or permitted by the Association:
- (a) regularly maintain and keep clean and in a state of good repair and condition any Improvement on the Subsidiary Body or Owner's or Occupier's Lot unless otherwise required by the Association and in accordance with this Management Statement, the Guidelines and to a standard acceptable to the Association and the Developer (but only for so long as the Developer is an owner of a Lot in the Community Scheme);
  - (b) unless the areas are subject to a restricted property by-law in favour of the Association, keep the landscaped areas of the Lot clean and tidy and in good repair and condition and in accordance with this Management Statement, the Guidelines and to a standard acceptable to the Association and the Developer (but only for so long as the Developer is an owner of a Lot in the Community Scheme);
  - (c) effect all maintenance and repairs to the Lot and Improvements on the Lot in a proper and workmanlike manner and in accordance with this Management Statement, the Guidelines and to a standard acceptable to the Association and the Developer (but only for so long as the Developer is an owner of a Lot in the Community Scheme);
  - (d) only build and undertake construction works between the hours of 7.00am and 6.00pm Monday to Friday inclusive and 7.00am to 1.00pm Saturday or as otherwise permitted by the Council;
  - (e) only use hydraulic rock hammers and other equipment or activities likely to contravene the provisions of the *Protection of the Environment Operations Act 1997* (NSW), between the hours of 8.00am to 6.00pm Monday to Thursday inclusive and 8.00am to 4.00pm Friday excepting public holidays or as otherwise permitted by the Council;
  - (f) not use anything on the Community Parcel for any purpose other than that for which it was intended;
  - (g) promptly notify the Association of any damage to or defect in Community Property;
  - (h) not interfere with, damage or obstruct the use of Community Property;
  - (i) not construct any building or structure or Improvements on Community Property;

- (j) not attach anything to or alter Community Property;
- (k) not, except with the approval of the Association, use or store on any part of the Community Parcel any explosive, toxic or flammable solid, liquid or gas other than where it is intended to be used solely for domestic purposes;
- (l) not conduct any auction or sale on a Lot or Community Property;
- (m) not erect any sign on a Lot or Community Property without the prior written approval of Association; and
- (n) Subject to clause 26, not conduct a business (other than a Home Occupation as defined in the Standard Instrument (Local Environmental Plan) Order 2006) from a Lot, unless approved by the Council;
- (o) ensure that a Lot is not used for any purpose prohibited by a law;
- (p) ensure that the Lot is not occupied by more persons than are allowed by law to occupy the Lot.

8.2 Where an Owner fails to maintain their Lot in accordance with this Management Statement, the Guidelines and to a standard acceptable:

- (a) to the Developer, for so long as the Developer is an owner of a lot in the Community Scheme; and
- (b) the Association,

either the Association or the Developer may maintain the Lot, at the expense of that Lot Owner. The Association may recover any money owing to it by an Owner for the maintenance of a Lot as if it were a debt under By-Law 22, including maintenance costs, administration costs, legal fees and any other costs incurred by the Association as a result of the failure by an Owner to maintain their Lot

## Part 2 – Restricted Community Property

These By-Laws only be amended after the expiry of the initial period by Special Resolution and with the written consent of each person entitled by the By-Laws to use the restricted Community Property in accordance with section 54 of the Management Act.

### 9 Development of the Community Parcel

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- 9.1 The following by-laws 9.1 to 9.14 are to be read in conjunction with the Development Contract and, to the extent of any inconsistency, the Development Contract shall prevail.
- 9.2 Use of the Community Property, excluding any part of an Access Way required for the purposes of access to Lot, is restricted under this By-Law to the Developer for the purposes of carrying out the Development Activities. If access is required by an Owner then the Owner may request consent from the Developer to access the Association Property, such consent may not be unreasonably withheld.
- 9.3 Restricted use of the Community Property referred to in this By-Law 9 will cease when the Developer serves on the Association a notice informing the Association that Development Activities on Community Property have ceased, and construction of all Improvements on the Community Property have been completed (hereinafter called **the Completion Date**).
- 9.4 The Developer must serve the notice referred to in this By-Law 9.3 on the Association within one month of the Completion Date.
- 9.5 The conditions relating to use of the Community Property are that all damage to or interference with the Community Parcel caused by the carrying out of the Development Activities, must be made good at the expense of the Developer.
- 9.6 Access to Community Property may be exercised by the Developer, its employees, agents or assigns by private access ways or such other method as may be reasonably required by the Developer subject to By-Law 9.5, including by a public road system in and around the Community Parcel.
- 9.7 The restricted use rights conferred on the Developer under this By-Law 9 may be exercised between the hours of 7.00am and 6.00pm Monday to Friday inclusive and 7.00am to 1.00pm Saturday or such other times as may be permitted by the Council. The use of hydraulic rock hammers and other equipment or activities likely to contravene the provisions of the *Protection of the Environment Operations Act 1997* (NSW) is to be restricted to 8.00am to 6.00pm Monday to Thursday inclusive and 8.00am to 4.00pm Friday, excepting public holidays or such other times as may be permitted by Council.
- 9.8 Subject to By-Law 9.6, the rights of the Developer will not relieve the Association of its obligation to repair and maintain Community Property and the Association warrants that notwithstanding the exclusive rights of the Developer granted in this By-Law 9, the Association must repair and maintain the Community Property at the cost of the Association and without the Developer being liable to the Association for any additional or special levy for the exclusive rights granted to the Developer.
- 9.9 The Association must levy Contributions on Owners for any costs associated with maintaining the Community Property referred to in this By-Law.

