

Not for Profit Association Incorporated under the  
*Associations Incorporation Act 2015 (WA)*

# CONSTITUTION

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**Crestwood Home Owners Association (Inc)**  
Association Number (IARN) A0690077F



ACN 121 569 882

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## PART 1 - PRELIMINARY

### 1 TERMS USED

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1.1 In these Rules, unless the contrary intention appears:

**Act** means the *Associations Incorporation Act 2015* (WA);

**Association** means the Crestwood Home Owners Association (Inc);

**Books**, of the Association, includes the following:

- (a) a register;
- (b) financial records, financial statements or financial reports, however compiled, recorded or stored;
- (c) a document; and
- (d) any other record of information;

**By laws** means by-laws made by the Association under **Rule 60**;

**Commissioner** means the person for the time being designated as the Commissioner under section 153 of the Act;

**Committee** means the management committee of the Association;

**Committee Meeting** means a meeting of the Committee;

**Committee Member** means a Member of the Committee;

**Financial Records** includes:

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers;
- (b) documents of prime entry; and
- (c) working papers and other documents needed to explain:
  - (i) the methods by which financial statements are prepared; and
  - (ii) adjustments to be made in preparing financial statements;

**Financial Report**, of a Tier 2 association or a Tier 3 association, has the meaning given in section 63 of the Act;

**Financial Statements** means the financial statements in relation to the Association required under Part 5 Division 3 of the Act;

**Financial Year**, of the Association, has the meaning given in **Rule 2**;

**General Meeting**, of the Association, means a meeting of the Association that all

Members are entitled to receive notice of and to attend;

**Lot** means a lot on the Plan;

**Member** means a person (including a body corporate) who is a Member of the Association;

**Ordinary Committee Member** means a Committee Member who is not an office holder of the Association under **Rule 23.3**;

**Plan** means plan numbers 9675, 9676, 9677, 9678 and I4407 as set out in **Schedule 1** of this Constitution (as amended from time to time);

**President** means the Committee Member holding office as the President of the Association;

**Register of Members** means the register of members referred to in section 53 of the Act;

**Rules** mean these rules of the Association, as in force for the time being;

**Secretary** means the Committee Member holding office as the secretary of the Association;

**Special General Meeting** means a General Meeting of the Association other than the Annual General Meeting;

**Special Resolution** means a resolution passed by the Members at a General Meeting in accordance with section 51 of the Act;

**Subcommittee** means a Subcommittee appointed by the Committee under **Rule 44.1(a)**;

**Tier 1 association** means an incorporated association to which section 64(1) of the Act applies;

**Tier 2 association** means an incorporated association to which section 64(2) of the Act applies;

**Tier 3 association** means an incorporated association to which section 64(3) of the Act applies; and

**Treasurer** means the Committee Member holding office as the treasurer of the Association.

## 2 FINANCIAL YEAR

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- 2.1 The Association's Financial Year will be the period of **twelve (12) months** commencing on 1 April and ending on 31 March of each year.
- 2.2 Each subsequent Financial Year of the Association is the period of **twelve (12) months** commencing at the termination of the First Financial year or the anniversary of that termination.

### 3 OBJECTS

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3.1 The objects of the Association shall be:

- (a) to provide and maintain permanent parks, playgrounds, open spaces and other common facilities, both recreational and cultural, for the benefit, use and enjoyment of the Members of the Association; and
- (b) to establish and preserve the standard of improvements and amenities of and upon all lots the subject of the said plan and upon the common fee simple properties the common leasehold properties and for that purpose to control administer and enforce all covenants, rules and regulations entered into by, or to be complied with, by Members (whether by the said transfer or otherwise) in relation to the improvement, maintenance, preservation and beautifying of every lot and the said common fee simple properties and common leasehold properties and all buildings, structures, improvements thereon and appurtenances thereto and all grounds surrounding the same.

## PART 2 - ASSOCIATION TO BE NOT FOR PROFIT BODY

### 4 NOT FOR PROFIT BODY

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- 4.1 The property and income of the Association must be applied solely towards the promotion of the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any Member, except in good faith in the promotion of those objects or purposes.
- 4.2 A payment may be made to a Member out of the funds of the Association only if it is authorised under **Rule 4.3**.
- 4.3 A payment to a Member out of the funds of the Association is authorised if it is:
  - (a) the payment in good faith to the Member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business;
  - (b) the payment of interest, on money borrowed by the Association from the Member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia;
  - (c) the payment of reasonable rent to the Member for premises leased by the Member to the Association; or
  - (d) the reimbursement of reasonable expenses properly incurred by the Member on behalf of the Association.

## PART 3 - MEMBERS

### DIVISION 1 - MEMBERSHIP

#### 5 ELIGIBILITY FOR MEMBERSHIP

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- 5.1 Each and every person who is the legal owner of a legal or equitable estate in fee simple in any lot on the Plan shall be a Member of the Association.

#### 6 WHEN MEMBERSHIP CEASES

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- 6.1 A person ceases to be a Member when any of the following takes place:
- (a) when he, she or it is no longer the legal owner of a legal or equitable estate in fee simple in any lot on the Plan or subdivision;
  - (b) for a Member who is an individual, the individual dies;
  - (c) for a Member who is a body corporate, the body corporate is wound up; or
  - (d) the person is suspended from the Association under **Rule 11**.
- 6.2 The Secretary must keep a record, for at least **one (1) year** after a person ceases to be a Member, of:
- (a) the date on which the person ceased to be a Member; and
  - (b) the reason why the person ceased to be a Member.

#### 7 RIGHTS NOT TRANSFERABLE

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- 7.1 The rights of a Member are not transferable and end when membership ceases.

### DIVISION 2 - MEMBERSHIP FEES

#### 8 MEMBERSHIP FEES

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- 8.1 The Committee must determine the entrance fee (if any) and the annual membership fee (if any) to be paid for membership of the Association.
- 8.2 A Member must pay the annual membership fee to the Treasurer, or another person authorised by the Committee to accept payments, by the date (the due date) determined by the Committee.
- 8.3 Where any Lot on the Plan is owned by more than one (1) Member only one (1) of the Members must pay the annual membership fee. The owners of each Lot shall be jointly and severally liable for the payment of the annual membership fee per Lot.
- 8.4 Each and every Member shall indemnify the Association for its reasonable costs incurred in relation to recovering membership fees that remain outstanding for a period of **sixty (60) days**. 'Reasonable costs' shall include lawyer's fees, court fees, sheriff fees and registration fees.



## DIVISION 3 - REGISTER OF MEMBERS

### 9 REGISTER OF MEMBERS

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- 9.1 The Secretary, or another person authorised by the Committee, is responsible for the requirements imposed on the Association under section 53 of the Act to maintain the Register of Members and record in that register any change in the membership of the Association.
- 9.2 In addition to the matters referred to in section 53(2) of the Act, the Register of Members must include the class of membership (if applicable) to which each Member belongs and the date on which each Member becomes a Member.
- 9.3 The Register of Members must be kept at the Secretary's place of residence, or at another place determined by the Committee.
- 9.4 A Member who wishes to inspect the Register of Members must contact the Secretary to make the necessary arrangements.
- 9.5 If:
- (a) a Member inspecting the Register of Members wishes to make a copy of, or take an extract from, the Register of Members under section 54(2) of the Act; or
  - (b) a Member makes a written request under section 56(1) of the Act to be provided with a copy of the Register of Members,

the Committee may require the Member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Association.

## PART 4 - DISCIPLINARY ACTION, DISPUTES AND MEDIATION

### DIVISION 1 - TERM USED

#### 10 TERM USED: MEMBER

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- 10.1 In this Part '**Member**', includes a Member who's membership has been suspended.

### DIVISION 2 - DISCIPLINARY ACTION

#### 11 SUSPENSION

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- 11.1 The Committee may decide to suspend a Member's membership from the Association if:
- (a) the Member contravenes any of these Rules; or
  - (b) the Member acts detrimentally to the interests of the Association.
- 11.2 The Secretary must give the Member written notice of the proposed suspension at least **twenty eight (28) days** before the Committee Meeting at which the proposal is to

be considered by the Committee.

11.3 The notice given to the Member must state:

- (a) when and where the Committee Meeting is to be held;
- (b) the grounds on which the proposed suspension is based; and
- (c) that the Member, or the Member's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Committee about the proposed suspension.

11.4 At the Committee Meeting, the Committee must:

- (a) give the Member, or the Member's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Committee about the proposed suspension;
- (b) give due consideration to any submissions so made; and
- (c) decide whether or not to suspend the Member's membership and, if the decision is to suspend the membership, the period of suspension.

11.5 A decision of the Committee to suspend the Member's membership from the Association takes immediate effect.

11.6 The Committee must give the Member written notice of the Committee's decision, and the reasons for the decision, within **seven (7) days** after the Committee Meeting at which the decision is made.

11.7 A Member whose membership is suspended from the Association may, within **fourteen (14) days** after receiving notice of the Committee's decision under **Rule 11.6**, give written notice to the Secretary requesting the appointment of a mediator under **Rule 19**.

