

PELICAN WATERS DEVELOPMENT RULES

Loch Lamerough

DEED

THIS DEED is made by the Seller ("the Seller") as described in the annexed Pelican Waters Development Rules ("Rules") and the Buyer ("the Buyer") as described in the annexed Contract on the date of the annexed Contract.

PREAMBLE

The parties hereto have reached an agreement and wish to record the terms in this Deed.

OPERATIVE

The Buyer agrees with the Seller to be bound by the Rules and specifically acknowledges the obligations to indemnify the Seller and the requirement to pass on the obligation to comply to subsequent buyers. The Buyer will be bound by the following covenants and will not sell, transfer or otherwise dispose of the said Land without first delivering to the Seller a Deed of Covenant given by the Buyer, Transferee or Disposee in favour of the Seller containing covenants on the same terms (mutatis mutandis), as are set forth in these clauses including the liberty to obtain such a Deed of Covenant from any further Buyer, Transferee or Disposee.

1. If the Buyer is a natural person or natural persons reference to the Buyer in this Deed shall include his her or their and each of their respective heirs executors administrators and permitted assigns.
2. If the Buyer is a corporation or corporations, reference to the Buyer in this Deed shall include the corporation's or corporations' successors in title and permitted assigns.
3. The Buyer agrees with the Seller to be bound by the Rules and specifically acknowledges the obligations to indemnify the Seller and the requirement to pass on the obligation to comply to subsequent buyers.
4. If the Buyer is a natural person or natural persons reference to the Buyer in this Deed shall include his her or their and each of their respective heirs executors administrators and permitted assigns.
5. If the Buyer is a corporation or corporations, reference to the Buyer in this Deed shall include the corporation's or corporations' successors in title and permitted assigns.

IN WITNESS WHEREOF the parties have executed this Deed on the day and date set forth in this Deed.

EXECUTED as a Deed

SIGNED SEALED AND DELIVERED)
for and on behalf of the buyer.)

.....

In the presence of:)
Witness)

.....

SIGNED SEALED AND DELIVERED)
for and on behalf of)
in accordance with its constitution)
in the presence of:)

.....
Signature of Director

.....
Name of Director

.....
Signature of Director / Secretary

Witness

.....
Name of Director / Secretary

SIGNED SEALED AND DELIVERED)
By **Pumicestone Passage Developments Pty Ltd**
by its duly constituted)
Attorney Garry Richard Waters)
in the presence of:)

.....

Witness

.....

PELICAN WATERS DEVELOPMENT RULES

Intent and Purpose of this Document

Pelican Waters is a special place. A secluded place located in one of the Sunshine Coast's most spectacular settings. A place where you can take in the spectacular water views, stroll through the many parks and gardens, or just enjoy the coastal lifestyle by sitting on your patio and picking up the cool summer breezes.

It is intended that the housing types and styles built within Pelican Waters respond to and reflect these characteristics, in doing so creating a unique, high quality residential community.

This document sets out both specific requirements and more general suggestions that will assist you in the design of your house. This will promote the most effective and sympathetic use of your allotment, thereby increasing its livability, aesthetic quality and value. This document also aims to provide you with security as to the standard of housing you can expect on neighbouring properties.

Design Assistance

The Pelican Waters team will be happy to review your house plans, provide advice about the design and make suggestions as to how your house can best comply with the intent and provisions of this document.

PELICAN WATERS DEVELOPMENT RULES

SECTION A - DEVELOPMENT AND USE OF THE LAND

1. RESIDENTIAL.

- No building other than a single private dwelling shall be erected on the Land together with such other improvements as may be approved in writing by the Seller. No business, industry or commercial undertaking of any kind shall be conducted on the Land without the prior written consent of the Seller and of the Caloundra City Council.
- Dwellings may be used for home-office uses subject to the owner obtaining any necessary approval (e.g. Home Occupation) from the Caloundra City Council and any other relevant authority. It is imperative that the conduct of any such use does not impact upon the amenity of adjacent properties and that of the estate generally.
- Where owners intend to use their homes for home-office purposes, consideration shall be given to layouts that separate living and work areas, and to incorporating suitable communication and home management technology systems.
- The Land shall not be used for residential purposes until the main building has been approved by the Caloundra City Council and completed in accordance with these Rules.