- 9.10 The Developer has the exclusive right to procure installation of the Services and the Additional Services to service all Lots in the Community Scheme and all lots and future lots in the Mountain Blue Alpine Retreat & Residences Estate.
- 9.11 The Developer has the exclusive right to carry out the Development Activities on the Community Parcel.
- 9.12 The matters set out under Clause 6 Schedule 3 of the Development Act apply to and form part of this By-Law 9 unless the context indicates to the contrary. It is acknowledged that the Developer and all persons authorised by it have the rights to develop the Community Parcel and Community Property in stages and carry out Development Activities on the Community Parcel and the Community Property. Subject to the Development Contract, the staging and timing of stages of development of the Community Parcel, the Community Property and Community Facilities will be as determined by the Developer in its sole discretion and the Developer gives or makes no warranty as to the Completion Date of construction of Community Facilities, Development Activities or construction of any facilities that comprise the Community Parcel, the Community Property or the Community Facilities or any future stage or scheme within the Mountain Blue Alpine Retreat & Residences Estate.
- 9.13 The Developer and all persons authorised by it have the following rights for the purpose of enabling those persons to complete the development of the Community Parcel and Community Property in stages and carry out Development Activities on the Community Parcel and Community Property:
- (a) **(Access rights)** – complete and unrestricted access by foot or Vehicle or such other machinery or equipment deemed necessary by the Developer to, on and over the Community Property and Community Parcel;
  - (b) **(Parking rights)** – the right to park Vehicles, machinery and equipment on Community Property and Community Parcel;
  - (c) **(Temporary facilities)** – the right to place on or attach to Community Property and the Community Parcel temporary offices, sheds, depots, building materials, cranes and other equipment;
  - (d) **(Right to install and maintain Services and Additional Services)** – the right to install and maintain Services and Additional Services on Community Property and the Community Parcel;
  - (e) **(Right to connect Services and Additional Services)** – the right to connect Services and Additional Services within Community Property and the Community Parcel;
  - (f) **(Right to attach signs)** – the right to attach and place marketing and advertising signs, placards, banners, notices or advertisements on the Community Property and the Community Parcel; and
  - (g) **(Right to conduct auctions and sales)** – the right to conduct auction and sales activities on the Community Property and the Community Parcel.
- 9.14 As a condition of the restricted use rights conferred on the Developer pursuant to this By-Law 9, the Developer must not unreasonably prevent Owners and Occupiers from using the Community Parcel including but not limited to Community Property, for any purpose permitted by the Management Statement.

## **Management**

- 9.15 The Manager has the right to the use of Community Property for the purpose of performing and exercising functions and duties permitted or required under the Management Agreement.
- 9.16 The Association must maintain the Community Property notwithstanding that the Manager pays the cost of any repair or maintenance attributable to the exercise of the rights conferred upon the Manager pursuant to the Management Agreement.
- 9.17 The Association must levy a contribution on its members for any costs and expenses associated with maintaining or repairing the Community Property where such maintenance or repair results from the exercise by the Manager of rights pursuant to the Management Agreement.
- 9.18 The Association may enter into an agreement with the Manager (on terms agreed by them) further regulating the rights conferred under this By-Law.

## **10 Grant of Restricted Property By-laws over Common Property of a Subsidiary Scheme**

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- 10.1 Owners, Occupiers and Subsidiary Bodies acknowledge that the by-laws registered on the creation of each Subsidiary Scheme on the Community Parcel will include a Restricted Property By-Law pursuant to which the exclusive use of the that part of the Common Property of the Subsidiary Scheme comprised in the landscaping, open space and Multi-purpose Pathways is granted to the Community Association.
- 10.2 In return for the grant of the rights pursuant to the terms of the Restricted Property By-law the Community Association will be responsible for maintenance and insurance of the Common Property over which it is granted restricted property rights.
- 10.3 The Owners, Occupiers and each Subsidiary Scheme who is a member of the Community Association must vote in favour of the grant of any Restricted Property By-law by a Subsidiary Scheme in accordance with this By-law 10.

## **Part 3 – Mandatory matters**

### **11 Use, maintenance and management of Community Property**

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- 11.1 The Association is responsible for the control, management, operation, maintenance and repair of Community Property, the Community Facilities and the Services specified in By-Law 15.1 for which it is responsible. The Community Property, the Community Facilities, Services and Service Lines provided by the Association must be maintained at all times.
- 11.2 Community Property comprises Open Access Ways, Open Space Areas, Multi-Purpose Pathways, directional signage, visitor car parking, Service Lines owned by the Association.
- 11.3 Community Property shall be available for use by:
  - (a) Owners and Occupiers; and
  - (b) Invitees.
- 11.4 In addition to the Developer's rights to construct Community Facilities and Services on Community Property under the Development Contract, the Association may construct Community Facilities on Community Property in accordance with this Management Statement and the Guidelines and subject to Council approval.
- 11.5 The Association must impose Contributions on all Subsidiary Schemes and Owners for the cost of control, management, operation, maintenance and repair of Community Property, Services and Service Lines owned by the Association and any easement or agreement concerning land benefitting the Community Parcel.
- 11.6 The Association is responsible for the control, management, maintenance and use of Drainage located on Community Property and the control, management and maintenance of all driveways and verges and guttering.
- 11.7 Where damage is caused by an Owner or Occupier to Community Property, Drainage or Services and Service Lines owned by the Association, the Association may recover from that Owner or Occupier the cost of repairing the damage caused by that Owner or Occupier or any other costs incurred by the Association in connection with the damage (including legal, recovery and enforcement costs).
- 11.8 Where the Association is a benefiting party under a registered instrument, the Association will be responsible for the maintenance and capital costs associated with the benefit of all rights bestowed on the Association under the registered instrument as, more particularly defined in the registered instrument.
- 11.9 The Association must contract with persons named and for the term stated in By-Law 20 for the management, maintenance, control and administration of Community Property.

### **12 Access ways and restrictions on vehicles**

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- 12.1 Access to and from the Community Parcel is by Open Access Way. There are no Private Access Ways on the Community Parcel.
- 12.2 Owners and Occupiers must:

- (a) not drive Vehicles on the Community Parcel in a manner that is dangerous or creates excessive noise, emits excessive levels of exhaust or other fumes or nuisance to other motorists, pedestrians or Owners or Occupiers;
- (b) not drive, park or repair (excluding emergency repairs) a Vehicle on the Community Property except on an area of Community Property (if any) designated by the Association from time to time as being an area where a Vehicle may be driven, parked or repaired by Owners and Occupiers;
- (c) comply with the Rules and any applicable laws in force from time to time dealing with the use and operation of Vehicles on the Community Parcel and in particular Open Access Ways;
- (d) make good at the expense of the Owner or Occupier, to the satisfaction of the Association, any damage caused to Community Property by the Owner or Occupier or their Invitees;
- (e) not drive a Vehicle or bicycle on an Open Access Ways at a speed in excess of 15 kilometres per hour;
- (f) not drive a Vehicle on the Open Access Way unless the Vehicle is registered for use on public roads in accordance with the relevant laws enforced from time to time; and
- (g) not drive Vehicles other than Carts and bicycles on the Multi Purpose Pathways.

12.3 The Executive Committee may make Rules regarding the use of roller skates, blades, skateboards and bicycles on the Community Parcel for the better enjoyment of Owners and Occupiers of Community Property.

12.4 Owners and occupiers, but excluding the Developer, must:

- (a) house Vehicles parked on a Lot in a garage or car space which forms part of the Lot only;
- (b) unless otherwise authorised by the Association and except for:
  - (i) the delivery of furniture or household items;
  - (ii) the construction or maintenance of Improvements on a Lot; or
  - (iii) garbage trucks, mail and emergency vehicles, not permit any Vehicle in excess of three tonnes or a length in excess of 7 metres to be unloaded on the Community Parcel;
- (c) not access a Lot by Vehicle other than from an Open Access Way or public road.

