

SCHEDULE 3

MARINA POINT NEIGHBOURHOOD BY-LAWS

Interpretation

1.1 For these by-laws -

‘body corporate’ means Denarau Corporation Limited.

‘charter’ means the charter for Denarau Island defined in the body corporate’s articles of association.

‘common property’ means the part of Lot 9 on DP 7927 that is not a lot and where the context permits that part of lots 17 and 19 on SO 3705 that is not a Private Mooring Area.

‘Licensee’ means the Licensee (if any) granted by Minore Limited in favour of an owner of a lot over a Private Mooring Area;

‘lot’ means any of lots 1 to 30 on the Identification Plan and where the context permits any Private Mooring Area attached to the Lot.

‘original owner’ means Aesop Limited.

‘Private Mooring Area’ means any part of lot 19 on SO 3705 which is the subject of an exclusive licence granted to an owner or occupier of a lot for the purposes of mooring a vessel.

‘Tabua’ means Tabua Investments Limited.

‘vessel’ means any vessel or watercraft.

words denoting -

- (a) the singular include the plural and vice versa;
- (b) a gender include the other genders;
- (c) persons include corporations and vice versa.

1.2 By-law headings are included for ease of reference only and do not form part of nor affect the interpretation of these by-laws.

1.3 Where a by-law refers to an owner or occupier, or both together, the by-law will be deemed to bind both the owner and occupier (if appropriate) jointly and severally.

1.4 Reference to a statute includes orders-in-council, proclamations, regulations, rules, by-laws and ordinances made under the statute and any statute amending, consolidating or replacing the statute.

Noise

2 The occupier of a lot must not create or permit in the lot noise likely to interfere with the peaceful enjoyment of a person lawfully on another lot or the common property.

Use of lots

3.1 An owner or occupier of a lot must not use or permit the lot to be used -

- (a) other than -
 - (i) as a residence; or
 - (ii) subject to maintaining all approvals required by law, for residential accommodation of tenants;
or

- (b) for any illegal or immoral purpose or purpose that may constitute a nuisance or hazard or endanger the safety or good reputation of the other persons lawfully residing in or lawfully using another lot or common property.

3.2 An owner or occupier of a lot must not use or permit a Private Mooring Area to be used other than in accordance with the terms and conditions of the Licence.

3.3 A tenancy under paragraph 3.1(a)(ii) may not be less than 3 months unless Tabua elects (in its discretion) to offer a residential letting management scheme to all owners of lots, in which case all such letting must be arranged by the letting agent designated by Tabua (from time to time) to manage letting under the scheme (whilst the scheme remains in operation).

Vehicles and Vessels

4.1 Except if a by-law authorises the occupier to do so, the occupier of a lot must not, without the body corporate's written approval:

- (a) park a vehicle or vessel, or allow a vehicle or vessel to stand or anchor, on the common property; or
- (b) permit an invitee to park a vehicle or vessel, or allow a vehicle or vessel to stand or anchor, on the common property.

Vehicles may park or stand in designated carparking areas and in respect of which no occupier of a lot has exclusive use.

4.2 An approval under paragraph 4.1 must state the period for which it is given.

4.3 An owner or occupier of a lot must -

- (a) ensure its invitees' vehicles are parked in parking bays in common property designated as for visitor parking;
- (b) ensure those invitees use such bays only for casual parking; and
- (c) not, and not permit its invitees to, ride or use skateboards, roller blades, skates, carts or other similar recreational means of transport on or over common property.

4.4 However, paragraph 4.3(c) does not apply to -

- (a) bicycles while in use on a part of common property constructed for vehicular use and only to convey the rider directly from and to a lot (in respect of which the rider is an occupier or occupier's invitee) to and from a public road adjoining that part of common property; and/or
- (b) golf carts while in use on a part of the common property constructed for vehicular use.

4.5 An owner or occupier must not, without the body corporate's written approval, drive or permit to be driven into or over the common property a motor vehicle in excess of 2 tonnes weight.