11.8 If notice is given under **Rule 11.7**, the Member who gives the notice and the Committee are the parties to the mediation.

## 12 CONSEQUENCES OF SUSPENSION

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12.1 During the period a Member's membership is suspended, the Member:

- (a) loses any rights (including voting rights) arising as a result of membership; and
- (b) is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Association.

12.2 When a Member's membership is suspended, the Secretary must record in the Register of Members:

- (a) that the Member's membership is suspended;
- (b) the date on which the suspension takes effect; and
- (c) the period of the suspension.

- 12.3 When the period of the suspension ends, the Secretary must record in the Register of Members that the Member's membership is no longer suspended.

### **DIVISION 3 - RESOLVING DISPUTES**

#### **13 TERMS USED**

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- 13.1 In this Division:

**Grievance Procedure** means the procedures set out in this Division; and

**Party to a Dispute** includes a person:

- (a) who is a party to the dispute; and
- (b) who ceases to be a Member within **six (6) months** before the dispute has come to the attention of each party to the dispute.

#### **14 APPLICATION OF DIVISION**

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- 14.1 The procedure set out in this Division (the grievance procedure) applies to disputes:

- (a) between Members; or
- (b) between **one (1)** or more Members and the Association.

#### **15 PARTIES TO ATTEMPT TO RESOLVE DISPUTE**

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- 15.1 The parties to a dispute must attempt to resolve the dispute between themselves within **fourteen (14) days** after the dispute has come to the attention of each party.

#### **16 HOW GRIEVANCE PROCEDURE IS STARTED**

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- 16.1 If the parties to a dispute are unable to resolve the dispute between themselves within the time required by **Rule 15**, any party to the dispute may start the grievance procedure by giving written notice to the Secretary of:

- (a) the parties to the dispute; and
- (b) the matters that are the subject of the dispute.

- 16.2 Within **twenty eight (28) days** after the Secretary is given the notice, a Committee Meeting must be convened to consider and determine the dispute.

- 16.3 The Secretary must give each party to the dispute written notice of the Committee Meeting at which the dispute is to be considered and determined at least **seven (7) days** before the meeting is held.

- 16.4 The notice given to each party to the dispute must state:

- (a) when and where the Committee Meeting is to be held; and
- (b) that the party, or the party's representative, may attend the meeting and will be

given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Committee about the dispute.

16.5 If:

- (a) the dispute is between **one (1)** or more Members and the Association; and
- (b) any party to the dispute gives written notice to the Secretary stating that the party:
  - (i) does not agree to the dispute being determined by the Committee; and
  - (ii) requests the appointment of a mediator under **Rule 19**,

the Committee must not determine the dispute.

## 17 DETERMINATION OF DISPUTE BY COMMITTEE

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17.1 At the Committee Meeting at which a dispute is to be considered and determined, the Committee must:

- (a) give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Committee about the dispute;
- (b) give due consideration to any submissions so made; and
- (c) determine the dispute.

17.2 The Committee must give each party to the dispute written notice of the Committee's determination, and the reasons for the determination, within **seven (7) days** after the Committee Meeting at which the determination is made.

17.3 A party to the dispute may, within **fourteen (14) days** after receiving notice of the Committee's determination under **Rule 17.1(c)**, give written notice to the Secretary requesting the appointment of a mediator under **Rule 19**.

17.4 If notice is given under **Rule 17.3**, each party to the dispute is a party to the mediation.

## DIVISION 4 - MEDIATION

### 18 APPLICATION OF DIVISION

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18.1 This Division applies if written notice has been given to the Secretary requesting the appointment of a mediator:

- (a) by a Member under **Rule 11.7**; or
- (b) by a party to a dispute under **Rule 16.5(b)(ii)** or **Rule 17.3**.

18.2 If this Division applies, a mediator must be chosen or appointed under **Rule 19**.

## 19 APPOINTMENT OF MEDIATOR

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19.1 The mediator must be a person chosen:

- (a) if the appointment of a mediator was requested by a Member under **Rule 11.7** - by agreement between the Member and the Committee; or
- (b) if the appointment of a mediator was requested by a party to a dispute under **Rule 16.5(b)(ii)** or **Rule 17.3** - by agreement between the parties to the dispute.

19.2 If there is no agreement for the purposes of Rule 19.1(a) or Rule 19.1(b), then, subject to Rule 19.3 and Rule 19.4, the Committee must appoint the mediator.

19.3 The person appointed as mediator by the Committee must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by:

- (a) a Member under **Rule 11.7**;
- (b) a party to a dispute under **Rule 16.5(b)(ii)**; or
- (c) a party to a dispute under **Rule 17.3** and the dispute is between **one (1)** or more Members and the Association.

19.4 The person appointed as mediator by the Committee may be a Member or former Member of the Association but must not:

- (a) have a personal interest in the matter that is the subject of the mediation; or
- (b) be biased in favour of or against any party to the mediation.

## 20 MEDIATION PROCESS

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20.1 The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.

20.2 Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least **five (5) days** before the mediation takes place.

20.3 In conducting the mediation, the mediator must:

- (a) give each party to the mediation every opportunity to be heard;
- (b) allow each party to the mediation to give due consideration to any written statement given by another party; and
- (c) ensure that natural justice is given to the parties to the mediation throughout the mediation process.

20.4 The mediator cannot determine the matter that is the subject of the mediation.

20.5 The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.

20.6 The costs of the mediation are to be paid equally by the parties to the mediation.

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**21 IF MEDIATION RESULTS IN DECISION TO SUSPEND BEING REVOKED**

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21.1 If:

- (a) mediation takes place because a Member whose membership is suspended from the Association gives notice under **Rule 11.7**; and
- (b) as the result of the mediation, the decision to suspend the Member's membership is revoked,

that revocation does not affect the validity of any decision made at a Committee Meeting or General Meeting during the period of suspension.

**PART 5 - COMMITTEE**

**DIVISION 1 - POWERS OF COMMITTEE**

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**22 COMMITTEE**

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- 22.1 The Committee Members are the persons who, as the management Committee of the Association, have the power to manage the affairs of the Association.
- 22.2 Subject to the Act, these Rules, the By laws (if any) and any resolution passed at a General Meeting, the Committee has power to do all things necessary or convenient to be done for the proper management of the affairs of the Association.
- 22.3 The Committee must take all reasonable steps to ensure that the Association complies with the Act, these Rules and the By laws (if any).

**DIVISION 2 - COMPOSITION OF COMMITTEE AND DUTIES OF MEMBERS**

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**23 COMMITTEE MEMBERS**

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- 23.1 The Committee Members consist of:
  - (a) the office holders of the Association; and
  - (b) at least **two (2)** Ordinary Committee Members.
- 23.2 The Committee must determine the maximum number of Members who may be Ordinary Committee Members.
- 23.3 The following are the office holders of the Association:
  - (a) the President;
  - (b) the Vice President;
  - (c) the Secretary; and

- (d) the Treasurer.

23.4 A person may be a Committee Member if the person is:

- (a) an individual who has reached **eighteen (18) years** of age; and
- (b) a Member.

23.5 A person must not hold **two (2)** or more of the offices mentioned in **Rule 23.3** at the same time.

23.6 Where more than one (1) Member are the owners of a Lot on the Plan only one (1) Member of the Lot may, at any one time, be a Committee Member.

## **24 PRESIDENT**

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24.1 It is the duty of the President to consult with the Secretary regarding the business to be conducted at each Committee Meeting and General Meeting.

24.2 The President has the powers and duties relating to chairing, convening and presiding at Committee Meetings and General Meetings provided for in these Rules.

## **25 SECRETARY**

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25.1 The Secretary has the following duties:

- (a) dealing with the Association's correspondence;
- (b) consulting with the President regarding the business to be conducted at each Committee Meeting and General Meeting;
- (c) preparing the notices required for meetings and for the business to be conducted at meetings;
- (d) unless another Member is authorised by the Committee to do so, maintaining on behalf of the Association the Register of Members, and recording in the Register of Members any changes in the membership, as required under section 53(1) of the Act;
- (e) maintaining on behalf of the Association an up-to-date copy of these Rules, as required under section 35(1) of the Act;
- (f) unless another Member is authorised by the Committee to do so, maintaining on behalf of the Association a record of Committee Members and other persons authorised to act on behalf of the Association, as required under section 58(2) of the Act;
- (g) ensuring the safe custody of the Books of the Association, other than the Financial Records, Financial Statements and Financial Reports, as applicable to the Association;
- (h) maintaining full and accurate minutes of Committee Meetings and General Meetings; and

- (i) carrying out any other duty given to the Secretary under these Rules or by the Committee.

