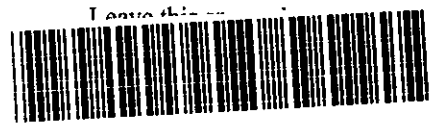


Form: 15CH  
 Edition: 1705

# CONSOLIDATION/ CHANGE OF BY-LAW:

New South Wales  
 Strata Schemes Management Act 2015  
 Real Property Act 1900



**AQ514304L**

**PRIVACY NOTE:** Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

(A) **TORRENS TITLE**

For the common property CP/SP61717
---------------------------------------

(B) **LODGED BY**

Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any	CODE
	C/- Chambers Russell Lawyers GPO Box 7100 SYDNEY NSW 2001 P (02) 8248 2800 Reference (optional): SYD201237 <i>email: skavanagh@chambersrussell.com.au</i>	<b>CH</b>

(C) The Owners-Strata Plan No 61717 ..... certify that a special resolution was passed on 18 Jun 20 and 27 Aug 20  
 (D) pursuant to the requirements of section 141 of the Strata Schemes Management Act 2015, by which the by-laws were changed as follows—

(E) Repealed by-law No. NOT APPLICABLE  
 Added by-law No. SPECIAL BY-LAWS 14, 15, 16, 17  
 Amended by-law No. NOT APPLICABLE  
 as fully set out below:  
See Schedule 2 of Annexure A.

(F) A consolidated list of by-laws affecting the abovementioned strata scheme and incorporating the change referred to at Note (E) is annexed hereto and marked as Annexure. ....

(G) The seal of The Owners-Strata Plan No. 61717 ..... was affixed on 23 OCTOBER 2020 in the presence of the following person(s) authorised by section 273 Strata Schemes Management Act 2015 to attest the affixing of the seal:

Signature *[Handwritten Signature]*  
 Name Stuart James

**AUTHORISED SIGNATORY**  
**BCS STRATA MANAGEMENT PTY LTD**



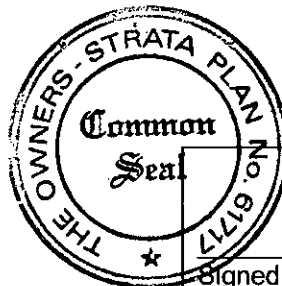
Signature .....  
 Name .....  
 Authority .....

**Annexure A to Form 15CH**

# Consolidated by-laws

## **The Owners—Strata Plan No 61717**

15-19 Boundary Street, Darlinghurst 2010



*[Handwritten signature]*  
ST 1971/2004

Signed by the person(s) who attested the affixing of the seal of the Owners Corporation to the Form 15CH Consolidation / Change of By-Laws to which this document is Annexed.

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# Schedule 1 Consolidated By-Laws

## 1 Parties Bound

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### 1.1 Parties Bound

The parties who must comply these By-Laws are:

- (a) the Owners Corporation;
- (b) each Owner; and
- (c) each Occupier.

### 1.2 Compliance

A person who must comply with these By-Laws must not do anything to prevent any other person from complying with these By-Laws.

## 2 Definitions and Interpretation

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### 2.1 Definitions

In these By-Laws unless the context otherwise requires:

“**Act**” means the Strata Schemes Management Act 2015.

“**Building**” means the buildings and improvements on the land within the Strata Scheme.

“**By-Laws**” means the by-laws created under this document as amended, added to or repealed from time to time.

“**Commercial Lots**” means Lots 86 to 92 in the Strata Plan.

“**Common Property**” means all areas of the Strata Scheme which are not part of a Lot.

“**Development Lot**” means Lot 93 in the Strata Plan.

“**Government Agency**” is a governmental or semi-governmental administrative fiscal or judicial department or entity.

“**Lot**” means a lot within the Strata Scheme.

“**Occupier**” means a lessee, licensee, occupier or mortgagee in possession of a Lot.

“**Owner**” means:

- (a) the registered proprietor for the time being of a Lot; or
- (b) if the Lot is subdivided or re-subdivided, the owners for the time being of the new lot.

“**Owners Corporation**” has the meaning given to it in the Act.

“**Services Contractor**” is the party providing services to the Owners Corporation in accordance with the services contract referred to in By-Law 13.

“**Strata Committee**” means the Strata Committee of the Owners Corporation.

“**Strata Manager**” is the strata managing agent appointed by the Owners Corporation and includes a reference to employees and contractors of the strata manager.

“**Strata Plan**” means strata plan registered number 61717.

“**Strata Scheme**” is the strata scheme constituted on registration of the Strata Plan.

“**The Block**” means Lots 1-92 inclusive in the Strata Plan and the adjacent Common Property being the building erected known as 15-19 Boundary Street, Rushcutters Bay.

**“The Lexington”** means the lots and common property created on registration of the strata plan of subdivision of the Development Lot being the building known as 100 Barcom Avenue, Rushcutters Bay.

## **2.2 Interpretation**

In these By-Laws unless the context otherwise requires:

- (a) a reference to a person includes an individual, firm, corporation, incorporated association, joint venture and an authority;
- (b) a reference to a person includes a reference to that person's executors, administrators, successors in title and assigns;
- (c) a reference to a thing includes the whole or each part of it;
- (d) where a person bound consists of 2 or more persons, these By-Laws benefit and bind them jointly and severally;
- (e) the singular includes the plural and vice versa;
- (f) if a period of time is specified and commences from a given day or the day of an act or event, it must be calculated exclusive of that day;
- (g) a document includes any variation or replacement of it;
- (h) a reference to time is a reference to Sydney time;
- (i) a law ordinance or code includes regulations and other instruments under it and consolidations amendments re-enactments or replacements of them;
- (j) “include” or “including” when introducing an example or list of things, does not limit the example or list to the example or list used or referred to; and
- (k) headings are only used for convenience and do not affect interpretation.

## **3 Laws and Instruments**

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### **3.1 Rules**

The Owners Corporation may from time to time make rules (or add to or change those rules) about the security, control, management, operation, use and enjoyment of Lots and Common Property in the Strata Scheme. Each Owner and Occupier must comply with those rules.

### **3.2 Compliance with By-Laws**

Each Owner and Occupier must, at their own expense and in a timely fashion, comply with these By-Laws and take all reasonable steps to ensure that their invitees also comply. If an invitee does not comply, the Owner or Occupier must take all reasonable steps to ensure that the invitee leaves the Strata Scheme.

### **3.3 Compliance with Laws**

Each Owner and Occupier must, at their own expense and in a timely fashion, comply with all laws relating to their Lot including without limitation any requirement, notices and orders of any Government Agency.

### **3.4 Covenants and Easements**

Each Owner and Occupier must observe the provisions of any covenant, easement or right of way affecting a Lot or the Common Property.

### **3.5 Non-payment of Levies**

Each Owner must promptly pay all levies and other amounts required to be paid by the Owners Corporation pursuant to these By-Laws or the provisions of the Act.

### **3.6 Non-compliance**

The following provisions apply if an Owner or Occupier fails to comply with these By-Laws:

- (a) the Owners Corporation may enforce a By-Law by legal means;
- (b) the Owners Corporation may do any work on or in a Lot which should have been done by an Owner or Occupier;
- (c) if the Owners Corporation must do work on or in a Lot, an Owner or Occupier must:
  - (i) give the Owners Corporation or persons authorised by it access to the Lot; and
  - (ii) pay the Owners Corporation for its costs of doing the work;
- (d) the Owners Corporation may recover any money owed to it by an Owner under the By-Laws or the Act as a debt; and
- (e) the powers of the Owners Corporation under this By-Law are in addition to those available to it under the Act.

### **3.7 Alteration of By-Laws**

The Owners Corporation may add to, change or cancel these By-Laws according to the Act.

### **3.8 Applications**

Any application or other communication by an Owner or Occupier to the Owners Corporation must be made in writing and delivered to the Strata Manager.

## **4 Behaviour by Owners and Occupiers**

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### **4.1 Behaviour**

An Owner and Occupier must not:

- (a) make noise or behave in a way that might interfere with other Owners, Occupiers or their invitees or any other person lawfully using Common Property;
- (b) obstruct lawful use of Common Property by any person, except on a temporary and nonrecurring basis;
- (c) use language or behave in a way that might reasonably offend or embarrass another Owner, Occupier or their invitees;
- (d) when admitting visitors or invitees to the Building, permit them to remain on Common Property unsupervised except to the extent reasonably necessary for access of invitees;
- (e) do anything in their Lot or in Common Property which is illegal;
- (f) do anything which might reasonably damage the good reputation of the Building;
- (g) permit any parts of Lots which are parking areas to be used for any purpose other than for the purpose of housing motor vehicles or motor bikes;
- (h) enter and remain on Common Property without being adequately clothed; or
- (i) deposit or throw any garbage on Common Property except in a receptacle or area specifically provided for that purpose.

### **4.2 Children**

An Owner or Occupier must not allow children in their care to:

- (a) play on Common Property without supervision by an adult; or
- (b) be in an area of Common Property that is dangerous unless supervised by an adult.

### **4.3 Laundry**

An Owner or Occupier must not hang laundry, bedding or other articles on the balcony or terrace of a Lot or in any area which is visible from outside the Lot.

#### **4.4 Increasing Insurance Premiums**

An Owner or Occupier must not do anything that might invalidate, suspend or increase the premium payable for any insurances effected by the Owners Corporation.

#### **4.5 No Interference with Manager**

An Owner or Occupier must not interfere with or stop the Strata Manager performing its duties.

### **5 An Owner's Lot**

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#### **5.1 Cleaning and Maintenance**

Each Owner and Occupier must, at their own cost:

- (a) keep their Lot clean and in good repair;
- (b) provided that it can be accessed safely, clean glass in the windows and doors of their Lot;
- (c) comply with all laws relating to their Lot including any requirement, notices and orders of any Government Agency; and
- (d) properly maintain their Lot and any dedicated installation which services their Lot.

#### **5.2 Installations**

An Owner or Occupier must not:

- (a) operate electronic equipment or devices which interfere with domestic appliances in other Lots or on Common Property;
- (b) install or operate security devices which have an audible alarm; or
- (c) without the prior written approval of the Strata Committee, attach or hang aerials, security devices or electronic wires on the exterior of their Lot or on Common Property.

#### **5.3 Visible Items**

An Owner or Occupier must not without the prior written consent of the Owners Corporation:

- (a) display any sign or advertisement which is visible from outside their Lot or is attached to Common Property;
- (b) keep anything in a Lot which is visible from outside that Lot which is not in keeping with the general appearance of the Building; or
- (c) place or maintain outdoor furniture, planter boxes, pot plants, recreational equipment or barbecues on the terrace or balcony of a Lot unless those items will not cause damage to the Lot or Common Property.

In giving its consent, the Owners Corporation will be entitled to require an Owner or Occupier to remove any thing, item or sign from time to time to allow regular maintenance and repair of Common Property.

#### **5.4 Changes to floor coverings and surfaces**

- (a) An Owner or Occupier of a Lot must notify the Owners Corporation at least 21 days before changing any of the floor coverings or surfaces of the Lot if the change is likely to result in an increase in noise transmitted from that Lot to any other Lot. The notice must specify the type of the proposed floor covering or surface.
- (b) This by-law does not affect any requirement under any law to obtain a consent to, approval for or any other authorisation for the changing of the floor covering or surface concerned.

## **5.5 Garbage Disposal**

An Owner or Occupier must:

- (a) recycle garbage according to any instructions from the Owners Corporation or a Government Agency;
- (b) drain and securely wrap garbage in small parcels and deposit them in designated areas provided for that purpose; and
- (c) observe rules made by the Owners Corporation relating to garbage removal.

## **6 Keeping of Animals**

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Subject to section 139 (5) of the Strata Schemes Management Act 2015, an owner or occupier of a residential lot must not keep any animal on the lot or the common property.

## **7 Common Property**

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### **7.1 Common Property**

An Owner or Occupier must:

- (a) only use Common Property and equipment situated there for its intended purpose;
- (b) notify the Owners Corporation if there is any damage to or a defect in Common Property or equipment situated there; and
- (c) compensate the Owners Corporation for any damage to Common Property caused by an Owner, Occupier or any of their invitees.

### **7.2 Damage**

An Owner or Occupier must not:

- (a) do or permit anything to be done which might cause structural damage to the Building or Common Property including bringing into the Building any heavy vehicle;
- (b) deface or damage Common Property;
- (c) interfere with any personal property or equipment of the Owners Corporation situated in Common Property; or
- (d) interfere with the proper operation of any equipment in Common Property including lifts and security devices.

### **7.3 Moving Furniture and Goods**

Before an Owner or Occupier moves any furniture or goods through the Building and Common Property it must:

- (a) make arrangements with the Strata Committee at least 48 hours in advance;
- (b) move furniture and goods according to the instructions of the Strata Committee;
- (c) comply with any other reasonable requirements of the Strata Committee; and
- (d) use lifts and entrances directed to be used by the Strata Committee.

### **7.4 Restricting Access**

The Owners Corporation may for security reasons or effective control and management of the Building:

- (a) close off or restrict access to parts of Common Property which are not required for access to any Lot; and
- (b) restrict by security device access to levels in the Building where an Owner or Occupier does not own or occupy a Lot.



## **7.5 Garage Doors**

Owners and Occupiers of a Lot must ensure that any security door for any parking area is kept closed and locked at all times except for entry and exit.

## **8 Security and Fire Control**

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### **8.1 Flammable Materials**

An Owner or Occupier must not use or store:

- (a) any flammable chemical, liquid, gas or other materials on their Lot other than those chemicals, liquids, gases or materials used or intended to be used in connection with the lawful occupation of their Lot; or
- (b) any flammable chemical, liquid, gas or other material on Common Property other than those contained within an internal combustion engine of a motor vehicle.

### **8.2 Security**

The Owners Corporation must take reasonable steps to stop intruders coming into the Building and to prevent fires and other hazards. In order to do so, the Owners Corporation may:

- (a) install and Operate security cameras and other surveillance equipment;
- (b) install and operate fire and safety devices and equipment; and
- (c) make arrangements with third parties about the installation and operation of security and fire prevention equipment.

### **8.3 No Interference by Owners or Occupiers**

An Owner or Occupier must:

- (a) not interfere with security or surveillance equipment in the Building; or
- (b) do anything that might prejudice the security or safety of the Building.

### **8.4 Security Keys**

The Owners Corporation will make available to Owners and Occupiers not less than 2 sets of security keys or security devices necessary to enable Owners and Occupiers to access their Lot and, for that purpose, to pass over Common Property necessary to access their Lot. The Owners Corporation may charge a fee for the provision of any additional security keys or devices. Each Owner and Occupier must:

- (a) exercise a high degree of caution and responsibility in making security keys or devices available for use by other persons;
- (b) not duplicate or permit any security key or device to be duplicated;
- (c) take all reasonable steps to ensure that security keys or devices are not lost; and
- (d) immediately notify the Owners Corporation if a security key or device is lost or destroyed.

### **8.5 Fire Control**

The Owners Corporation and each Owner and Occupier must comply with all laws about fire safety and fire control and must:

- (a) not interfere with fire safety equipment;
- (b) not obstruct fire stairs or fire escapes; and
- (c) take reasonable care to make sure that fire and security doors are locked or closed when not being used.

## **9 Commercial Lots**

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### **9.1 Initial Fitout**

Each Owner of a Commercial Lot after the original owner must ensure that the initial fitting out of their Commercial Lot:

- (a) is completed using high quality materials and labour; and
- (b) has the prior written consent of the Strata Committee (except where approved in writing by the original owner before registration of the Strata Plan) and any relevant Government Authority.

### **9.2 Signage**

Any signs erected by an Owner or Occupier of a Commercial Lot must be in a form satisfactory to and first approved by the Strata Committee in writing and any relevant Government Authority. Once erected such signs must always be maintained to a high standard.

### **9.3 Operation of Businesses from Commercial Lots**

An Owner or Occupier of a Commercial Lot must ensure that any business operated from their Commercial Lot is always conducted:

- (a) in accordance with all relevant laws and in a proper and professional manner;
- (b) so as to maintain the security, cleanliness and good reputation of the Building. In that regard Owners and Occupiers of Commercial Lots must promptly and properly dispose of any rubbish left immediately outside their respective Commercial Lots; and
- (c) with a usage consistent with the nature of the Building as a prestigious and up-market residential building.

### **9.4 Insurances**

Notwithstanding By-Law 4.4, if the use of a Commercial Lot results in an increase in the premium payable for any or all of the insurances effected by the Owners Corporation the Owner of that Commercial Lot must pay to the Owners Corporation that increase in premium within 7 days of notification in writing by the Owners Corporation.

### **9.5 Kitchen Exhaust**

- (a) The Owner or Occupier of Lot 92 has the right of exclusive use and enjoyment of the exhaust shaft designated "(a)" on the Strata Plan ("Exclusive Use Area A") but only for the purpose for which is intended.
- (b) The Owner of Lot 92 is liable for all costs connected with the maintenance, repair and operation of Exclusive Use Area A (excluding maintenance or repair of a structural nature for which the Owners Corporation is responsible). Those costs must be paid within 7 days of notification in writing by the Owners Corporation to the Owner of Lot 92.
- (c) The Owners Corporation may enter Exclusive Use Area A at all reasonable times for the purpose of discharging its obligation to carry out maintenance or repair of a structural nature.

### **9.6 Air Conditioning**

The Owners or Occupiers of the Commercial Lots are entitled to the special privilege to install air conditioning condensers, fans and associated pipes within the Common Property adjacent to the Commercial Lots on the following conditions:

- (a) the Owner or Occupier of a Commercial Lot must before exercising the privilege give reasonable notice to the Owners Corporation and any affected Lot owner;
- (b) the Owner or Occupier of a Commercial Lot must obtain the approval of the Owners Corporation for the works to be carried out to the Common Property in

relation to the exercise of the privilege, such consent not to be unreasonably withheld;

- (c) the Owner or Occupier of a Commercial Lot must carry out all necessary work as quickly as is reasonably possible and with as little inconvenience to the Owners Corporation and any affected Lot owner as is reasonably possible; and
- (d) the Owner of a Commercial Lot is responsible for maintaining and keeping in a state of good and serviceable repair the air conditioning condensers, fans and associated pipes servicing that Lot.

## **9.7 Greasetrap**

- (a) Subject to drainage from the residential garbage room designated “(d)” on the Strata Plan, the Owners or Occupiers of the Commercial Lots have the exclusive use and enjoyment of the greasetrap and related pipes installed on the Common Property and designated “(b)” on the Strata Plan (“Exclusive Use Area B”) but only for the purpose for which it is intended.
- (b) the Owners or Occupiers of the Commercial Lots:
  - (i) are liable for all costs connected with the operation, cleaning, repair and maintenance of Exclusive Use Area B (excluding maintenance or repair of a structural nature for which the Owners Corporation is responsible); and
  - (ii) if required by the Owners Corporation, must enter into a trade waste agreement with Sydney Water Corporation Limited or any other appropriate Authority.
- (c) The costs referred to in paragraph (b)(i) must be paid within 7 days of notification in writing by the Owners Corporation to the Owners of the relevant Commercial Lots. Such costs must be borne equally by the Owners of the Commercial Lots according to the relative proportions of their respective unit entitlements.
- (d) The Owners Corporation may enter Exclusive Use Area B at all reasonable times for the purpose of discharging its obligation to carry out maintenance or repair of a structural nature.

## **9.8 Commercial Garbage Area**

- (a) The Owners and Occupiers of the Commercial Lots have the right of exclusive use and enjoyment of the commercial garbage room designated “(c)” on the Strata Plan (“Exclusive Use Area C”), but only for the purpose for which it is intended.
- (b) The Owners of the Commercial Lots are responsible for the operation, maintenance and repair of Exclusive Use Area C (excluding any maintenance or repair of a structural nature for which the Owners Corporation is responsible).
- (c) All costs in relation to the use, operation, maintenance and repair of Exclusive Use Area C must be borne by the Owners of the Commercial Lots according to the relative proportions of their respective unit entitlements.
- (d) The Owners of the Commercial Lots must employ the services of a private garbage collector to remove their garbage from the commercial garbage room. The cost of such private collection of garbage is to be borne by the Owners of the Commercial Lots according to their respective unit entitlements.
- (e) The Owners Corporation may enter Exclusive Use Area C at all reasonable times for the purpose of discharging its obligation to carry out maintenance or repairs of a structural nature.

## **10 General**

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### **10.1 Cleanliness of a Car Parking Space**

All Owners and Occupiers of a Lot must ensure that their respective car parking spaces are kept neat and tidy and free from any dirt, rubbish and oil deposits.

## **10.2 Feeding of Birds**

Owners and Occupiers of Lots must not feed or in any way attempt to attract pigeons or any other bird to or near any boundary of a Lot or any other part of a Lot or the Common Property.