12.5 The Association must grant to Owners and Occupiers reasonable access to pass and repass over Community Property including the right to construct driveways and pedestrian pathways to their Lot in accordance with the Guidelines, to enable Owners and Occupiers to access their Lot whether on foot, by bicycle or by Vehicle.

12.6 Owners and Occupiers acknowledge that the Developer and/or the Association intends to create a Right of Access and Easement for Services over part of the Open Access Ways and over Multi-Purpose Pathways, in favour of and for use by other owners, occupiers, Invitees and the public whether on foot, by Vehicle or bicycle.

- 12.7 Owners and Occupiers cannot object to or hinder access of the Multi-Purpose Pathways or the Open Access Ways, by other owners, occupiers, Invitees and the public in general.
- 12.8 Subject to any provisions contained in these By-Laws which must take priority, the provisions of the *Road Transport Act 2013* (NSW) apply so far as they apply to road use and road use offences.

### **13 By-Law 8: Fencing and retaining walls**

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- 13.1 No fences may be constructed on the Community Parcel to a Lot from Community Property or one Lot from another Lot except such fences as may be required by law for safety reasons.
- 13.2 Owners must construct and maintain retaining walls in accordance with the Guidelines.

### **14 By-Law 9: Garbage and recycling**

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- 14.1 Subject to the requirements of Council, which prevail over these By-Laws, the Association must either arrange with Council or contract with a garbage and recycling contractor to ensure that garbage and recyclable materials from Subsidiary Schemes or Lots within the Community Parcel are collected on a regular basis at such times as determined by the Association.
- 14.2 Subsidiary Schemes, Owners and Occupiers must:
- (a) sort, store, dispose of and make garbage and recyclable materials available for collection in accordance with the Rules of the Association and any requirements of Council;
  - (b) not obstruct or interfere with garbage and recycling services or deposited garbage or recyclable materials on Community Property;
  - (c) keep all garbage and recycling bins on their Lot secure and screened so as not to be visible from other Lots, the Community Property or public areas;
  - (d) not dispose of toxic or dangerous substances in garbage or recycling bins; and
  - (e) return garbage and recycling bins to storage areas on their Lot within twenty four hours after emptying of garbage and recycling bins.

### **15 Services**

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- 15.1 The following Services will be supplied to the Community Parcel by the following Service Providers:

| <b>Statutory services</b>                           | <b>Service provider</b>     |
|-----------------------------------------------------|-----------------------------|
| Stormwater/Drainage                                 | Blue Mountains City Council |
| Electricity:<br>(a) High voltage<br>(b) Low voltage | Endeavour Energy            |
| Gas                                                 | Gemena Gasworks (NSW) Ltd   |
| Water                                               | Sydney water Corporation    |

| <b>Statutory services</b> | <b>Service provider</b>  |
|---------------------------|--------------------------|
| Sewer                     | Sydney water Corporation |
| Telecommunications        | NBN Co Ltd / Telstra     |

- 15.2 Subject to any requirements of Service Providers detailed in By-Law 28 of this Management Statement or law or regulation to the contrary, Service Providers will be responsible for the maintenance of those Services, Additional Services and associated Service Lines owned by that Service Provider.
- 15.3 The Developer and Association may:
- (a) provide or contract with Service Providers for Additional Services for Owners and Occupiers; and
  - (b) arrange for the installation and maintenance of Service Lines for Additional Services, by Service Providers.
- 15.4 Where the Association is the Service Provider of Additional Services and damage, other than fair wear and tear, to the Additional Services is caused by an Owner or Occupier, the Association may in its absolute discretion recover from the Owner or Occupier the cost of repairs and materials for the damage.
- 15.5 Owners and Occupiers must not without the written consent of the appropriate Service Providers or the Association carry out any works which interfere with Services or Additional Services or obstruct access to, overload or damage Services, or any Additional Services.
- 15.6 Owners and Occupiers must promptly notify the Association of any damage to or defective operation of Services, any Additional Services or Drainage.
- 15.7 It is proposed to create statutory easements, pursuant to Section 36 of the Development Act, in accordance with the Prescribed Diagram. Where a statutory easement is created, the covenants contained in section 36(9) of the Development Act are incorporated.
- 15.8 In the case of Private Services, the Association grants to the Service Provider of Private Services, all those rights and covenants contained in section 36 of the Development Act as though the Private Service were a statutory service and the Service Provider a statutory service provider.
- 15.9 In the case of Services not mentioned in clause 15.1, which traverse or encroach onto or under the Community Parcel and benefit any one or more Subsidiary Schemes or Lots in the Community Parcel, these will be deemed Services under clause 15.1.

## **16 Insurance**

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- 16.1 The Association must effect all insurances necessary pursuant to Community Title Legislation and any other insurance deemed necessary by the Association.
- 16.2 The Association must annually review:
- (a) all insurances effected by it; and
  - (b) the need for new or additional insurances.

- 16.3 Notice of an Annual General Meeting must include a form of motion to decide whether insurances effected by the Association should be confirmed, varied or extended.
- 16.4 The Association must immediately effect new insurances or vary or extend existing insurances if there is an increase in risk or a new risk to Community Property.
- 16.5 Owners and Occupiers must not, except with the prior written consent of the Association, do anything that might invalidate, suspend or increase the premium for any insurance policy effected by the Association.

## **17 Executive Committee proceedings**

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- 17.1 The Executive Committee of the Association will be established in accordance with Division 2 of Part 2 of the Management Act.
- 17.2 Subject to By-Laws 17.3 to 17.9 and the Management Act, the Executive Committee may meet to conduct business, adjourn and otherwise regulate its meetings as it thinks fit.
- 17.3 The Secretary or the member of the Executive Committee who convenes a meeting must, not less than two days immediately before the Executive Committee holds a meeting, circulate to all Owners:
  - (a) a notice of intention to hold the meeting; and
  - (b) the proposed agenda for the meeting.
- 17.4 The agenda for a meeting must include details of all business to be dealt with at the meeting.
- 17.5 No business may be dealt with at a meeting unless details of that business are set out in the agenda for that meeting.
- 17.6 The Secretary or in the Secretary's absence any member of the Executive Committee must, at the request of not less than one-third of the members of the Executive Committee, convene a meeting within the period of time specified in the request or, if no time is specified, within fourteen days of the making of the request.
- 17.7 Where:
  - (a) By-Law 17.3 has been complied with in relation to a meeting;
  - (b) each member of the Executive Committee has been served with a copy of a motion for a proposed resolution to be submitted at the meeting; and
  - (c) the resolution has been approved in writing by a majority of members of the Executive Committee,then the resolution will, subject to section 38(3) of the Management Act, be as valid as if it had been passed at a duly convened meeting of the Executive Committee even though the meeting was not held.
- 17.8 Owners may attend meetings of the Executive Committee but may not address the meeting unless authorised by a resolution of the Executive Committee.
- 17.9 Minutes of meetings must be kept properly and held with the minutes of the General Meetings of the Association.