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## **26 TREASURER**

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26.1 The Treasurer has the following duties:

- (a) ensuring that any amounts payable to the Association are collected and issuing receipts for those amounts in the Association's name;
- (b) ensuring that any amounts paid to the Association are credited to the appropriate account of the Association, as directed by the Committee;
- (c) ensuring that any payments to be made by the Association that have been authorised by the Committee or at a General Meeting are made on time;
- (d) ensuring that the Association complies with the relevant requirements of Part 5 of the Act;
- (e) ensuring the safe custody of the Association's Financial Records, Financial Statements and Financial Reports, as applicable to the Association;
- (f) if the Association is a Tier 1 association, coordinating the preparation of the Association's Financial Statements before their submission to the Association's Annual General Meeting;
- (g) if the Association is a Tier 2 association or Tier 3 association, coordinating the preparation of the Association's Financial Report before its submission to the Association's Annual General Meeting;
- (h) providing any assistance required by an auditor or reviewer conducting an audit or review of the Association's Financial Statements or Financial Report under Part 5 Division 5 of the Act; and
- (i) carrying out any other duty given to the Treasurer under these Rules or by the Committee.

26.2 The Treasurer shall provide the following information to the Committee at each meeting referred to in **Rule 37.1**:

- (a) a profit and loss statement for the Association;
- (b) a list of creditors;
- (c) a list of debtors; and
- (d) a list of payments made on behalf of the Association in the preceding month.

## **DIVISION 3 - ELECTION OF COMMITTEE MEMBERS AND TENURE OF OFFICE**

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### **27 HOW MEMBERS BECOME COMMITTEE MEMBERS**

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27.1 A Member becomes a Committee Member if the Member:



- (a) is elected to the Committee at a General Meeting; or
- (b) is appointed to the Committee by the Committee to fill a casual vacancy under **Rule 34**.

## **28 NOMINATION OF COMMITTEE MEMBERS**

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- 28.1 At least **forty two (42) days** before an Annual General Meeting, the Secretary must send written notice to all the Members:
- (a) calling for nominations for election to the Committee; and
  - (b) stating the date by which nominations must be received by the Secretary to comply with **Rule 28.2**.
- 28.2 A Member who wishes to be considered for election to the Committee at the Annual General Meeting must nominate for election by sending written notice of the nomination to the Secretary at least **twenty eight (28) days** before the Annual General Meeting.
- 28.3 The written notice must include a statement by another Member in support of the nomination.
- 28.4 A Member may nominate for **one (1)** specified position of office holder of the Association or to be an Ordinary Committee Member.
- 28.5 A Member whose nomination does not comply with this rule is not eligible for election to the Committee unless the Member is nominated under **Rule 29.2** or **Rule 30.2(b)**.

## **29 ELECTION OF OFFICE HOLDERS**

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- 29.1 At the Annual General Meeting, a separate election must be held for each position of office holder of the Association.
- 29.2 If there is no nomination for a position, the President may call for nominations from the Members at the meeting.
- 29.3 If only **one (1)** Member has nominated for a position, the President must declare the Member elected to the position.
- 29.4 If more than **one (1)** Member has nominated for a position, the Ordinary Members at the meeting must vote in accordance with procedures that have been determined by the Committee to decide who is to be elected to the position.
- 29.5 Each Member present at the meeting may vote for **one (1)** Member who has nominated for the position.
- 29.6 A Member who has nominated for the position may vote for himself or herself.
- 29.7 The new President of the Association shall take office immediately after the close of the meeting at which he or she was elected.

### 30 ELECTION OF ORDINARY COMMITTEE MEMBERS

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- 30.1 At the Annual General Meeting, the Association may decide by resolution the number of Ordinary Committee Members (if any) to hold office for the next year.
- 30.2 If the number of Members nominating for the position of Ordinary Committee Member is not greater than the number to be elected, the President:
- (a) must declare each of those Members to be elected to the position; and
  - (b) may call for further nominations from the ordinary Members at the meeting to fill any positions remaining unfilled after the elections under **Rule 30.2(a)**.
- 30.3 If:
- (a) the number of Members nominating for the position of Ordinary Committee Member is greater than the number to be elected; or
  - (b) the number of Members nominating under **Rule 30.2(b)** is greater than the number of positions remaining unfilled,
- the ordinary Members at the meeting must vote in accordance with procedures that have been determined by the Committee to decide the members who are to be elected to the position of Ordinary Committee Member.
- 30.4 A Member who has nominated for the position of Ordinary Committee Member may vote in accordance with that nomination.

### 31 TERM OF OFFICE

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- 31.1 The term of office of a Committee Member begins:
- (a) immediately after the close of the Annual General Meeting at which the Member is elected; or
  - (b) under **Rule 32.3(b)**; or
  - (c) when the Member is appointed to fill a casual vacancy under **Rule 34**.
- 31.2 Subject to **Rule 33**, a Committee Member holds office until the positions on the Committee are declared vacant at the next Annual General Meeting.
- 31.3 A Committee Member may be re-elected.

### 32 RESIGNATION AND REMOVAL FROM OFFICE

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- 32.1 A Committee Member may resign from the Committee by written notice given to the Secretary or, if the resigning Member is the Secretary, given to the President.
- 32.2 The resignation takes effect:
- (a) when the notice is received by the Secretary or President; or
  - (b) if a later time is stated in the notice, at the later time.

32.3 At a General Meeting, the Association may by resolution:

- (a) remove a Committee Member from office; and
- (b) elect a Member who is eligible under **Rule 23.4** to fill the vacant position.

32.4 A Committee Member who is the subject of a proposed resolution under **Rule 32.3(a)** may make written representations (of a reasonable length) to the Secretary or President and may ask that the representations be provided to the Members.

32.5 The Secretary or President may give a copy of the representations to each Member or, if they are not so given, the Committee Member may require them to be read out at the General Meeting at which the resolution is to be considered.

### **33 WHEN MEMBERSHIP OF COMMITTEE CEASES**

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33.1 A person ceases to be a Committee Member if the person:

- (a) dies or otherwise ceases to be a Member;
- (b) resigns from the Committee or is removed from office under **Rule 32**;
- (c) becomes ineligible to accept an appointment or act as a Committee Member under section 39 of the Act;
- (d) becomes permanently unable to act as a Committee Member because of a mental or physical disability; or
- (e) fails to attend **three (3)** consecutive Committee Meetings, of which the person has been given notice, without having notified the Committee that the person will be unable to attend.

### **34 FILLING CASUAL VACANCIES**

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34.1 The Committee may appoint a Member who is eligible under **Rule 23.4** to fill a position on the Committee that:

- (a) has become vacant under **Rule 33**; or
- (b) was not filled by election at the most recent Annual General Meeting or under **Rule 32.3(b)**.

34.2 If the position of Secretary becomes vacant, the Committee must appoint a Member who is eligible under **Rule 23.4** to fill the position within **fourteen (14) days** after the vacancy arises.

34.3 Subject to the requirement for a quorum under **Rule 41**, the Committee may continue to act despite any vacancy in its membership.

34.4 If there are fewer Committee members than required for a quorum under **Rule 41**, the Committee may act only for the purpose of:

- (a) appointing Committee Members under this rule; or
- (b) convening a General Meeting.

### 35 VALIDITY OF ACTS

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- 35.1 The acts of a Committee or Subcommittee, or of a Committee Member or Member of a Subcommittee, are valid despite any defect that may afterwards be discovered in the election, appointment or qualification of a Committee Member or Member of a Subcommittee.

### 36 PAYMENTS TO COMMITTEE MEMBERS

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- 36.1 In this rule:

**Committee Member** includes a Member of a Subcommittee; and

**Committee Meeting** includes a meeting of a Subcommittee.

- 36.2 A Committee Member is entitled to be paid out of the funds of the Association for any out of pocket expenses for travel and accommodation properly incurred:

- (a) in attending a Committee Meeting;
- (b) in attending a General Meeting; or
- (c) otherwise in connection with the Association's business.

- 36.3 Subject to Rule 46.3(f) a Committee Member is entitled to be paid an honorarium.

## DIVISION 4 - COMMITTEE MEETINGS

### 37 COMMITTEE MEETINGS

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- 37.1 The Committee must meet at least once in each calendar month on the dates and at the times and places determined by the Committee.
- 37.2 The date, time and place of the first Committee Meeting must be determined by the Committee Members as soon as practicable after the Annual General Meeting at which the Committee Members are elected.
- 37.3 Special Committee Meetings may be convened by the President or any **two (2)** Committee Members.

### 38 NOTICE OF COMMITTEE MEETINGS

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- 38.1 Notice of each Committee Meeting must be given to each Committee Member at least **forty eight (48) hours** before the time of the meeting.
- 38.2 The notice must state the date, time and place of the meeting and must describe the general nature of the business to be conducted at the meeting.
- 38.3 Unless **Rule 38.4** applies, the only business that may be conducted at the meeting is the business described in the notice.
- 38.4 Urgent business that has not been described in the notice may be conducted at the meeting if the Committee Members at the meeting unanimously agree to treat that

business as urgent.