## **10.3 Notice of Meetings of the Strata Committee**

Until the strata plan of subdivision subdividing the Development Lot is registered 7 days prior notice in writing must be given to the owner of the Development Lot of any meeting of the Strata Committee regarding development concerns as defined in the Strata Schemes Development Act 2015.

# **11 Residential Lots**

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## **11.1 Residential Garbage Area 1**

- (a) The Owners and Occupiers of Lots 1-85 inclusive have the right of exclusive use and enjoyment of the residential garbage store area designated "(d)" on the Strata Plan ("Exclusive Use Area D"), but only for the purpose for which it is intended.
- (b) The Owners Corporation may enter Exclusive Use Area D at all reasonable times for the purpose of discharging its obligation to carry out maintenance or repairs of a structural nature.

## **11.2 Air Conditioning for Lots 69, 70, 76-85**

- (a) The Owners and Occupiers of Lots 69, 70 and 76-85 inclusive ("Benefited Lots") have the right of exclusive use and enjoyment of the condenser, plant room designated "(e)" on the Strata Plan ("Exclusive Use Area E").
- (b) Each Owner and Occupier of the Benefited Lots has the exclusive use and enjoyment of:
  - (i) the individual air conditioning condenser located in the condenser plant room servicing the relevant lot; and
  - (ii) the associated pipes servicing the relevant lot.
- (c) The Owners of the Benefited Lots are responsible for the proper maintenance and keeping in a state of good and serviceable repair of Exclusive Use Area E (excluding any maintenance or repair of a structural nature for which the Owners Corporation is responsible) and all costs for that maintenance and repair must be borne by the Owners of the Benefited Lots according to the relative proportion of their respective unit entitlements.
- (d) The Owners of the Benefited Lots are severally responsible for the maintenance and repair of the air conditioning condenser and associated pipes servicing their relevant lot and all costs associated with such maintenance and repair.

## **11.3 The Block**

- (a) The Owners and Occupiers of Lots 1-85 inclusive have exclusive use and enjoyment of the lifts and lift motor room designated "(f)" on the Strata Plan ("Exclusive Use Area F").
- (b) The Owners Corporation may enter Exclusive Use Area F at all reasonable times for the purpose of discharging its obligation to carry out maintenance or repairs of a structural nature.

## **11.4 The Lexington**

- (a) The Owners and Occupiers of the Lots within The Lexington have exclusive use and enjoyment of the lifts and lift motor room designated "(g)" on the Strata Plan ("Exclusive Use Area G").

- (b) The Owners Corporation may enter Exclusive Use Area G at all reasonable times for the purpose of discharging its obligation to carry out maintenance or repairs of a structural nature.

### **11.5 Boiler Room 1**

- (a) The Owners and Occupiers of Lots 1-85 inclusive have the right of exclusive use and enjoyment of the boiler room designated “(h)” on the Strata Plan (“Exclusive Use Area H”), but only for the purpose for which it is intended.
- (b) The Owners Corporation may enter Exclusive Use Area H at all reasonable times for the purpose of discharging its obligation to carry out maintenance or repairs of a structural nature.

## **12 Structural work to building**

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### **12.1 Structural work to building**

The Owners Corporation may not carry out any alterations or work to that part of the Common Property comprising the building structure, or permit any such work, which may have an impact on, or which would be likely to impact on the structural integrity of the building without:

- (a) first obtaining a report from a qualified consulting engineer that the proposed work will not affect the structural integrity of the building; and
- (b) obtaining certification from a qualified consulting engineer after the work has been carried out that the completed work does not affect the structural integrity of the building.

## **13 Rock Anchor Licence**

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### **13.1 Rock Anchor Licence**

The Owners Corporation in addition to the powers and authorities conferred on it by or under the Act and these By-Laws, has the power and authority to enter into an agreement with the City of Sydney Council (“Council”) on the same terms and conditions as the agreement between Brentwood Properties Pty Limited and Council dated 28 July 1998 for the installation of 62 permanent ground anchors under the side of the road to which 15-19 Boundary Road, Darlinghurst has its rear alignment.

## **14 Residential Lots**

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### **14.1 Residential Garbage Area 2**

- (a) The Owners and Occupiers of Lots 94-144 inclusive have the right of exclusive use and enjoyment of the residential garbage store are designated (k) on the Strata Plan (“Exclusive Use Area K”), but only for the purpose for which it is intended.
- (b) The Owners Corporation may enter Exclusive Use Area K at all reasonable times for the purpose of discharging its obligation to carry out maintenance or repair for a structural nature.

### **14.2 Boiler Room 2**

- (a) The Owners and Occupiers of Lots 94-144 inclusive have the right of exclusive use and enjoyment of the boiler room designated “(m)” on the Strata Plan (“Exclusive Use Area M”), but only for the purpose for which it is intended;
- (b) The Owners Corporation may enter Exclusive Use Area M at all reasonable times for the purpose of discharging its obligation to carry out maintenance or repair of a structural nature;

### 14.3 Street Access P

- (a) The Owners and Occupiers of Lots 101, 102, 109 and 110 have the right of exclusive use and enjoyment of the area designated "(p)" on the Strata Plan ("Exclusive Use Area P") to gain access to Barcom Avenue;
- (b) The Owners Corporation may enter Exclusive Use Area P at all reasonable times for the purpose of discharging its obligation to carry out maintenance or repair of a structural nature;

### 14.4 Street Access Q

- (a) The Owners and Occupiers of Lots 105, 106, 111 and 112 have the right of exclusive use and enjoyment of the area designated "(q)" on the Strata Plan ("Exclusive Use Area Q") to gain access to Barcom Avenue;
- (b) The Owners Corporation may enter Exclusive Use Area Q at all reasonable times for the purpose of discharging its obligation to carry out maintenance or repair of a structural nature;

## 15 Service of documents on owner of lot by owners corporation

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A document or notice may be served by the Owners Corporation, its secretary or executive committee on the owner of a lot by electronic means if the person has given the owners corporation an email address for the service of notices and the document is sent to that address. A notice or document served on an owner by email in accordance with this by-law is deemed to have been served when transmitted by the sender providing that the sender does not receive an electronic notification of unsuccessful transmission (i.e. "bounce back" or "undeliverable") within 24 hours.

## 16 Smoke penetration

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### 16.1 Prohibition

- (a) An owner or occupier, and any invitee of the owner or occupier, must not smoke tobacco or any other substance on the common property.
- (b) An owner or occupier of a lot must ensure that smoke caused by the smoking of tobacco or any other substance by the owner or occupier, or any invitee of the owner or occupier, on the lot does not penetrate to the common property or any other lot.
- (c) An owner or occupier of a lot must not drop, throw, place or leave any refuse from smoking, including without limitation any butt or match, on the common property.
- (d) In this by-law **smoke** means smoke, hold or otherwise use a product designed or adapted for smoking, without limitation including cigarettes, cigars or cigarette-type products, electronic cigarettes, pipes, water pipes, or hookahs, and **smoking** has a corresponding meaning.

## 17 Methods and procedures

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### 17.1 Bond

Where a person is required under a provision hereof to pay a bond to secure compliance with an obligation, except to the extent that provision requires otherwise, that bond:

- (a) is an amount in Australian currency as otherwise provided herein, or in the absence of such provision:
  - (i) as reasonably determined from time to time by the owners corporation; or
  - (ii) in the absence of such a determination, the amount of \$500;

- (b) is payable to the owners corporation prior to the secured obligation arising and, if the owners corporation reasonably directs, in the manner so directed by it from time to time;
- (c) may be applied by the owners corporation against any liability or debt of that person to the owners corporation, including without limitation a debt arising under section 120 of the Strata Schemes Management Act 2015 in connection with a failure to carry out work required to be carried out by that person in respect of the secured obligation; and
- (d) must be returned by the owners corporation to that person after the expiry of 1 month following the satisfaction or ending of the secured obligation, less any amount deducted by the owners corporation in accordance herewith.

## **17.2 Liability for occupiers and invitees**

Except as otherwise provided herein:

- (a) An owner or occupier of a lot must ensure, and must use their best endeavours to ensure, that their invitees, agents, contractors or employees (and, in the case of an owner, any occupier of their lot) comply with any obligations that they have hereunder, or (so far as those obligations are capable of such application) which they would have if those persons were owners or occupiers of lots.
- (b) An owner or occupier of a lot is liable for the acts or omissions of their invitees in breach hereof (and, in the case of an owner, any occupier of their lot) as fully as if those persons were that owner or occupier and those acts or omissions were theirs.

## **17.3 Obligation to do work to remedy breach**

An owner or occupier of a lot is required to do any work necessary to remediate any breach by them hereof, including without limitation work to:

- (a) comply with the obligation breached;
- (b) repair any damage caused to the property;
- (c) clean any rubbish, dirt, debris, or staining caused to the property;
- (d) rectify any fault, malfunction or defect caused to any system, service, appliance or apparatus in the property; and
- (e) remediate a breach or non-compliance with any applicable law or the requirements of any Authority affecting the property and caused by that breach.

For the purposes of this clause 17.3 a reference to property includes the common property or personal property vested in the owners corporation.

## **17.4 Conditions attaching to remedial work**

An owner or occupier of a lot who is required to do work under clause 17.3 must, except as may be provided otherwise herein:

- (a) prior to undertaking such work, and upon completion of the work, notify the owners corporation in writing;
- (b) ensure that such work is done within 1 week from the breach requiring remediation, except to the extent otherwise provided herein;
- (c) ensure that such work is done:
  - (i) in accordance with any applicable law and any other applicable requirement hereof; and
  - (ii) in a proper and workmanlike manner and exercising due care and skill.

*Note. If an owner or occupier of a lot fails to do work hereunder the owners corporation may by law be entitled to do that work and recover the cost from that owner or occupier, or any person who becomes the owner of their lot.*

### **17.5 Power to carry out work and recover costs**

Within the meaning of section 120 of the Management Act, if:

- (a) work is required to be carried out by an owner or occupier of a lot under a term or condition hereof; and
- (b) that owner or occupier fails to carry out that work;

then the owners corporation may carry out that work and may recover the cost of carrying out that work from that owner or occupier, or any person who, after the work is carried out, becomes the owner of the lot.

## **18 Definitions and interpretation**

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### **18.1 Interpretation**

Except to the extent the context otherwise requires, or as is otherwise expressly provided, herein:

- (a) the terms “herein”, “hereunder”, “hereof” and “herewith” mean, respectively, in, under, of and with this by-law;
- (b) the singular includes the plural and vice versa;
- (c) headings, notes, explanatory notes and similar do not form part of these by-laws and do not affect the operation of these by-laws;
- (d) a reference to a document, includes any amendment, replacement or novation of it;
- (e) where any word or phrase is given a definite meaning, any part of speech or other grammatical form of the word or phrase has a corresponding meaning;
- (f) any reference to legislation includes any amending or replacing legislation;
- (g) where words “includes”, “including”, “such as”, “like”, “for example” or similar are used, they are to be read as if immediately followed by the words “without limitation”;
- (h) where no time is specified for compliance with an obligation, that obligation must be complied with within a reasonable time;
- (i) any reference to legislation includes any subordinate legislation or other instrument created thereunder;
- (j) where two or more persons share a right or obligation hereunder, that right may be exercised, and that obligation must be met, jointly and severally;
- (k) where an obligation is imposed on a “person” hereunder, “person” does not include the owners corporation unless expressly provided otherwise; and
- (l) a term defined in the Management Act or Development Act will have the same meaning.

### **18.2 Functions of the owners corporation**

- (a) Without limiting its other functions, the owners corporation has the functions necessary for it to discharge the duties imposed on it, and exercise the powers and authorities conferred on it hereby.
- (b) No provision hereof that grants a right or remedy to the owners corporation limits or restricts any other right or remedy of the owners corporation arising under any other provision of the by-laws of the strata scheme or otherwise at law.



### 18.3 Severability

- (a) To the extent that any term herein is inconsistent with the Management Act or any other Act or law it is to be severed and the remaining terms herein will be read and be enforceable as if so consistent.
- (b) To the extent that any term herein is inconsistent with another by-law of the strata scheme, the provisions herein prevail to the extent of that inconsistency.

### 18.4 Definitions

Except to the extent the context otherwise requires, or as is otherwise expressly provided, herein:

**common property** means the common property in the strata scheme;

**Development Act** means the Strata Schemes Development Act 2015;

**lot** means a lot in the strata scheme;

**Management Act** means the Strata Schemes Management Act 2015;

**occupier** means:

- (a) the occupier of a lot, but only in relation to the lot occupied by that occupier;
- (b) where there is more than one occupier of that lot, means those occupiers jointly and severally, but only in relation to that lot; and
- (c) where there is more than one lot occupied by that occupier or occupiers, means that occupier or those occupiers (joint and severally) in respect of each such lot severally;

**owner** means:

- (a) the owner of a lot, but only in relation to the lot owned by that owner;
- (b) where there is more than one owner of that lot, means those owners jointly and severally, but only in relation to that lot; and
- (c) where there is more than one lot owned by that owner or owners, means that owner or those owners (joint and severally) in respect of each such lot severally;

**owners corporation** means the owners corporation created on registration of the strata plan;

**strata plan** means strata plan number 61717; and

**strata scheme** means the strata scheme relating to the strata plan.

## Special By-Law 2 – Works

### Definitions

1.1 In this By-Law, the following terms are defined to mean:

- (a) **Act** means the Strata Schemes Management Act 1996.
- (b) **Air-conditioning system** means a ducted “split system” air-conditioning system or such other air-conditioning system which affects common property including its associated inverter, condenser, fan, piping, electrical cabling, ducting, coiling, hardware and appurtenances utilised in the installation and operation of the said air-conditioning system.
- (c) **AS** means the Australian Standards.
- (d) **Bond** means the sum of \$500.00 or such other sum as determined by the Owners Corporation from time to time.

- (e) **BCA** means the Building Code of Australia.
- (f) **Building** means the buildings of the Strata Scheme located at 15-19 Boundary Street, Rushcutters Bay.
- (g) **Building Manager** means the person, firm or company appointed by the Owners Corporation from time to time who is responsible for the day to day attendance to the management, maintenance, repair and control of the common property.
- (h) **Council** means the City of Sydney Council.
- (i) **EPA Act** means the Environmental Planning and Assessment Act 1979.
- (j) **Executive Committee** means the Executive Committee appointed by the Owners Corporation from time to time.
- (k) **Hard Surface Flooring** means tiles, parquetry, wooden floor boards, linoleum, marble or such other materials comprising hard surface flooring which is not covered by carpet or underlay and contained in a Lot.
- (l) **Lot** means any Lot in Strata Plan No 61717.
- (m) **Management Plan** means a plan of management dealing with the methods of demolition and construction, and the transportation of building materials through the common property. which management plan shall include:
  - (i) duration of Works;
  - (ii) hours of Works;
  - (iii) compliance with directions and requirements of any statutory authority including Council;
  - (iv) protection to common property;
  - (v) cleaning of the Lot and common property;
  - (vi) repair of any damage to common property;
  - (vii) security of the Building; and
  - (viii) provision of amenities for the licensed contractor appointed by the Owner.
- (n) **Owner** means an owner of the Lot in the Strata Scheme.
- (o) **Owners Corporation** means The Owners-Strata Plan No 61717.
- (p) **Scope of Works** means a detailed schedule of Works including reference to all affectations to common property comprised in, but not limited to, the roof, walls, floors, ceilings, joists, bearers, floor coverings, services and utilities and like or other structures contained in or adjacent to a Lot and shall include a detailed schedule of finishes.
- (q) **Strata Scheme** means the strata scheme relating to Strata Plan No 61717 including "the Block" and "Lexington".
- (r) **Waterproofing Systems** means a combination of elements which are required to achieve a waterproof barrier including substrate, membrane, bond breakers, sealants, finishes and the like.
- (s) **Wet Areas** means the areas in the Building supplied with water from a water supply system and includes a kitchen, bathroom, shower, laundry and water closet.
- (t) **Works** means any building works, alterations, additions, installation, removal, demolition, repairs or replacement of:
  - (i) structures including the roof, walls, floor and ceiling enclosing a Lot or car space (walls include windows and doors and floors include stairways and ramps);

- (ii) the structure of a Lot;
- (iii) the exterior of a Lot;
- (iv) the facade of the Building;
- (v) the service and utility conduits including any plumbing, piping, wiring, vents or associated appurtenances;
- (vi) any Hard Surface Flooring including Waterproofing Systems; and
- (vii) any other part of the common property.

### **Rights**

- 1.2 Subject to the proceeding paragraphs in this by-law, the Owner shall be entitled to carry out and keep Works to and on the Lot and the common property.

### **Application for Works**

- 1.3 Prior to carrying out Works, an Owner must apply to the Owners Corporation for its approval to carry out the Works in accordance with paragraphs 1.4(a) to 1.4(k) hereto.

- 1.4 Notwithstanding paragraph 1.3 hereto where an Owner of a Lot has carried out or proposes to carry out Works the Owner must apply in writing to the Owners Corporation for its approval of the Works and included in or with such application shall be the following:

- (a) payment of the Bond which shall be held by the Building Manager and returned to the Owner upon final approval of the Works pursuant to paragraph 1.19 hereto less any cost for damage occasioned to the common property as a result of the Works or unpaid expenses of the Owners Corporation referred to in paragraphs 1.29 and 1.30 hereto. Any costs exceeding the aforesaid amounts will be payable, upon demand, to the Owners Corporation by the Owner;
- (b) specifications of the Works such as without limitation, type, model, style, location, colour, size, manufacturer and method of affixation to the Building;
- (c) a detailed Scope of Works;
- (d) completed plans of the Works which shall be professionally drawn and shall include floor plans, elevations and sections as necessary to clearly define all proposed alterations to the Lot and to particularly identify any proposed alterations to common property;
- (e) when requested by the Owners Corporation, a report prepared by an engineer approved by the Owners Corporation certifying that the Works are suitable and will not negatively impact on the structural integrity of the Building;
- (f) copies of certificates of insurance for:
  - (i) workers compensation insurance; and
  - (ii) Home Owners Warranty Insurance pursuant to the *Home Building Act 1989* (where required by law);
  - (iii) contractor's all risk insurance; and
  - (iv) public liability insurance for the amount of \$20,000,000.00;
- (g) evidence of the licences or certifications and contact details of the contractors appointed by the Owner to carry out the Works;
- (h) any development approval, consents, notices or other written requirements imposed by Council or other statutory authority pursuant to the EPA Act;
- (i) a detailed Management Plan (where Works are proposed);
- (j) a dilapidation report (where requested by the Owners Corporation) in respect of the common property and any Lot which, in the opinion of the Owners Corporation, is or may be affected by the Works. The dilapidation report shall be in writing and shall include photographs of the relevant areas. The Owner and the Owners

Corporation acknowledge and agree that the dilapidation report may be the basis for:

- (i) ascertaining and determining whether any damage has been occasioned by the Works to the common property and any Lot; and
  - (ii) the making of any claim by the Owners Corporation upon the Bond.
- (k) Any other certification of the Works which is required by the Owners Corporation pursuant to this by-law such as, without limitation, a waterproofing certificate where the Owner has removed or installed Hard Surface Flooring and Waterproofing Systems in Wet Areas or an acoustic transmission certificate where the Owner has installed Hard Surface Flooring or an Air-conditioning system in the Lot or on common property.

## **Specifications**

### General

1.5 Any Works carried out must:

- (a) be carried out within a reasonable period of time and without undue delay;
- (b) not cause any disturbance (including noise and vibration) that interferes unreasonably with the use and enjoyment of another Lot by the Owner or occupier of it or the common property by any person entitled to use it;
- (c) be uniform and in keeping with the appearance of the Building and the Strata Scheme;
- (d) not detract from the appearance of the Building or the Strata Scheme;
- (e) be affixed to the Building in a manner approved by the Owners Corporation;
- (f) be safely and securely affixed to the Building;
- (g) be installed in a location approved by the Owners Corporation;
- (h) have specifications approved by the Owners Corporations including colour, size, model, style, manufacturer, materials and method of affixation to the Building;
- (i) not be installed in breach of any Council condition, statutory law, regulation, ordinance or planning instrument;
- (j) be compliant with the BCA and current AS; and
- (k) comply with any standards or guidelines which are prescribed by the Owners Corporation or its Executive Committee from time to time for the Works, including colour, size, model style, location, manufacturer, materials and method of affixation to the Building.

1.6 The Owners Corporation or Executive Committee reserves the right to adopt the specifications of any existing Works or materials which are attached to or on common property and a Lot as the default standard for any Works installed pursuant to this by-law.