- 17.10 The Executive Committee must, within seven days after holding a meeting, circulate a copy of the minutes to all Owners.
- 17.11 The functions of the Secretary include:
- (a) preparing and distributing minutes of meetings of the Association and the Executive Committee;
  - (b) giving, on behalf of the Association and the Executive Committee, notices required to be given under the Management Act;
  - (c) maintaining the Association roll;
  - (d) supplying certificates in accordance with Clause 2 of Schedule 4 to the Management Act;
  - (e) answering communications addressed to the Association or the Executive Committee;
  - (f) convening meetings of the Executive Committee and the Association (other than the First Annual General Meeting);
  - (g) performing administrative or secretarial functions on behalf of the Association;
  - (h) performing administrative or secretarial functions on behalf of the Executive Committee;
  - (i) keeping records under Part 3 of the Schedule 1 to the Management Act.
- 17.12 The functions of the Treasurer include:
- (a) the functions set out in Section 36(1) and (2) of the Management Act;
  - (b) receiving, acknowledging, banking and accounting for any money paid to the Association;
  - (c) preparing any certificate applied for under paragraphs (b), (c), (d), (e) and (f) of Clause 2 of Schedule 4 of the Management Act;
  - (d) keeping prescribed accounting records under Clause 10 of Schedule 1 to the Management Act;
  - (e) preparing financial statements under Clause 11 of Schedule 1 to the Management Act; and
  - (f) notifying Owners of any Contribution levied under this Management Statement and collecting such Contribution.
- 17.13 The Executive Committee may from time to time appoint subcommittees comprising one or more of its members to:
- (a) conduct investigations;
  - (b) perform duties and functions on behalf of the Executive Committee; and
  - (c) report the findings of the sub-committee to the Executive Committee.
- 17.14 A member of the Executive Committee will not be liable for any loss or damage occurring by reason of an act done in their capacity as a member of the Executive Committee except where

the loss or damage occurs as a result of fraud or negligence on the part of that Executive Committee member.

## Part 4 – Optional matters

### 18 Acknowledgements and obligations of owners and occupiers

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18.1 Owners and Occupiers, but excluding the Developer, must:

- (a) provide any lessee or licensee of the Owners or Occupiers Lot with a copy of this Management Statement and take all reasonable steps, including any action available under the lease or licence agreement, to ensure that any lessee or licensee of the Lot and any person on the Community Parcel with the consent of the lessee or licensee complies with these By-Laws;
- (b) take all reasonable steps to ensure that Invitees comply with these By-Laws and if the Invitee does not comply with these By-Laws then the Owner or Occupier must take all reasonable steps to ensure that the Invitee immediately leaves the Community Parcel;
- (c) promptly pay to the Association all Contributions when and as they fall due on the Owner's Lot and pay or reimburse the Association on demand for any expenses of the Association in connection with the contemplated or actual enforcement or preservation of any rights under these By-Laws concerning the Owner or Occupier including, without limitation, expenses incurred in retaining any independent consultant or other person to evaluate any matter of concern and its administration costs in connection with those events;
- (d) do anything which the Owner or Occupier is required to do under these By-Laws at the cost of the Owner or Occupier;
- (e) comply on time with all requirements and orders of authorities, all laws in connection with the Lot and the use or occupation of that Lot;
- (f) comply with the terms of any notice sent to that Owner or Occupier by the Association, the Executive Committee, a Service Provider or other relevant authority;
- (g) not directly or indirectly instruct agents, employees or contractors of the Association unless authorised to do so by the Association;
- (h) comply with the reasonable directions of and not hinder emergency services personnel or vehicles;
- (i) not make undue noise or behave in a way that might interfere with or cause offence to other Owners or Occupiers or their Invitees;
- (j) not object to the use of Multi Purpose Pathways and Open Access Ways located on Community Property and in and around the Community Scheme by other owners, occupiers and invitees of the Mountain Blue Alpine Retreat & Residences Estate and the public whether by Vehicle, bicycle or foot or such other means as set out from time to time in these By-Laws and the Rules;
- (k) comply with the Rules in place from time to time; and
- (l) not object to any Development Activities and permit access by the Developer to the Community Parcel and to Drainage, Services, Additional Services and Service Lines within the Community Parcel for the development of the Mountain Blue Alpine Retreat &

Residences Estate and connection of Services to other stages of the Mountain Blue Alpine Retreat & Residences Estate.

## **19 Operational Plan of Management**

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- 19.1 The Association recognises the Operational Plan of Management as a further set of rules that shall govern the operation of any activities in the Scheme pertaining to the use of the Restaurant Lot and any Lots that are utilised and managed as Serviced Apartments.
- 19.2 The Association may from time to time, amend the Operational Plan of Management.

## **20 Association's right to enter into contracts – Management Agreement**

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- 20.1 The Association may, on its own behalf contract with persons to:
- (a) provide management, operational, maintenance and other services and amenities in connection with Community Property; and
  - (b) provide services or amenities to Owners and Occupiers.
- 20.2 The Association is empowered on its own behalf to provide certain management, maintenance and services to the Community Scheme and to Owners and Occupiers within the Community Scheme. The Association intends, during the initial period, to enter into a Management Agreement. The Management Agreement will be entered into during the initial period and for the purposes of section 24(2)(a) of the Management Act the particulars of the Management Agreement are disclosed as follows:
- (a) Parties: The Association and the Manager.
  - (b) Term: 3 years.
  - (c) Duties: The scheduled duties of the Manager include, but are not limited to the following:
    - (i) the general repair and maintenance of landscaping of Community Property;
    - (ii) the provision of cleaning and maintenance services of Community Property;
    - (iii) the general repair and maintenance of Security Services;
    - (iv) the provision of Additional Services, as determined by the Manager and Association from time to time;
    - (v) the provision of services to Owners and Occupiers as may be agreed from time to time and may include, without limitation, the foregoing:
      - (A) the provision of pest control services; and
      - (B) any other matter, activity or thing which the Association agrees is appropriate for the operation and management of the Community Scheme.