### **39 PROCEDURE AND ORDER OF BUSINESS**

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- 39.1 The President or, in the President's absence, the Vice President must preside as chairperson of each Committee meeting.
- 39.2 If the President and Vice President are absent or are unwilling to act as chairperson of a meeting, the Committee Members at the meeting must choose one of them to act as chairperson of the meeting.
- 39.3 The procedure to be followed at a Committee Meeting must be determined from time to time by the Committee.
- 39.4 The order of business at a Committee Meeting may be determined by the Committee Members at the meeting.
- 39.5 A Member or other person who is not a Committee Member may attend a Committee Meeting if invited to do so by the Committee.
- 39.6 A person invited under **Rule 39.5** to attend a Committee Meeting:
- (a) has no right to any agenda, minutes or other document circulated at the meeting;
  - (b) must not comment about any matter discussed at the meeting unless invited by the Committee to do so; and
  - (c) cannot vote on any matter that is to be decided at the meeting.

### **40 USE OF TECHNOLOGY TO BE PRESENT AT COMMITTEE MEETINGS**

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- 40.1 The presence of a Committee Member at a Committee Meeting need not be by attendance in person but may be by that Committee Member and each other Committee Member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- 40.2 A Member who participates in a Committee meeting as allowed under **Rule 40.1** is taken to be present at the meeting and, if the Member votes at the meeting, the Member is taken to have voted in person.

### **41 QUORUM FOR COMMITTEE MEETINGS**

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- 41.1 Any **four (4)** Committee Members constitute a quorum for the conduct of business of a Committee Meeting.
- 41.2 Subject to **Rule 34.4**, no business is to be conducted at a Committee Meeting unless a quorum is present.
- 41.3 If a quorum is not present within **thirty (30) minutes** after the notified commencement time of a Committee Meeting:
- (a) in the case of a special meeting - the meeting lapses; or
  - (b) otherwise, the meeting is adjourned to the same time, day and place in the

following week.

41.4 If:

- (a) a quorum is not present within **thirty (30) minutes** after the commencement time of a Committee Meeting held under **Rule 41.3(b)**; and
  - (b) at least **two (2)** Committee Members are present at the meeting,
- those Members present are taken to constitute a quorum.

## 42 VOTING AT COMMITTEE MEETINGS

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- 42.1 Each Committee Member present at a Committee Meeting has **one (1)** vote on any question arising at the meeting.
- 42.2 A motion is carried if a majority of the Committee Members present at the Committee Meeting vote in favour of the motion.
- 42.3 If the votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.
- 42.4 A vote may take place by the Committee Members present indicating their agreement or disagreement or by a show of hands, unless the Committee decides that a secret ballot is needed to determine a particular question.
- 42.5 If a secret ballot is needed, the chairperson of the meeting must decide how the ballot is to be conducted.

## 43 MINUTES OF COMMITTEE MEETINGS

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- 43.1 The Committee must ensure that minutes are taken and kept of each Committee Meeting.
- 43.2 The minutes must record the following:
  - (a) the names of the Committee Members present at the meeting;
  - (b) the name of any person attending the meeting under **Rule 39.5**;
  - (c) the business considered at the meeting; and
  - (d) any motion on which a vote is taken at the meeting and the result of the vote.
- 43.3 The minutes of a Committee Meeting must be entered in the Association's minute book within **thirty (30) days** after the meeting is held.
- 43.4 The chairperson must ensure that the minutes of a Committee Meeting are reviewed and signed as correct by:
  - (a) the chairperson of the meeting; or
  - (b) the chairperson of the next Committee Meeting.
- 43.5 When the minutes of a Committee Meeting have been signed as correct they are, until

the contrary is proved, evidence that:

- (a) the meeting to which the minutes relate was duly convened and held;
- (b) the matters recorded as having taken place at the meeting took place as recorded; and
- (c) any appointment purportedly made at the meeting was validly made.

## **DIVISION 5 - SUBCOMMITTEES AND SUBSIDIARY OFFICES**

### **44 SUBCOMMITTEES AND SUBSIDIARY OFFICES**

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- 44.1 To help the Committee in the conduct of the Association's business, the Committee may, in writing, do either or both of the following:
- (a) appoint **one (1)** or more Subcommittees; and/or
  - (b) create **one (1)** or more subsidiary offices and appoint people to those offices.
- 44.2 A Subcommittee may consist of the number of people, whether or not Members, that the Committee considers appropriate.
- 44.3 A person may be appointed to a subsidiary office whether or not the person is a Member.
- 44.4 Subject to any directions given by the Committee:
- (a) a Subcommittee may meet and conduct business as it considers appropriate; and
  - (b) the holder of a subsidiary office may carry out the functions given to the holder as the holder considers appropriate.

### **45 DELEGATION TO SUBCOMMITTEES AND HOLDERS OF SUBSIDIARY OFFICES**

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- 45.1 In this rule '**Non-delegable Duty**' means a duty imposed on the Committee by the Act or another written law.
- 45.2 The Committee may, in writing, delegate to a Subcommittee or the holder of a subsidiary office the exercise of any power or the performance of any duty of the Committee other than:
- (c) the power to delegate; and
  - (d) a Non-delegable Duty.
- 45.3 A power or duty, the exercise or performance of which has been delegated to a Subcommittee or the holder of a subsidiary office under this rule, may be exercised or performed by the Subcommittee or holder in accordance with the terms of the delegation.
- 45.4 The delegation may be made subject to any conditions, qualifications, limitations or exceptions that the Committee specifies in the document by which the delegation is made.

- 45.5 The delegation does not prevent the Committee from exercising or performing at any time the power or duty delegated.
- 45.6 Any act or thing done by a Subcommittee or by the holder of a subsidiary office, under the delegation has the same force and effect as if it had been done by the Committee.
- 45.7 The Committee may, in writing, amend or revoke the delegation.

## **PART 6 - GENERAL MEETINGS OF ASSOCIATION**

### **46 ANNUAL GENERAL MEETING**

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- 46.1 The Committee must determine the date, time and place of the Annual General Meeting.
- 46.2 If it is proposed to hold the Annual General Meeting more than **six (6) months** after the end of the Association's Financial Year, the Secretary must apply to the Commissioner for permission under section 50(3)(b) of the Act within **four (4) months** after the end of the Financial Year.
- 46.3 The ordinary business of the Annual General Meeting is as follows:
- (a) to confirm the minutes of the previous Annual General Meeting and of any Special General Meeting held since then if the minutes of that meeting have not yet been confirmed;
  - (b) to receive and consider:
    - (i) the Committee's annual report on the Association's activities during the preceding Financial Year;
    - (ii) if the Association is a Tier 1 association, the Financial Statements of the Association for the preceding Financial Year presented under Part 5 of the Act;
    - (iii) if the Association is a Tier 2 association or a Tier 3 association, the Financial Report of the Association for the preceding Financial Year presented under Part 5 of the Act; and
    - (iv) if required to be presented for consideration under Part 5 of the Act, a copy of the report of the review or auditor's report on the Financial Statements or Financial Report;
  - (c) to elect the office holders of the Association and other Committee Members;
  - (d) if applicable, to appoint or remove a reviewer or auditor of the Association in accordance with the Act;
  - (e) to confirm or vary the entrance fees, subscriptions and other amounts (if any) to be paid by Members; and
  - (f) to approve payments, if any, made or proposed to be made under **Rule 36.3**.
- 46.4 Any other business of which notice has been given in accordance with these Rules



may be conducted at the Annual General Meeting.

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#### 47 SPECIAL GENERAL MEETINGS

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- 47.1 The Committee may convene a Special General Meeting.
- 47.2 The Committee must convene a Special General Meeting if at least **twenty percent (20%)** of the Members require a Special General Meeting to be convened.
- 47.3 The Members requiring a Special General Meeting to be convened must:
- (a) make the requirement by written notice given to the Secretary;
  - (b) state in the notice the business to be considered at the meeting; and
  - (c) each sign the notice.
- 47.4 The Special General Meeting must be convened within twenty eight (28) days after notice is given under Rule 47.3(a).
- 47.5 If the Committee does not convene a Special General Meeting within that **twenty eight (28) day** period, the Members making the requirement (or any of them) may convene the Special General Meeting.
- 47.6 A Special General Meeting convened by Members under **Rule 47.5**:
- (a) must be held within **three (3) months** after the date the original requirement was made; and
  - (b) may only consider the business stated in the notice by which the requirement was made.
- 47.7 The Association must reimburse any reasonable expenses incurred by the Members convening a Special General Meeting under **Rule 47.5**.

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#### 48 NOTICE OF GENERAL MEETINGS

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- 48.1 The Secretary or, in the case of a Special General Meeting convened under **Rule 47.5**, the Members convening the meeting, must give to each Member:
- (a) at least **twenty one (21) days** notice of a General Meeting if a Special Resolution is to be proposed at the meeting; or
  - (b) at least **fourteen (14) days** notice of a General Meeting in any other case.
- 48.2 The notice must:
- (a) specify the date, time and place of the meeting;
  - (b) indicate the general nature of each item of business to be considered at the meeting;
  - (c) if the meeting is the Annual General Meeting, include the names of the Members who have nominated for election to the Committee under **Rule 28.2**; and

- (d) if a Special Resolution is proposed:
  - (i) set out the wording of the proposed resolution as required by section 51(4) of the Act;
  - (ii) state that the resolution is intended to be proposed as a Special Resolution; and
  - (iii) comply with **Rule 49.5**.