### Hard Surface Flooring

1.7 Any Hard Surface Flooring installed in a Lot must:

- (a) be treated and properly insulated to an extent sufficient, including by, but not necessarily limited to, the installation of materials and in a manner approved, in writing, by the Owners Corporation to prevent the transmission of noise likely to disturb the peaceful enjoyment of the occupier of another Lot in the Strata Scheme and to prevent the causation of nuisance within the meaning of section 117 of the Act;
- (b) have an acoustic rating that meets or exceeds a Field Impact Isolation Class (FIIc) of 60 or such other rating as prescribed by the Owners Corporation or Executive Committee from time to time; and

- (c) not be situated above the bedroom of any other Lot or above a studio apartment containing a sleeping area.

#### Works in Wet Areas

1.8 Any Works carried out in Wet Areas must be:

- (a) treated sufficiently with Waterproofing Systems to prevent the passage of water likely to cause damage to the common property, any Lot or the personal property of any Owner or occupier; and
- (b) compliant with waterproofing and water resistance requirements for Building elements in Wet Areas as referred to in the BCA and AS.

#### Air-conditioning systems

1.9 An Owner must submit details of any Air-conditioning system installed or proposed to be installed in a Lot in the Strata Scheme to the Owners Corporation pursuant to paragraph 1.3 hereto, which Air-conditioning system:

- (a) must be supported by a report prepared by an acoustic consultant approved by the Owners Corporation confirming that the proposed installation complies with the BCA, current AS and other relevant environmental regulations and will not produce noise or vibration which are likely to cause discomfort to any other Owner or occupier or which interferes unreasonably with the peaceful enjoyment of another Lot by the Owner or occupier of it or the common property by any person entitled to use it;
- (b) have all external piping secured and covered:
- (c) not contain external drainage pipes which:
  - (i) drip onto another Lot (including into the airspace), the property of another Owner or occupier or onto the common property; or
  - (ii) are connected to external down pipes; or
- (d) have condensers installed in a location approved by the Owners Corporation;
- (e) not have its condenser affixed to a window or in a location where it is visible from outside the Lot or the Building; and
- (f) must not, by its operation, contravene the Protection of the Environment Operations Act 1997.

#### Façade works

1.10 Any Works carried out to the façade of the Building, including, but not limited to, the installation or replacement of windows or screens, must comply with the standards or guidelines for the installation of such façade Works prescribed by the Owners Corporation or its Executive Committee from time to time, which standards or guidelines shall particularise the colour, size, style, model, location, manufacturer of and the materials comprised in the façade Works and the method of affixation of them to the Building.

1.11 The Owners Corporation or Executive Committee reserves the right to adopt the specifications of any existing façade Works which are attached to or on common property and a Lot as the default standard for all façade Works installed pursuant to this by-law.

1.12 All façade Works must be uniform in appearance with existing façade Works and the façade of the Building.

1.13 Any windows installed or replaced as a result of façade Works must have glazing which is uniform with the existing window glazing for the Building and be properly sealed so as to prevent the ingress of water into the Building.

#### **Approval**

1.14 Upon receiving an application for Works hereof, the Owners Corporation may:

- (a) provide to the Owner approval in writing of the Works, which approval may be conditional on the Owner complying with any Specifications, standards or guidelines for the Works as prescribed by the Owners Corporation or its Executive Committee pursuant to this by-law;
  - (b) pursuant to section 52 of the Act, require a by-law to be made adding to the By-Laws for the Strata Scheme, which by-law shall confer on the Owner;
    - (i) a right of exclusive use and enjoyment of any specified part of the common property; and
    - (ii) special privileges in respect of any specified part of the common property; affected by the Works; or
  - (c) request that the Owner comply with paragraph 1.19 hereto where Works have already been carried out by an Owner at the date of the making of this by-law;
  - (d) refuse the application, where in its absolute discretion, it determines that the Owner has not complied or cannot comply with the conditions imposed pursuant to this by-law or the Works adversely affect common property or the rights of any other owner or occupier of a Lot in the Building.
- 1.15 The Owner warrants that the Works are or will be completed subject to any representations made by the respective Owner in any application made by him or her to the Owners Corporation to carry out or keep Works.
- 1.16 Where, pursuant to paragraph 1.14(b) hereto, the Owners Corporation makes a by-law, the Owner shall provide written consent in accordance with section 52(1)(a) of the Act.

#### **Performance of Works**

- 1.17 In performing Works, the Owner must:
- (a) notify the Building Manager of the commencement date of the Works three (3) days prior to performing the Works and make suitable arrangements with the Building Manager regarding the times and method for the Owner's contractor to access the Building and the parking of any vehicle in the charge of the contractor whilst the Works are being conducted;
  - (b) ensure that the Works are in keeping with the rest of the Building and shall use materials identical or similar to the existing materials contained within the Building;
  - (c) transport each item including but not limited to construction materials, equipment and debris in the manner reasonably directed by the Owners Corporation;
  - (d) protect the Building both internal and external to the Lot from damage:
    - (i) by the Works;
    - (ii) by the installation or removal of the Works; and
    - (iii) by the transportation of construction material, equipment, debris and other material required to install and maintain the Works;
  - (e) protect all common property areas likely to be affected by the Works (including, but not limited to, common hallways, fire stairs, lifts and other common areas) in a manner reasonably acceptable to the Owners Corporation;
  - (f) only perform the Works whilst the Building Manager is onsite at the Strata Scheme;
  - (g) provide to the Building Manager at least 48 hours notification of any noisy building activities referred to herein intended to be carried out by the Owner's contractors;
  - (h) not carry out Works on weekends and/or public holidays;

- (i) keep the apartment door to the Lot, any balcony door or doors and all windows, closed at all times (where applicable) whilst the Works are being conducted to prevent the egress of dust onto the common property;
- (j) lay protective mats or coverings on areas of common property likely to be affected by the transportation of goods or building materials to and from the Lot;
- (k) immediately arrange for the private removal of all building refuse from the Building (no building material or refuse of any kind is to be placed in the common property garbage facilities or other common property areas);
- (l) not create noise that causes discomfort, disturbance, obstruction or interference with activities of any other occupier of the Building;
- (m) ensure that the common property is cleared of any waste created by the Works daily and in accordance with the Owners Corporation's directions;
- (n) ensure that any skip bins utilised for clearing waste created by the Works are located in an area designated by the Owners Corporation the Executive Committee or the Building Manager;
- (o) ensure that any skip bins which are utilised for clearing waste created by Works are removed from the Strata Scheme daily;
- (p) keep common property access ways to the Lot clean and free from building materials, dust and rubble at all times;
- (q) ensure that the contractors appointed by the Owner park their vehicles in the Owner's respective car space or in any designated area of common property as determined by Owners Corporation, the Executive Committee or the Building Manager;
- (r) ensure that the Works do not interfere with or damage common property, a Lot or the property of any other Lot Owner and if this happens the Owner must rectify the interference or damage within a reasonable period of time; and
- (s) not vary the Works approved pursuant to this By-Law without first obtaining the written consent of the Owners Corporation.

### **Licensed Contractor**

1.18 The Works shall be done:

- (a) in a proper and workmanlike manner and by duly licensed contractors; and
- (b) in accordance with the Scope of Works, plans and specifications approved by Council and the Owners Corporation.

### **Final Approval**

1.19 Upon completion of Works, an Owner must inform the Owners Corporation that the Works are complete and provide to the Owners Corporation:

- (a) access to the Lot for the purpose of allowing the Owners Corporation or its agent or contractor to inspect the Works to ensure that they have been completed to a satisfactory standard, and in accordance with this by-law and the application made by the Owner pursuant to this by-law to carry out or keep Works;
  - (b) final certification of the Works from an engineer approved by the Owners Corporation;
  - (c) an Occupation Certificate, Building Certificate or such other certification which is required by Council or any other statutory authority on completion of the Works; and
  - (d) such other documentation as the Owners Corporation may reasonably require;
- for its final approval of the Works.

### **Statutory and other requirements**

- 1.20 The Owner must comply with all requirements of the Owners Corporation, the By-Laws and all directions, orders and requirements of all relevant statutory authorities including Council relating to the Works and shall be responsible to ensure that the respective servants, agents and contractors of the Owner comply with the said directions, orders and requirements.
- 1.21 The Owner shall ensure that the provisions of the BCA and AS are, so far as relevant, complied with.
- 1.22 Where an Owner has installed Hard Surface Flooring in a Lot, the Owner of the respective Lot must:
- (a) apply carpet and sufficient underlay to the Hard Surface Flooring within a reasonable time after a written request is made by the Owners Corporation if:
    - (i) the Owners Corporation receives complaints by other occupiers in the Building relating to the unreasonable transmission of noise from the Hard Surface Flooring installed within the respective Lot; or
    - (ii) a report prepared by an acoustic engineer approved by the Owners Corporation specifies that the Hard Surface Flooring transmits noise at unreasonable decibel levels or is not sufficiently treated in accordance with the acoustic standard prescribed in paragraph 1.7(b) hereto; and
  - (b) comply with any discretionary direction of the Owners Corporation relating to the control of noise emissions from the Hard Surface Flooring installed within the respective Lot including obtaining an acoustic report or laying mats, rugs or runners in high traffic areas and installing insulation under items likely to emit noise.
- 1.23 Where an Owner has installed an Air-conditioning system in a Lot and on common property, the Owner of the respective Lot must:
- (a) remove the Air-conditioning system within a reasonable time after a written request is made by the Owners Corporation if:
    - (i) the Owners Corporation receives complaints by other occupiers in the Building relating to the unreasonable transmission of noise from the Air-conditioning system; or
    - (ii) a report prepared by an acoustic engineer approved by the Owners Corporation specifies that the Air-conditioning system transmits noise at unreasonable decibel levels or is not sufficiently treated or insulated to prevent noise from being unreasonably transmitted to another Lot or the common property; and
  - (b) comply with any discretionary direction of the Owners Corporation relating to the control of noise emissions from the Air-conditioning system including, but not limited to, obtaining an acoustic report or insulating the Air-conditioning system in a proper manner to prevent the unreasonable transmission of noise arising from its operation.

### **Maintenance**

- 1.24 The Owner must properly maintain and keep the common property and the Lot to which the Works affect or are attached to, in a state of good and serviceable repair.
- 1.25 The Owner must properly maintain and keep the Works in a state of good and serviceable repair and must replace the Works as required from time to time.

### **Liability**

- 1.26 The Owner of the Lot is liable for any damage caused to any part of the common property, any Lot or other property as a result of the Works and will make good that damage immediately after it has occurred.



## **Indemnity**

- 1.27 The Owner must indemnify the Owners Corporation against any legal liability, loss, claim or proceedings in respect of any injury loss or damage whatsoever to any Lot, common property or other property or person, in so far as such injury, loss or damage arises out of, in the course of, or by reason of the Works.
- 1.28 Should the Owners Corporation be required to carry out work as specified in section 65 of the Act as a result of Works carried out by the Owner of a Lot, the Owner must indemnify the Owners Corporation against any liability or expense suffered by the Owners Corporation in rectifying any damage to the common property any Lot or other property under this provision.

## **Costs**

- 1.29 The Works and any works required to be undertaken by the Owners Corporation pursuant to this by-law to rectify any default by the Owner are undertaken at the cost of the Owner.
- 1.30 The Owner shall indemnify the Owners Corporation for all reasonable costs incurred by it in considering any application made pursuant to this by-law, including approving any plans, drawings, reports or other documents in relation to the Works, or obtaining certification of the Works if required to be carried out by the Owners Corporation pursuant to this by-law including legal costs, and will pay those amounts to the Owners Corporation upon demand. The Owner shall indemnify the Owners Corporation for all costs (including legal costs) in making a By-Law pursuant to paragraph 1.14(b) hereto.

## **Owner's fixtures**

- 1.31 The Works shall remain the Owner's fixtures.

## **Right to remedy default**

- 1.32 If the Owner fails to comply with any obligation under this by-law, then the Owners Corporation may:
- (a) request, in writing that the Owner comply with the terms of it;
  - (b) without prejudice to any other rights, be able to enter upon any of the parcel, including the Lot, to carry out necessary work;
  - (c) recover the costs of carrying out work-referred to in paragraph 1.32(b) hereto from the Owner, such costs if not paid at the end of one month after becoming due and payable bear, until paid, simple interest at an annual rate of 10%; and
  - (d) recover as a debt any costs payable by an Owner pursuant to this by-law, not paid at the end of one month after they become due and payable, together with any interest payable and the expenses of the Owners Corporation incurred in recovering those amounts.

## **Waiver**

- 1.33 The Owners Corporation, acting in its absolute discretion, reserves the right to waive any requirement set out in this by-law, where it deems that the requirement is not necessary having regard to the nature of the Works.

# **Special By-Law 3 – Signage**

## **Definitions**

- 1.1 In this By-Law, the following terms are defined to mean:
- (a) **Bond** means the sum of \$100.00 or such other amount as determined by the Owners Corporation from time to time.

- (b) **Building Manager** means the person, firm or company appointed by the Owners Corporation from time to time who is responsible for the day to day attendance to the management, maintenance, repair and control of the common property.
- (c) **Display Period** means a period of three (3) weeks.
- (d) **Lot** means any Lot in Strata Plan No 61717.
- (e) **Owner** means an owner of the Lot in the Strata Scheme.
- (f) **Owners Corporation** means The Owners – Strata Plan No 61717.
- (g) **Real Estate Sign** means a real estate signboard or boarding for the sale or lease of property.
- (h) **Sign** means any sign.
- (i) **Strata Committee** means the Strata Committee appointed by the Owners Corporation from time to time.
- (j) **The Block** means lots 1-92 inclusive in Strata Plan No 61717 and the adjacent common property being located at 15-19 Boundary Street, Rushcutters Bay.
- (k) **The Lexington** means the lots and common property created on registration of SP63776 being located at 100 Barcom Avenue, Rushcutters Bay.

### **Signs**

- 1.2 An Owner or occupier of a Lot must not erect any Sign on common property without the approval in writing of the Strata Committee or Building Manager.

#### **Application to erect a Sign**

- 1.3 Where an Owners or occupier of a Lot wishes to erect a Sign on the common property, the Owner must provide to the Executive Committee or the Building Manager for its written approval:

- (a) an application in writing to erect the Sign;
- (b) the Bond which shall be held by the Building Manager or such other representative appointed by the Owners Corporation and returned to the Owner upon removal of the Sign from common property less any cost expended by the Owners Corporation as a result of the Sign being erected on common property or unpaid expenses of the Owners Corporation referred to in paragraphs 1.11 (c) or (d) hereto. Any costs exceeding the aforesaid amounts will be payable, upon demand, to the Owners Corporation by the Owner;
- (c) specifications of the sign such as, without limitation, size, subject matter, content, design and location; and
- (d) a plan of the Sign (where requested by the Owners Corporation).

#### **Conditions for Signs**

- 1.4 Subject to By-Law 9.2 of the By-Laws registered for the Strata Scheme, any Sign, which is not a Real Estate Sign, erected by an Owner or occupier must:

- (a) have a uniform appearance to existing signage and be in keeping with the appearance of the Building;
- (b) be erected in a location and have specifications approved by the Owners Corporation;
- (c) be removed upon the Owner or occupier vacating the Lot unless the Owners Corporation has provided its written approval for the successor on the title or lease of the Lot to keep the Sign erected on common property;
- (d) be safely and securely affixed to the Building in a manner approved by the Owners Corporation; and
- (e) be properly maintained to a high standard.

- 1.5 Any Real Estate Sign erected by an Owner or occupier must:
- (a) not be displayed for a period in excess of the Display Period;
  - (b) be a maximum size of 1200 mm wide x 1800 mm height;
  - (c) be erected in either of the following locations:
    - (i) in the Block on the garden bed adjacent to the driveway entrance; or
    - (ii) in the Lexington on the far right hand side of the fence on Barcom Avenue; and
  - (d) be properly maintained to a high standard.
- 1.6 Only one Real Estate Sign may be erected at any given time in either of the locations referred to in paragraph 1.5(c) hereto and the Strata Committee or Building Manager shall provide its approval to an Owner to erect a Real Estate Sign in those locations on a "first come, first served" basis.
- 1.7 Upon expiry of the Display Period the Owner must remove the Real Estate Sign from the common property forthwith.
- 1.8 Where an Owner or occupier has erected a Real Estate Sign on common property the Owner or occupier must ensure that Real Estate Sign does not interfere with or damage common property, a Lot or the property of any other Lot Owner and if this happens the Owner must rectify the interference or damage within a reasonable period of time.

#### **Indemnity**

- 1.9 An Owner or occupier of a Lot indemnifies the Owners Corporation against any legal liability, loss, claim or proceedings in respect of any injury loss or damage whatsoever to any Lot, common property or other property, or person in so far as such injury, loss or damage arises out of in the course of, or by reason of the respective Owner or occupier erecting a Sign on common property.

#### **Right to remedy default**

- 1.10 Where an Owner or occupier has erected a Real Estate Sign on common property with the approval of the Strata Committee or the Building Manager but fails to remove the respective sign upon expiry of the Display Period, the Building Manager shall be entitled to hold the Real Estate Sign for a further three (days) after the Display Period and thereafter dispose of it without notice to the respective Owner or occupier.
- 1.11 If the Owner or occupier fails to comply with any obligation under this by-law, then the Owners Corporation may:
- (a) request in writing, that the Owner comply with the terms of it;
  - (b) subject to paragraph 1.10 hereto, without prejudice to any other rights, be able to:
    - (i) remove any Sign which has been erected by the respective Owner or occupier from the common property;
    - (ii) dispose of any Real Estate Sign which has been erected by the respective Owner or occupier;
    - (iii) carry out necessary work to rectify any damage to the common property arising as a result of the Sign being erected by the respective Owner or occupier; and
    - (iv) apply the whole or any part of the Bond for the purpose of rectifying any breach by the Owner or occupier pursuant to this By-Law;
  - (c) recover the costs of carrying out work referred to in paragraph 1.11(b)(i) to (b)(iii) hereto from the Owner, such costs if not paid at the end of one month after becoming due and payable bear, until paid, simple interest at an annual rate of 10%; and

- (d) recover as a debt any costs payable by an Owner pursuant to this by-law, not paid at the end of one month after they become due and payable, together with any interest payable and the expenses of the Owners Corporation incurred in recovering those amounts.

## Special By-Law 4 – Car Spaces

- 1.1 In this By-Law, the following terms are defined to mean:
- (a) **Car Space** means a car space in Strata Plan No 61717.
  - (b) **Lot** means a Lot in Strata Plan No 61717.
  - (c) **Owner** means an owner of the Lot in the Strata Scheme.
  - (d) **Strata Scheme** means the strata scheme relating to Strata Plan No 61717.
  - (e) **Vehicle** means any description of a vehicle on wheels.
- 1.2 An Owner or occupier of a Car Space in the Strata Scheme must:
- (a) not use the Car Space for any purpose other than to park a Vehicle;
  - (b) keep the Car Space clean and free of grease and oil;
  - (c) not carry out any mechanical repairs in the Car Space; and
  - (d) not store any item, other than a Vehicle, in the Car Space.
- 1.3 An Owner or occupier of a Lot must not park or leave any Vehicle on common property (including any common property designed for use as visitor parking) without the written consent of the Owners Corporation.
- 1.4 An Owner or Occupier is prohibited from installing any type of storage container, cage, shelf, unit or the like in a Car Space.

## Special By-Law 5 – Building Works (Lot 33)

- 1.1 In this By-Law, the following terms are defined to mean:
- (a) **Act** means the Strata Schemes Management Act 1996.
  - (b) **Building** means the buildings of the Strata Scheme located at 15-19 Boundary Street, Rushcutters Bay.
  - (c) **Council** means City of Sydney Council.
  - (d) **Lot** means Lot 33 in Strata Plan No 61717.
  - (e) **Owner** means the owner from time to time of the Lot.
  - (f) **Owners Corporation** means The Owners – Strata Plan No 61717.
  - (g) **Strata Scheme** means the strata scheme relating to Strata Plan No 61717.
  - (h) **Works** means:
    - (i) replacement of six fixed windows on the north eastern boundary of the Lot with six awning windows including the installation of EL3836 50 Series Sash & EL2081 Bead;
    - (ii) replacement of the manual winding mechanism on the existing hi-lite windows on the north eastern facade of the Lot with electronic mechanisms having their electrical operating components and associated appurtenances affixed to the internal wall of the Lot;and being in accordance with the Specifications annexed to this by-law.

1.2 Words importing:

- (a) the singular includes the plural and vice versa; and
- (b) a gender includes any gender.

1.3 Words defined in the Act have the meaning given to them in the Act.

1.4 A reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute.

**RIGHTS**

1.5 Subject to paragraphs 1.6 to 1.22 (inclusive) hereto the Owner shall have:

- (a) a special privilege in respect of the common property to carry out and keep the Works to and on the Lot and the common property; and
- (b) the right of exclusive use and enjoyment of those parts of the common property occupied by the Works.