- (d) Delegation: The Manager has the right to subcontract and delegate, withdraw and re-delegate its duties under the Management Agreement, to a responsible third party as determined by the Manager in its sole discretion.
- (e) Remuneration: As determined between the Association and the Manager, but not less than:
  - (i) the market value of the costs of performing the duties specified in the Management Agreement; and
  - (ii) an additional margin fee, being a percentage of those costs.

The remuneration is to be reviewed annually in accordance with movements in the Consumer Price Index. The remuneration is also subject to annual market review.
- (f) Assignment: The Manager may not assign the agreement without the consent of the Association.
- (g) Termination: The Management Agreement may be terminated by the Association if:
  - (i) the Manager neglects or fails to carry out the Managers duties within a reasonable time of the Manager receiving written notice of the same from the Association;
  - (ii) the Manager breaches provisions in the Management Agreement; or
  - (iii) the Manager is grossly negligent in the performance of its duties.

The Manager can, provided written notice has been given to the Association, terminate the Management Agreement upon the occurrence of the usual termination events, including non payment of fees owing or breach of the Management Agreement by the Association.

## **21 Association not liable for damages**

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The Association is not liable for damage to or loss of property or injury to any person in or near the Community Parcel due to any cause other than the negligence or fraud of the Association or any employee or agent of the Association.

## **22 Interest on overdue money and right to recover money**

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- 22.1 The Association may recover any money owing to it under these By-Laws as a debt.
- 22.2 Owner and Occupier must pay the Association interest on any amount, other than a Contribution levied by the Association under the Management Act that is due for payment and remains unpaid from and including the date it is due for payment.
- 22.3 During the period that an amount under By-Law 22.2 remains unpaid, interest will be payable on demand or at times notified by the Association and will be calculated in accordance with section 20A of the Management Act.
- 22.4 Nothing in this By-Law 22 prevents the Association from recovering any amount exceeding the interest calculated under this By-Law as a consequence of any amount not being paid when due.

- 22.5 Owners agree to pay any GST payable for any taxable supply supplied to that Owner by, through or at the direction of the Association, to the Association or as directed by the Association.

## **23 Rules**

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- 23.1 The Association, not the Executive Committee, may make Rules relating to the control, management, operation, use and enjoyment of the Community Parcel including, without limitation:
- (a) the control, management, operation and use of Community Property;
  - (b) the storage, disposal and collection of garbage; and
  - (c) the supply of Additional Services.
- 23.2 The Association may at any time add to or change the Rules. An addition or change to a Rule must not be inconsistent with the Management Act, the Development Act, these By-Laws or the terms of the Development Consent from Council.
- 23.3 Rules bind the Association, Owners and Occupiers.

## **24 Notices and communications**

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- 24.1 Any complaint, notice, request or application to the Association must be addressed in writing to the Managing Agent or if there is no Managing Agent, to the Secretary.
- 24.2 A certificate signed by the Association, its Managing Agent or the Secretary about a matter or a sum payable to the Association in connection with these By-Laws is prima facie evidence of the amount or any other factual matter stated in it.
- 24.3 Any notice, approval or authorisation by the Association under these By-Laws must be in writing.
- 24.4 A notice may be served on an Owner by electronic means if the person has given the Association an email address for the service of notices and the document is sent to that address.

## **25 Approvals of Association**

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The Association may give conditional approval, unconditional approval or withhold its approval under these By-Laws in its absolute discretion unless expressly provided otherwise in these By-Laws.

## **26 The Restaurant Lot**

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- 26.1 This Clause 26 pertains to the Restaurant Lot only.
- 26.2 Subject to its compliance with this Management Statement, the Restaurant Lot is irrevocably granted consent by the Association, to operate a restaurant business on the Restaurant Lot.
- 26.3 Without limiting the generality of other terms of this Management Statement as they apply to the Restaurant Lot, the terms of this Clause 26 are to be interpreted in preference to the extent of any inconsistency.

- 26.4 The operation of any activities on the Restaurant Lot shall be bound Operational Plan of Management in addition to this Management Statement.
- 26.5 The Owner of the Restaurant Lot shall comply with the following requirements and, for the avoidance of doubt, if it leases the Restaurant Lot to a tenant, ensure that its tenant complies with those requirements:
- (a) Obtain, hold current, and comply with, all necessary Council and other authority, agency or regulatory approvals, required to lawfully operate a restaurant business on the property of the Restaurant Lot;
  - (b) Ensure that all necessary insurances are in place to insure staff, guests, contractors and Invitees against the risk of personal injury or property damage;
  - (c) Comply with all occupational health and safety regulations required by law.
  - (d) Ensure that staff, guest, contractor and Invitee vehicles are parked only in designated locations on the Restaurant Lot or locations agreed to by the Association.
  - (e) Ensure that the operation of the restaurant does not create undue nuisance for other Owners, including noise, odours or unsightly signage or temporary structures.
  - (f) Organise and maintain its own arrangements for the removal of trade waste, grease and general waste.

## **27 Serviced Apartments**

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- 27.1 The use, management and operation of any Serviced Apartments in the Scheme shall in addition to this Community Statement, be bound by the Operational Plan of Management.

## **Part 5 – By-Laws required by public authorities**

### **28 Requirements of public authorities**

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#### **28.1 Water NSW**

- (a) The Community Association, Owners and Occupiers must comply with all requirements of Water NSW relating to water supply, sewerage and stormwater drainage affecting the Land.
- (b) All water and sewer infrastructure must be designed and constructed in accordance with the Water NSW Developer Servicing Plan and associated standards, including:
  - (i) obtaining connection and compliance certificates as required;
  - (ii) providing and maintaining water meters, backflow prevention devices and inspection access; and
  - (iii) ensuring that no alteration or work is carried out on any Water NSW infrastructure without prior written consent.
- (c) The Developer must obtain a Section 73 Compliance Certificate prior to registration of the Community Plan.

#### **28.2 Ausgrid**

- (a) All electricity infrastructure must be designed and installed in accordance with Ausgrid's Network Standards, the Service and Installation Rules of NSW, and any applicable connection agreement.
- (b) The Community Association, Owners and Occupiers must not excavate, build upon or alter any Ausgrid easement, cable route or substation enclosure without Ausgrid's prior written approval.
- (c) Any future augmentation, relocation or replacement of electricity infrastructure must comply with Ausgrid's published connection policy and be undertaken at the cost of the party requesting such works

#### **28.3 Jemena Gas Networks (NSW) Ltd**

- (a) If a gas supply is provided to the Land, it must be designed and installed in accordance with Jemena Gas Networks (NSW) Ltd requirements and AS/NZS 5601 – Gas Installations.
- (b) The Community Association, Owners and Occupiers must not construct over, obstruct or interfere with gas mains, services or meters without the written consent of Jemena.
- (c) Any extension, relocation or modification of gas infrastructure must be undertaken only by a Jemena-accredited contractor and at the cost of the requesting party.