## **49 PROXIES**

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- 49.1 Subject to **Rule 1.1**, a Member may appoint an individual who is a Member as his or her proxy to vote and speak on his or her behalf at a General Meeting.
- 49.2 An appointment made under **Rule 49.1** must be made in the form as set out in **Schedule 2** to this Constitution or such other form as the Committee from time to time directs and must be given to the Secretary not less than **twenty four (24) hours** prior to the General Meeting.
- 49.3 The Member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf.
- 49.4 If no instructions are given to the proxy, the proxy may vote on behalf of the Member in any matter as the proxy sees fit.
- 49.5 Notice of a General Meeting given to an ordinary Member under **Rule 48** must:
- (a) state that the Member may appoint an individual who is an ordinary Member as a proxy for the meeting; and
  - (b) include a copy of any form that the Committee has approved for the appointment of a proxy.
- 49.6 A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Secretary not later than **twenty four (24) hours** before the commencement of the meeting.

## **50 USE OF TECHNOLOGY TO BE PRESENT AT GENERAL MEETINGS**

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- 50.1 The presence of a Member at a General Meeting need not be by attendance in person but may be by that Member and each other Member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- 50.2 A Member who participates in a General Meeting as allowed under **Rule 50.1** is taken to be present at the meeting and, if the Member votes at the meeting, the Member is taken to have voted in person.

## **51 PRESIDING MEMBER AND QUORUM FOR GENERAL MEETINGS**

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- 51.1 The President or, in the President's absence, the Vice President, must preside as chairperson of each General Meeting.

## CRESTWOOD HOMEOWNERS ASSOCIATION (INC)

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- 51.2 If the President and Vice President are absent or are unwilling to act as chairperson of a General Meeting, the Committee Members at the meeting must choose one of them to act as chairperson of the meeting.
- 51.3 No business is to be conducted at a General Meeting unless a quorum is present.
- 51.4 Any **ten percent (10%)** of Members (being Members entitled to vote under these Rules at a General Meeting) will constitute a quorum for the conduct of business at a General Meeting.
- 51.5 If a quorum is not present within **thirty (30) minutes** after the notified commencement time of a General Meeting:
- (a) in the case of a Special General Meeting - the meeting lapses; or
  - (b) in the case of the Annual General Meeting - the meeting is adjourned to:
    - (i) the same time and day in the following week; and
    - (ii) the same place, unless the chairperson specifies another place at the time of the adjournment or written notice of another place is given to the Members before the day to which the meeting is adjourned.
- 51.6 If:
- (a) a quorum is not present within **thirty (30) minutes** after the commencement time of an Annual General Meeting held under **Rule 51.5(b)**; and
  - (b) at least **five (5)** ordinary Members are present at the meeting,
- those members present are taken to constitute a quorum.

## 52 ADJOURNMENT OF GENERAL MEETING

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- 52.1 The chairperson of a General Meeting at which a quorum is present may, with the consent of a majority of the ordinary Members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- 52.2 Without limiting **Rule 52.1**, a meeting may be adjourned:
- (a) if there is insufficient time to deal with the business at hand; or
  - (b) to give the Members more time to consider an item of business.
- 52.3 No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- 52.4 Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for **fourteen (14) days** or more, in which case notice of the meeting must be given in accordance with **Rule 48**.

## 53 VOTING AT GENERAL MEETING

---

- 53.1 On any question arising at a General Meeting:

- (a) subject to **Rules 53.1(c)** and **53.6**, each Member has **one (1)** vote unless the Member may also vote on behalf of a body corporate under **Rule 53.2**; and
- (b) Members may vote personally or by proxy;
- (c) Where any Lot on the Plan is owned by more than one (1) Member the vote in respect of the Lot shall be exercised by only one (1) of the Members or such other member as the owners of the Lot shall jointly appoint by proxy.

53.2 A Member that is a body corporate may, in writing, appoint an individual, whether or not the individual is a Member, to vote on behalf of the body corporate on any question at a particular General Meeting or at any General Meeting, as specified in the document by which the appointment is made.

53.3 A copy of the document by which the appointment is made must be given to the Secretary before any General Meeting to which the appointment applies.

53.4 The appointment has effect until:

- (a) the end of any General Meeting to which the appointment applies; or
- (b) the appointment is revoked by the body corporate and written notice of the revocation is given to the Secretary.

53.5 Except in the case of a Special Resolution, a motion is carried if a majority of the ordinary Members present at a General Meeting vote in favour of the motion.

53.6 If votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.

53.7 If the question is whether or not to confirm the minutes of a previous General Meeting, only Members who were present at that meeting may vote.

53.8 For a person to be eligible to vote at a General Meeting as a Member, or on behalf of a Member that is a body corporate under **Rule 53.2**, the Member:

- (a) must have been an Member at the time notice of the meeting was given under **Rule 48**; and
- (b) must have paid any fee or other money payable to the Association by the Member.

## **54 WHEN SPECIAL RESOLUTIONS ARE REQUIRED**

---

54.1 A Special Resolution is required if it is proposed at a General Meeting:

- (a) to affiliate the Association with another body; or
- (b) to request the Commissioner to apply to the State Administrative Tribunal under section 109 of the Act for the appointment of a statutory manager.

54.2 **Rule 54.1** does not limit the matters in relation to which a Special Resolution may be proposed.

**55 DETERMINING WHETHER RESOLUTION CARRIED**

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- 55.1 In this rule '**Poll**' means the process of voting in relation to a matter that is conducted in writing.
- 55.2 Subject to **Rule 55.4**, the chairperson of a General Meeting may, on the basis of general agreement or disagreement or by a show of hands, declare that a resolution has been:
- (a) carried;
  - (b) carried unanimously;
  - (c) carried by a particular majority; or
  - (d) lost.
- 55.3 If the resolution is a Special Resolution, the declaration under **Rule 55.2** must identify the resolution as a Special Resolution.
- 55.4 If a Poll is demanded on any question by the chairperson of the meeting or by at least **three (3)** other ordinary Members present in person or by proxy:
- (a) the Poll must be taken at the meeting in the manner determined by the chairperson; and
  - (b) the chairperson must declare the determination of the resolution on the basis of the Poll.
- 55.5 If a Poll is demanded on the election of the chairperson or on a question of an adjournment, the poll must be taken immediately.
- 55.6 If a Poll is demanded on any other question, the poll must be taken before the close of the meeting at a time determined by the chairperson.
- 55.7 A declaration under **Rule 55.2** or **Rule 55.4** must be entered in the minutes of the meeting, and the entry is, without proof of the voting in relation to the resolution, evidence of how the resolution was determined.

**56 MINUTES OF GENERAL MEETING**

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- 56.1 The Secretary, or a person authorised by the Committee from time to time, must take and keep minutes of each General Meeting.
- 56.2 The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- 56.3 In addition, the minutes of each Annual General Meeting must record:
- (a) the names of the ordinary Members attending the meeting;
  - (b) any proxy forms given to the chairperson of the meeting under **Rule 49.2**;
  - (c) the Financial Statements or Financial Report presented at the meeting, as referred to in **Rule 46.3(b)(ii)** or **46.3(b)(iii)**; and

- (d) any report of the review or auditor's report on the Financial Statements or Financial Report presented at the meeting, as referred to in **Rule 46.3(b)(iv)**.
- 56.4 The minutes of a General Meeting must be entered in the Association's minute book within **thirty (30) days** after the meeting is held.
- 56.5 The President must ensure that the minutes of a General Meeting are reviewed and signed as correct by:
  - (a) the chairperson of the meeting; or
  - (b) the chairperson of the next General Meeting.
- 56.6 When the minutes of a General Meeting have been signed as correct they are, in the absence of evidence to the contrary, taken to be proof that:
  - (a) the meeting to which the minutes relate was duly convened and held;
  - (b) the matters recorded as having taken place at the meeting took place as recorded; and
  - (c) any election or appointment purportedly made at the meeting was validly made.

## **PART 7 — FINANCIAL MATTERS**

### **57 SOURCE OF FUNDS**

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- 57.1 The funds of the Association may be derived from entrance fees, annual subscriptions, donations, fund-raising activities, grants, interest and any other sources approved by the Committee.

### **58 CONTROL OF FUNDS**

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- 58.1 The Association must open an account in the name of the Association with a financial institution from which all expenditure of the Association is made and into which all funds received by the Association are deposited.
- 58.2 Subject to any restrictions imposed at a General Meeting, the Committee may approve expenditure on behalf of the Association.
- 58.3 The Committee may authorise the Treasurer to expend funds on behalf of the Association up to a specified limit without requiring approval from the Committee for each item on which the funds are expended.
- 58.4 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by:
  - (a) **two (2)** Committee members; or
  - (b) **one (1)** Committee Member and a person authorised by the Committee.
- 58.5 All funds of the Association must be deposited into the Association's account within **five (5) working days** after their receipt.