**CONDITIONS**

**Documentation**

1.6 Prior to carrying out the Works, the Lot Owner shall submit to the Owners Corporation:

- (a) the Bond which shall be held by me Owners Corporation and returned to the Owner upon final approval of the Works by the Owners Corporation pursuant to paragraph 1.9 hereto less any cost for damage occasioned to the common property as a result of the Works or unpaid expenses of the Owners Corporation referred to in paragraphs 1.18 and 1.19 hereto. Any costs exceeding the aforesaid amounts will be invoiced separately to and be payable by the respective Owner;
- (b) specifications of the Works;
- (c) a detailed Scope of Works;
- (d) a detailed Management Plan;
- (e) completed plans of the Works which shall be professionally drawn and shall include floor plans, elevations and sections to clearly define all proposed alterations to the Lot and particularly identifying any proposed alterations to common property;
- (f) when requested by the Owners Corporation, a report prepared by an engineer approved by the Owners Corporation certifying that the Works are suitable and will not negatively impact on the structural integrity of the Building;
- (g) copies of certificates of insurance for:
  - (i) Workers compensation insurance;
  - (ii) Home Owners Warranty Insurance pursuant to the *Home Building Act 1989* (where required by law);
  - (iii) Contractor's all risk insurance; and
  - (iv) Public liability insurance for the amount of \$20,000,000.00; and
- (h) evidence of the licence or certification and contact details of the contractor appointed by the Owner to carry out the Works.

**Arrangements**

1.7 Prior to carrying out the Works, the Owner shall make arrangements with the Building Manager regarding:

- (a) the suitable times and method for the Owner's contractors to access the Building; and

- (b) the suitable times and method for contractor's to park their vehicles whilst the Works are being conducted.

### **Performance of Works**

1.8 In performing Works, the Owner must:

- (a) be carried out within a reasonable period of time and without undue delay;
- (b) ensure that the Works are in keeping with the rest of the Building and shall use materials identical or similar to the existing materials contained within the Building including, but not limited to, the same aluminium sections, powder coating and glazing;
- (c) transport each item including but not limited to construction materials, equipment and debris in the manner reasonably directed by the Owners Corporation;
- (d) protect the Building both internal and external to the Lot from damage:
  - (i) by the Works;
  - (ii) by the installation or removal of the Works; and
  - (iii) by the transportation of construction material, equipment, debris and other material required to install and maintain the Works;
- (e) protect all common property areas likely to be affected by the Works (including but not limited to, common hallways, fire stairs, lifts and other common areas) in a manner reasonably acceptable to the Owners Corporation;
- (f) keep all areas of the Building outside the Lot clean and tidy;
- (g) only perform the Works whilst the Building Manager is onsite at the Strata Scheme;
- (h) provide to the Building Manager at least 48 hours notification of any noisy building activities referred to herein intended to be carried out by the Owner's contractors;
- (i) not carry out Works on Weekends and/or public holidays;
- (j) keep the apartment door to the Lot, any balcony door or doors, and all windows, closed at all times (as far as possible) whilst the Works are being conducted to prevent the egress of dust onto the common property;
- (k) lay protective mats on common property floors likely to be affected by the transportation of goods or building materials to and from the Lot;
- (l) immediately arrange for the private removal of all building refuse from the Building (no building material or refuse of any kind is to be placed in the common property garbage facilities or other common property areas);
- (m) not create noise that causes discomfort, disturbance, obstruction or interference with activities of any other occupier of the Building;
- (n) ensure that the common property is cleared of any waste created by the Works daily and in accordance with the Owners Corporation's directions;
- (o) keep common property access ways to the Lot clean and free from building materials, dust and rubble at all times;
- (p) ensure that the contractors appointed by the Owner park their vehicles in the Owner's respective car space or in any designated area of common property as determined by Owners Corporation or the Executive Committee;
- (q) not vary the Works approved pursuant to this By-Law without first obtaining the consent in writing from the Owners Corporation; and
- (r) ensure that the Works do not interfere with or damage the common property, or any lot or property of any other owner or occupier (other than as approved in this

By-Law) and if this happens the Owner must rectify that interference or damage within a reasonable period of time.

### **Final Approval Upon Completion of Works**

1.9 Upon completion of Works, the Owner must inform the Owners Corporation that the Works are complete and provide to the Owners Corporation:

- (a) access to the Lot (on one occasion), within a reasonable period of time after receiving a request for access, for the purpose of allowing the Owners Corporation or its agent or contractor to inspect the Works to ensure that they have been completed to a satisfactory standard and in accordance with this By-Law;
- (b) final certification of the Works from an engineer approved by the Owners Corporation (where requested by the Owners Corporation);
- (c) an Occupation Certificate or other certificate issued by Council or other relevant statutory authority; and
- (d) such other documentation as the Owners Corporation may reasonably require;

for its final approval of the Works. The Owners Corporation may provide, subject to paragraph 1.21 hereof, to the Owner a written notice that the Works have been finally approved.

### **Licensed Contractor**

1.10 The Works shall be done:

- (a) in a proper and workmanlike manner and by duly licensed contractors; and
- (b) in accordance with the Scope of Works, plans and specifications approved by Council and the Owners Corporation.

### **Statutory and other requirements**

1.11 The Owner must comply with all requirements of the Owners Corporation, the Strata Scheme's By-Laws and all directions, orders and requirements of all relevant statutory authorities including Council relating to the Works and shall be responsible to ensure that the respective servants, agents and contractors of the Owner comply with the said directions, orders and requirements.

1.12 The Owner shall ensure that the provisions of the Building Code of Australia and Australian Standards are, so far as relevant, complied with.

### **Maintenance**

1.13 The Owner must properly maintain and keep the common property and the Lot, to which the Works affect or are attached to, in a state of good and serviceable repair.

1.14 The Owner must properly maintain and keep the Works in a state of good and serviceable repair.

### **Liability**

1.15 The Owner of the Lot is liable for any damage caused to any part of the common property any Lot or other property as a result of the Works and will make good that damage immediately after it has occurred.

### **Indemnity**

1.16 The Owner must indemnify the Owners Corporation against any legal liability, loss, claim or proceedings in respect of any injury, loss or damage whatsoever to any Lot common property or other property, or person, in so far as such injury, loss or damage arises out of, in the course of, or by reason of the Works.

1.17 Without limiting the generality of paragraph 1.16, should the Owners Corporation be required to carry out work as specified in section 65 of the Act as a result of Works carried out by the Owner of a Lot, the Owner must indemnify the Owners Corporation against any

liability or expense suffered by the Owners Corporation in rectifying any damage to the common property, any Lot or other property under this provision.

#### **Cost of works**

- 1.18 The Works and any works required to be undertaken by the Owners Corporation pursuant to this By-Law are undertaken at the cost of the Owner.

#### **Cost of By-Law, Approvals & Certification**

- 1.19 The Owner shall indemnify the Owners Corporation for all reasonable costs incurred by it in considering any application made pursuant to this By-Law, including convening any meetings to make this By-Law, approving any plans, drawings, reports or other documents in relation to the Works, or obtaining certification of the Works if required to be carried out by the Owners Corporation pursuant to this By-Law (including legal costs) and will pay those amounts to the Owners Corporation upon demand.

#### **Owner's Fixtures**

- 1.20 The Works shall remain the Owner's fixtures.

#### **Right to Remedy Default**

- 1.21 If the Owner fails to comply with any obligation under this By-Law, then the Owners Corporation may:
- (a) request, in writing, that the Owner comply with the terms of it;
  - (b) without prejudice to any other rights, be able to enter upon any of the parcel, including the Lot, to carry out necessary work;
  - (c) recover the costs of carrying out work referred to in paragraph 1.21(b) hereto from the Owner, such costs if not paid at the end of one month after becoming due and payable bear, until paid, simple interest at an annual rate of 10%; and
  - (d) recover as a debt any costs payable by an Owner pursuant to this by-law, not paid at the end of one month after they become due and payable, together with any interest payable and the expenses of the Owners Corporation incurred in recovering those amounts.

#### **Compliance with other By-Laws**

- 1.22 The Owner must, in all other respects, comply with all By-Laws which are registered for the Strata Scheme, and, in particular, any other By-Law which relates to building works carried out by owners.

## **Special By-Law 6 – Approval of Specific Building Works in Lot 85**

1. The owners corporation agrees that:
  - (a) the building works, fixtures and fittings described in the Schedule to this by-law (the "**Works**") and shown on the report and plans by Alba and Associates annexed hereto and forming part of this by-law (collectively described as the "**Plans**") will be installed or effected by or on behalf of the Owner of Lot 85 (the "**Lot**"); and
  - (b) on the conditions set out in this by-law, the owner for the time being of the Lot (the "**Owner**") shall have a special privilege to keep and maintain the Works and a right of exclusive use and enjoyment of that part of the common property directly affected by the Works.
2. If the Works involve the removal and/or replacement of tiles on the floor of any wet area or on any balcony, terrace or courtyard of the Lot, the Owner (including any contractor carrying out work on behalf of the Owner) must install under the tiles in each wet area, balcony, terrace or courtyard affected by the Works, waterproof membrane or other waterproofing product of a type reasonably satisfactory to the executive committee.



3. The Owner acknowledges and agrees that the provisions of Special By-law No 2 relate to and are binding upon the Owner and the Owner must comply with Special By-law No 2 with respect to the Works and common property affected by the performance of the Works, which clauses, in particular, but without limitation, clauses 1.5, 1.7, 1.8, 1.17 to 1.32 inclusive, are incorporated by reference in this by-law so that the Owner is responsible for the maintenance, upkeep, renewal and replacement of the Works and the common property affected by the Works and assumes all of the other responsibilities and liabilities under those clauses with respect to the Works.
4. The Owner must bear and pay the costs of preparation, adoption and registration of this by-law.

### SCHEDULE

Lot No.	Building Works, Fixtures & Fittings Authorised in this By-law
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85	<p>Extension of mezzanine floor as shown in the Plans.</p> <p>Removal of half-height stud wall and installation of new half-height glass and metal wall along edge of floor extension.</p> <p>Removal of kitchen fittings and replace with new fittings.</p> <p>Removal and replacement of fixtures in both bathrooms and removal and replacement of some wall tiles and addition of vanity unit.</p> <p>Replace existing wooden floors and insulation on the bottom level of the Lot.</p> <p>Installation of five lights in the bottom level of the Lot.</p> <p>Installation of six power points in the bottom level of the Lot.</p> <p>Installation of four additional power points in the bedrooms.</p> <p>Installation of additional internet connection point in the bottom level of the Lot and in the main bedroom.</p> <p>Relocating the Foxtel connection in the bottom level of the lot and installing additional Foxtel connection in main bedroom.</p> <p>Reinforcement of two walls as shown in the Plane.</p>
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## Special By-Law 8 – Works (Lot 138)

### 1 Grant of Right

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- 1.1 Notwithstanding anything contained in any by-law applicable to the strata scheme, the Owner has the special privilege to carry out the Works (at the Owner's cost and to remain the Owner's fixture) and the right of exclusive use and enjoyment of those parts of the common property attached to or occupied by the Works, subject to the terms and conditions contained in Part 3 of this by-law.

### 2 Definitions & Interpretation

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#### 2.1 Definitions

In this by-law, unless the context otherwise requires:

- (a) **Act** means the Strata Schemes Management Act 1996.
- (b) **Authority** means any government, semi-government, statutory, public or other authority having any jurisdiction over the Lot or the Building including the council.
- (c) **Building** means the building situated at 15-19 Boundary Street, Rushcutters Bay NSW and 100 Barcom Avenue, Darlinghurst, NSW.
- (d) **Insurance** means:
  - (i) contractors all risk insurance (including public liability insurance) in the sum of \$10,000,000.00;
  - (ii) insurance required under the *Home Building Act 1989* (if any); and
  - (iii) workers' compensation insurance.
- (e) **Lot** means lot 138 in strata plan of subdivision, which plan is a subdivision of lot 93 in Strata Plan No 61717;
- (f) **Owner** mean(s) the owner(s) of the Lot.
- (g) **Works** means the works to the Lot and common property to be carried out for and in connection with the Owner's removal of a part of the internal masonry blade wall separating the kitchen from the dining room, and the installation, repair, maintenance and replacement (if necessary), of a supporting beam, together with the restoration of lot and common property (including the Lot) damaged by the works and all of which are to be conducted strictly in accordance with the certification and plan of Diskoros Engineering dated 30 September 2014 attached to this by-law and marked "A", and the provisions of this bylaw.

#### 2.2 Interpretation

In this by-law, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) any gender includes the other genders;
- (c) any terms in the by-law will have the same meaning as those defined in the Act;
- (d) references to legislation include references to amending and replacing legislation;
- (e) references to the Owner in this by-law include any of the Owner's executors, administrators, successors, permitted assigns or transferees;
- (f) where a term of the by-law is inconsistent with any by-law applicable to the strata scheme, then the provisions of the by-law shall prevail; and
- (g) references to any Works under this by-law include, where relevant, the condenser, coils, pipes, conduits, wires, flanges, valves, ductwork, caps, insulation and all

other ancillary equipment and fittings whatsoever and any obligation under this by-law applies to all such ancillary equipment.

### **3 Conditions**

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#### **3.1 Prior to Commencement of the Works**

Prior to the commencement of the Works, the Owner shall:

- (a) obtain all necessary approvals/consents/permits from any Authority and provide a copy to the owners corporation;
- (b) provide the owners corporation's nominated representative(s) access to inspect the Lot within forty-eight (48) hours of any request from the owners corporation;
- (c) effect and maintain Insurance and provide a copy to the owners corporation;
- (d) provide (if required) to the owners corporation a report from an engineer approved by the owners corporation concerning the impact of the Works on the structural integrity of the Building and Lot and common property;
- (e) pay the owners corporation's reasonable costs in preparing, making and registering the by-law (including legal and strata management costs).

#### **3.2 Notice**

- (a) At least two (2) weeks prior to the commencement of the Works the Owner shall notify the owners corporation and each owner (by way of letterbox drop) of the proposed day of commencement of the Works or an aspect of the Works.
- (b) At least two (2) days prior to the commencement of the Works or an aspect of the Works the Owner shall make arrangements with the strata manager regarding:
  - (i) the suitable times and method for the Owner's contractors to access the Building to undertake the Works; and
  - (ii) the suitable times and method for contractors to park their vehicles on common property whilst the Works are being conducted.

#### **3.3 During Installation of the Works**

During the process of the installation of the Works, the Owner must:

- (a) use duly licensed employees, contractors or agents to conduct the installation;
- (b) ensure the Works are conducted in a proper and workmanlike manner and comply with the current Building Code of Australia and Australian Standards;
- (c) ensure the installation is carried out expeditiously and with a minimum of disruption;
- (d) ensure that any electricity or other services required to Operate the Works are installed so they are connected to the Lot's electricity or appropriate supply;
- (e) carry out the installation between the hours of 8:30am and 5:30pm Monday-Friday or between 8:30am and 12 midday on Saturday or such other times reasonably approved by the owners corporation;
- (f) perform the installation within a period of one (1) month from its commencement or such other period of time as may be approved by the owners corporation;
- (g) transport all construction materials, equipment and debris as reasonably directed by the owners corporation;
- (h) protect all affected areas of the Building outside the Lot from damage relating to the installation or the transportation of construction materials, equipment and debris;
- (i) ensure that the installation works do not interfere with or damage the common property or the property of any other lot owner other than as approved in this by-

law and if this occurs the Owner must rectify that interference or damage within a reasonable period of time;

- (j) provide the owners corporation's nominated representative(s) access to inspect the Lot within 24 hours of any request from the owners corporation (for clarity more than one inspection may be required);
- (k) not vary the Works without first obtaining the consent in writing of the owners corporation.

### **3.4 After Installation of the Works**

3.4.1 After the installation of the Works is completed, the Owner must without unreasonable delay:

- (a) notify the owners corporation that the installation of the Works has been completed;
- (b) notify the owners corporation that all damage, if any, to lot and common property caused by the installation and not permitted by this by-law has been rectified;
- (c) provide the owners corporation with a copy of any certificate or certification required by an Authority to indicate completion of the Works;
- (d) provide (if required) the owners corporation with certification from a suitably qualified engineer(s) approved by the owners corporation that the installation or works required to rectify any damage to lot or common property have been completed in accordance with the terms of this by-law;
- (e) provide the owners corporation's nominated representative(s) access to inspect the Lot within 48 hours of any request from the owners corporation to assess compliance with this by-law or any consents provided under this by-law.

3.4.2 The owners corporation's right to access the Lot arising under this by-law expires once it is reasonably satisfied that paragraphs (a) to (e) immediately above have been complied with.

### **3.5 Statutory and Other Requirements**

- (a) The Owner must:
  - (i) comply with all requirements of the owners corporation, the by-laws applicable to the strata scheme and all directions, orders and requirements of all relevant statutory authorities, including the local council relating to the Works and must be responsible to ensure that the respective servants, agents and contractors of the Owner comply with the said directions, orders and requirements;
  - (ii) ensure that the provisions of the Building Code of Australia and Australian Standards are, so far as relevant, complied with;
  - (iii) comply with the provisions of the Home Building Act 1989, including, but not limited to, section 18B.
- (b) The Works must:
  - (i) be carried out in a proper and workmanlike manner and in accordance with the plans and specifications set out in the contract; and
  - (ii) comprise materials that are good and suitable for the purpose for which they are used and must be new.

### **3.6 Enduring Rights and Obligations**

3.6.1 The Owner must:

- (a) not carry out any alterations or additions or do any works (other than the Works expressly approved under this by-law);
- (b) properly maintain and upkeep the Works in a state of good and serviceable repair;

- (c) properly maintain and upkeep those parts of the common property in contact with the Works;
- (d) ensure that the Works (where applicable) do not cause water escape or water penetration to lot or common property;
- (e) indemnify and keep indemnified the owners corporation against any costs or losses arising out of or in connection with the Works including their installation, repair, maintenance, replacement, removal and/or use;
- (f) repair and/or reinstate the common property or personal property of the owners corporation to its original condition if the Works are removed or relocated.

### **3.7 Failure to Comply with this By-law**

If the Owner fails to comply with any obligation under this by-law the owners corporation may:

- (a) by its agents, contractors or employees enter upon the Lot and carry out all work necessary to perform that obligation;
- (b) recover the costs of such work from the Owner as a debt due; and
- (c) recover from the Owner the amount of any fine or fee which may be charged to the owners corporation for the cost of any inspection, certification or order.

### **3.8 Ownership of Works**

The Works will always remain the property of the Owner.

### **3.9 Applicability**

In the event that the Owner desires to remove the Works installed under this by-law (or otherwise), the provisions of Part 3 shall also apply in relation to that removal.

"A"



ABN 19 493 896 859

**Consulting Civil & Structural Engineers**

**2/8 Morts Road, Mortdale NSW 2223 Tel: 9570 9565 Mobile: 0434 279 027**

**TO Whom It May Concern**

**RE: 45/100 Barcom Avenue Darlinghurst**

30th September 2014

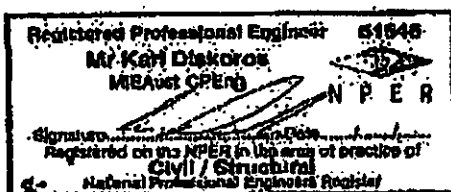
This is to certify that I have inspected the above mentioned property on the 26<sup>th</sup> September 2014 with a brief to assess the structural implications of proposed alterations, specifically, cutting out approximately 600mm long x 1200mm high long section of the kitchen wall to form a servery.