#### **28.4 Australia Post**

- (a) Mail services and letterbox installations must comply with Australia Post's Delivery Service Guidelines for Community Developments.

- (b) Mailboxes must be grouped in an accessible common area approved by Australia Post.
- (c) Maintenance of mailboxes and associated access areas is the responsibility of the Community Association.
- (d) This By-Law 28.4 may only be revoked or amended with the written consent of Australia Post.

**28.5 NBN Co./Telstra**

- (a) All telecommunications infrastructure within the Land must comply with NBN Co's New Developments Deployment Code (C628:2019) and associated technical guidelines.
- (b) Conduits, pits and cabling must be installed in accordance with NBN Co's "fibre-ready pit and pipe" specifications or Telstra's equivalent standards.
- (c) No excavation, relocation or alteration of telecommunications assets may be undertaken without written approval from the relevant carrier.
- (d) All Owners and Occupiers must grant reasonable access to NBN Co or Telstra for inspection, maintenance or repair of network infrastructure.

**28.6 Blue Mountains City Council**

- (a) By-Laws which are inconsistent with the terms of development consent no. [insert] as amended from time to time, are void and invalid to the extent of their inconsistency.
- (b) These By-Laws may only be revoked or amended with the written consent of Blue Mountains City Council.
- (c) Stormwater management, waste collection, landscaping and community facilities must at all times comply with Council's *Development Control Plan* and the conditions of consent applicable to the Land.

## Part 6 – Definitions, interpretation and general

### 30 By-Law : Interpretation

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30.1 The following words have these meanings in the By-Laws unless a contrary intention appear

| Term                          | Definition                                                                                                                                                                                                                                                                                                                                                            |
|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Access Way</b>             | means either an Open Access Way or a Private Access Way.                                                                                                                                                                                                                                                                                                              |
| <b>Access Way Plan</b>        | means the plan attached in Part 8 of this Management Statement,                                                                                                                                                                                                                                                                                                       |
| <b>Additional Service</b>     | means any service in addition to those listed in By-Law 15.1 running through or serving Lots or Community Property including but not limited to statutory services, private services and security services.                                                                                                                                                           |
| <b>Annual General Meeting</b> | means the annual general meeting of the Association other than the First Annual General Meeting.                                                                                                                                                                                                                                                                      |
| <b>Applicant</b>              | means:<br>(a) for an Application to add to or alter the Guidelines – an Owner or Subsidiary Body who applies to the Association for the addition or alteration; or<br>(b) for an Application for consent to carry out building and landscape works under By-Law 5 – an Owner or Subsidiary Body who submits plans and specifications to the Association for approval. |
| <b>Application</b>            | means:<br>(a) for an application to add to or to alter the Guidelines – a written application detailing the alterations or additions and which may also include plans and specifications; or                                                                                                                                                                          |

| <b>Term</b>                         | <b>Definition</b>                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                     | (b) for an Application for consent to carry out building and landscape works under By-Law 5 – a written application for building or landscaping works including, but not limited, to detailed architectural plans and specifications of all Improvements.                                                                                                                                               |
| <b>Association</b>                  | means the corporation that: <ul style="list-style-type: none"> <li>(a) is constituted by Section 25 Development Act on registration of the Community Plan; and</li> <li>(b) is established as an Association by Section 5 Management Act.</li> </ul>                                                                                                                                                    |
| <b>Board</b>                        | means the Community Schemes Board constituted under the Management Act.                                                                                                                                                                                                                                                                                                                                 |
| <b>By-Law</b>                       | means a by-law included in this Management Statement.                                                                                                                                                                                                                                                                                                                                                   |
| <b>Common Property</b>              | means the common property in a Strata Scheme.                                                                                                                                                                                                                                                                                                                                                           |
| <b>Community Facilities</b>         | means the facilities, improvements which may from time to time be constructed and located on Community Property.                                                                                                                                                                                                                                                                                        |
| <b>Community Parcel</b>             | means the land the subject of the Community Scheme.                                                                                                                                                                                                                                                                                                                                                     |
| <b>Community Plan</b>               | means the plan of subdivision of the land by a community plan into the Lots.                                                                                                                                                                                                                                                                                                                            |
| <b>Community Property</b>           | means lot 1 in the Community Plan comprising property indicated on attached plans ref: <b>insert details</b>                                                                                                                                                                                                                                                                                            |
| <b>Community Scheme</b>             | means: <ul style="list-style-type: none"> <li>(a) the subdivision of the Community Parcel by the Community Plan; and</li> <li>(b) the rights conferred, and the obligations imposed, by or under the Community Titles Legislation or similar legislation in relation to the Association, Community Property, and persons having interests in, or occupying Lots.</li> </ul>                             |
| <b>Community Titles Legislation</b> | means the Development Act, the Management Act and cognate legislation.                                                                                                                                                                                                                                                                                                                                  |
| <b>Contribution</b>                 | mean the contribution required to be paid under the By-Law or agreement to the Association by Owners and is the amount X in the following formula: $X = \frac{A \times B}{C} \text{ where:}$ <p>A = the total amount to be raised by the contribution;<br/> B = the unit entitlement for the Owner's Lot; and<br/> C = the aggregate of the unit entitlements for each Lot in the Community Scheme.</p> |
| <b>Council</b>                      | means the relevant consent authority, being Blue Mountains City Council.                                                                                                                                                                                                                                                                                                                                |

| <b>Term</b>                   | <b>Definition</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Developer</b>              | means VDM Prime Pty Ltd (A.C.N. 653 899 953) or its successors and assignees of the right to develop the Community Parcel and where the context permits includes their authorised officers, employees, agents, contractors and assignees.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Development Act</b>        | means the <i>Community Land Development Act 1989</i> (NSW) and regulations made under it.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Development Activities</b> | <p>means:</p> <ul style="list-style-type: none"> <li>(a) any form of demolition work, building work or work ancillary to or associated with building work on the Community Parcel including, without limitation, the installation of Services and Additional Services and construction of improvements, roads and access ways;</li> <li>(b) any form of landscaping work or work ancillary to or associated with landscaping work on the Community Parcel;</li> <li>(c) any form or work other than the forms of work referred to in paragraphs (a) and (b) of this definition which is considered necessary or desirable by the Developer;</li> <li>(d) the use of any part of the Community Parcel in connection with the forms of work referred to in paragraphs (a) to (c) of this definition;</li> <li>(e) the subdivision of any part of the Community Parcel; or</li> <li>(f) work required by Council or any relevant authority in connection with the Community Parcel.</li> </ul> |
| <b>Development Approvals</b>  | <p>means:</p> <ul style="list-style-type: none"> <li>(a) [#insert approval numbers]; and</li> <li>(b) any other development approvals (and modifications of them) which apply (or may apply) to the Mountain Blue Alpine Retreat &amp; Residences Estate generally.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Development Contract</b>   | Means the development contract registered in prescribed form at the time of formation of the Community Scheme.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Development Lot</b>        | means a community development lot or a precinct development lot that has not been severed under section 15 of the Development Act from the applicable scheme                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Drainage</b>               | includes but is not limited to underground piping, drainage structures (other than in public road carriageways), causeways, water storage retention basins, water quality enhancement facilities, overland flow paths, inter-allotment drainage and gross pollutant traps located on Community Property or the subject of                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