4.6 The body corporate may cancel any approval under paragraph 4.5 by giving 7 days written notice to the occupier.

4.7 An owner or occupier of a lot must not drive a motor vehicle over any carriageway which is part of the common property at a speed in excess of 40 kilometres per hour.

4.8 An owner or occupier of a lot must observe the speed limit and all other navigational aids and markers on waterways within the common property. The speed limit on waterways within the common property is 4 knots, provided that less than 4 knots shall be maintained if necessary to avoid inconvenience to others or damage to any vessel or pontoon.

Obstruction

5 The occupier of a lot must not obstruct the lawful use of the common property by someone else.

Damage to lawns etc.

- 6.1** The occupier of a lot must not, without the body corporate's written approval:
- (a) damage a lawn, garden, tree, shrub, plant or flower on the common property; or
 - (b) use a part of the common property as a garden.
- 6.2** An approval under paragraph 6.1 must state the period for which it is given.
- 6.3** The body corporate may cancel the approval under paragraph 6.1 by giving 7 days written notice to the occupier.

Damage/alterations to common property

- 7.1** An occupier of a lot must not, without the body corporate's written approval, mark, paint, drive nails, screws or other objects into, or otherwise damage or deface a structure that forms part of the common property.
- 7.2** However, an occupier may install a locking or safety device to protect the lot against intruders, or a screen to prevent entry of animals or insects, if the device or screen is soundly built and is consistent with the colour, style and materials of the building.
- 7.3** The owner of a lot must keep a device installed under paragraph 7.2 in good order and repair.
- 7.4** Each occupier of a lot must notify the body corporate promptly of any accident to or defect in any water pipes, gas pipes, electric installations or fixtures on the common property which comes to the occupier's knowledge.
- 7.5** Without limiting paragraph 7.3, unless a resolution of the body corporate provides to the contrary, any alteration made or fixture or fitting attached to common property by an owner or occupier of a lot (whether or not with the prior approval of the body corporate) must be repaired and maintained by the owner or occupier from time to time of the lot, the owner or occupier of which made the alteration or addition.

Behaviour of invitees

- 8.1** An occupier of a lot must take reasonable steps to ensure that the occupier's invitees do not behave in a way likely to interfere with the peaceful enjoyment of another lot or the common property.
- 8.2** Without limiting 8.1, an owner or occupier of a lot will ensure any construction works carried out on the lot are carried out in accordance with any protocols stipulated by the Body Corporate, or the vendor of the lot, from time to time for construction work to minimise disruption to other occupiers on the island including the construction requirements attached to these by-laws (which must be included in any construction contract).

Rubbish on common property

- 9.1** The occupier of a lot must not -
- (a) throw out or deposit or leave rubbish or other materials on the common property in a way or place likely to interfere with the enjoyment of the common property by someone else; or
 - (b) throw or allow to fall, or permit to be thrown or allowed to fall, from a window, door or balcony any rubbish, refuse or other article.
- 9.2** Any damage or cost of cleaning or repair resulting from a breach of paragraph 9.1 is to be borne by the owner of the lot concerned.

Appearance of lot

- 10.1** The occupier of a lot must not, without the committee's written approval, make a change to the external appearance of the lot unless the change is minor and does not detract from the amenity of the lot and its surrounds.
- 10.2** The occupier of a lot must not, without the body corporate's written approval:
- (a) hang washing, bedding, or another cloth article if the article is visible from another lot or the common property, or from outside the scheme land; or

- (b) display a sign, advertisement, placard, banner, pamphlet or similar article (whether relating to the sale or letting of the lot or otherwise) if the article is visible from another lot or the common property, or from outside the scheme land.