This section forms part of internal masonry blade wall separating the kitchen from the dining area. To compensate for the partial removal of a section in the wall, this will require a supporting beam to be erected with specifications (see attached sketch) as follows;

**150 UB 14, with minimum bearing of 150mm using non shrink Grout on the base on each side, beam to be fixed into the wall to provide lateral restraint**

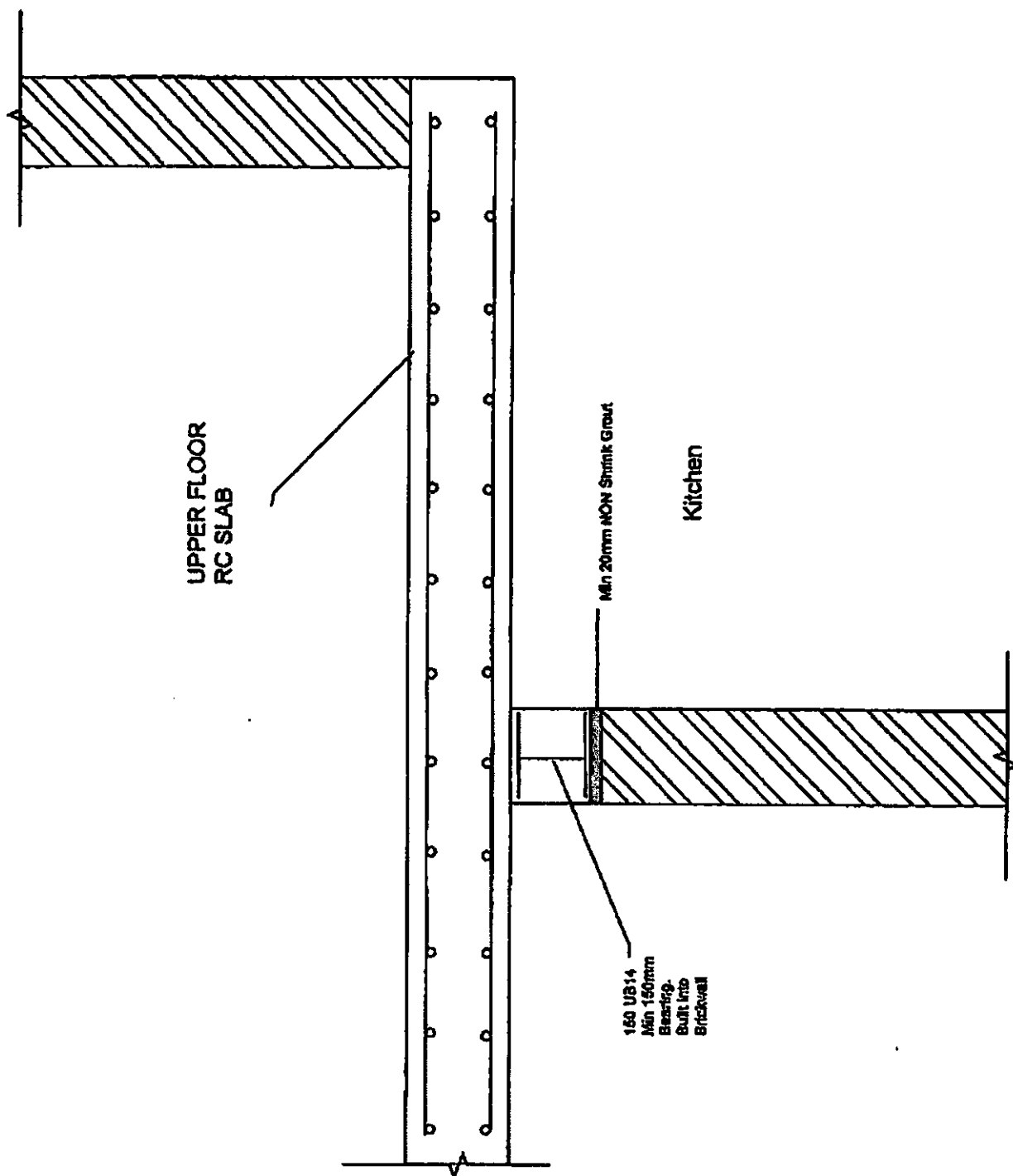
Due to the minor nature of the alterations, and when carried out in accordance with the specifications and our instructions, will not affect the structural integrity of the building.

If you require any additional information, please don't hesitate to contact me on my mobile phone 0434 279 027.



**Karl Diskoros**  
**BE MIE Aust CPENg NPER # 51545**  
**Chartered Structural Engineer**  
**Accredited Certifier- Structural**





## Special By-Law 9 – Works for Lot 138

### 1 Grant of Right

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- 1.1 Notwithstanding anything contained in any by-law applicable to the strata scheme, the Owner has the special privilege to carry out the Works (at the Owner's cost and to remain the Owner's fixture) and the right of exclusive use and enjoyment of those parts of the common property attached to or occupied by the Works, subject to the terms and conditions contained in Part 3 of this by-law.

### 2 Definitions & Interpretation

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#### 2.1 Definitions

In this by-law, unless the context otherwise requires:

- (a) **Act** means the Strata Schemes Management Act 1996.
- (b) **Authority** means any government, semi-government, statutory, public or other authority having any jurisdiction over the Lot or the Building including the council.
- (c) **Building** means the building situated at 15-19 Boundary Street, Rushcutters Bay NSW and 100 Barcom Avenue, Darlinghurst, NSW.
- (d) **Insurance** means:
  - (i) contractors all risk insurance (including public liability insurance) in the sum of \$10,000,000.00;
  - (ii) insurance required under the *Home Building Act 1989* (if any); and
  - (iii) workers' compensation insurance.
- (e) **Lot** means lot 138 in strata plan of subdivision, which plan is a subdivision of lot 93 in Strata Plan No 61717;
- (f) **Owner** mean(s) the owner(s) of the Lot.
- (g) **Works** means the works to the Lot and common property to be carried out for and in connection with the Owner's removal of a part of the internal masonry blade wall separating the kitchen from the dining room, and the installation, repair, maintenance and replacement (if necessary), of a supporting beam, together with the restoration of lot and common property (including the Lot) damaged by the works and all of which are to be conducted strictly in accordance with the certification and plan of Diskoros Engineering dated 30 September 2014 attached to this by-law and marked "A", and the provisions of this by-law.

#### 2.2 Interpretation

In this by-law, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) any gender includes the other genders;
- (c) any terms in the by-law will have the same meaning as those defined in the Act;
- (d) references to legislation include references to amending and replacing legislation;
- (e) references to the Owner in this by-law include any of the Owner's executors, administrators, successors, permitted assigns or transferees;
- (f) where a term of the by-law is inconsistent with any by-law applicable to the strata scheme, then the provisions of the by-law shall prevail; and
- (g) references to any Works under this by-law include, where relevant, the condenser, coils, pipes, conduits, wires, flanges, valves, ductwork, caps, insulation and all



other ancillary equipment and fittings whatsoever and any obligation under this by-law applies to all such ancillary equipment.

### **3 Conditions**

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#### **3.1 Prior to Commencement of the Works**

Prior to the commencement of the Works, the Owner shall:

- (a) obtain all necessary approvals/consents/permits from any Authority and provide a copy to the owners corporation;
- (b) provide the owners corporation's nominated representative(s) access to inspect the Lot within forty-eight (48) hours of any request from the owners corporation;
- (c) effect and maintain Insurance and provide a copy to the owners corporation;
- (d) provide (if required) to the owners corporation a report from an engineer approved by the owners corporation concerning the impact of the Works on the structural integrity of the Building and Lot and common property;
- (e) pay the owners corporation's reasonable costs in preparing, making and registering the by-law (including legal and strata management costs).

#### **3.2 Notice**

- (a) At least two (2) weeks prior to the commencement of the Works the Owner shall notify the owners corporation and each owner (by way of letterbox drop) of the proposed day of commencement of the Works or an aspect of the Works.
- (b) At least two (2) days prior to the commencement of the Works or an aspect of the Works the Owner shall make arrangements with the strata manager regarding:
  - (i) the suitable times and method for the Owner's contractors to access the Building to undertake the Works; and
  - (ii) the suitable times and method for contractors to park their vehicles on common property whilst the Works are being conducted.

#### **3.3 During Installation of the Works**

During the process of the installation of the Works, the Owner must:

- (a) use duly licensed employees, contractors or agents to conduct the installation;
- (b) ensure the Works are conducted in a proper and workmanlike manner and comply with the current Building Code of Australia and Australian Standards;
- (c) ensure the installation is carried out expeditiously and with a minimum of disruption;
- (d) ensure that any electricity or other services required to Operate the Works are installed so they are connected to the Lot's electricity or appropriate supply;
- (e) carry out the installation between the hours of 8:30am and 5:30pm Monday-Friday or between 8:30am and 12 midday on Saturday or such other times reasonably approved by the owners corporation;
- (f) perform the installation within a period of one (1) month from its commencement or such other period of time as may be approved by the owners corporation;
- (g) transport all construction materials, equipment and debris as reasonably directed by the owners corporation;
- (h) protect all affected areas of the Building outside the Lot from damage relating to the installation or the transportation of construction materials, equipment and debris;
- (i) ensure that the installation works do not interfere with or damage the common property or the property of any other lot owner other than as approved in this by-

law and if this occurs the Owner must rectify that interference or damage within a reasonable period of time;

- (j) provide the owners corporation's nominated representative(s) access to inspect the Lot within 24 hours of any request from the owners corporation (for clarity more than one inspection may be required);
- (k) not vary the Works without first obtaining the consent in writing of the owners corporation.

### **3.4 After Installation of the Works**

3.4.1 After the installation of the Works is completed, the Owner must without unreasonable delay:

- (a) notify the owners corporation that the installation of the Works has been completed;
- (b) notify the owners corporation that all damage, if any, to lot and common property caused by the installation and not permitted by this by-law has been rectified;
- (c) provide the owners corporation with a copy of any certificate or certification required by an Authority to indicate completion of the Works;
- (d) provide (if required) the owners corporation with certification from a suitably qualified engineer(s) approved by the owners corporation that the installation or works required to rectify any damage to lot or common property have been completed in accordance with the terms of this by-law;
- (e) provide the owners corporation's nominated representative(s) access to inspect the Lot within 48 hours of any request from the owners corporation to assess compliance with this by-law or any consents provided under this by-law.

3.4.2 The owners corporation's right to access the Lot arising under this by-law expires once it is reasonably satisfied that paragraphs (a) to (e) immediately above have been complied with.

### **3.5 Statutory and Other Requirements**

- (a) The Owner must:
  - (i) comply with all requirements of the owners corporation, the by-laws applicable to the strata scheme and all directions, orders and requirements of all relevant statutory authorities, including the local council relating to the Works and must be responsible to ensure that the respective servants, agents and contractors of the Owner comply with the said directions, orders and requirements;
  - (ii) ensure that the provisions of the Building Code of Australia and Australian Standards are, so far as relevant, complied with.
  - (iii) comply with the provisions of the *Home Building Act 1989*, including, but not limited to, section 18B.
- (b) The Works must:
  - (i) be carried out in a proper and workmanlike manner and in accordance with the plans and specifications set out in the contract; and
  - (ii) comprise materials that are good and suitable for the purpose for which they are used and must be new.

### **3.6 Enduring Rights and Obligations**

3.6.1 The Owner must:

- (a) not carry out any alterations or additions or do any works (other than the Works expressly approved under this by-law);
- (b) properly maintain and upkeep the Works in a state of good and serviceable repair;

- (c) properly maintain and upkeep those parts of the common property in contact with the Works;
- (d) ensure that the Works (where applicable) do not cause water escape or water penetration to lot or common property;
- (e) indemnify and keep indemnified the owners corporation against any costs or losses arising out of or in connection with the Works including their installation, repair, maintenance, replacement, removal and/or use;
- (f) repair and/or reinstate the common property or personal property of the owners corporation to its original condition if the Works are removed or relocated.

### **3.7 Failure to Comply with this By-law**

If the Owner fails to comply with any obligation under this by-law the owners corporation may:

- (a) by its agents, contractors or employees enter upon the Lot and carry out all work necessary to perform that obligation;
- (b) recover the costs of such work from the Owner as a debt due; and
- (c) recover from the Owner the amount of any fine or fee which may be charged to the owners corporation for the cost of any inspection, certification or order.

### **3.8 Ownership of Works**

The Works will always remain the property of the Owner.

### **3.9 Applicability**

In the event that the Owner desires to remove the Works installed under this by-law (or otherwise), the provisions of Part 3 shall also apply in relation to that removal.

**CONSENT UNDER SECTION 52**  
**STRATA SCHEMES MANAGEMENT ACT 1996**  
**STRATA SCHEME 61717**

**TO: The Registrar-General**  
**Land & Property Information NSW**  
**Queens Square**  
**SYDNEY NSW 2000**

**I/We, [ CLEMENTINE BABEY ], CONSENT to the making of a by-law conferring rights over the common property for the Works to be carried out by the Owner/s of lot(s) 138 (me/us) in our scheme and conferring on them the responsibility to repair and maintain such works.**

**The by-law is to be made by the Owners Corporation at a general meeting on 5 November 2014 or any adjournment of that meeting.**

**Dated:** 21 - 09 - 2016 .....

.....  


**Signature of owner/s of Lot 138**

**cc: The Owners – Strata Plan No. 61717**

"A"



ABN 19 493 896 859

**Consulting Civil & Structural Engineers**

**2/8 Morts Road, Mortdale NSW 2223 Tel 9570 9565 Mobile 0434 279 027**

**TO Whom It May Concern**

**RE: 45/100 Barcom Avenue Darlinghurst**

30th September 2014

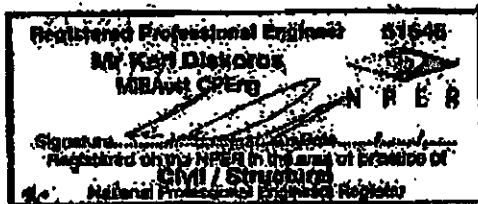
This is to certify that I have inspected the above mentioned property on the 26<sup>th</sup> September 2014 with a brief to assess the structural implications of proposed alterations, specifically, cutting out approximately 600mm long x 1200mm high long section of the kitchen wall to form a servery.

This section forms part of internal masonry blade wall separating the kitchen from the dining area. To compensate for the partial removal of a section in the wall, this will require a supporting beam to be erected with specifications (see attached sketch) as follows;

**150 UB 14, with minimum bearing of 150mm using non shrink Grout on the base on each side, beam to be fixed into the wall to provide lateral restraint**

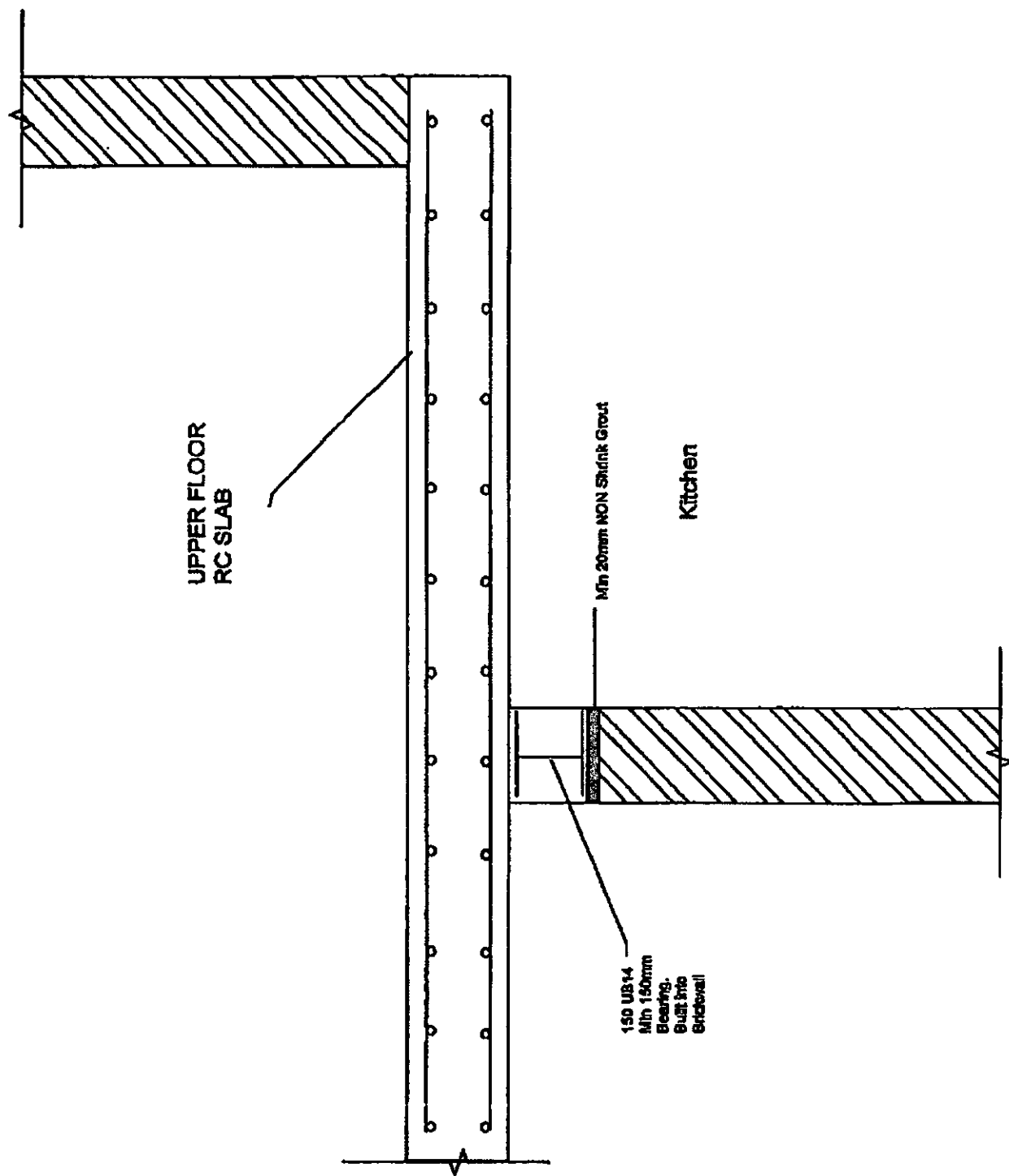
Due to the minor nature of the alterations, and when carried out in accordance with the specifications and our instructions, will not affect the structural integrity of the building.

If you require any additional information, please don't hesitate to contact me on my mobile phone 0434 279 027.



**Karl Diskoros**  
BE MIE Aust CPENG NPER # 51545  
**Chartered Structural Engineer**  
**Accredited Certifier- Structural**





## Special By-Law 10 – Works for Lot 46L (lot 139)

### PART 1

#### GRANT OF RIGHT

- 1.1 Notwithstanding anything contained in any by-laws applicable to the strata scheme, the Owner has the special privilege to carry out the Works (at the Owner's cost and to remain the Owner's fixture) and the right of exclusive use and enjoyment of those parts of the common property attached to or occupied by the Works, subject to the terms and conditions contained in Part 3 of this by-law, which will take precedent of any existing by-law

### PART 2

#### DEFINITIONS & INTERPRETATION

##### 2.1 Definitions

In this by-law, unless the context otherwise requires:

- (a) **Act** means the *Strata Schemes Management Act 2015*.
- (b) **Authority** means any government, semi-government, statutory, public or other authority having any jurisdiction over the Lot or the Building including the council.
- (c) **Building** means the building situated at 15-19 Boundary Street, Rushcutters Bay NSW and 100 Barcom Avenue, Darlinghurst, NSW.
- (d) **Insurance** means:
- (i) contractors all risk insurance (including public liability insurance) in the sum of \$20,000,000.00;
  - (ii) insurance required under the *Home Building Act 1989* (if any); and
  - (iii) workers' compensation insurance.
- (e) **Lot** means lot 46 Strata Plan No. 61717;
- (f) **Owner** mean(s) the owner(s) of the Lot.
- (g) **Works** means the works to be undertaken by the Owner as indicated in the plan and scope of works by Brendan Wong Design dated 11 October 2017 at **Annexure A** hereto, including but not limited to the following:
- (i) demolition of existing bathroom and laundry, including but not limited to any accessories, fittings, shower screen, basin, grout, vanity joinery, cupboards, gyprock, wall and floor tiles, current waterproof membrane and any plumbing and electrical works;
  - (ii) installation of new bathroom and laundry, including but not limited to any accessories, fittings, shower screen, basin, grout, vanity joinery, cupboards, gyprock, wall and floor tiles, new waterproof membrane and any plumbing and electrical works (including relocations);
  - (iii) installation of new plasterboard walls to allow the water closet and vanity basin to be relocated and connect directly to the plumbing riser;
  - (iv) replacement of kitchen, including but not limited to any joinery, accessories, fittings, cupboards, fixtures, benchtop and appliances;

- (v) installation of additional sink to upper landing bar area, including any plumbing works;
- (vi) installation of new plasterboard wall lining to walls and ceilings to permit the reconfiguration of powers and installation of new downlights;
- (vii) installation of new multi-split air conditioning system comprising of:
  - (I) one external condenser unit to be located on the south balcony, fully concealed behind existing balcony balustrade; and
  - (II) three (3) internal units located within new plasterboard bulkheads to the "Kitchen", "Bedroom 1" and "Bedroom 2",
- (viii) installation of new timber flooring to the kitchen, dining, living and stairs;
- (ix) installation of new carpet to "Bedroom 1" and "Bedroom 2";
- (x) installation of new tiled flooring to stair landings;
- (xi) replacement of existing pavers on the roof terrace, including but not limited to the waterproof membrane;
- (xii) application of new coat of paint on all walls, ceilings and doors;
- (xiii) installation of new internal roller blinds and curtains; and
- (xiv) removal of any part of the Works.

