

**DRAFT**

**MADISON**  
**HEIGHTS** BOWEN HILLS

Proudly Managed By:

**Madison Heights Management Pty Ltd**

Copy of  
**Body Corporate By-Laws**  
For  
Rental Apartments in Madison Heights

Madison Heights Bowen Hills community titles scheme

SCHEDULE C BY-LAWS

PART 1 – INTERPRETATION

1. Interpretation

These By-Laws are to be interpreted in accordance with the following rules:

- (a) Terms not defined in this CMS but defined in the BCCM Act have the meanings given to them in the BCCM Act.
- (b) Headings are for guidance only and are not to be used as an aid in interpretation.
- (c) Plurals include the singular and singular include the plural.
- (d) Reference to either gender includes a reference to the other gender.
- (e) Reference to the whole includes any part of the whole.
- (f) A reference to a statute, ordinance, code or other Law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
- (g) A reference to a person includes a firm, a body corporate, an unincorporated association or an authority.
- (h) Where these By-Laws say that something can or must be done by the Body Corporate then that thing may be done by the Committee unless there is a legal restriction on the Committee doing so.
- (i) All By-Laws must be construed so as to be valid, legal or enforceable in all respects. If any By-Law is illegal, invalid or unenforceable it is to be read down to such extent as may be necessary to ensure that it is legal, valid or enforceable as may be reasonable in the circumstances so as to give a valid operation of a partial character. If any such By-Law cannot be read down it, is deemed void and is severed and the remaining By-Laws are not in any way affected or impaired.

2. Definitions

In these By-Laws, unless the contrary intention appears:

- (a) **BCCM Act** means the Body Corporate and Community Management Act 1997 and the Regulation Module applying to the Scheme.
- (b) **Authority** means any body, government or otherwise, or person having or exercising control over the use or the operation of the Scheme.
- (c) **Body Corporate** means the body corporate created upon establishment of the Scheme.
- (d) **BMS** means building management statement.

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- (e) **Breach** means any breach, potential breach or threatened breach by an Owner, Occupier or Invitee of:
  - (i) these By-Laws;
  - (ii) the BCCM Act;
  - (iii) this CMS;
  - (iv) any registered covenant or easement over the Common Property; or
  - (v) any rules relating to the Common Property made by the Committee pursuant to these By-Laws.
- (f) **By-Laws** means these by-laws or any specified part of them.
- (g) **CMS** means this community management statement.
- (h) **Committee** means the committee of the Body Corporate appointed pursuant to the BCCM Act.
- (i) **Committee's Representative** means a member of the Committee or other person or body appointed from time to time for the purpose of representing the Committee.
- (j) **Common Property** means the common property of the Scheme.
- (k) **Costs** includes any cost, charge, expense, outgoing, payment or other expenditure of any nature whatsoever, including where appropriate:
  - (i) legal fees on a solicitor and own client basis; and
  - (ii) the cost of rectifying any Breach, or making good any damage caused by a Breach.
- (l) **Council** means the Brisbane City Council and where the context requires includes the Urban Land Development Authority.
- (m) **CTS** means community titles scheme.
- (n) **Development** means the development known as Madison Heights Bowen Hills situated at 35 Campbell Street, Bowen Hills Qld 4006.
- (o) **Display Unit** means a Lot or Lots used by the original owner or its nominee to promote further sales of Lots in the Development.
- (p) **Heavy Vehicle** means a motor vehicle in excess of 3 tonnes weight loaded and includes, irrespective of their weight, mobile homes, towed caravans and boats, campervans and motor homes.
- (q) **Invitee** includes a tenant, guest, servant, employee, agent, member of the family, contractor, customer, visitor, invitee and licensee of an Owner or Occupier.
- (r) **Law** means any statute, rule, regulation, proclamation, ordinance or by-law or statutory instrument.
- (s) **Letting Agent** means the person who from time to time holds an authorisation to act as the letting agent for the Scheme.