2. APPROVAL OF PLANS.

- No improvements or earthworks shall be commenced on the Land unless and until Plans and Specifications have first been approved in writing by Pumicestone Passage Developments. These plans will be assessed by the Seller relative to the provisions contained within this document.
- The plans submitted shall contain the following:
 - Site plan at a scale of 1:100 or 1:200, showing lot boundaries and the location of the proposed house on the Land.
 - Views of the 4 main elevations at a scale of 1:100.
 - Schedule of exterior materials.
 - Proposed fencing, if any.
 - Proposed driveway location and finish details.

3. FLOOR AREA.

- No main building shall have a floor area of less than 250 square metres, including any attached double garage.
- No main building shall have a floor area of less than 330 square metres, including any attached double garage, where the lot has a boundary with a waterway.
- The above floor areas exclude any outdoor patio, deck or portico areas (except where under the main roof of the dwelling).

4. BUILDING MATERIALS, STYLES AND GENERAL REQUIREMENTS.

Houses within Pelican Waters are to be interesting, innovative and contemporary, reflecting the latest design styles and the Sunshine Coast's emerging architectural vernacular as well as Pelican Waters' unique position, outlook and climate.

- No main building or any attached or detached garage or any other improvement shall be erected on the Land other than with external walls constructed of approved texture coated materials, masonry and/or other materials as may be approved in writing by the Seller. Face brick use shall not exceed one-tenth (10%) of the total wall areas, and all block work is to be texture coated. Bagged masonry finishes will not be approved.
- The sole use of any one building material is discouraged, and the Seller reserves the right to refuse approval of a plan where the Seller views the choice of building material and/or house design as inconsistent with Pelican Waters' high quality residential environment. The balanced use of building materials is strongly recommended – i.e. a mixture of texture coated materials, masonry, timber, metal and/or glass.
- No Zincolume (or similarly reflective) roofing materials shall be used.
- All materials used shall be of good quality and allow for the construction of the dwelling and any other improvements to a high standard of finish.
- All surfaces and materials are to be fully painted or finished in a proper and workmanlike manner prior to the occupation of the dwelling.
- Walls shall be stepped in or out at least 900mm every 12 metres in their length. This will help to articulate the appearance of the house by ensuring that long, blank facades are not presented to the street or to adjoining properties. Exceptions to this requirement will only be granted where the proposed dwelling demonstrates, in the opinion of the seller, suitable design or interest.

- Roof pitch shall be at least 25° for hipped roofs. Exceptions to this requirement may be granted at the discretion of the Seller where alternative, innovative dwelling design and/or roofing forms are proposed (e.g. skillion or single pitch roofs, or where roofs are to be screened by parapet walls).
- All homes must have 450mm eaves (minimum) for the full perimeter of the dwelling. Exceptions to this requirement may be granted, at the discretion of the Seller, where eaves-less construction is proposed to be used in an innovative and interesting manner (e.g. in conjunction with a parapet wall design, skillion or single pitch roof detail or where the dwelling demonstrates suitable design merit).

Exceptions to this requirement may also be granted, at the discretion of the Seller, where a courtyard set back from the main building is a side or rear boundary.

- Zero Lot line (build to boundary) construction will not be permitted for any part of the dwelling. Zone lot line construction will generally not be approved for garages, as it may impact upon the amenity of the adjoining property and the streetscape. Exception to this requirement will only be approved where the proposed dwelling demonstrates at the absolute discretion of the seller suitable design merit.
- In order to articulate a dwelling's design, and to improve its appearance and climatic suitability, it is recommended that the dwelling design incorporate patio, portico, porch and/or verandah details.
- The dwelling shall comply with all relevant requirements of the Caloundra City Council, including building setbacks and height (the maximum dwelling height allowable "as-of-right" is 8.4m above ground level).
- Any air conditioning unit shall be located below the eaves line and is to be screened from public view.