## **2.2 Interpretation**

2.2.1 In this by-law, unless the context otherwise requires or permits:

- (a) the singular includes the plural and vice versa;
- (b) any gender includes the other genders;
- (c) any terms in the by-law will have the same meaning as those defined in the Act;
- (d) a reference to the Owners Corporation includes the building manager, strata managing agent, any member of the strata committee or any person authorised by the Owners Corporation from time to time;
- (e) references to legislation include references to amending and replacing legislation;
- (f) a reference to the Owner includes any of the Owner's executors, administrators, successors, permitted assigns or transferees;
- (g) to the extent of any inconsistency between the by-laws applicable to Strata Plan No 61717 and this by-law, the provisions of this by-law shall prevail; and
- (h) if any provision or part of a provision in this by-law whether held or found to be void, invalid, or otherwise unenforceable, it shall be deemed to be severed from this by-law (or that provision) to the extent that it is void or invalid or unenforceable but the remainder of this by-law and the relevant provision shall remain in full force and effect.

## **PART 3**

### **CONDITIONS**

#### **3.1 Prior to commencement of the Works**

Prior to the commencement of the Works, the Owner shall:



- (a) obtain all necessary approvals/consents/permits from any Authority and provide a copy to the owners corporation;
- (b) provide the owners corporation's nominated representative(s) access to inspect the Lot within forty-eight (48) hours of any request from the owners corporation;
- (c) effect and maintain Insurance and provide a copy to the owners corporation;
- (d) provide (if required) to the owners corporation a report from an engineer approved by the owners corporation concerning the impact of the Works on the structural integrity of the Building and Lot and common property;
- (e) pay the owners corporation's reasonable costs in preparing, making and registering the by-law (including legal and strata management costs);
- (f) provide a copy of the builders licence to the owners corporation;
- (g) lodge a \$500 cash bond with the building manager; and
- (h) provide an estimated duration of Works to the owners corporation.

### **3.2 Notice**

- (a) At least three (3) days prior to the commencement of the Works the Owner shall notify the owners corporation and each owner (by way of letterbox drop) of the proposed day of commencement of the Works or an aspect of the Works.
- (b) At least two (2) days prior to the commencement of the Works or an aspect of the Works the Owner shall make arrangements with the strata manager regarding:
  - (i) the suitable times and method for the Owner's contractors to access the Building to undertake the Works; and
  - (ii) the suitable times and method for contractors to park their vehicles on common property whilst the Works are being conducted.

### **3.3 During installation of the Works**

During the process of the installation of the Works, the Owner must:

- (a) use duly licensed employees, contractors or agents to conduct the installation;
- (b) ensure the Works are conducted in a proper and workmanlike manner and comply with the current Building Code of Australia and Australian Standards;
- (c) ensure the installation is carried out expeditiously and with a minimum of disruption;
- (d) ensure that any electricity or other services required to operate the Works are installed so they are connected to the Lot's electricity or appropriate supply;
- (e) carry out the installation between the hours of 8:00am and 5:00pm Monday-Friday or between 8:30am and 12 midday on Saturday or such other times reasonably approved by the owners corporation, with no work being permitted on public holidays;
- (f) perform the installation within a reasonable timeframe or such other period of time as may be approved by the owners corporation;
- (g) transport all construction materials, equipment and debris as reasonably directed by the owners corporation;
- (h) protect all affected areas of the Building outside the Lot from damage relating to the installation or the transportation of construction materials, equipment and debris;

- (i) ensure that the installation works do not interfere with or damage the common property or the property of any other lot owner other than as approved in this by-law and if this occurs the Owner must rectify that interference or damage within a reasonable period of time;
- (j) provide the owners corporation's nominated representative(s) access to inspect the Lot within 24 hours of any request from the owners corporation (for clarity more than one inspection may be required);
- (k) not vary the Works without first obtaining the consent in writing of the owners corporation.

3.4 Unless prior written approval is granted by the Owners Corporation, the following conditions apply as relevant:

- (a) Any hard surface flooring installed in a Lot must:
  - (i) be treated and properly insulated to an extent sufficient, including by, but not necessarily limited to, the installation of materials and in a manner approved in writing, by the Owners Corporation to prevent the transmission of noise likely to disturb the peaceful enjoyment of the occupier of another Lot in the Strata Scheme and to prevent the causation of nuisance within the meaning of section 117 of the Act; and
  - (ii) be insulated with soundproofing underlay as specified by the Owners Corporation from time to time and must not have a L'nT, w exceeding 50.
  - (iii) not be situated above the bedroom of any other Lot or above a studio apartment containing a sleeping area; and
  - (iv) must be covered by mats or rugs in high traffic areas, at the direction of the Owners Corporation if a complaint is received relating to the unreasonable transmission of noise.
- (b) All carpet installed over a bedroom of another Lot should be insulated with a soundproofing underlay and must not have a L'nT, w exceeding 45.
- (c) Where the Works involve the installation of air-conditioning units, the Works must:
  - (i) have a new condenser unit (external) that:
    - (I) is mounted on vibration pads in a location so to minimise noise and vibration;
    - (II) is installed unobtrusively on the location as approved by the Owners Corporation or strata committee in writing); and
    - (III) is not visible from the street. All electrical and coolant lines must be concealed as much as possible;
  - (ii) not be installed through or attached to windows or brick walls;
  - (iii) be manufactured, designed and installed to specifications for domestic use; and
  - (iv) have any condensation and run-off from the Lot drained through existing drains or downpipes.
- (d) Any issues regarding the removal of the air-conditioning system or noise complaints must be dealt with in accordance with clause 2.23 of Special By-Law 2.

### 3.5 After installation of the Works

3.5.1 After the installation of the Works is completed, the Owner must without unreasonable delay:

- (a) notify the owners corporation that the installation of the Works has been completed;

- (b) notify the owners corporation that all damage, if any, to lot and common property caused by the installation and not permitted by this by-law has been rectified;
- (c) provide the owners corporation with a copy of any certificate or certification required by an Authority to indicate completion of the Works;
- (d) provide (if required) the owners corporation with certification from a suitably qualified engineer(s) approved by the owners corporation that the installation or works required to rectify any damage to lot or common property have been completed in accordance with the terms of this by-law;
- (e) provide the owners corporation's nominated representative(s) access to inspect the Lot within 48 hours of any request from the owners corporation to assess compliance with this by-law or any consents provided under this by-law.

3.5.2 The owners corporation's right to access the Lot arising under this by-law expires once it is reasonably satisfied that paragraphs (a) to (e) immediately above have been complied with.

### 3.6 Statutory and other requirements

- (a) The Owner must:
  - (i) comply with all requirements of the owners corporation, the by-laws applicable to the strata scheme and all directions, orders and requirements of all relevant statutory authorities, including the local council relating to the Works and must be responsible to ensure that the respective servants, agents and contractors of the Owner comply with the said directions, orders and requirements;
  - (ii) ensure that the provisions of the Building Code of Australia and Australian Standards are, so far as relevant, complied with.
  - (iii) comply with the provisions of the *Home Building Act 1989*, including, but not limited to, section 18B.
- (b) The Works must:
  - (i) be carried out in a proper and workmanlike manner and in accordance with the plans and specifications set out in the contract; and
  - (ii) comprise materials that are good and suitable for the purpose for which they are used and must be new.

### 3.7 Enduring rights and obligations

#### 3.7.1 The Owner must:

- (a) not carry out any alterations or additions or do any works (other than the Works expressly approved under this by-law);
- (b) properly maintain and upkeep the Works in a state of good and serviceable repair;
- (c) properly maintain and upkeep those parts of the common property in contact with the Works;
- (d) ensure that the Works (where applicable) do not cause water escape or water penetration to lot or common property;
- (e) indemnify and keep indemnified the owners corporation against any costs or losses arising out of or in connection with the Works including their installation, repair, maintenance, replacement, removal and/or use;
- (f) repair and/or reinstate the common property or personal property of the owners corporation to its original condition if the Works are removed or relocated.

### **3.8 Failure to comply with this by-law**

If the Owner fails to comply with any obligation under this by-law the owners corporation may:

- (a) by its agents, contractors or employees enter upon the Lot and carry out all work necessary to perform that obligation;
- (b) recover the costs of such work from the Owner as a debt due; and
- (c) recover from the Owner the amount of any fine or fee which may be charged to the owners corporation for the cost of any inspection, certification or order.

### **3.9 Ownership of Works**

The Works will always remain the property of the Owner.

### **3.10 Applicability**

In the event that the Owner desires to remove the Works installed under this by-law (or otherwise), the provisions of Part 3 shall also apply in relation to that removal.





## **Special By-Law 11 – Works for Lot 72 The Block**

### **1.0 PART 1 Definitions and Interpretation**

#### **1.1 Definitions**

In this by-law, unless the context otherwise requires:

**Act** means the Strata Schemes Management Act 2015.

**Authority** means any government, semi-government, statutory, public or other authority having any jurisdiction over the Lot or the Building including the council.

**Air-conditioning** system means a ducted "split system" air-conditioning system or such other air-conditioning system which affects common property including its associated inverter, condenser, fan, piping, electrical cabling, ducting, calling, hardware and appurtenances utilised in the installation and operation of the said Air-conditioning system.

**AS** means the Australian Standards.

**Bond** means the sum of \$500.00 or such other sum as determined by the Owners Corporation from time to time.

**BCA** means the Building Code of Australia.

**Building** means the building situated at 15-19 Boundary Street, Rushcutters Bay NSW and 100 Barcom Avenue, Darlinghurst, NSW.

**Building Manager** means the person, firm or company appointed by the Owners Corporation from time to time who is responsible for the day to day attendance to the management, maintenance, repair and control of the common property.

**Council** means the City of Sydney Council.

**EPA Act** means the Environmental Planning and Assessment Act 1979.

**Executive Committee** means the Executive Committee appointed by the Owners Corporation from time to time.

**Insurance** means:

- (i) contractors all risk insurance (including public liability insurance) in the sum of \$20,000,000.00;
- (ii) insurance required under the Home Building Act 1989 (if any); and
- (iii) workers' compensation insurance.

**Lot** means lot 72 Strata Plan No. 61717;

**Management Plan** means a plan of management dealing with the methods of demolition and construction, and the transportation of building materials through the common property, which management plan shall include:

- (i) duration of Works;
- (ii) hours of Works;
- (iii) compliance with directions and requirements of any statutory authority including Council;
- (iv) protection to common property;
- (v) cleaning of the Lot and common property;

- (vi) repair of any damage to common property;
- (vii) security of the Building; and
- (viii) provision of amenities for the licensed contractor appointed by the Owner.

**Owner** mean(s) the owner(s) of the Lot.

**Owners Corporation** means The Owners-Strata Plan No.61717.

**Plant Room** means the common property area allocated for Strata Plan plant and ventilation equipment.

**SBL2** means Special By-Law 2 of Strata Plan 61717

**Scope of Works** means a detailed schedule of the Works including reference to all affectations to common property comprised in, but not limited to, the roof, walls, floors, ceilings, joists, bearers, floor coverings, services and utilities and like or other structures contained in or adjacent to a Lot and shall include a detailed schedule of finishes.

**Strata Scheme** means the strata scheme relating to Strata Plan No. 61717 including "The Block and Lexington.

**Works** means the works to be undertaken by the Owner during the installation of an Air-conditioning system on the Lot and common property plant room (Exclusive Use Area 'E')

## 1.2 Interpretation

1.2.1 In this by-law, unless the context otherwise requires or permits:

- (a) the singular includes the plural and vice versa;
- (b) any gender includes the other genders;
- (c) any terms in the by-law will have the same meaning as those defined in the Act;
- (d) a reference to the Owners Corporation includes the building manager, strata managing agent, any member of the strata committee or any person authorised by the Owners Corporation from time to time;
- (e) references to legislation include references to amending and replacing legislation;
- (f) a reference to the Owner includes any of the Owner's executors, administrators, successors, permitted assigns or transferees;
- (g) to the extent of any inconsistency between the by-laws applicable to Strata Plan No 61717 and this by-law, the provisions of this by-law shall prevail; and
- (h) if any provision or part of a provision in this by-law whether held or found to be void, invalid, or otherwise unenforceable, it shall be deemed to be severed from this by-law (or that provision) to the extent that it is void or invalid or unenforceable but the remainder of this by-law and the relevant provision shall remain in full force and effect.

## **2.0 PART 2 Rights and Obligations**

2.1 Notwithstanding anything contained in any by-laws applicable to the strata scheme, the Owner has the special privilege to carry out the Works (at the Owner's cost and to remain the Owner's fixture) and the right of exclusive use and enjoyment of those parts of the common property attached to or occupied by the Works, subject to the terms and conditions contained in this by-law, which will take precedent of any existing bylaw.



2.2 The Owner must:

- (a) not carry out any alterations or additions or do any works (other than the Works expressly approved under this by-law);
- (b) must properly maintain and keep the common property and the Lot, to which the Works affect or are attached to, in a state of good and serviceable repair (SBL2 paragraph 2.24).;
- (c) properly maintain and keep the ~~Works~~ Air-conditioning system in a state of good and serviceable repair and must replace the ~~Works~~ Air-conditioning system as required from time to time (SBL2 paragraph 2.25 amended).;
- (d) ensure that the Works (where applicable) do not cause water escape or water penetration to lot or common property;
- (e) indemnify and keep indemnified the Owners Corporation against any costs or losses arising out of or in connection with the Works including their installation, repair, maintenance, replacement, removal and/or use;
- (f) repair and/or reinstate the common property or personal property of the Owners Corporation to its original condition if the Works are removed or relocated.

2.3 The Owner must bear and pay the costs of the preparation, adoption and registration of this by-law.

2.4 Subject to the remaining paragraphs of this by-law, the Owner shall be entitled to carry out and keep Works to and on the Lot and the common property (SBL2 paragraph 2.2)

2.5 The Owner warrants that the Works are or will be completed subject to any representations made by the respective Owner in any application by him or her to the Owners Corporation to carry out or keep the Works (SBL2 paragraph 2.15)

**Scope of Works**

2.6 Scope of Works and Schedule of Fixtures authorised by this by-law

Lot No.	Building Works, Fixtures and Fittings Authorised by this By-law
72	<ol style="list-style-type: none"> <li>1. Split System air conditioning</li> <li>2. Compressor/Condenser Unit located in Plant Room that:                             <ul style="list-style-type: none"> <li>a) is mounted on vibration pads in a location so to minimise noise and vibration;</li> <li>b) is installed unobtrusively in the location as approved by the Owners Corporation or strata committee in writing; and</li> <li>c) is not visible from the street. All electrical and coolant lines must be concealed as much as possible</li> </ul> </li> <li>3. Inverter fan unit/s located within Lot mounted on wall or surface.</li> <li>4. Condensate drainage pipe from Compressor/condenser unit and inverter fan unit drain to plant room floor drained through existing drains.</li> <li>5. Electrical power supply and control wiring.</li> <li>6. Plant Room penetration with fire stopping sealant between Plant Room and Lot.</li> <li>7. Air conditioning pipes and power cables between compressor/condenser unit and inverter fan units.</li> <li>8. Physical protection for air conditioning pipes, power and control cables and condensate drainage pipes.</li> <li>9. Penetration of exhaust air plenum and non-return damper</li> </ol>

## **Requirements specific for Works that include Air-conditioning systems**

- 2.7 An Owner must submit details of any Air-conditioning system installed or proposed to be installed in a Lot in the Strata Scheme to the Owners Corporation pursuant to existing by-laws, which Air-conditioning system (SBL2 paragraph 2.9):
- (a) must be supported by a report prepared by an acoustic consultant approved by the Owners Corporation confirming that the proposed installation complies with the BCA, current AS and other relevant environmental regulations and will not produce noise or vibration which are likely to cause discomfort to any other owner or occupier or which interferes unreasonably with the peaceful enjoyment of another lot by the Owner or occupier of it or the common property by any person entitled to use it;
  - (b) have all external piping secured and covered;
  - (c) not contain external drainage pipes which:
    - (i) drip onto another lot (including into the airspace), the property of another owner or occupier or onto the common property; or
    - (ii) are connected to external down pipes.
  - (d) have condensers installed in a location approved by the Owners Corporation;
  - (e) not have its condenser affixed to a window or in a location where it is visible from outside the Lot or the Building; and
  - (f) must not, by its operation, contravene the Protection of the Environment Operations Act 1997.

## **Removal of Air-conditioning system**

- 2.8 Where an Owner has installed an Air-conditioning system in a Lot and on common property, the Owner of the respective Lot must (SBL2 paragraph 2.23):
- (a) remove the Air-conditioning system within a reasonable time after a written request is made by the Owners Corporation if:
    - (i) the Owners Corporation receives complaints by other occupiers in the Building relating to the unreasonable transmission of noise from the Air-conditioning system; or
    - (ii) a report prepared by an acoustic engineer approved by the Owners Corporation specifies that the Air-conditioning system transmits noise at unreasonable decibel levels or is not sufficiently treated or insulated to prevent noise from being unreasonably transmitted to another Lot or the common property; and
  - (b) comply with any discretionary direction of the Owners Corporation (relating to the control of noise emissions from the Air-conditioning system including, but not limited to, obtaining an acoustic report or insulating the Air-conditioning system in a proper manner to prevent the unreasonable transmission of noise arising from its operation.

## **Liability**

- 2.9 The Owner of the Lot is liable for any damage caused to any part of the common property, any Lot or other property as a result of the Works and will make good that damage immediately after it has occurred (SBL2 paragraph 2.26).

## **Indemnity**

- 2.10 The Owner must indemnify the Owners Corporation against any legal liability, loss, claim or proceedings in respect of any injury, loss or damage whatsoever to any Lot, common

property or other property, or person, in so far as such injury, loss or damage arises out of, in the course of, or by reason of the Works (SBL2 paragraph 2.27).

- 2.11 Should the Owners Corporation be required to carry out work as specified in section 65 of the Act as a result of Works carried out by the Owner of a Lot, the Owner must indemnify the Owners Corporation against any liability or expense suffered by the Owners Corporation in rectifying any damage to the common property, any Lot or other property under this provision SBL2 paragraph 2.28).

### **Costs**

- 2.12 The Works and any works required to be undertaken by the Owners Corporation pursuant to this by-law to rectify any default by the Owner are undertaken at the cost of the Owner (SBL2 paragraph 2.29).
- 2.13 The Owner shall indemnify the Owners Corporation for all reasonable costs incurred by it in considering any application made pursuant to this by-law, including approving any plans, drawings, reports or other documents in relation to the Works, or obtaining certification of the Works if required to be carried out by the Owners Corporation pursuant to this by-law, including legal costs, and will pay those amounts to the Owners Corporation upon demand. The Owner shall indemnify the Owners Corporation for all costs (including legal costs) in making a By-Law pursuant to Strata Plan 61717 Special By-law paragraph 2.14(b) hereto (SBL2 paragraph 2.30).

### **Right to remedy default**

- 2.14 If the Owner fails to comply with any obligation under this by-law, then the Owners Corporation may (SBL2 paragraph 2.32):
- (a) request, in writing, that the Owner comply with the terms of it;
  - (b) without prejudice to any other rights, be able to enter upon any of the parcel, including the Lot, to carry out necessary work;
  - (c) recover the costs of carrying out work referred to in paragraph 2.14(b) hereto from the Owner, such costs if not paid at the end of one month after becoming due and payable bear, until paid, simple interest at an annual rate of 5%; and
  - (d) recover as a debt any costs payable by an Owner pursuant to this by-law, not paid at the end of one month after they become due and payable, together with any interest payable and the expenses of the Owners Corporation incurred in recovering those amounts.

### **Waiver**

- 2.15 The Owners Corporation, acting in its absolute discretion, reserves the right to waive any requirement set out in this by-law, where it deems that the requirement is not necessary having regard to the nature of the Works (SBL2 paragraph 2.33).

**-END OF SPECIAL BY-LAW FOR UNIT 72-**

The Owner agrees to comply with the Strata Plan's Special by-law 2 with respect to performing work on lot and common property. The current relevant paragraphs of Special by-law 2 are repeated as being applicable for the period of this application and the Works until the Works completion. They are unnecessary to be included in this special by-law as they exist for the process of applying and during the works.