**59 FINANCIAL STATEMENTS AND FINANCIAL REPORTS**

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59.1 For each Financial Year, the Committee must ensure that the requirements imposed on the Association under Part 5 of the Act relating to the Financial Statements or Financial Reports of the Association are met.

59.2 Without limiting **Rule 59.1**, those requirements include:

- (a) if the Association is a Tier 1 association, the preparation of the Financial Statements;
- (b) if the Association is a Tier 2 association or Tier 3 association, the preparation of the Financial Report;
- (c) if required, the review or auditing of the Financial Statements or Financial Report, as applicable;
- (d) the presentation to the Annual General Meeting of the Financial Statements or Financial Report, as applicable; and
- (e) if required, the presentation to the Annual General Meeting of the copy of the report of the review or auditor's report, as applicable, on the Financial Statements or Financial Report.

**PART 8 - GENERAL MATTERS**

**60 BY LAWS**

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60.1 The Association may, by special resolution at a General Meeting, make, amend or revoke By laws.

60.2 By laws may:

- (a) impose restrictions on the Committee's powers, including the power to dispose of the association's assets;
- (b) impose requirements relating to the Financial Reporting and financial accountability of the association and the auditing of the association's accounts; and
- (c) provide for any other matter the association considers necessary or convenient to be dealt with in the By laws.

60.3 A By law is of no effect to the extent that it is inconsistent with the Act, the regulations or these Rules.

60.4 Without limiting **Rule 60.3**, a By law made for the purposes of **Rule 60.2(b)** may only impose requirements on the Association that are additional to, and do not restrict, a requirement imposed on the Association under Part 5 of the Act.

60.5 At the request of a Member, the Association must make a copy of the By laws available for inspection by the Member.

**61 EXPENDITURE OF MEMBERSHIP FEES**

---

61.1 In this rule '**Parklands**' includes any park, public open space or nature reserve located on the Plan.

61.2 Prior to the Committee making any decision regarding capital expenditure exceeding ten thousand dollars (\$10,000) in the Parklands on matters including but not limited to:

- (a) the installation of swings and/or other play equipment;
- (b) the installation of benches or other seats; and
- (c) constructing pathways, sheds, buildings and walls,

the Committee shall first consult with the Members to obtain their views about the proposed expenditure.

61.3 Such consultation may be in the form of:

- (a) calling a General Meeting of Members to discuss the matter;
- (b) writing to the Members not less than **fourteen (14) days** prior to the meeting at which the Committee proposes to take a decision about the proposed expenditure and asking Members for written comments on the proposed works by a date not less than **forty eight (48) hours** prior to the meeting;
- (c) writing to the Members not less than **fourteen (14) days** prior to the meeting at which the Committee proposes to take a decision about the proposed expenditure and asking Members to submit verbal or written comments on the proposed works by a date not less than **forty eight (48) hours** prior to the meeting; or
- (d) by any other form of consultation process agreed to by the Committee provided that the process gives the Members adequate time to submit their comments and/or views on the proposed expenditure.

61.4 After consulting with the Members about the proposed expenditure the Committee shall take a decision as to whether or not to proceed with the proposed expenditure either in the form initially proposed or any amended form.

61.5 If changes are made to the initial proposal it shall not be necessary for the Committee to refer the amended proposal to the Members for further consultation.

61.6 The decision of the Committee shall be final and binding and need not necessarily follow the views expressed by the Members during the consultation process.

**62 EXECUTING DOCUMENTS AND COMMON SEAL**

---

62.1 The Association may execute a document without using a common seal if the document is signed by:

- (a) **two (2)** Committee Members; or
- (b) **one (1)** Committee Member and a person authorised by the Committee.



62.2 If the Association has a common seal:

- (a) the name of the Association must appear in legible characters on the common seal; and
- (b) a document may only be sealed with the common seal by the authority of the Committee and in the presence of:
  - (i) **two (2)** Committee Members; or
  - (ii) **one (1)** Committee Member and a person authorised by the Committee,

and each of them is to sign the document to attest that the document was sealed in their presence.

62.3 The Secretary must make a written record of each use of the common seal.

62.4 The common seal must be kept in the custody of the Secretary or another Committee Member authorised by the Committee.

## 63 GIVING NOTICES TO MEMBERS

---

63.1 In this rule '**Recorded**' means recorded in the Register of Members.

63.2 A notice or other document that is to be given to a Member under these Rules is taken not to have been given to the Member unless it is in writing and:

- (a) delivered by hand to the Recorded address of the Member;
- (b) sent by prepaid post to the Recorded postal address of the Member; or
- (c) sent by facsimile or electronic transmission to an appropriate Recorded number or Recorded electronic address of the Member.

## 64 CUSTODY OF BOOKS AND SECURITIES

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64.1 Subject to **Rule 64.2**, the Books and any securities of the Association must be kept in the Secretary's custody or under the Secretary's control.

64.2 The Financial Records and, as applicable, the Financial Statements or Financial Reports of the Association must be kept in the Treasurer's custody or under the Treasurer's control.

64.3 Rule 64.1 and Rule 64.2 have effect except as otherwise decided by the Committee.

64.4 The Books of the Association must be retained for at least **seven (7) years**.

## 65 RECORD OF OFFICE HOLDERS

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65.1 The record of Committee Members and other persons authorised to act on behalf of the Association that is required to be maintained under section 58(2) of the Act must be kept in the Secretary's custody or under the Secretary's control.

**66 INSPECTION OF RECORDS AND DOCUMENTS**

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66.1 **Rule 66.2** applies to a Member who wants to inspect:

- (a) the Register of Members under section 54(1) of the Act;
- (b) the record of the names and addresses of Committee Members, and other persons authorised to act on behalf of the Association, under section 58(3) of the Act; or
- (c) any other record or document of the Association.

66.2 The Member must contact the Secretary to make the necessary arrangements for the inspection.

66.3 The inspection must be free of charge.

66.4 If the Member wants to inspect a document that records the minutes of a Committee Meeting, the right to inspect that document is subject to any decision the Committee has made about minutes of Committee Meetings generally, or the minutes of a specific Committee Meeting, being available for inspection by Members.

66.5 The Member may make a copy of or take an extract from a record or document referred to in **Rule 66.1(c)** but does not have a right to remove the record or document for that purpose.

66.6 The Member must not use or disclose information in a record or document referred to in **Rule 66.1(c)** except for a purpose:

- (a) that is directly connected with the affairs of the Association; or
- (b) that is related to complying with a requirement of the Act.

**67 PUBLICATION BY COMMITTEE MEMBERS OF STATEMENTS ABOUT ASSOCIATION BUSINESS PROHIBITED**

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67.1 A Committee Member must not publish, or cause to be published, any statement about the business conducted by the Association at a General Meeting or Committee meeting unless:

- (a) the Committee Member has been authorised to do so at a Committee Meeting; and
- (b) the authority given to the Committee Member has been recorded in the minutes of the Committee Meeting at which it was given.

**68 DISTRIBUTION OF SURPLUS PROPERTY ON CANCELLATION OF INCORPORATION OR WINDING UP**

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68.1 In this rule '**Surplus Property**' in relation to the Association, means property remaining after satisfaction of:

- (a) the debts and liabilities of the Association; and

- (b) the costs, charges and expenses of winding up or cancelling the incorporation of the Association,

but does not include Books relating to the management of the Association.

- 68.2 On the cancellation of the incorporation or the winding up of the Association, its surplus property must be distributed as determined by Special Resolution by reference to the persons mentioned in section 24(1) of the Act.