| <b>Term</b>                         | <b>Definition</b>                                                                                                                                                                                                                                                                          |
|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                     | a statutory easement or easement in favour of the Association.                                                                                                                                                                                                                             |
| <b>Executive Committee</b>          | means the executive committee of the Association as constituted or elected from time to time under the Management Act.                                                                                                                                                                     |
| <b>First Annual General Meeting</b> | means the General Meeting convened and held under section 9 of the Management Act.                                                                                                                                                                                                         |
| <b>Function</b>                     | includes a power, authority or duty.                                                                                                                                                                                                                                                       |
| <b>General Meeting</b>              | means a general meeting or special general meeting of the Association.                                                                                                                                                                                                                     |
| <b>Government Agency</b>            | means: <ul style="list-style-type: none"> <li>(a) a government or government department or other body;</li> <li>(b) a governmental, semi-governmental or judicial person; or</li> <li>(c) a person (whether autonomous or not) who is charged with the administration of a law.</li> </ul> |
| <b>GST</b>                          | means the Goods and Services Tax as contained in <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth) and related acts of the Commonwealth and cognate rulings and regulations.                                                                                                 |
| <b>Guidelines</b>                   | means the Architectural and Landscape Guidelines prescribed for the Community Association and amended from time to time in accordance with By-Laws 2 and 4.                                                                                                                                |
| <b>Improvements</b>                 | includes building alterations, amendments, modifications, new constructions, structures, building works which have changed since approval by the Design Review Committee, landscaping and external repairs whether or not requiring the approval of Council.                               |
| <b>Invitee</b>                      | means a person on the Community Parcel with the consent express or implied of an Owner, Occupier or the Association.                                                                                                                                                                       |
| <b>Lot</b>                          | means a Lot within the Community Scheme.                                                                                                                                                                                                                                                   |
| <b>Management Act</b>               | means the <i>Community Land Management Act 1989</i> (NSW), and regulations made under it.                                                                                                                                                                                                  |
| <b>Manager</b>                      | means <span style="background-color: yellow;">[#insert need to nominate]</span> its successors and assigns.                                                                                                                                                                                |
| <b>Managing Agent</b>               | means an agent appointed under Section 50 of the Management Act.                                                                                                                                                                                                                           |
| <b>Management Agreement</b>         | means the agreement between the Association and the Manager described in By-Law 20.                                                                                                                                                                                                        |
| <b>Management Statement</b>         | means the statement registered with the Community Plan from time to time added to, modified or amended in accordance with the Community Titles Legislation.                                                                                                                                |

| <b>Term</b>                           | <b>Definition</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Multi Purpose Pathways</b>         | means the Open Access Way path located on Community Property for use by Owners, Occupiers and Invitees, other owners, occupiers and invitees of the Restaurant Lot and the public, whether by foot or bicycle.                                                                                                                                                                                                                                                                                                    |
| <b>Neighbourhood Association</b>      | means the corporation that: <ul style="list-style-type: none"> <li>(a) is constituted by section 25 of the Development Act on registration of a Neighbourhood Plan; and</li> <li>(b) is established as a Neighbourhood Association by section 7 of the Management Act.</li> </ul>                                                                                                                                                                                                                                 |
| <b>Neighbourhood Plan</b>             | has the meaning given to the term under the Development Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Neighbourhood Property</b>         | means the Lot shown on a Neighbourhood Plan as neighbourhood property.                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Neighbourhood Scheme</b>           | means: <ul style="list-style-type: none"> <li>(c) the manner of subdivision of land by a Neighbourhood Plan, and</li> <li>(d) the proposals in any related development contract, and</li> <li>(e) the rights conferred, and the obligations imposed, by or under the Community Titles Legislation in relation to the Neighbourhood Association, its Neighbourhood Property, the Subsidiary Schemes and persons having interests in, or occupying, development lots and lots in the Subsidiary Schemes.</li> </ul> |
| <b>Occupier</b>                       | means a resident and includes resident Owners, any lessee, licensee or assignee of a Lot.                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Open Access Way</b>                | means an open access way within the Community Parcel set apart under section 47 of the Development Act and shown in the Access Way Plan.                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Open Space Area</b>                | means the open space parkland described as such on the Community Plan.                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Operational Plan of Management</b> | means the document styled ' <i>Operational Plan of Management Revised Development – October 2025</i> ' by 7BBH Pty Ltd                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Owner</b>                          | means the registered proprietor on title of a Lot or mortgagee in possession of a Lot, its successors and assigns.                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Owners Corporation</b>             | means the corporation constituted by section 11 of the <i>Strata Schemes Management Act 2015</i> (NSW) on registration of a Strata Plan.                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Parties</b>                        | means the Association and each Owner or Occupier within the Community Parcel.                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Precinct Association</b>           | means the corporation:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