Inspection and repair of lots

- 11.1** After reasonable notice from the body corporate, each occupier of a lot must permit the committee or any contractor, sub-contractor, workman or other person authorised by the committee access to the lot to -
- (a) inspect and test installations or equipment for the necessity for; and
 - (b) carry out,

work or repairs on mains, wires, or connections of any utility system or service, or for tracing leakages or defects, whether to that lot or an adjoining lot.
- 11.2** If not so permitted, such a person may effect an entry.
- 11.3** The committee must ensure that persons entering the lot under the powers in paragraphs 11.1 and 11.2 cause as little inconvenience to the occupier of the lot as reasonably is possible in the circumstances.

Storage of flammable materials

- 12.1** The occupier of a lot must not, without the body corporate's written approval, store a flammable substance on the common property.
- 12.2** The occupier of a lot must not, without the body corporate's written approval, store a flammable substance on the lot unless the substance is used or intended for use for domestic purposes.
- 12.3** An occupier of a lot must not use any chemicals, burning fluids, acetylene gas or alcohol in lighting or heating the lot nor in any other way cause or increase a risk of fire or explosion in the lot.
- 12.4** However, this by-law does not apply to the storage of fuel in -
- (a) the fuel tank of a vehicle, Vessel, or internal combustion engine; or
 - (b) a tank kept on a vehicle or Vessel in which the fuel is stored under the requirements of the law regulating the storage of flammable liquid.

Insect control

- 13** The body corporate is authorised to enter, by its agents, servants or contractors, onto each lot (after giving reasonable notice to the occupier of the lot) to examine the lot for and treat the lot with the intent of eradicating insects and vermin.

Garbage disposal

- 14.1** Unless the body corporate provides some other ways of garbage disposal, the occupier of a lot must keep a receptacle for garbage in a clean and dry condition and adequately covered on the lot, or on a part of the common property designated by the body corporate for the purpose.
- 14.2** The occupier of a lot must -
- (a) comply with all local laws about disposal of garbage; and
 - (b) not, in disposing of garbage, adversely affect the health, hygiene or comfort of the occupiers of other lots.

Keeping of animals

- 15.1** The occupier of a lot must not, without first obtaining the body corporate's written approval -
- (a) bring or keep an animal on the lot or the common property; or
 - (b) permit an invitee to bring or keep an animal on the lot or the common property.

- 15.2** However, paragraph 15.1 does not prevent a person who, by reason of partial or total blindness -
- (a) customarily is; or
 - (b) is entitled by law to be,
- accompanied by a guide dog (also known as a seeing eye dog) from being accompanied by such a dog on a lot or common property or keeping such a dog on a lot.

15.3 Birds and fish are not animals for the purpose of this by-law.

Auction sales

16 An owner or occupier of a lot must not permit to be conducted on or in the lot or common property, without the body corporate's prior written approval, an auction sale of the lot or any chattels.

Original owner's development rights

- 17** Notwithstanding any other by-law, the original owner -
- (a) is entitled to develop lots; and
 - (b) while an owner of such a lot, need not comply with any by-law -
 - (i) which is inconsistent with or limits its rights under this by-law; or
 - (ii) the application of which is, in the original owner's opinion, inappropriate to the undeveloped lot while that lot remains undeveloped or during its development.

Original owner's selling rights

- 18** While the original owner remains an owner of a lot, it and its officers, employees and agents are entitled to -
- (a) use the lot as a display lot;
 - (b) allow prospective purchasers to inspect the lot; and
 - (c) use in or about the lot for sale of the lot (or lots generally of which the original owner is still the owner) such signs, advertising and display material as it thinks fit, subject to their being tasteful (having regard to the general appearance of the lot or common property) and not, in number and size, greater than reasonably is necessary.

Applications etc to body corporate

19 All applications or complaints to the body corporate must be in writing addressed to the secretary.

Compliance with notices

20 All owners and occupiers of lots and their respective invitees must comply with any notice displayed on common property by authority of the body corporate or any statutory authority.

By-Laws to be exhibited

21 A copy of these by-laws (or a precis of them approved by the body corporate) must be exhibited in a prominent place in any lot made available for letting.