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**69 ALTERATION OF RULES**

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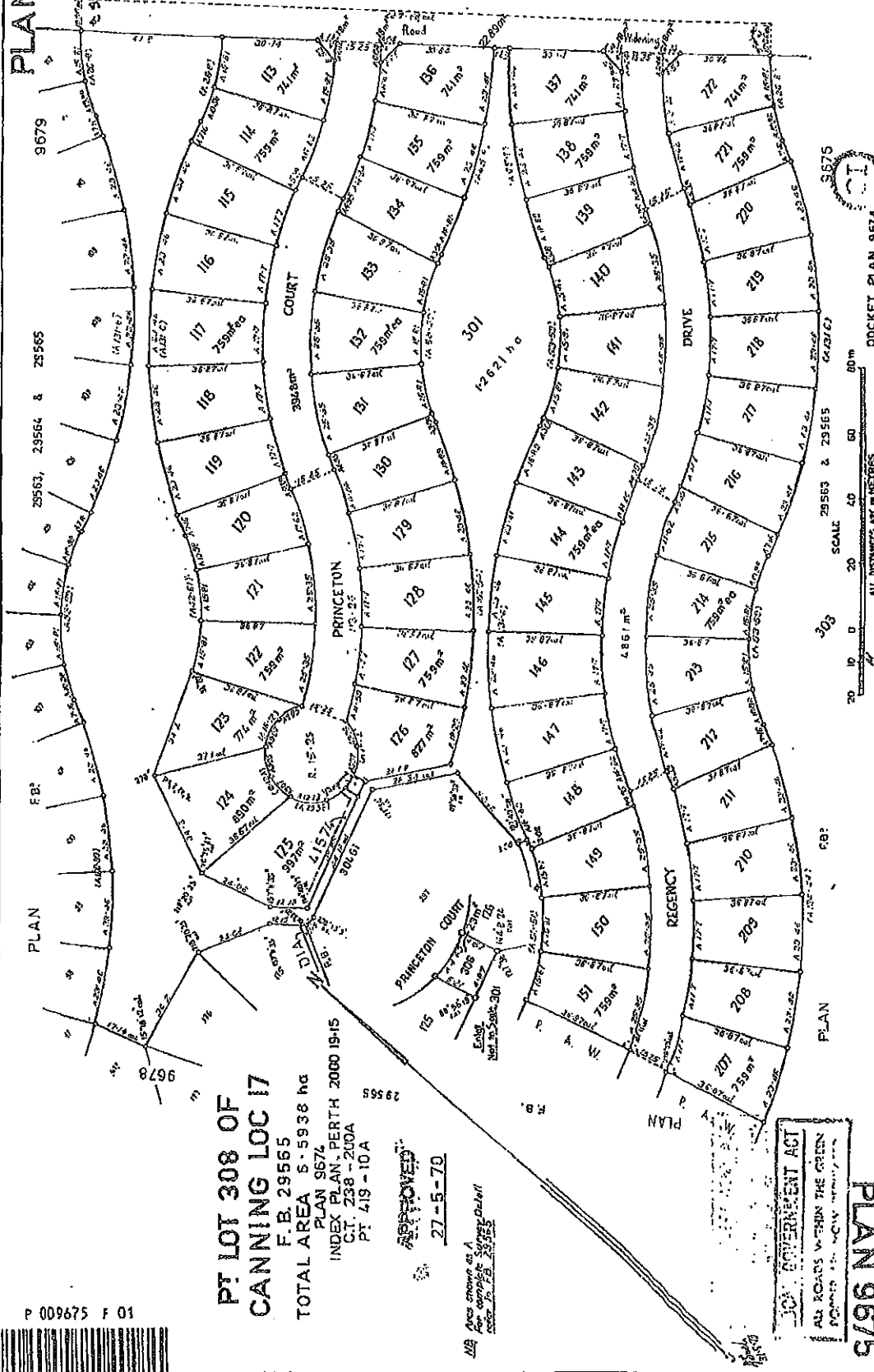
- 69.1 If the Association wants to alter or rescind any of these Rules, or to make additional Rules, the Association may do so only by Special Resolution and by otherwise complying with Part 3 Division 2 of the Act.

# SCHEDULE 1

PLAN 9675

SPENCER

ROAD



P 009675 F 01



PLAN 9676

# PT LOT 308 OF CANNING LOC 17

IN ORDER FOR DEALINGS  
26.5.70

F.B. 29563, 29565  
TOTAL AREA 7.7902 ha.

PLAN 9674

INDEX PLAN 2779 - PERTH 2000 1932

C/T 238 - 200A

NOW 419-11A

PEDESTRIAN ACCESS WAYS

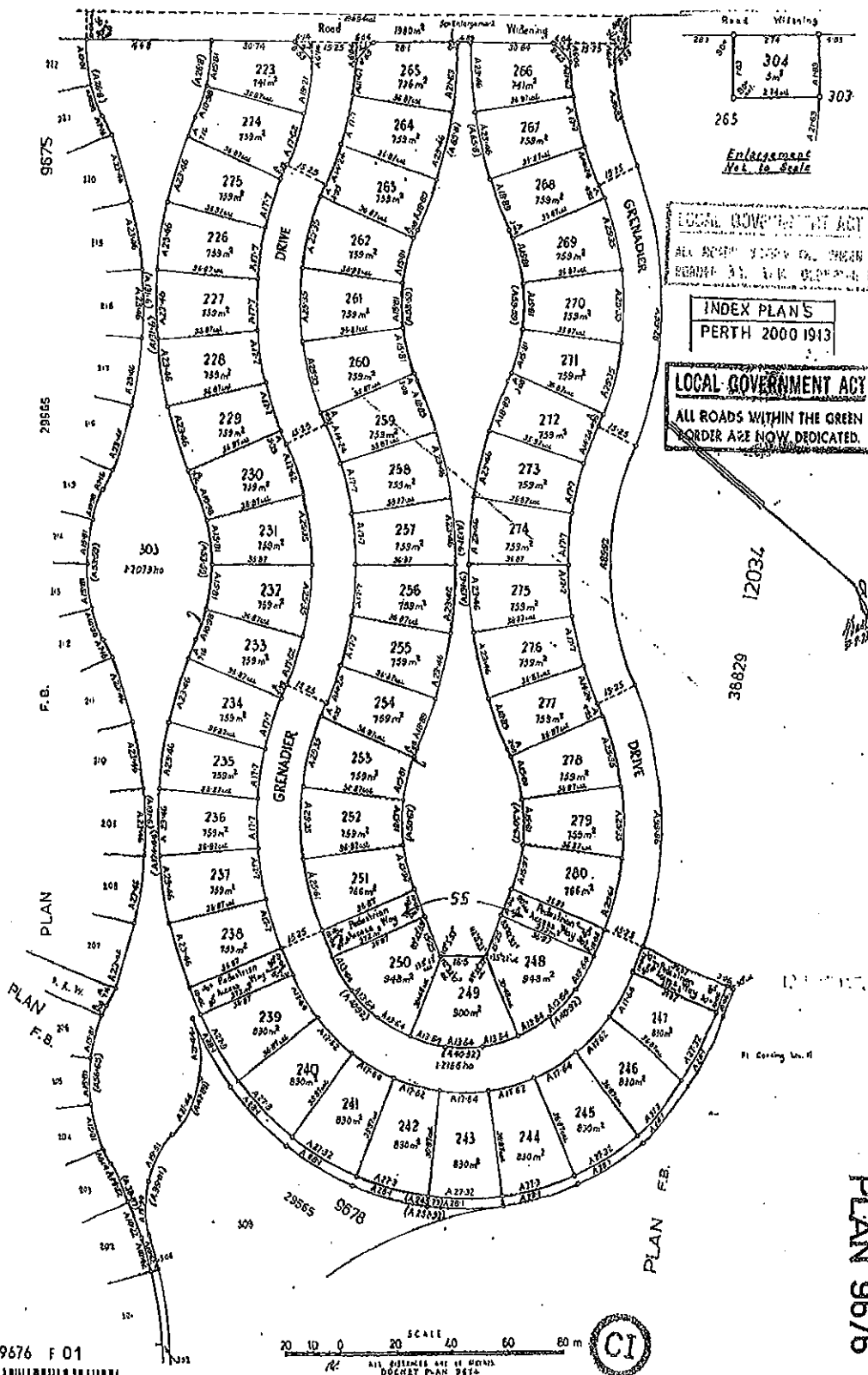
(1) VEST IN THE GREEN  
UNDER SEC. 20A, T.A. & B. ACT