5. DRIVEWAYS AND GARAGES.

- A double garage is to be provided in conjunction with the dwelling on the Land.
- Garage facades are to be set back (preferred) or forward a minimum of 900mm from the principal façade of the house.
- No more than two garages are to be placed side by side. A further setback of 600mm, separation of the garages or construction of garages perpendicular to the street alignment (and main building façade) is required where more than two garage spaces are to be provided.
- Contemporaneously with the construction of a dwelling on the Land, the Buyer (at their own expense) shall construct a vehicular driveway between the roadway alignment immediately in

front of the Land and the garage on the Land. This driveway is to be completed prior to the occupation of the dwelling.

- The driveway is to be finished in exposed aggregate or paved. Paver inlays, edge bands (e.g. header or soldier course of pavers, or concrete bands contrasting in colour to the main driveway) and other details are recommended to reduce the apparent expanse and visual dominance of driveway surfaces. Plain concrete, stencilled and stamped finishes are not permitted.

Please note that additional requirements regarding driveway location are contained in Section 11 (Site Management and Access) of this document.

6. INCOMPLETE BUILDINGS.

- No improvements (in the course of construction) shall be left for longer than 3 months without substantial work being carried out. Total construction time for any improvements shall not exceed 9 months.
- With a view to minimising the cost of litigation it is agreed that damages for breach of this rule shall be calculated at the rate of \$50.00 for each day or part thereof that a breach continues.

7. SHEDS, OUTBUILDINGS, ANCILLARY BUILDINGS, CLOTHES LINES AND RAINWATER TANKS.

- No shed, outbuilding or ancillary structure shall be erected on the Land except concurrently with and as part of the erection of a main building.
- Clotheslines and any shed, outbuilding, ancillary structure or rainwater tank shall be positioned and screened so as not to be visible from outside the Land.
- Any shed, outbuilding or ancillary structure shall:
 - (i) comply with any relevant Council requirements (e.g. setbacks);
 - (ii) not exceed 36m² in floor area;
 - (iii) be constructed of the same wall and roof materials and in the same style and colours as the main building where that shed, outbuilding or improvement has:
 - any wall length exceeding 3 metres, OR
 - a floor area exceeding 9m², OR
 - a roof height greater than 2.1 metres.
- No shed, outbuilding or ancillary structure shall have a wall height exceeding 2.4 metres or a total height greater than 3.5 metres above natural ground level at any point.

- There shall be no temporary improvements or anything of the like on the Land except sheds, workshops or office rooms used for the purpose of the building of permanent improvements upon the Land.

8. FENCING.

(i) No steel/ metal fencing of any kind.

(ii) Where a fence is to be constructed on any boundary between the land and any adjoining land (not including fencing forward of all building lines), it shall:

- be topped with a capping rail where constructed of timber (and preferably be of a “good neighbour” design).
- be of texture coated and painted or stone-faced masonry;
- not exceed 1.8 metres (6 feet) in height above natural ground level.

(iii) Any fencing in the area between the house alignment and any road frontage (including any side or rear road frontage) must:

- be of texture coated and painted or stone-faced masonry; or
- be of texture coated and painted or stone-faced block masonry piers (maximum spacing 2.4 metres) with infill panels of painted or stained hardwood timber battens/palings, or pool-type fencing;
- not exceed 1.8 metres in height;
- not be left as bare block work (i.e. minimum texture coated and painted finish) to an adjoining property even where that property is vacant.

(iv) Where a solid masonry wall (fence) is built along or adjacent to any road frontage, wall length shall not exceed 6 metres without being articulated by an inset with a minimum depth of 400mm and a minimum length of 1500mm.

(v) Any fencing in the area between the house alignment (rear or side) and any canal/waterway must:

- not be of timber paling construction.
- be of texture coated and painted or stone-faced masonry; or
- be of texture coated and painted or stone-faced masonry piers (maximum spacing 2.4 metres) with infill panels of painted or stained hardwood timber battens/palings, or pool-type fencing.
- not be left as bare block work (i.e. minimum texture coated and painted finish) to an adjoining property even where that property is vacant.

(vi) Any timber fencing shall be of a stained or painted finish.

Any variations to the above shall be at the absolute discretion of the Seller.