Sanctions

- 22.1** If an owner or occupier fails to comply with any of these by-laws, the body corporate may in its discretion -
- (a) while the non-compliance continues refuse to provide the owner or occupier with any services that the body corporate provides to owners and occupiers generally;

- (b) while the non-compliance continues refuse the owner or occupier the right to use any of the Island facilities;
- (c) institute and prosecute appropriate proceedings in a court to enforce compliance with the relevant by-law; and/or
- (d) if the non-compliance is of a kind capable of rectification by the body corporate, enter the lot and rectify the non-compliance at the cost of the owner or occupier.

22.2 Paragraph 22.1 does not limit any other right, power or remedy the body corporate may have on any other basis against the owner or occupier concerned.

Severability

23.1 If it is held by a court of competent jurisdiction that -

- (a) any part of these by-laws is void, voidable, unenforceable or ultra vires; or
- (b) these by-laws would be void, voidable, unenforceable or ultra vires unless some part of them were severed from the remainder of them,

then that part will be severable and severed from these by-laws but without affecting the continued operation of the remainder.

23.2 Paragraph 23.1 does not limit any other right, power or remedy the body corporate may have on any other basis against the owner or occupier concerned

Mooring Rights

24 If a lot has a Private Mooring Area then the owner or occupier must -

- (a) ensure any vessel on the Private Mooring Area is -
 - (i) maintained and kept in a clean, tidy, sound, safe, seaworthy and watertight condition; and
 - (ii) moored within the boundaries of the Private Mooring Area and does not protrude beyond the Private Mooring Area boundaries;
- (b) not fuel any vessel while in the Private Mooring Area or on the common property;
- (c) leave the Private Mooring Area and the waters on the Private Mooring Area clean and tidy at all times;
- (d) during adverse weather -
 - (i) ensure that any vessel in the Private Mooring Area is moored with additional lines and fenders;
 - (ii) ensure that gear, equipment, awnings etc on the vessel or elsewhere in the Private Mooring Area are secured;
 - (iii) ensure that mooring lines are slightly slack, so that in surges no snatching will occur;
 - (iv) ensure, that mooring lines pass first between the uprights of cleats before being wrapped around and tied off; and
 - (v) ensure that mooring lines are fastened to substantial parts of the vessel;
- (e) in the event of cyclone or storm warning, ensure that the vessel in the Private Mooring Area vacates the Inner Marina and the Private Mooring Area;
- (f) ensure that they are aware of any fire emergency procedures published by the Body Corporate from time to time;

- (g) in the case of fire or explosion on the Private Mooring Area or on any vessel in the Private Mooring Area -
 - (i) ensure that fire services are called immediately;
 - (ii) if a vessel is on fire, not cut the vessel loose from the Private Mooring Area (it may be appropriate to tow the vessel away from the Private Mooring Area and beach it);
 - (iii) use suitable fire fighting equipment, dependent upon the type of fire or its cause; and
 - (iv) not expose themselves to risks and, if in doubt, wait for the arrival of trained fire fighting personal and equipment;
- (h) not carry out any commercial activity from the Private Mooring Area or any vessel in the Private Mooring Area;
- (i) not moor any vessel that is a fishing trawler or commercial fishing vessel in the Private Mooring Area;
- (j) provide fire fighting facilities to their vessels to the standard required by any competent authority;
- (k) strictly observe and comply with the provisions of any environmental protection law;
- (l) not display any “For Sale” or similar signs on the Private Mooring Area or any vessel within the Private Mooring Area;
- (m) use lines and fenders of adequate size and of good condition for the mooring and securing of the vessel;
- (n) not obstruct in any way the site lines of any navigational or other marks within or about the waterways which are part of the common property; and
- (o) not load or unload from any commercial fishing vessel, or receive onto any vessel in the Private Mooring Area any seafood for wholesale, consignment or on-forwarding.