

Appendix 3.2.2 Tamahere Business Zone - Communal Management Structure

Development and use of a Communal Management Structure in subdivision

1. Where common or shared facilities are to be provided, a Communal Management Structure document (CMS) is to be created that makes provision for the terms of use, operation, management, maintenance, funding, and when required, replacement of any common or shared facility.
2. The structure of the CMS is to be to the satisfaction of the Council.
3. The operating rules or constitution of the CMS are to be to the reasonable satisfaction of the Council.
4. The structure and rules of the CMS shall ensure that as a minimum:
 - (a) each owner of a unit is a member of the CMS
 - (b) each owner of a unit has the benefit of the common facilities
 - (c) the CMS is capable of operating indefinitely
 - (d) adequate funding is available to fulfil the obligations of the CMS in terms of the consent.
5. Each owner of a unit shall be required as a minimum:
 - (a) to become and remain a member of the CMS,
 - (b) to duly and punctually fulfil and observe the obligations of members of the CMS and all decisions of the CMS at all times,
 - (c) to participate fully and effectively in the CMS so as to ensure the good management, performance and operation of the CMS at all times,
 - (d) not to take any action directly or indirectly that could result in the CMS being wound up or liquidated, or the decision making, or decisions of the CMS frustrated,
 - (e) to give right of entry onto the unit by the Council for inspection purposes as to the performance of all conditions relating to the effective functioning of the common facilities.
6. The performance of the obligations of the CMS and each owner are to be secured to the Council by such means as the Council requires (“Council Securities”) in each particular circumstance, which may include covenants under the Resource Management Act 1991, consent notices under the Resource Management Act 1991, first ranking encumbrances in favour of the Council, and where required, appropriate **Property Law Act 2007** covenants and/or easements between each unit and/or in gross in favour of the CMS.
7. The Council Securities shall include a consent notice providing that, if the CMS ceases to exist or fails to operate effectively, the owner of each unit is jointly and severally liable for the performance of the consent conditions which would otherwise be fulfilled by the CMS, and for such purposes the unit owners shall be an unincorporated body having the same roles at the CMS.
8. All easements or covenants between the owners of the units, and the structure and rules of the CMS, shall be to the approval of the Council to the cost of the consent holder.
9. All Council Securities shall be prepared by Council at the cost of the consent holder.