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- (t) **Letting Agent's Office** means the Lot(s) nominated from time to time by the Letting Agent to the Body Corporate to be used to conduct the business of the Letting Agent and for any other purposes which may be authorised in any agreement between the Body Corporate and the Letting Agent. For avoidance of doubt, the Letting Agent's Office may be the same Lot(s) as the Service Contractor's Unit.
- (u) **Lot** means a lot in the Scheme and includes all improvements constructed on a lot and any areas of Common Property attaching to a lot under an exclusive use by-law allocation.
- (v) **Motor Vehicles** includes motorbikes but does not include Heavy Vehicles.
- (w) **Notice** means any notice in writing, statement in writing, any written material and any other written communication.
- (x) **Occupier** means any occupier of a Lot and includes:
  - (i) the Owner (where the context requires, even if the owner is not in actual occupation of the Lot);
  - (ii) a mortgagee in possession of a Lot;
  - (iii) a tenant or lessee (registered or otherwise) of a Lot or a part of a Lot ; and
  - (iv) includes an occupier of a part of a Lot.
- (y) **Original Owner** means Metro (Bowen Hills No. 2) Pty Ltd A.C.N. 142 493 954 or any other party nominated in writing to the Body Corporate by Metro (Bowen Hills No. 2) Pty Ltd A.C.N. 142 493 954 or by a party which has already been nominated to the Body Corporate.
- (z) **Owner** has the meaning defined by the BCCM Act and includes the successors in title and assigns of the Owner.
- (aa) **Person** includes any corporation or association whether incorporate or not and bodies politic.
- (bb) **Pets** means dogs, cats, birds and fish.
- (cc) **Service Contractor** means the person or corporation appointed by the Body Corporate from time to time as service contractor to, amongst other things, keep the Common Property maintained and in good order and repair.
- (dd) **Service Contractor's Unit** means the Lot(s) nominated from time to time by the Service Contractor to the Body Corporate from which the Service Contractor performs its duties. For avoidance of doubt, the Service Contractor's Unit may be the same Lot(s) as the Letting Agent's Office.
- (ee) **Scheme** means Madison Heights Bowen Hills community titles scheme.
- (ff) **Scheme Land** means all the land contained in the Scheme.
- (gg) **Secretary** means the secretary of the Body Corporate.
- (hh) **Speed Limit** means 20 kilometres per hour or such other speed nominated by the Committee from time to time.

## PART 2 – COMPLIANCE WITH CMS, BY-LAWS, RULES AND NOTICES

### 3. Observance of By-Laws and Peaceful Enjoyment

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- 3.1 Occupiers must observe and ensure that these By-Laws are observed by their Invitees.
- 3.2 Occupiers must not behave in a manner likely to interfere with the peaceful enjoyment of other Occupiers.
- 3.3 An Owner whose Lot is the subject of a lease, licence or tenancy agreement must take all reasonable steps to ensure that any lessee, licensee, tenant or other Occupier or their Invitees comply with and observe these By-Laws.
- 3.4 An Owner must give a copy of these By-Laws to any Occupier of a Lot.

#### **4. Building Management Statement**

- 4.1 All Occupiers must observe the terms of any BMS that affects their Lot or the Scheme.
- 4.2 The Committee is empowered to appoint one of their members to represent the Body Corporate on any management group established under any BMS.

#### **5. Rules Relating to Common Property**

- 5.1 The Committee may make, amend, delete or add to, from time to time, rules relating to the Common Property and/or assets of the Body Corporate and in particular (without limitation) in relation to the use of any improvements on or facilities within the Common Property not inconsistent with these By-Laws, unless and until they are disallowed or revoked by the Body Corporate in general meeting.
- 5.2 Occupiers must comply with any rules relating to the Common Property and/or assets of Body Corporate made under this by-law.

#### **6. Instructions to Contractors etc**

Occupiers must not directly instruct any contractors or workmen employed by the Body Corporate unless authorised in writing by the Body Corporate.

#### **7. Notices to be Observed**

Occupiers and Invitees must observe the terms of any Notice displayed in the Common Property by authority of the Body Corporate or the Committee or of any lawful authority.

#### **8. Throwing or Dropping Objects**

Occupiers must not throw, drop or allow to throw any object or substance from their Lot or the Common Property in or onto another Lot or the Common Property or to outside of the Scheme.