### **3.0 PART 3 The Works**

#### **Application for the Works**

- 3.1 Prior to carrying out Works, an Owner must apply to the Owners Corporation for its approval to carry out the Works in accordance with paragraphs 3.2(a) to (k) hereto (SBL2 paragraph 2.3).
- 3.2 Notwithstanding paragraph 3.1 hereto, where an Owner of a Lot has carried out or proposes to carry out Works, the Owner must apply in writing to the Owners - Corporation for its approval, of the Works and included in or with such application shall be the following (SBL2 paragraph 2.4):
- (a) payment of the Bond which shall be held by the Building Manager and returned to the Owner upon final approval of the Works pursuant to paragraph 3.10 hereto less any cost for damage occasioned to the common property as a result of the Works or unpaid expenses of the Owners Corporation referred to in paragraphs 3.18 and 3.19 hereto. Any costs exceeding the aforesaid amounts will be payable, upon demand, to the Owners Corporation by the Owner;
  - (b) specifications of the Works such as, without limitation, type, model, style, location, colour, size, manufacturer and method of affixation to the Building;
  - (c) a detailed Scope of Works;
  - (d) completed plans of the Works which shall be professionally drawn and shall include floor plans, elevations and sections as necessary to clearly define all proposed alterations to the Lot and to particularly identify any proposed alterations to common property;
  - (e) when requested by the Owners Corporation, a report prepared by an engineer approved by the Owners Corporation certifying that the Works are suitable and will not negatively impact on the structural integrity of the Building;
  - (f) copies of certificates of insurance for
    - (i) Workers compensation insurance; and
    - (ii) Home Owners Warranty Insurance pursuant to the Home Building Act 1989 (where required by law);
    - (iii) Contractor's all risk insurance; and
    - (iv) Public liability insurance for the amount of \$20,000,000.00;
  - (g) evidence of the licences or certifications and contact details of the contractors appointed by the Owner to carry out the Works;
  - (h) any development approval, consents, notices or other written requirements imposed by Council or other statutory authority pursuant to the EPA Act;
  - (i) a detailed Management Plan (where Works are proposed);

- (j) a dilapidation report (where requested by the Owners Corporation) in respect of the common property and any Lot which, In the opinion of the Owners Corporation, is or may be affected by the Works. The dilapidation report shall be in writing and shall include photographs of the relevant areas. The Owner and the Owners Corporation acknowledge and agree that the dilapidation report may be the basis for:
  - (i) ascertaining and determining whether any damage has been occasioned by the Works to the common property and any Lot; and
  - (ii) the making of any claim by the Owners corporation upon the Bond.
- (k) Any other certification of the Works which is required by the Owners Corporation pursuant to this by-law such as, without limitation, a ~~waterproofing certificate where the Owner has removed or installed Hard Surface Flooring and Waterproofing Systems In Wet Areas~~ or an acoustic transmission certificate where the Owner has installed ~~Hard Surface Flooring or an Air-conditioning system~~ in the Lot or on common property.

### Specifications

#### 3.3 Any Works carried out must (SBL2 paragraph 2.5):

- (a) be carried out within a reasonable period of time and without undue delay;
- (b) not cause any disturbance (including noise and vibration) that interferes unreasonably with the use and enjoyment of another Lot by the Owner or occupier of it or the common property by any person entitled to use it;
- (c) be uniform and in keeping with the appearance of the Building and the Strata Scheme;
- (d) not detract from the appearance of the Building or the Strata Scheme;
- (e) be affixed to the Building in a manner approved by the Owners Corporation;
- (f) be safely and securely affixed to the Building;
- (g) be installed in a location approved by the Owners Corporation;
- (h) have specifications approved by the Owners Corporations including colour, size, model, style, manufacturer, materials and method of affixation to the Building;
- (i) not be installed in breach of any Council condition, statutory law, regulation, ordinance or planning instrument;
- (j) be compliant with the BCA and current AS;
- (k) comply with any standards or guidelines which are prescribed by the Owners Corporation or its Executive Committee from time to time for the Works, including colour, size, model, style, location, manufacturer, materials and method of affixation to the Building; and
- (l) be carried out in a proper and workmanlike manner and in accordance with the plans and specifications set out in the contract

#### 3.4 During the process of the installation of the Works, the Owner must:

- (a) use duly licensed employees, contractors or agents to conduct the installation;
- (b) comply with the provisions of the Home Building Act 1989, including, but not limited to, section 18B

- (c) ensure that any electricity or other services required to operate the Works are installed so they are connected to the Lot's electricity or appropriate supply;
- (d) protect all affected areas of the Building outside the Lot from damage relating to the installation or the transportation of construction materials, equipment and debris;
- (e) ensure that the installation works do not interfere with or damage the common property or the property of any other lot owner other than as approved in this by law and if this occurs the Owner must rectify that interference or damage within a reasonable period of time;
- (f) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within 24 hours of any request from the Owners Corporation (for clarity more than one inspection may be required);

### **Licenced Contractor**

3.5 The Works shall be done (SBL2 paragraph 2.18):

- (a) in a proper and workmanlike manner and by duly licenced contractors; and
- (b) in accordance with the Scope of Works, plans and specifications approved by Council and the Owners Corporation

### **Performance of Works**

3.6 In performing Works, the Owner must: (SBL2 paragraph 2.17):

- (a) notify the Building Manager of the commencement date of the Works three (3) days prior to performing the Works and make suitable arrangements with The Building Manager regarding the times and method for the Owner's contractor to access the Building and the parking of any vehicle in the charge of the contractor whilst the Works are being conducted;
- (b) ensure that the Works are in keeping with the rest of the Building and shall use materials identical or similar to the existing materials contained within the Building;
- (c) transport each item including but not limited to construction materials, equipment and debris in the manner reasonably directed by the Owners Corporation;
- (d) protect the Building both internal and external to the Lot from damage:
  - (i) by the Works;
  - (ii) by the installation or removal of the Works; and
  - (iii) by the transportation of construction material, equipment, debris and other material required to install and maintain the Works;
- (e) protect all common property areas likely to be affected by the Works (including, but not limited to, common hallways, fire stairs, lifts and other common areas) in a manner reasonably acceptable to the Owners Corporation;
- (f) only perform the Works whilst the Building Manager is onsite at the Strata Scheme;
- (g) provide to the Building Manager at least 48 hours notification of any noisy building activities referred to herein intended to be carried out by the Owner's contractors;
- (h) not carry out Works on Weekends and/or public holidays;
- (i) keep the apartment door to the Lot, any balcony door or doors, and all windows, closed at all times (where applicable) whilst the Works are being conducted to prevent the egress of dust onto the common property;

- (j) lay protective mats or coverings on areas of common property likely to be affected by the transportation of goods or building materials to and from the Lot;
- (k) immediately arrange for the private removal of all building refuse from the Building (no building material or refuse of any kind is to be placed in the common property garbage facilities or other common property areas);
- (l) not create noise that causes discomfort, disturbance, obstruction or interference with activities of any other occupier of the Building;
- (m) ensure that the common property is cleared of any waste created by the Works daily and in accordance with the Owners Corporation's directions;
- (n) ensure that any skip bins utilised for clearing waste created by the Works are located in an area designated by the Owners Corporation, the Executive Committee or the Building Manager;
- (o) ensure that any skip bins which are utilised for clearing waste created by Works are removed from the Strata Scheme daily;
- (p) keep common property access ways to the Lot clean and free from building materials, dust and rubble at all times;
- (q) ensure that the contractors appointed by the Owner park their vehicles in the Owner's respective car space or in any designated area of common property as determined by Owners Corporation, the Executive Committee or the Building Manager;
- (r) ensure that the Works do not interfere with or damage common property, a Lot or the property of any other Lot Owner and if this happens the Owner must rectify the interference or damage within a reasonable period of time; and
- (s) not vary the Works approved pursuant to this By-Law without first obtaining the written consent of the Owners Corporation.

### **Completion of the Work**

- 3.7 The Owners Corporation's right to access the Lot arising under this by-law expires once the Work are complete and clause 3.10 has reasonably been complied with.
- 3.8 Upon completion of Works, an Owner must inform the Owners Corporation that the Works are complete and provide to the Owners Corporation (SBL2 paragraph 2.19):
  - (a) access to the Lot for the purpose of allowing the Owners Corporation or its agent or contractor to inspect the Works to ensure that they have been completed to a satisfactory standard, and in accordance with this by-law and the application made by the Owner pursuant to this by-law to carry out or keep Works;
  - (b) final certification of the Works from an engineer approved by the Owners Corporation;
  - (c) an Occupation Certificate, Building Certificate or such other certification which is required by Council or any other statutory authority on completion of the Works;
  - (d) such other documentation as the Owners Corporation may reasonably require;for its final approval of the Works.

### **Statutory and other requirements**

- 3.9 The Owner must comply with all requirements of the Owners Corporation, the By-Laws and all directions, orders and requirements of all relevant statutory authorities including Council

relating to the Works and shall be responsible to ensure that the respective servants, agents and contractors of the Owner comply with the said directions, orders and requirements (SBL2 paragraph 2.20).

- 3.10 The Owner shall ensure that the provisions of the BCA and AS are, so far as relevant, complied with (SBL2 paragraph 2.21).



# SPECIAL BY-LAW 12

*A by-law with respect to lot 53 works.*

## **1 Approval of work**

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### **1.1 Work**

Subject to the conditions herein the Authorised Owner may carry out and keep the Permitted Work.

### **1.2 Exclusive use**

Subject to the conditions herein the Authorised Owner has exclusive use of the Exclusive Use Area.

### **1.3 Building Works**

In respect of Building Works that the Authorised Owner is required or permitted to carry out under this by-law:

- (a) the Authorised Owner must comply, and those Building Works must comply, with the Building Works Conditions; and
- (b) those Building Works must be undertaken in accordance with, and comply with, any applicable provisions of the Scope of Works.

### **1.4 Ongoing maintenance and use**

The Authorised Owner, at their own cost:

- (a) is responsible for the ongoing proper maintenance of, and keeping in a state of good and serviceable repair, the Exclusive Use Area, and must do any Building Works necessary to effect the same;
- (b) must renew and replace any fixtures or fittings comprised in the Exclusive Use Area, and must do any Building Works necessary to effect the same;
- (c) must ensure that the Exclusive Use Area is used in accordance with and continues to comply with the requirements hereof and any applicable law or Approval; and
- (d) must ensure that the Exclusive Use Area is kept clean and tidy at all times and free from hazards posing a risk of injury or death to persons or damage to property.

### **1.5 Access**

The Authorised Owner must provide the owners corporation with access to the Authorised Lot and the Exclusive Use Area for the purpose of monitoring or enforcing compliance herewith (or if the Authorised Owner is not also the occupier of the Authorised Lot, the Authorised Owner must do all things within their power to procure such access) as follows:

- (a) during a period where Building Works are being carried out, within 24 hours of a request by the owners corporation; or
- (b) in any other case, to the extent otherwise required by law.

### **1.6 Indemnity**

The Authorised Owner will indemnify the owners corporation immediately on demand for any damage, cost, loss, claim, demand, suit or liability howsoever incurred by or brought against the owners corporation in connection with Building Works (or their use) or the use of the Exclusive Use Area, except to the extent that such damage, costs, loss, claim, demand suit or liability is caused by the negligent act or omission of the owners corporation or of its agents, employees or contractors.

## **1.7 Default**

If the Authorised Owner fails to comply with any obligation hereunder the owners corporation may carry out that obligation and recover the cost of so doing from the Authorised Owner.

## **1.8 Scope of Works**

Any provisions set out in the Scope of Works have effect as if they were provisions hereof. To the extent that any provision in the Scope of Works is inconsistent with any other provision hereof, the provision in the Scope of Works prevails to the extent of that inconsistency.

# **2 Methods and procedures**

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## **2.1 Approvals**

In relation to any right granted to a person hereunder, that person must:

- (a) obtain all necessary Approvals (and ensure that all necessary Approvals are obtained) in relation to anything done or omitted to be done by them in the exercise of that right;
- (b) provide a copy of any such Approvals to the owners corporation;
- (c) in the event that such an Approval is required by law (or under the terms of an Approval) to be obtained before doing (or omitting to do) anything, supply a copy of that Approval to the owners corporation before doing (or omitting to do) that thing; and
- (d) provide a copy to the owners corporation of any certificate or document evidencing compliance with such an Approval, being a certificate or document required by law or under the terms of such an Approval to be obtained or provided.

## **2.2 Consent**

On written demand of a person granted a right hereunder, the owners corporation must provide its consent as may be required by any Authority in connection with an exercise by that person of that right, without limitation including by affixing its seal by way of consent to any application to a relevant consent authority for development consent, a construction certificate or a complying development certificate as contemplated by the Environmental Planning and Assessment Act 1979.

## **2.3 Bond**

Where a person is required under a provision hereof to pay a bond to secure compliance with an obligation, except to the extent that provision requires otherwise, that bond:

- (a) is an amount in Australian currency as otherwise provided herein, or in the absence of such provision:
  - (i) as reasonably determined from time to time by the owners corporation; or
  - (ii) in the absence of such a determination, the amount of \$500;
- (b) is payable to the owners corporation prior to the secured obligation arising and, if the owners corporation reasonably directs, in the manner so directed by it from time to time;
- (c) may be applied by the owners corporation against any liability or debt of that person to the owners corporation, including without limitation a debt arising under section 120 of the Management Act in connection with a failure to carry out work required to be carried out by that person in respect of the secured obligation; and
- (d) must be returned by the owners corporation to that person after the expiry of 1 month following the satisfaction or ending of the secured obligation, less any amount deducted by the owners corporation in accordance herewith.

## **2.4 Acting through others**

Except as otherwise provided herein, a person may exercise a right granted to them hereunder, or meet an obligation imposed upon them hereunder, by their servants, agents, or contractors, however that person:

- (a) will not by reason only of so doing be released from that obligation, or release that right; and
- (b) is liable for the acts or omissions of those servants, agents or contractors as fully as if they were those servants, agents or contractors and those acts or omissions were theirs.

## **2.5 Liability for occupiers and invitees**

Except as otherwise provided herein:

- (a) An owner or occupier of a lot must ensure, and must use their best endeavours to ensure, that their invitees, agents, contractors or employees (and, in the case of an owner, any occupier of their lot) comply with any obligations that they have hereunder, or (so far as those obligations are capable of such application) which they would have if those persons were owners or occupiers of lots.
- (b) An owner or occupier of a lot is liable for the acts or omissions of their invitees in breach hereof (and, in the case of an owner, any occupier of their lot) as fully as if those persons were that owner or occupier and those acts or omissions were theirs.

## **2.6 Exercise of care, skill and compliance with law**

Except as otherwise provided herein, a person must, in exercising a right granted to them hereunder, or in meeting an obligation imposed on them hereunder:

- (a) exercise due care and skill; and
- (b) do so in accordance with any applicable law.

## **2.7 Obligation to do work to remedy breach**

An owner or occupier of a lot is required to do any work necessary to remediate any breach by them hereof, including without limitation work to:

- (a) comply with the obligation breached;
- (b) repair any damage caused to the property;
- (c) clean any rubbish, dirt, debris, or staining caused to the property;
- (d) rectify any fault, malfunction or defect caused to any system, service, appliance or apparatus in the property; and
- (e) remediate a breach or non-compliance with any applicable law or the requirements of any Authority affecting the property and caused by that breach.

For the purposes of this clause 2.7 a reference to property includes the common property or personal property vested in the owners corporation.

## **2.8 Conditions attaching to remedial work**

An owner or occupier of a lot who is required to do work under clause 2.7 must, except as may be provided otherwise herein:

- (a) prior to undertaking such work, and upon completion of the work, notify the owners corporation in writing;
- (b) ensure that such work is done within 1 week from the breach requiring remediation, except to the extent otherwise provided herein;
- (c) ensure that such work is done:

- (i) in accordance with any applicable law and any other applicable requirement hereof; and
- (ii) in a proper and workmanlike manner and exercising due care and skill.

**Note.** *If an owner or occupier of a lot fails to do work hereunder the owners corporation may by law be entitled to do that work and recover the cost from that owner or occupier, or any person who becomes the owner of their lot.*

## **2.9 Power to carry out work and recover costs**

Within the meaning of section 120 of the Management Act, if:

- (a) work is required to be carried out by an owner or occupier of a lot under a term or condition hereof; and
- (b) that owner or occupier fails to carry out that work;

then the owners corporation may carry out that work and may recover the cost of carrying out that work from that owner or occupier, or any person who, after the work is carried out, becomes the owner of the lot.

## **2.10 Application of the Civil Liability Act 2002**

- (a) Owners and occupiers of lots acknowledge and agree that:
  - (i) the provisions hereof make express provision for their rights, obligations and liabilities hereunder with respect to all matters to which the Civil Liability Act 2002 applies as contemplated by section 3A(2) of that act; and
  - (ii) to the extent permitted by law, that act does not apply in connection with those rights, obligations and liabilities.
- (b) Any provision hereof that is prevented by Part 2 of the Civil Liability Act 2002 is severed to the extent so prevented.

## **2.11 Recovery of amounts**

Any amount due to the owners corporation in connection herewith is recoverable by the owners corporation as a debt and:

- (a) bears interest as if it was a contribution unpaid by the owner (or, if the liable person is not an owner of a lot, as if they were such an owner); and
- (b) may be recovered by the owners corporation as if it was a contribution unpaid by the owner (or, if the liable person is not an owner of a lot, as if they were such an owner), including as to:
  - (i) any interest payable; and
  - (ii) the expenses of the owners corporation incurred in recovering those amounts.

**Note.** *The vote of an owner of a lot at a general meeting of the owners corporation may not count by law unless payment has been made before that meeting of amounts recoverable from the owner in connection herewith.*

## **2.12 Alteration of building affecting lot boundary**

An owner of a lot must comply with any obligation they may have under section 19 of the Development Act in respect of the strata scheme from time to time.

### **3 Definitions and interpretation**

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#### **3.1 Interpretation**

Except to the extent the context otherwise requires, or as is otherwise expressly provided, herein:

- (a) the terms “herein”, “hereunder”, “hereof” and “herewith” mean, respectively, in, under, of and with this by-law;
- (b) the singular includes the plural and vice versa;
- (c) headings, notes, explanatory notes and similar do not form part of these by-laws and do not affect the operation of these by-laws;
- (d) a reference to a document, includes any amendment, replacement or novation of it;
- (e) where any word or phrase is given a definite meaning, any part of speech or other grammatical form of the word or phrase has a corresponding meaning;
- (f) any reference to legislation includes any amending or replacing legislation;
- (g) where words “includes”, “including”, “such as”, “like”, “for example” or similar are used, they are to be read as if immediately followed by the words “without limitation”;
- (h) where no time is specified for compliance with an obligation, that obligation must be complied with within a reasonable time;
- (i) any reference to legislation includes any subordinate legislation or other instrument created thereunder;
- (j) where two or more persons share a right or obligation hereunder, that right may be exercised, and that obligation must be met, jointly and severally;
- (k) where an obligation is imposed on a “person” hereunder, “person” does not include the owners corporation unless expressly provided otherwise; and
- (l) a term defined in the Management Act or Development Act will have the same meaning.

#### **3.2 Functions of the owners corporation**

- (a) Without limiting its other functions, the owners corporation has the functions necessary for it to discharge the duties imposed on it, and exercise the powers and authorities conferred on it hereby.
- (b) No provision hereof that grants a right or remedy to the owners corporation limits or restricts any other right or remedy of the owners corporation arising under any other provision of the by-laws of the strata scheme or otherwise at law.

#### **3.3 Severability**

- (a) To the extent that any term herein is inconsistent with the Management Act or any other Act or law it is to be severed and the remaining terms herein will be read and be enforceable as if so consistent.
- (b) To the extent that any term herein is inconsistent with another by-law of the strata scheme, the provisions herein prevail to the extent of that inconsistency.