Notwithstanding any provisions of the Dividing Fences Act, the Seller shall not be liable to or required at any time by the Buyer to join in or contribute towards the erection, maintenance or repair of any dividing fence or other fence relating to the Land, and so long as the Seller remains the owner of the adjoining land, the Buyer will not sell or otherwise dispose of the Land without obtaining from its buyer a Deed of Covenant in favour of the Seller in the similar terms to this rule.

9. BOATS, TRAILERS, CARAVANS AND OTHER VEHICLES.

- Any boat, trailer or caravan stored or parked on the Land (if not housed in a garage or outbuilding) shall be stored or parked behind the main building line and shall be suitably screened from public view.
- No caravan or mobile home shall be used on or about the Land for residential purposes whether or not there is a main building on the Land.

10. EXCAVATION AND RETAINING WALLS.

- No soil or gravel shall be dug or removed from the Land except in association with and contemporaneously to the construction of an in-ground swimming pool, the foundations of any improvements, or for gardens.
- Construction of any retaining wall, swimming pool or other structure shall not commence until details of its proposed construction are submitted to, and approved in writing by, the Seller. This may require the retaining wall, swimming pool or other structure to be designed and certified at the cost of the Buyer by a competent Engineer.

11. SITE MANAGEMENT AND ACCESS

- All stormwater from the Pelican Waters community ultimately flows via the internal lakes system and/or canals into Pumicestone Passage. It is therefore necessary to control the discharge of silt, sediment and any other waste from an allotment, particularly during the dwelling construction stage. The Caloundra City Council and the State government have strict requirements in this regard. An explanatory brochure is attached to and forms part of this

covenant.

- Access to the Land during the period of construction of a dwelling (or any other improvements) shall be obtained from the lot's roadway frontage(s). Access to the Land via an adjacent lot shall only be undertaken with the expressed approval of the owner of that land. In this event, and at all times when access is being derived from an adjacent lot, the person or persons gaining such access shall be responsible for silt, sediment and pollutant control (as outlined above) from that lot or landholding, and for the remediation of the site at the completion of construction. It remains the responsibility of the owner over whose land access is being sought, and not the Seller, to ensure that such remediation work is completed to their satisfaction.
- It is the Buyer's responsibility to ensure that the Builder contains all building material and waste in a tidy, secured manner. All building waste is to be contained in a waste skips (makeshift containers – e.g. staked mesh – are not acceptable), and removed from the site prior to the occupation of the dwelling.

12. CARE AND MAINTENANCE.

No rubbish shall be allowed to accumulate or be placed upon the Land. If rubbish accumulates upon the Land or if, in the opinion of the Seller, the grass on the Land needs cutting or trimming, then the Seller or its agents, employees or workmen shall be at liberty (but shall not be obliged) to cut and/or trim the grass or remove the rubbish at the expense of the Buyer. The Buyer must not deposit or cause to be deposited any lawn clippings, cuttings, or any other thing on the golf course, parkland, road reserve or any lot.

13. LANDSCAPING.

Contemporaneously with the construction of a house on the Land, the owner shall (at no cost to the Seller):

- Turf all areas visible from the site frontage (or frontages) not occupied by the driveway or gardens. This turf shall be maintained in good condition.
- Turf all area between the dwelling and any water frontage not occupied by gardens or other structures.
- Texture coat any block work used in garden construction, retaining walls or anything of that nature.

- The developers of Pelican Waters have used vegetation native to the Caloundra area extensively throughout the site. Such plants, as opposed to many exotic species, thrive in Pelican Waters, provide a haven for local birdlife and create a distinct sense of place and identity. It is strongly recommended that Buyers use such native plants in the creation of gardens on the Land. Information on suitable plant species is available from the Pelican Waters team.
- The Buyer shall not object to or do anything that impedes or interferes with the landscaping or other works which the Seller carries out in respect of footpaths, common property areas, median strips or parks in Pelican Waters.