#### **9. Moving In / Out of Scheme**

- 9.1 All moving of furniture and other materials in and out of the Scheme, regardless of size, must be booked through the Service Contractor, who will nominate a time and lift to be used for the purposes of such moving.
- 9.2 Protective lift curtains must be used for all moves.
- 9.3 The Service Contractor may require that the occupier pay a security deposit to secure payment of the cost to make good any damage caused by the occupier in moving.
- 9.4 The main entry foyer of the Scheme must not be used for moving purposes.

#### **PART-3 - VEHICLES**

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#### 10. Vehicles

- 10.1 An Owner or Occupier of a Lot must not, without the Body Corporate's written approval:
- (a) park a vehicle or allow a vehicle to stand on the Common Property; or
  - (b) permit an Invitee to park a vehicle or allow a vehicle to stand on the Common Property, except for the designated visitor parking which must remain available at all times for the sole use of visitor's vehicles.
- 10.2 An approval under sub-section 1 must state the period for which it is given, with the exception of designated visitor parking. The Body Corporate may cancel the approval by giving 7 days written notice to the Owner or Occupier, with the exception of designated visitor parking.
- 10.3 The Committee is empowered to remove, at the expense of the vehicle's owner, vehicles parked illegally on Common Property by towing or other means.
- 10.4 Unless approved in writing by the Committee, Heavy Vehicles must not be parked in a Lot's allocated carparking space.
- 10.5 Vehicles parked within the Scheme must be kept clean and in a roadworthy condition.

#### 11. Car Washing

Washing of vehicles shall only occur in designated areas.

#### 12. Bicycle Racks

Bicycles shall only be stored in bicycle racks provided by the Body Corporate and must be locked to prevent theft. Bicycles may only be brought into and out of the Scheme by way of the carpark entry.

#### 13. Speed Limits

Occupiers must not exceed the Speed Limit while driving any vehicle on the Common Property. Occupiers must use their best endeavours to ensure that their Invitees do not exceed the Speed Limit.

### PART 4 – OBLIGATIONS IN RESPECT OF LOTS

#### 14. Use of Lots

- 14.1 Subject to these By-Laws (including, without limitation, the rights of the Service Contractor and Letting Agent under Part 8), Lots must be used only for residential purposes.
- 14.2 Lots must not be used:
- (a) for any purpose that may cause a nuisance or hazard or is in any manner likely to interfere with the peaceful enjoyment of other Occupiers or any person lawfully using the Common Property;
  - (b) for any illegal or immoral purpose that will interfere with the good reputation of the Scheme; or
  - (c) for any purpose that may endanger the safety or good reputation of persons residing within the Scheme.
- 14.3 Occupiers may, providing that it is lawful to do so, carry out a home occupation or business from a Lot and may receive visitors for that purpose providing:

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- (a) the use does not conflict with the rights of any Service Contractor or Letting Agent under these by-laws or otherwise appointed by the Body Corporate;
- (b) the use is lawful and all necessary permits and insurances for the use are held;
- (c) the use does not unreasonably interfere with the amenity of other Occupiers; and
- (d) the Occupier obeys the reasonable directions and requirements of the Committee.

#### 15. Maintenance of Lots

##### 15.1 Occupiers must:

- (a) maintain their Lot and keep it clean and free of rubbish and vermin;
- (b) keep accessible windows and glass clean;
- (c) maintain and repair their Lot so that it is not offensive in appearance to other Occupiers; and
- (d) ensure that all balconies and terraces forming part of their Lot do not leak resulting in water escaping into other Lots or Common Property.

15.2 If the Committee gives the Occupier reasonable notice of the intention to enter the Lot for inspection or to carry out works, an Occupier must permit representatives and agents of the Body Corporate access to the Lot at all reasonable times for the purpose of inspection and carrying out works to rectify any Breach.

#### 16. Alteration to Lots

16.1 An Owner or Occupier must not alter a Lot in any way without the approval in writing of the Committee.

16.2 No approval of the Committee is necessary in respect of minor maintenance of the internal area of the Lot such as painting of internal walls and replacement of carpet providing that the colours of such finishes which are visible from outside of the Lot are in keeping with the colours used in the Scheme generally.