| <b>Term</b>                       | <b>Definition</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                   | <ul style="list-style-type: none"> <li>(a) constituted by section 25 on the registration of a Precinct Plan; and</li> <li>(b) established as a Precinct Association by section 6 of the Management Act.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Precinct Plan</b>              | has the meaning given to the term under the Development Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Precinct Property</b>          | means the Lot shown on a Precinct Plan as precinct property.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Precinct Scheme</b>            | <p>means:</p> <ul style="list-style-type: none"> <li>(a) the manner of subdivision of land by a Precinct Plan, and</li> <li>(b) the manner of subdivision of land in the Precinct Plan by a Neighbourhood Plan or a Strata Plan, and</li> <li>(c) the proposals in any related development contract, and</li> <li>(d) the rights conferred, and the obligations imposed, by or under the Community Titles Legislation and the Strata Titles Legislation in relation to the Precinct Association, its Precinct Property, the Subsidiary Schemes and persons having interests in, or occupying, development lots and lots in the Subsidiary Schemes.</li> </ul> |
| <b>Prescribed Diagram</b>         | means the diagram relating to the Service Lines with the Community Plan and prescribed in section 36 of the Development Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Private Access Way</b>         | means a private access way within the community Parcel set apart under section 47 of the Development Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Private Services</b>           | includes those services provided by a private corporation, body, entity or person other than a statutory authority as prescribed in Part 5 Regulation 37 of the <i>Community Land Development Regulations 2000</i> (NSW) or capable of creation as a statutory easement.                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Restaurant Lot</b>             | means Development Lot 6                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Restricted Property By-Law</b> | means a by-law registered in accordance with section 54 of the Management Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Road Verges</b>                | means the strip of land from the public road kerb (if any) to the Lot boundaries of variable width dedicated to Council, used for the installation of services, verges and pedestrian access ways, landscaping and drainage.                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Rules</b>                      | means the rules made under By-Law 23.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Secretary</b>                  | means the secretary of the Association.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Services</b>                   | means the services referred to in By-Law 15.1 and includes Private Services and Statutory Services.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

| <b>Term</b>                                                 | <b>Definition</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Service Line</b>                                         | means a pipe, wire, cable, duct, conduit or pole by means of which a Service is or is to be provided.                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Service Provider</b>                                     | means, without limitation, Ausgrid, NBN Co., Water NSW, Jemena Gas Networks (NSW) Ltd, the Council and any authorities or private corporations, including the Developer and the Association assuming similar functions.                                                                                                                                                                                                                                                                                                              |
| <b>Special Resolution</b>                                   | means a resolution that is passed at a duly convened meeting of the Association and against which not more than one-quarter of votes is cast.                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Statutory Service</b>                                    | means a service provided by a statutory authority or proprietor of land that has or may have the benefit of a statutory easement in accordance with section 36 of the Development Act.                                                                                                                                                                                                                                                                                                                                               |
| <b>Strata Plan</b>                                          | means a strata plan that subdivides a Development Lot within the Community Scheme                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Strata Scheme</b>                                        | means: <ul style="list-style-type: none"> <li>(a) the way a parcel is subdivided under the Strata Titles Legislation into lots or lots and Common Property, and</li> <li>(b) the way unit entitlements are allocated under the Strata Titles Legislation among the lots, and</li> <li>(c) the rights and obligations, between themselves, of owners of lots, other persons having proprietary interests in or occupying the lots and the owners corporation, as conferred or imposed under the Strata Titles Legislation.</li> </ul> |
| <b>Strata Titles Legislation</b>                            | means the <i>Strata Schemes Management Act 2015</i> (NSW), <i>Strata Schemes Development Act 2015</i> (NSW) and the <i>Strata Schemes Management Amendment (Building Defects Scheme) Act 2018</i> (NSW) as amended or replaced from time to time.                                                                                                                                                                                                                                                                                    |
| <b>Subsidiary Scheme</b>                                    | means: <ul style="list-style-type: none"> <li>(a) a Strata Scheme constituted on registration of a Strata Plan;</li> <li>(b) a Neighbourhood Scheme constituted on registration of a Neighbourhood Plan; or</li> <li>(c) a Precinct Scheme constituted on registration of a Precinct Plan,</li> </ul> in respect of a Development Lot within the Community Scheme.                                                                                                                                                                   |
| <b>Treasurer</b>                                            | means the treasurer of the Association.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Mountain Blue Alpine Retreat &amp; Residences Estate</b> | means the mixed-use development known as Mountains Blue Alpine Retreat & Residences Estate which is proposed to be developed on lot 1 D.P. 1026915 in accordance with the Development                                                                                                                                                                                                                                                                                                                                                |

| <b>Term</b>                 | <b>Definition</b>                                                                                                                                                                                                  |
|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                             | Approvals and which is to include a restaurant residential accommodation.                                                                                                                                          |
| <b>Unanimous Resolution</b> | means a resolution passed by a duly convened General Meeting of the Association without a vote being cast against it.                                                                                              |
| <b>Vehicle</b>              | means any motorised and non-motorised vehicle whether or not registered unless the context requires otherwise and includes, but is not limited to, motor vehicles, trucks, caravans, trailers, boats and bicycles. |

- 30.2 In these By-Laws, unless the contrary intention appears:
- (a) a reference to the singular includes the plural and vice versa;
  - (b) a reference to a statute includes any variation, amendment, re-enactment or replacement of it;
  - (c) the word 'person' includes a firm, a body corporate, an association or an authority;
  - (d) reference to a person includes a reference to the person's executors, administrators, successors and assigns;
  - (e) a reference to an instrument includes any variation or replacement of it;
  - (f) a reference to a day is a reference to the period of time commencing at midnight and ending 24 hours later; and
  - (g) headings are inserted for convenience and do not affect the interpretation of this Management Statement.
- 30.3 Unenforceability of a part or provision of these By-Laws does not affect the enforceability of any other part or provision and the unenforceable part or provision is taken to be severed from this Management Statement without affecting the remainder of the document.
- 30.4 The Association may exercise a right, power or remedy at its discretion, and separately or concurrently with another right, power or remedy. A single or partial exercise of a right, power or remedy by the Association does not prevent a further exercise of that or of any other right, power or remedy. Failure by the Association to exercise or delay in exercising a right, power or remedy does not prevent its exercise.
- 30.5 A reference to an authority, institute, association or body or to any officer of them is in the event of that authority, institute, association, body or officer ceasing to exist or being reconstituted, renamed or replaced or of their respective powers or functions being transferred to any other organisation or person deemed to be a reference to the organisation or officer established, constituted or appointed in lieu of or as replacement for or which or who serves substantially the same purposes or subject of that authority, institute, association, body or officer.

## **Part 7 – Attachments**

### **31 Attached documents**

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- 31.1 See accompanying Services Plan
- 31.2 See accompanying Access Way Plan
- 31.3 See Accompanying Operational Plan of Management

## Part 8 – Signatures and Approvals

Certificate of approval

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It is certified:

- (a) that the consent authority has approved the development described in Development Application No. [ ]; and
- (b) that the terms and conditions of this Management Statement are not inconsistent with that development as approved.

Dated: \_\_\_\_\_

^ \_\_\_\_\_  
Signature on behalf of consent authority

### Execution

Signed by VDM Prime Pty Ltd A.C.N. 653 899 953  
under section 127 of the *Corporations Act 2001*

^ \_\_\_\_\_  
Director

^ \_\_\_\_\_  
Director/Secretary

^ \_\_\_\_\_  
Name of Director

^ \_\_\_\_\_  
Name of Director/Secretary