14. SIGNS AND HOARDINGS.

- No advertisement, sign or hoarding of a commercial nature shall be erected on the Land without the prior written consent of the Seller except that one (1) sign may be erected advertising *each* of the following:
 - the Land or house for sale;
 - a Home Occupation as approved on the site; and
 - the builder actually working on the Land.
- The Buyer irrevocably authorises the Seller and its agents, employees and personnel to enter upon the Land to remove any advertisement hoarding or sign erected in contravention of this requirement.
- All signage shall comply with any relevant requirements of the Caloundra City Council.

15. BORES.

No Bores shall be constructed on the Land.

16. REVETMENT WALLS.

- If the Land has a revetment wall to any canal or waterway, the owner of the Land shall be responsible for the maintenance of this revetment wall.
- Council's conditions of approval of the Subdivision require the following:
Buildings shall generally be set back a minimum of 8 metres from the canal/lake revetment wall. However, building construction will be permitted within 4.5 metres of the revetment wall for any lot for which a slope stability assessment undertaken by a suitably qualified and experienced professional geotechnical engineer has determined that such

building construction can be undertaken without resulting in instability (in relation to the revetment wall, the batter slope above the revetment wall and the building itself) (Current as at 13th February 2006 – please confirm with the Seller or with Caloundra City Council prior to the commencement of construction).

- Any other retaining wall or structure (pools, etc) to be built within 4.5 metres of any revetment wall shall be designed and certified by a competent Structural Engineer. Details shall be lodged with the Seller or its Appointed Agent for approval prior to commencing construction.
- No pipe draining into a canal or waterway shall protrude beyond the revetment wall of any lot without the prior written consent of the Seller.

COVENANT CHECKLIST.

Please ensure that the plans submitted for approval under these rules include at least the following:

- ✓ Site plan at a scale of 1:100 or 1:200, showing lot boundaries and the location of the proposed house on the Land.
- ✓ Four elevations of your proposed home at a scale of 1:100.
- ✓ Schedule of exterior materials.
- ✓ Proposed fencing, if any.
- ✓ Proposed driveway location and finish details.

Before submitting your plans for approval, please confirm the following:

- ✓ Is the floor area of your house greater than 250m² (or 330m² where adjoining a canal or waterway)?
- ✓ Does your home incorporate the composite (mixed) use of materials?
- ✓ Are your garages set back or set forward from the main building line?
- ✓ Is your roof pitch at least 25°?
- ✓ Are any walls longer than 12 metres articulated?
- ✓ Are your eaves at least 450mm wide?
- ✓ Are any air conditioner units located below the eaves line?
- ✓ Does your house have a double garage?

- ✓ Is your driveway to be constructed of exposed aggregate or pavers?
- ✓ Will your proposed clothesline and any water tank or ancillary structures be screened from view?
- ✓ Does any shed complement the style and colours of the house? Does it comply with the height and area requirements?
- ✓ If you are proposing to fence your Land, does the fencing comply with the various requirements?
- ✓ Does your plan show any proposed or existing revetment or retaining wall?

Before finalising the contract with your builder, please check the following:

- ✓ During construction, do you require any access to your Land from an adjoining lot? Have you secured consent to such access from the adjoining owner, and agreed to repair any damage and remove any waste?
- ✓ Have you arranged for your builder to provide a waste skip during the period of construction?
- ✓ Will your builder provide silt control fencing and any other necessary site management mechanisms?

SECTION B - RIGHTS, RESPONSIBILITIES AND INTERPRETATIONS

18. ALTERATIONS TO DEVELOPMENT RULES.

The Seller may vary or not enforce the provisions of any Rules at any time in respect of any other land and in that event the Buyer shall have no claim whatsoever against the Seller.

19. DEFAULT.

It is agreed between the Buyer and the Seller that if and whenever the Buyer shall make any default under these Rules the Seller without prejudice to its other rights remedies and powers shall be at liberty to enter upon the Land to remove any structure, article or material contravening the Rules or to perform such work as shall be necessary or expedient for the purpose of effecting compliance with these Rules and to recover the costs thereof from the Buyer, including the cost of storage and disposal. It is agreed that the Buyer shall pay the Seller interest at the rate of 12% per annum calculated daily on all costs incurred by the Seller hereunder for so long as they shall remain outstanding.