16.3 An Owner must submit plans and specifications and any other details required by the Body Corporate to the Committee in respect of any proposed alterations.

16.4 The Committee must not unreasonably withhold its consent to an alteration, and may give its consent subject to reasonable conditions.

16.5 An approval given by the Committee to an alteration (in particular the installation of shutters) is conditional upon the Owner first obtaining all necessary Council approvals to the alteration.

16.6 Unless specifically shown as such on the Council approved plans for the Scheme, balconies and terraces are to remain unenclosed and there are to be no shutters, glazing, louvers, blinds or similar structures on balconies and terraces.

16.7 For avoidance of doubt, Owners must not make alterations to the floor finishes of their Lots, except to replace with a finish which is the same as that installed by the Original Owner without approval in writing of the Committee which may be given subject to conditions. The Committee in giving any such approval must ensure that the finishes installed do not permit the transfer of noise from the floor of a Lot into a Lot located below the relevant Lot in the building such as maybe the case when using wooden floorboards or parquet as the floor finishes.

#### 17. Appearance of Lots

17.1 The purpose of this by-law is to ensure that the Scheme remains at all times:

- (a) visually uniform;

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- (b) tidy in appearance; and
- (c) having garden areas and plants which are compatible and conform with the landscaping of the Scheme generally.

17.2 Unless approved in writing by the Committee, an Occupier must not:

- (a) hang any washing, bedding or other articles;
- (b) display any sign, banner, advertisement or similar articles;
- (c) use any part of the Lot for storage (except exclusive use storage areas);
- (d) keep any oversized plants (as determined in the opinion of the Committee); and
- (e) install any aerials, receivers or the like;

if it is visible from outside of the Lot.

17.3 An Occupier must not hang curtains or blinds, apply window tinting or install screens or similar devices which are visible from outside of the Lot unless first approved in writing by the Committee. The Committee must have regard to the purpose of this by-law in giving any approval.

17.4 An Occupier of a Lot which contains any garden area or feature plants must maintain that area or plants so as to achieve the purpose of this by-law.

#### 18. Clearance of Post Boxes

Occupiers (and if the Lot is vacant, Owners) must regularly clear the post box for the Lot.

#### 19. Nuisance

19.1 Occupiers and Invitees must not make or permit any noise likely to unreasonably interfere with the peaceful enjoyment of other Occupiers.

19.2 Occupiers must take all practical means to minimise annoyance to other Occupiers including by closing doors, windows and curtains and taking such further reasonable steps as may be within their power.

19.3 Invitees leaving after 11.00 pm must be requested to leave quietly. Quietness must also be observed when an Occupier returns late at night or in early morning hours.

19.4 Occupiers must not operate any electronic device or equipment which interferes with any domestic appliance or apparatus lawfully in use within the Scheme.

19.5 Occupiers must be appropriately dressed at all times when visible from Common Property, other Lots or outside the Scheme.

#### 20. Infectious Diseases

Occupiers must:

- (a) immediately give Notice to the Body Corporate of any serious infectious disease contracted by the Occupier or an Invitee; and
- (b) include in such Notice details of all relevant information related to that disease.

#### 21. Insurance



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Occupiers must not bring on to, do or keep any thing in or on their Lots which may increase the rate of insurance of the Scheme or which may conflict with the laws relating to fires or any insurance policy for the Scheme or the regulations of any public authority.

#### PART 5 – OBLIGATIONS RELATING TO BOTH THE USE OF THE COMMON PROPERTY AND LOTS

##### 22. Garbage Disposal

- 22.1 Garbage must be kept in a clean and dry garbage receptacle within a Lot or on Common Property designated by the Committee.
- 22.2 Occupiers must not, in disposing of garbage, adversely affect the health, hygiene or comfort of other Occupiers.
- 22.3 Occupiers must not put any rubbish, dirt or other offensive material on the Common Property and must directly dispose of any rubbish generated within or located within that Occupier's Lot.
- 22.4 The Committee may
- (a) clear away all rubbish, dirt or other material located on the Common Property or within a Lot; and
  - (b) repair any damage caused to the Common Property or the Lot by any rubbish, dirt or other material,
- at the cost of the Owner of the offending Lot.
- 22.5 The Body Corporate has the power to devise and adopt a garbage storage removal system from time to time. Any system must be first approved by Council's waste service division and must be complied with by Occupiers.