NOTE: Areas shown as A  
For complete Survey Detail  
refer to F.B. 29563, 29565

SPENCER

ROAD

APPROVED  
25.9.70



P 009676 F 01



PLAN 9677

# PT LOT 308 OF CANNING LOC 17

F.B.F. 29563, 29564, 29565  
TOTAL AREA 7.2879 ha

PLAN 9674

INDEX PLAN 7779, PERTH 2000 1913

C/T 238 - 200A

NOW 419 - 12A

IN ORDER FOR BEARINGS

26.5.70

25.9.70

IDEAL GOVERNMENT ACT

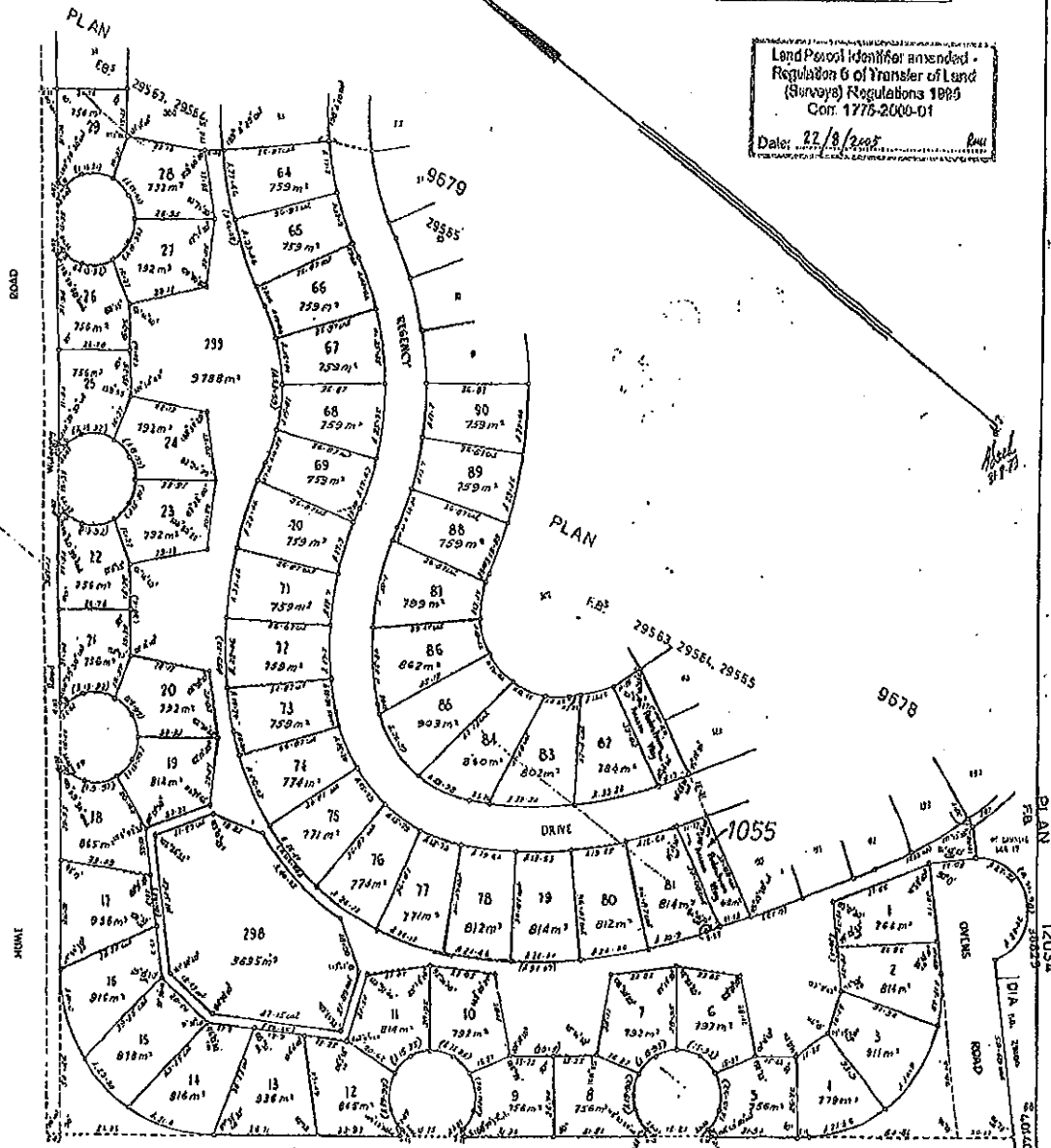
ALL ROADS VEHICLE LANE WHEN  
WIDEN ARE NOW 6.00 METRES

PEDESTRIAN ACCESS WAYS  
TO VEST IN THE CROWN  
UNDER SEC. 20A T.S. & D. ACT

NOTE: Arcs shown as A  
For complete survey  
Detail refer to F.B.F. 29563-  
29565 (incl.)

Land Parcel Identifier amended -  
Regulation 6 of Transfer of Land  
(Survey) Regulations 1989  
Corr. 1775-2000-01

Date: 22/8/2008



LACHLAN

0 20 40 60 80m

ALL DISTANCES ARE TO CORNER  
DOCKET PLAN 9674



P 009677 F 01



PLAN 9677

PLAN 9678

P 009678 F 01



**LOCAL GOVERNMENT ACT**  
ALL ROADS WITHIN THE CREEK  
BORDER ARE NOW DEDICATED

**PT LOT 308 OF CANNING LOC 17**  
FB. 29565  
TOTAL AREA 7.6688 ha.  
PLAN 9674  
INDEX PLAN 7779, PERTH 2000 1943  
C/T 238-200A " 1932  
NOW 419-13A

**PEDESTRIAN ACCESS WAYS  
TO VEST IN THE CROWN  
UNDER SEC. 20A I.P. & D. ACT**

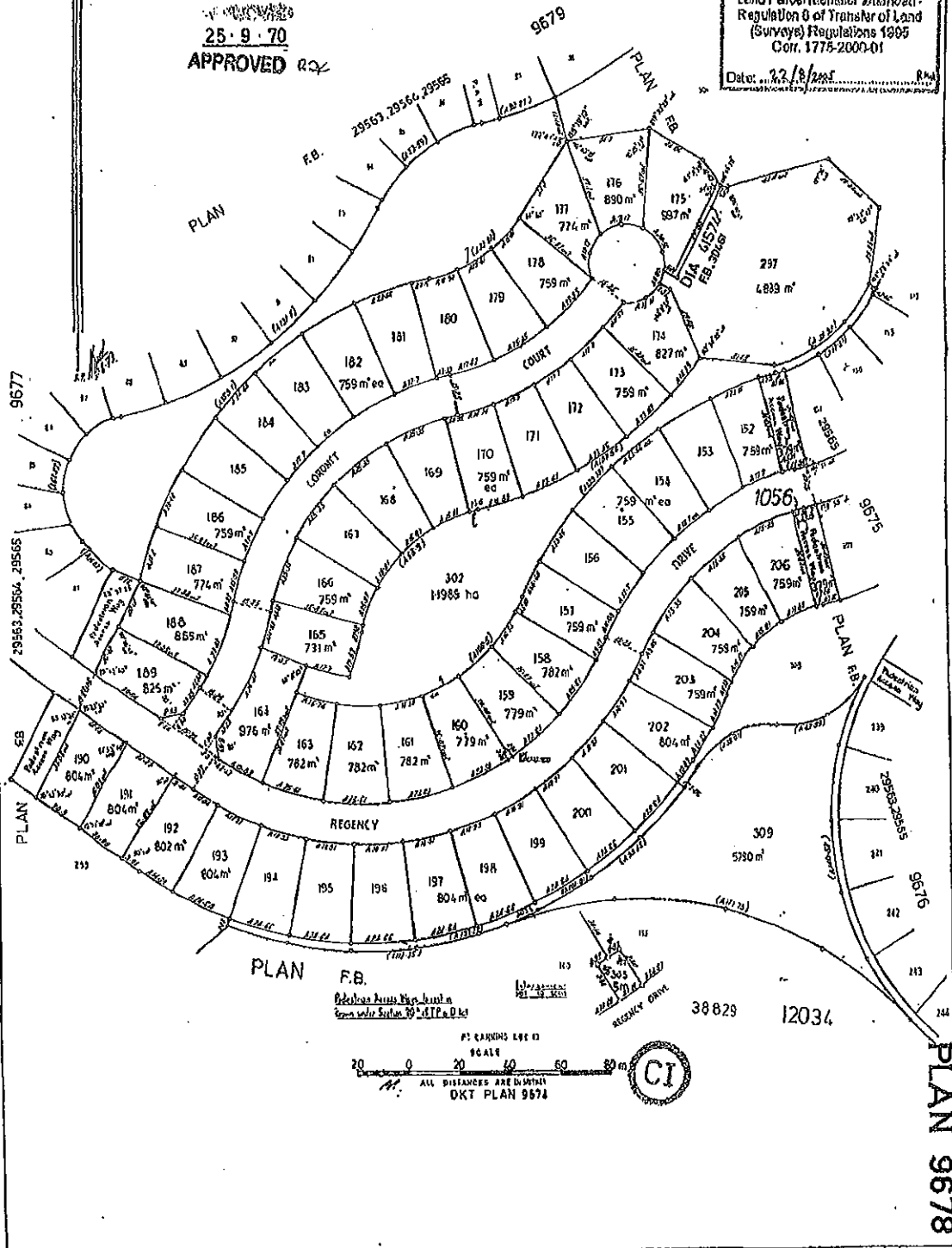
**IN ORDER FOR DEALINGS**  
26.5.70

NOTE: ARC SHOWN AS "A"  
FOR COMPLETE SURVEY DETAIL  
REFER TO FB. 29565

Land Parcel Identifier amended -  
Regulation 8 of Transfer of Land  
(Survey) Regulations 1995  
Corr. 1775-2000-01

Date: 22/8/2001

25.9.70  
APPROVED RQ



[illegible]



## SCHEDULE 2

### APPOINTMENT OF PROXY - CRESTWOOD HOME OWNERS ASSOCIATION INC.

I \_\_\_\_\_ of \_\_\_\_\_

being a Member of Crestwood Home Owners Association Inc. hereby appoint  
\_\_\_\_\_ who also is a Member of the Association, as my proxy.

My proxy is authorised to vote on my behalf: (Tick ☒ only **ONE** of the following)

☐ at the General Meeting/s (and any adjournments of the meeting/s) on: \_\_\_\_\_

- or

☐ in relation to the following resolutions and/or nominations

**In favour**

**Against**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Insert resolution number, brief description or  
nominees name/s

Insert resolution number, brief description or  
nominees name/s

Signature of Member: \_\_\_\_\_

Full name of Member: \_\_\_\_\_

Date: \_\_\_\_\_