20. SECTION 55 OF THE PROPERTY LAW ACT 1974.

It is agreed by the Seller and the Buyer that it is not their intention by these Rules to create any legal duty enforceable by a third party pursuant to Section 55 of the Property Law Act 1974.

21. NO EXTINGUISHMENT OF RULES.

These Rules shall not in any respect merge in or be extinguished by the transfer or registration of the transfer of the Land to the Buyer.

22. BUYER'S OBLIGATIONS ON SALE ASSIGNMENT OR DISPOSITION.

The Buyer shall not effect any sale, assignment or other disposition of the Land (or any part of the Land) unless the Buyer shall first require the buyer, assignee or disponent from the Buyer and any subsequent buyer, assignee or disponent to enter into a Deed of Covenant (in the form required by the Seller) to be bound to the Seller by these Rules.

23. BUYER'S INDEMNITY.

The Buyer agrees to indemnify and keep indemnified the Seller against any loss, damage or any other consequence detrimental to the Seller resulting from the failure of the Buyer to comply with these Rules including the preceding rule which, among other things, requires the Buyer in the case of an on-sale to obtain a covenant by the new buyer in favour of the Seller to be bound by these Rules.

24. INTERPRETATION.

For the purpose of these Rules:-

- "Buyer" means the Buyer specified in the annexed Contract to buy the Land from the Seller and if the Buyer is a corporation then "Buyer" means not only the corporation but shall include the corporation's successors in title and assigns. If the Buyer is a natural person or natural persons, "Buyer" means not only the natural person or natural persons but shall include his her or their and each of their respective heirs executors administrators and assigns.
- "Home Occupation" means the conduct of any occupation, vocation or profession, as defined in the Caloundra City Planning Scheme (as amended from time to time).
- "improvements" include excavations, the erection, construction, (including making additions extensions and renovations) of (including exterior finishes) any building structure, dwelling house, main building, carport, garage, verandah, out-building, shed, pergola, fence, screen, swimming pool, spa bath or tennis court.

- "Land" means the land as described in the annexed Contract between the Seller and the Buyer.
- "main building" means a single unit dwelling house.
- "main building line" means the front or principal building setback.
- "Seller" means Pumicestone Passage Developments Pty Ltd and its successors and assigns.

25. SEVERABILITY.

If any term, covenant provision or condition of these presents or the application thereof to any person or circumstances shall be or become invalid or unenforceable, the remaining terms, covenants, provisions and conditions shall not be affected thereby and each term covenant provision and condition of these presents shall be valid and enforceable to the fullest extent permitted by law.

26. DEFINITION OF PARTIES.

If any party or parties to this Deed shall be a corporation, reference to that corporation or corporations shall include the corporation's successors in title and permitted assigns and if a party or parties to this Deed shall be a natural person or natural persons, reference to that person or those persons shall include his her or their and each of their respective heirs executors administrators and permitted assigns.

27. BODIES AND ASSOCIATIONS.

References to authorities institutes associations societies commissions and bodies whether statutory or otherwise shall in the event of any such authority institute association society commission or body ceasing to exist or being reconstituted renamed or replaced, or the powers or the functions thereof being transferred to any other authority institute association society commission or body established or constituted in lieu thereof and/or as nearly as may be succeeding to the powers or functions thereof.

28. HEADINGS.

Headings and sub-headings have been included for ease of reference and none of the terms covenants conditions provisions or restrictions herein appearing are to be construed or interpreted by reference to such headings or sub-headings.

29. STATUTES AND REGULATIONS.

Reference to statutes regulations ordinances or by-laws shall be deemed to extend to all statutes regulations ordinances or by-laws amending consolidating or replacing the same.

30. JOINT AND SEVERAL.

Every agreement or indemnity expressed or implied by which more persons than one agree, indemnify, undertake any obligation or derive any benefit in terms of this document shall bind or ensure for the benefit of such persons jointly and each of them severally.

31. PLURALS AND GENDERS.

The singular shall include the plural and vice versa and words importing one gender shall include every gender.

32. FURTHER ASSURANCES.

Each party shall sign, execute and complete any such documents and do any such thing as may be necessary to effect, perfect or complete the provisions of this Deed and the transactions to which it relates.