##### 23. Flammable Substances

- 23.1 Occupiers must not, without the written permission of the Committee store a flammable substance on the Common Property.
- 23.2 Occupiers must not, without the written permission of the Committee, store a flammable substance on the Lot unless the substance is used or intended to be used for domestic purposes.

##### 24. Keeping of Pets

- 24.1 Occupiers must not keep Pets or animals within the Development or a Lot without the written permission of the Committee unless otherwise permitted under these By-Laws.
- 24.2 Occupiers are allowed to keep Pets within a Lot on the following conditions;
- (a) a maximum of two Pets are allowed;
  - (b) dogs must be less than 10kg in weight and 30cm in height;
  - (c) dogs and cats must wear an identification tag, tattoo or micro chip; and
  - (d) all Pets, if required by law to be licensed or registered, are licensed or registered.
- 24.3 Occupiers must:
- (a) clean and remove any mess left on Common Property by any Pet under their control;

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- (b) ensure that dogs and cats are appropriately restrained while on Common Property; and
- (c) ensure Pets are at all times kept clean, quiet, controlled and within their Lot.

24.4 The Committee may, at the cost of the Owner of the offending Lot, remove a Pet from within the Scheme if the Pet is disturbing others, in the Committee's opinion.

24.5 Occupiers mentioned in section 5 of the *Guide, Hearing and Assistance Dogs Act 2009 (Qld)* have the right to be accompanied by a guide dog while within the Development.

#### 25. Auction Sales

Occupiers must not permit any auction sale to be conducted or to take place within their Lot or upon the Common Property without the prior written permission of the Committee.

#### 26. Use of Facilities

Occupiers must use facilities in Lots and within the Common Property properly and not for any purpose for which they were not intended for use.

### PART 6 – OBLIGATIONS IN RESPECT OF COMMON PROPERTY

#### 27. Obstruction

Occupiers must not:

- (a) interfere with the lawful use of the Common Property; or
- (b) interfere with the use of access ways, footpaths or driveways on the Common Property or any easement giving access to or through the Common Property; or
- (c) use access ways, footpaths or driveways on the Common Property for any purpose other than access.

#### 28. Accidents On Common Property

Occupiers must:

- (a) give Notice to the Body Corporate of any accident which occurs or arises out of or relates to Common Property;
- (b) include in such Notice, all details of the accident which would be normally required by an insurer; and
- (c) provide all such assistance with any insurance claim arising out of such accident as is reasonably required by the Body Corporate.

#### 29. Damage to Common Property

29.1 Occupiers must not damage or remove or use for their own purposes any lawn, garden or plant on Common Property without the written consent of the Committee.

29.2 Occupiers must not alter, operate, damage or in any way deface any structure that forms part of the Common Property without the written consent of the Committee.

#### 30. Notice of Damage

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Occupiers must promptly notify the Body Corporate of any damage to or defect in any service, connection or fixtures which comprise part of the Common Property.

#### 31. No Smoking

Occupiers must not at any time smoke cigarettes or any other substance whilst on Common Property.

### PART 7 – THE BODY CORPORATE

#### 32. Empowering By-Law

32.1 The Body Corporate is empowered to negotiate and to enter into such agreements and deeds for administration, caretaking, maintenance, services and security (collectively “Services”) as it decides in its discretion are to its benefit.

32.2 The Body Corporate is further empowered to regulate the provision of any Services throughout the Scheme and contributions toward the cost of the Services.

32.3 Without limitation and by way of example, under this By-law the Body Corporate may enter into arrangements with service contractors for the purchase and supply to the Body Corporate and Occupiers of electricity, gas, chilled water (to enable the operation of air-conditioning systems) etc (“Consumables”). Under such an arrangement, Occupiers may be charged, by either the Body Corporate or a service contractor, either a flat fee or a fee based on use (or a combination of both) for the consumption of the Consumables as well as administration charges. The Committee may, from time to time, make, delete or add to rules relating to such arrangements. Occupiers, as a condition of the supply of the Consumables, must comply with any such rules.

#### 33. Breach

33.1 If an Occupier commits a Breach, the Body Corporate may give the Owner and Occupier a Notice to Remedy the Breach within 14 days.

33.2 If the Owner or Occupier fail to remedy the Breach, the Body Corporate may, on a further 3 days Notice to the Owner and Occupier, enter the Lot and carry out any necessary works to remedy the Breach.

33.3 If an Occupier commits a Breach and the Committee deems it to be an emergency situation, the Body Corporate may immediately enter the Lot and carry out the necessary works to remedy the Breach.

33.4 For avoidance of doubt, the Body Corporate may recover its costs in respect of that Breach in accordance with these by-laws and under the BCCM Act.

#### 34. Inspection of Lots

34.1 Occupiers must permit, (upon 3 day’s Notice, except in the case of an emergency when no notice is required) representatives of the Body Corporate to access their Lot to:

- (a) conduct inspections;
- (b) test any equipment within the Lot;
- (c) trace and repair any leakage or defect in equipment within the Lot at the expense of the Owner;
- (d) read any meter situated within the Lot; and
- (e) maintain any equipment (including mechanical exhaust equipment) within the Lot at the expense of the Owner.

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34.2 If an Occupier does not permit access, the Body Corporate may effect entry and will not be liable for any damage occasioned to the Lot or any structure on the Lot in effecting the entry.

34.3 The Body Corporate, in exercising its powers under this By-Law, will ensure that it causes as little inconvenience to the Occupier as is reasonable in the circumstances.

#### 35. Recovery of Costs

35.1 If an Occupier or Invitee commits a Breach, the Owner of the relevant Lot must pay on demand the whole of the Body Corporate's Costs in respect of that Breach, which amount will be deemed to be a liquidated debt.

35.2 Where the Body Corporate incurs Costs as a result of a Breach, the Body Corporate will be entitled to and the Committee may, in its absolute discretion:

- (a) seek an order of an Adjudicator under the BCCM Act requiring the Owner who committed the Breach, or who is responsible for the Breach (if the Breach was committed by an Occupier of Invitee), to pay the Body Corporate's Costs; or
- (b) recover its Costs as a debt in an action in any Court of competent jurisdiction from the Owner who committed the Breach or who is responsible for the Breach (if the Breach was committed by an Occupier of Invitee).

#### 36. Levies

36.1 If a contribution levied under the BCCM Act is unpaid 30 days after it falls due for payment, then the Owner will have committed a Breach. The amount of the unpaid contribution will bear interest at an annual rate to be determined by the Committee from time to time. If no such determination has been made, then at a rate of 2½ % per month or any part month.

36.2 If, at the time a person becomes the Owner, another person is liable in respect of the Lot to pay a contribution or interest on a contribution, the Owner is jointly and severally liable with the other person for the payment of the contribution or interest.

36.3 Unpaid contributions and interest and all Body Corporate administrative costs and legal costs (on a solicitor and own client basis) associated with collecting the unpaid amounts are recoverable by the Body Corporate as a liquidated debt.

#### 37. Correspondence

All complaints or applications to the Body Corporate or the Committee must be addressed in writing to the Secretary and not to any other member of the Committee.

#### 38. Security System

38.1 The Body Corporate is empowered to establish and maintain a system in order to keep the Scheme secure which may include the keeping of a master key for the Scheme which enables entry into Lots. The Body Corporate may give a copy of any such master key to the Service Contractor and / or Letting Agent.

38.2 For avoidance of doubt, the security system may restrict the access of Occupiers to certain areas of Common Property within the Scheme such as lift motor rooms, meeting rooms, storage areas etc and may only permit access to lift foyer areas and passage ways to Occupiers (and their Invitees) of Lots which are situated on the same floor as the lift foyer areas and passage ways.

38.3 If the Body Corporate operates a security system, no Occupier may interfere with that system or alter any locking device preventing entry to their Lot without the prior written approval of the Committee.

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**39. Fire Alarms**

Occupiers who cause the fire alarm to be set off must pay the costs of the Body Corporate incurred as a result, including any call out charges of the Fire Brigade.