#### **3.4 Definitions**

Except to the extent the context otherwise requires, or as is otherwise expressly provided, herein:

**Approval** means:

- (a) an approval or certificate as may be required by law (or under the terms of an Approval) to be obtained from or provided by an Authority;

- (b) a development consent or complying development certificate within the meaning of the Environmental Planning and Assessment Act 1979;
- (c) a "Part 4A certificate" within the meaning of section 109C of the Environmental Planning and Assessment Act 1979;
- (d) any order, direction or other requirement given or made by an Authority;
- (e) an order made under Division 2A or Division 3 of Part 6 of the Environmental Planning and Assessment Act 1979; and
- (f) an order made under Part 2 or Part 5 of Chapter 7 of the Local Government Act 1993;

**Authorised Lot** means lot 53 in the strata scheme bearing folio identifier 53/SP61717;

**Authorised Owner** means the owner of the Authorised Lot (or, if there is more than one such owner, those owners jointly and severally);

**Authority** means:

- (a) any Commonwealth, state or local government, semi-government, statutory, public or other body or person (or body or person otherwise authorised by law) having jurisdiction;
- (b) a consent authority or principal certifying authority within the meaning of the Environmental Planning and Assessment Act 1979;
- (c) the council having the relevant regulatory functions under Chapter 7 of the Local Government Act 1993; and
- (d) an authorised fire officer within the meaning of section 121ZC of the Environmental Planning and Assessment Act 1979;

**Building Works Conditions** means the provisions of Annexure B;

**Building Works** has the meaning given to it in the Building Works Conditions;

**common property** means the common property in the strata scheme;

**Development Act** means the Strata Schemes Development Act 2015;

**Exclusive Use Area** means:

- (a) those parts of the common property which are occupied by the Permitted Works (once complete); and
- (b) any part of the common property that is, as a result of the Permitted Works (once complete) altering the effective physical boundaries of the premises the subject of the Authorised Lot:
  - (i) only accessible from within that premises; or
  - (ii) enclosed within the effective physical boundaries of that premises;

and includes a reference to any common property the ongoing maintenance of which is to be the responsibility of the Authorised Owner in accordance with the Resolution;

**Management Act** means the Strata Schemes Management Act 2015;

**occupier** means:

- (a) the occupier of a lot, but only in relation to the lot occupied by that occupier;
- (b) where there is more than one occupier of that lot, means those occupiers jointly and severally, but only in relation to that lot; and
- (c) where there is more than one lot occupied by that occupier or occupiers, means that occupier or those occupiers (joint and severally) in respect of each such lot severally;

**owner** means:

- (a) the owner of a lot, but only in relation to the lot owned by that owner;
- (b) where there is more than one owner of that lot, means those owners jointly and severally, but only in relation to that lot; and
- (c) where there is more than one lot owned by that owner or owners, means that owner or those owners (joint and severally) in respect of each such lot severally;

**owners corporation** means the owners corporation created on registration of the strata plan;

**Permitted Work** means Building Works as set out in the Scope of Works.

**Resolution** means the special resolution of the owners corporation to authorise the Authorised Owner to take such action the subject of section 108(1) of the Management Act as required to carry out works subject to and in accordance herewith, the ongoing maintenance of which is to be the responsibility of the Authorised Owner;

**Scope of Works** means the Scope of Works in Annexure C;

**strata plan** means strata plan number 61717; and

**strata scheme** means the strata scheme relating to the strata plan.

## **Annexure B Building Works Conditions**

### **1 Building Works Conditions**

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#### **1.1 General conditions applying to Building Works**

Building Works must:

- (a) be carried out in accordance with and comply with any applicable law or Approval;
- (b) be carried out in a proper and workmanlike manner and only by persons who are duly licensed to do so;
- (c) comply with the National Construction Code and the Building Code of Australia and not cause the parcel or any part of it to breach either of those codes;
- (d) be fit for their purpose;
- (e) only be carried out using materials belonging to you and not subject to any charge, lien, security interest or similar;
- (f) be carried out with due diligence and expedition and within a reasonable time;
- (g) cause a minimum of disruption to the use of the parcel and a minimum of damage to the parcel;
- (h) in any event, not occasion the occupation or use of open space areas of common property except as otherwise specifically approved in writing by the owners corporation;
- (i) except as otherwise approved by the owners corporation, be carried out only between the hours of 7:30am and 5:30pm (excluding on any day that is a Saturday, Sunday or public holiday in New South Wales) or between 8:30 am and Midday on a Saturday;
- (j) not cause damage to the parcel or any part of the parcel otherwise than authorised hereunder;
- (k) not adversely affect the structure or support of the parcel;
- (l) not compromise the proper functioning or performance of any existing system or element of the parcel, including without limitation with respect to waterproofing or fire protection; and
- (m) not cause or amount to a nuisance or hazard to other owners or occupiers of lots or interfere unreasonably with the use or enjoyment of the parcel by other owners or occupiers of lots.

#### **1.2 Connection to services**

Except as otherwise approved in writing by the owners corporation, to the extent the Building Works are connected to any electrical, gas, water or other services, they must be connected only to such services that are separately metered to your lot (provided such separately metered services are otherwise connected to the lot).

#### **1.3 Cleanliness, protection and rectification**

You must:

- (a) ensure the parcel is adequately protected from damage that may be caused by Building Works;
- (b) ensure any part of the parcel affected by Building Works is kept clean and tidy and is left clean and tidy on completion of Building Works; and
- (c) if Building Works cause damage to the parcel, rectify that damage, including doing any necessary Building Works.



#### 1.4 Bond

You must, before carrying out Building Works, pay a bond to the owners corporation to secure compliance with your obligations under these Building Works Conditions in respect of those Building Works.

#### 1.5 Plans and specifications

If the owners corporation has not previously been provided with them, you must provide a copy of any plans and specifications relating to Building Works to the owners corporation. Where those plans and specifications relate to any element of Building Works that is proposed to be undertaken, those plans and specifications must be provided to the owners corporation before that element of those Building Works is undertaken.

#### 1.6 Insurance

You must effect and maintain the following insurance (or ensure the same is effected and maintained):

- (a) any insurance required by law in connection with Building Works; and
- (b) contractors all-risk insurance (including public liability insurance to a limit of not less than \$5,000,000 per event) in respect of the conduct of the Building Works naming the owners corporation as a beneficiary.

#### 1.7 Ownership of works

Building Works form part of the common property only to the extent that they are affixed to the common property and occupy cubic space forming part of the common property.

#### 1.8 Definitions

In addition to the terms otherwise defined herein, in these Building Works Conditions, unless the context otherwise requires:

**Building Code of Australia** has the meaning given to it under the Environmental Planning and Assessment Act 1979;

**Building Works** means building works and related products and services that you are required or permitted to put effect to hereunder, and includes a reference to:

- (a) ancillary works, products and services that it is reasonably necessary to do or supply to facilitate the doing of those building works, and the supply of those products and services; and
- (b) as the context may require, a reference to the result of those building works and related products and services being done and supplied; and

**National Construction Code** means the National Construction Code published by the Australian Building Codes Board from time to time;

**you** means a person who is required to comply with these Building Works Conditions, or whose Building Works are required to comply with these Building Works Conditions; and

**your** has a corresponding meaning to You.

## **Annexure C Scope of Works**

### **1 Scope of Works**

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#### **1.1 Bathroom**

Renovation of the bathroom of the Authorised Lot including:

- (a) removal of all fixtures, fittings, cabinetry, shower, toilet suite and vanity;
- (b) installation of new fixtures, fittings, cabinetry, shower, in-wall toilet suite and vanity;
- (c) removal of floor and wall tiling;
- (d) installation of new floor and wall tiling including waterproofing works; and
- (e) plumbing and electrical works as necessary.

#### **1.2 Kitchen**

Renovation of the kitchen of the Authorised Lot including:

- (a) removal of all fixtures, fittings, appliances and cabinetry;
- (b) installation of new fixtures, fittings, appliances and cabinetry;
- (c) removal of wall tiling;
- (d) installation of new wall tiling including waterproofing works; and
- (e) plumbing and electrical works as necessary.

#### **1.3 Laminate flooring**

Installation of new laminate flooring in the Authorised Lot, including:

- (a) removal of existing flooring throughout living, bedroom and kitchen areas;
- (b) installation of acoustic underlay; and
- (c) installation of laminate floorboards.

# SPECIAL BY-LAW 13

*A by-law with respect to lot 69 works.*

## **1 Approval of work**

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### **1.1 Work**

Subject to the conditions herein the Authorised Owner may carry out and keep the Permitted Work.

### **1.2 Exclusive use**

Subject to the conditions herein the Authorised Owner has exclusive use of the Exclusive Use Area.

### **1.3 Building Works**

In respect of Building Works that the Authorised Owner is required or permitted to carry out under this by-law:

- (a) the Authorised Owner must comply, and those Building Works must comply, with the Building Works Conditions; and
- (b) those Building Works must be undertaken in accordance with, and comply with, any applicable provisions of the Scope of Works.

### **1.4 Ongoing maintenance and use**

The Authorised Owner, at their own cost:

- (a) is responsible for the ongoing proper maintenance of, and keeping in a state of good and serviceable repair, the Exclusive Use Area, and must do any Building Works necessary to effect the same;
- (b) must renew and replace any fixtures or fittings comprised in the Exclusive Use Area, and must do any Building Works necessary to effect the same;
- (c) must ensure that the Exclusive Use Area is used in accordance with and continues to comply with the requirements hereof and any applicable law or Approval; and
- (d) must ensure that the Exclusive Use Area is kept clean and tidy at all times and free from hazards posing a risk of injury or death to persons or damage to property.

### **1.5 Costs**

The Authorised Owner must pay the owners corporation's reasonable costs in connection herewith (including legal costs, disbursements, strata management costs, and registration costs, but excluding costs of consolidating by-laws other than this by-law for registration).

### **1.6 Access**

The Authorised Owner must provide the owners corporation with access to the Authorised Lot and the Exclusive Use Area for the purpose of monitoring or enforcing compliance herewith (or if the Authorised Owner is not also the occupier of the Authorised Lot, the Authorised Owner must do all things within their power to procure such access) as follows:

- (a) during a period where Building Works are being carried out, within 24 hours of a request by the owners corporation; or
- (b) in any other case, to the extent otherwise required by law.

### **1.7 Indemnity**

The Authorised Owner will indemnify the owners corporation immediately on demand for any damage, cost, loss, claim, demand, suit or liability howsoever incurred by or brought

against the owners corporation in connection with Building Works (or their use) or the use of the Exclusive Use Area, except to the extent that such damage, costs, loss, claim, demand suit or liability is caused by the negligent act or omission of the owners corporation or of its agents, employees or contractors.

### **1.8 Default**

If the Authorised Owner fails to comply with any obligation hereunder the owners corporation may carry out that obligation and recover the cost of so doing from the Authorised Owner.

### **1.9 Scope of Works**

Any provisions set out in the Scope of Works have effect as if they were provisions hereof. To the extent that any provision in the Scope of Works is inconsistent with any other provision hereof, the provision in the Scope of Works prevails to the extent of that inconsistency.

## **2 Methods and procedures**

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### **2.1 Approvals**

In relation to any right granted to a person hereunder, that person must:

- (a) obtain all necessary Approvals (and ensure that all necessary Approvals are obtained) in relation to anything done or omitted to be done by them in the exercise of that right;
- (b) provide a copy of any such Approvals to the owners corporation;
- (c) in the event that such an Approval is required by law (or under the terms of an Approval) to be obtained before doing (or omitting to do) anything, supply a copy of that Approval to the owners corporation before doing (or omitting to do) that thing; and
- (d) provide a copy to the owners corporation of any certificate or document evidencing compliance with such an Approval, being a certificate or document required by law or under the terms of such an Approval to be obtained or provided.

### **2.2 Consent**

On written demand of a person granted a right hereunder, the owners corporation must provide its consent as may be required by any Authority in connection with an exercise by that person of that right, without limitation including by affixing its seal by way of consent to any application to a relevant consent authority for development consent, a construction certificate or a complying development certificate as contemplated by the Environmental Planning and Assessment Act 1979.

### **2.3 Bond**

Where a person is required under a provision hereof to pay a bond to secure compliance with an obligation, except to the extent that provision requires otherwise, that bond:

- (a) is an amount in Australian currency as otherwise provided herein, or in the absence of such provision:
  - (i) as reasonably determined from time to time by the owners corporation; or
  - (ii) in the absence of such a determination, the amount of \$500;
- (b) is payable to the owners corporation prior to the secured obligation arising and, if the owners corporation reasonably directs, in the manner so directed by it from time to time;
- (c) may be applied by the owners corporation against any liability or debt of that person to the owners corporation, including without limitation a debt arising under section 120 of the Management Act in connection with a failure to carry out work required to be carried out by that person in respect of the secured obligation; and

- (d) must be returned by the owners corporation to that person after the expiry of 1 month following the satisfaction or ending of the secured obligation, less any amount deducted by the owners corporation in accordance herewith.

## **2.4 Acting through others**

Except as otherwise provided herein, a person may exercise a right granted to them hereunder, or meet an obligation imposed upon them hereunder, by their servants, agents, or contractors, however that person:

- (a) will not by reason only of so doing be released from that obligation, or release that right; and
- (b) is liable for the acts or omissions of those servants, agents or contractors as fully as if they were those servants, agents or contractors and those acts or omissions were theirs.

## **2.5 Liability for occupiers and invitees**

Except as otherwise provided herein:

- (a) An owner or occupier of a lot must ensure, and must use their best endeavours to ensure, that their invitees, agents, contractors or employees (and, in the case of an owner, any occupier of their lot) comply with any obligations that they have hereunder, or (so far as those obligations are capable of such application) which they would have if those persons were owners or occupiers of lots.
- (b) An owner or occupier of a lot is liable for the acts or omissions of their invitees in breach hereof (and, in the case of an owner, any occupier of their lot) as fully as if those persons were that owner or occupier and those acts or omissions were theirs.

## **2.6 Exercise of care, skill and compliance with law**

Except as otherwise provided herein, a person must, in exercising a right granted to them hereunder, or in meeting an obligation imposed on them hereunder:

- (a) exercise due care and skill; and
- (b) do so in accordance with any applicable law.

## **2.7 Obligation to do work to remedy breach**

An owner or occupier of a lot is required to do any work necessary to remediate any breach by them hereof, including without limitation work to:

- (a) comply with the obligation breached;
- (b) repair any damage caused to the property;
- (c) clean any rubbish, dirt, debris, or staining caused to the property;
- (d) rectify any fault, malfunction or defect caused to any system, service, appliance or apparatus in the property; and
- (e) remediate a breach or non-compliance with any applicable law or the requirements of any Authority affecting the property and caused by that breach.

For the purposes of this clause 2.7 a reference to property includes the common property or personal property vested in the owners corporation.

## **2.8 Conditions attaching to remedial work**

An owner or occupier of a lot who is required to do work under clause 2.7 must, except as may be provided otherwise herein:

- (a) prior to undertaking such work, and upon completion of the work, notify the owners corporation in writing;
- (b) ensure that such work is done within 1 week from the breach requiring remediation, except to the extent otherwise provided herein;

- (c) ensure that such work is done:
  - (i) in accordance with any applicable law and any other applicable requirement hereof; and
  - (ii) in a proper and workmanlike manner and exercising due care and skill.

**Note.** *If an owner or occupier of a lot fails to do work hereunder the owners corporation may by law be entitled to do that work and recover the cost from that owner or occupier, or any person who becomes the owner of their lot.*

## 2.9 Power to carry out work and recover costs

Within the meaning of section 120 of the Management Act, if:

- (a) work is required to be carried out by an owner or occupier of a lot under a term or condition hereof; and
- (b) that owner or occupier fails to carry out that work;

then the owners corporation may carry out that work and may recover the cost of carrying out that work from that owner or occupier, or any person who, after the work is carried out, becomes the owner of the lot.

## 2.10 Application of the Civil Liability Act 2002

- (a) Owners and occupiers of lots acknowledge and agree that:
  - (i) the provisions hereof make express provision for their rights, obligations and liabilities hereunder with respect to all matters to which the Civil Liability Act 2002 applies as contemplated by section 3A(2) of that act; and
  - (ii) to the extent permitted by law, that act does not apply in connection with those rights, obligations and liabilities.
- (b) Any provision hereof that is prevented by Part 2 of the Civil Liability Act 2002 is severed to the extent so prevented.

## 2.11 Recovery of amounts

Any amount due to the owners corporation in connection herewith is recoverable by the owners corporation as a debt and:

- (a) bears interest as if it was a contribution unpaid by the owner (or, if the liable person is not an owner of a lot, as if they were such an owner); and
- (b) may be recovered by the owners corporation as if it was a contribution unpaid by the owner (or, if the liable person is not an owner of a lot, as if they were such an owner), including as to:
  - (i) any interest payable; and
  - (ii) the expenses of the owners corporation incurred in recovering those amounts.

**Note.** *The vote of an owner of a lot at a general meeting of the owners corporation may not count by law unless payment has been made before that meeting of amounts recoverable from the owner in connection herewith.*

## 2.12 Alteration of building affecting lot boundary

An owner of a lot must comply with any obligation they may have under section 19 of the Development Act in respect of the strata scheme from time to time.

## **3 Definitions and interpretation**

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### **3.1 Interpretation**

Except to the extent the context otherwise requires, or as is otherwise expressly provided, herein:

- (a) the terms “herein”, “hereunder”, “hereof” and “herewith” mean, respectively, in, under, of and with this by-law;
- (b) the singular includes the plural and vice versa;
- (c) headings, notes, explanatory notes and similar do not form part of these by-laws and do not affect the operation of these by-laws;
- (d) a reference to a document, includes any amendment, replacement or novation of it;
- (e) where any word or phrase is given a definite meaning, any part of speech or other grammatical form of the word or phrase has a corresponding meaning;
- (f) any reference to legislation includes any amending or replacing legislation;
- (g) where words “includes”, “including”, “such as”, “like”, “for example” or similar are used, they are to be read as if immediately followed by the words “without limitation”;
- (h) where no time is specified for compliance with an obligation, that obligation must be complied with within a reasonable time;
- (i) any reference to legislation includes any subordinate legislation or other instrument created thereunder;
- (j) where two or more persons share a right or obligation hereunder, that right may be exercised, and that obligation must be met, jointly and severally;
- (k) where an obligation is imposed on a “person” hereunder, “person” does not include the owners corporation unless expressly provided otherwise; and
- (l) a term defined in the Management Act or Development Act will have the same meaning.

### **3.2 Functions of the owners corporation**

- (a) Without limiting its other functions, the owners corporation has the functions necessary for it to discharge the duties imposed on it, and exercise the powers and authorities conferred on it hereby.
- (b) No provision hereof that grants a right or remedy to the owners corporation limits or restricts any other right or remedy of the owners corporation arising under any other provision of the by-laws of the strata scheme or otherwise at law.

### **3.3 Severability**

- (a) To the extent that any term herein is inconsistent with the Management Act or any other Act or law it is to be severed and the remaining terms herein will be read and be enforceable as if so consistent.
- (b) To the extent that any term herein is inconsistent with another by-law of the strata scheme, the provisions herein prevail to the extent of that inconsistency.

### **3.4 Definitions**

Except to the extent the context otherwise requires, or as is otherwise expressly provided, herein:

**Approval** means:

- (a) an approval or certificate as may be required by law (or under the terms of an Approval) to be obtained from or provided by an Authority;

- (b) a development consent or complying development certificate within the meaning of the Environmental Planning and Assessment Act 1979;
- (c) a "Part 4A certificate" within the meaning of section 109C of the Environmental Planning and Assessment Act 1979;
- (d) any order, direction or other requirement given or made by an Authority;
- (e) an order made under Division 2A or Division 3 of Part 6 of the Environmental Planning and Assessment Act 1979; and
- (f) an order made under Part 2 or Part 5 of Chapter 7 of the Local Government Act 1993;

**Authorised Lot** means lot 69 in the strata scheme bearing folio identifier 69/SP61717;

**Authorised Owner** means the owner of the Authorised Lot (or, if there is more than one such owner, those owners jointly and severally);

**Authority** means:

- (a) any Commonwealth, state or local government, semi-government, statutory, public or other body or person (or body or person otherwise authorised by law) having jurisdiction;
- (b) a consent authority or principal certifying authority within the meaning of the Environmental Planning and Assessment Act 1979;
- (c) the council having the relevant regulatory functions under Chapter 7 of the Local Government Act 1993; and
- (d) an authorised fire officer within the meaning of section 121ZC of the Environmental Planning and Assessment Act 1979;

**Building Works Conditions** means the provisions of Annexure D;

**Building Works** has the meaning given to it in the Building Works Conditions;

**common property** means the common property in the strata scheme;

**Development Act** means the Strata Schemes Development Act 2015;

**Exclusive Use Area** means:

- (a) those parts of the common property which are occupied by the Permitted Works (once complete); and
- (b) any part of the common property that is, as a result of the Permitted Works (once complete) altering the effective physical boundaries of the premises the subject of the Authorised Lot:
  - (i) only accessible from within that premises; or
  - (ii) enclosed within the effective physical boundaries of that premises;

and includes a reference to any common property the ongoing maintenance of which is to be the responsibility of the Authorised Owner in accordance with the Resolution;

**Management Act** means the Strata Schemes Management Act 2015;

**occupier** means:

- (a) the occupier of a lot, but only in relation to the lot occupied by that occupier;
- (b) where there is more than one occupier of that lot, means those occupiers jointly and severally, but only in relation to that lot; and
- (c) where there is more than one lot occupied by that occupier or occupiers, means that occupier or those occupiers (joint and severally) in respect of each such lot severally;



**owner** means:

- (a) the owner of a lot, but only in relation to the lot owned by that owner;
- (b) where there is more than one owner of that lot, means those owners jointly and severally, but only in relation to that lot; and
- (c) where there is more than one lot owned by that owner or owners, means that owner or those owners (joint and severally) in respect of each such lot severally;

**owners corporation** means the owners corporation created on registration of the strata plan;

**Permitted Work** means Building Works as set out in the Scope of Works.

**Resolution** means the special resolution of the owners corporation to authorise the Authorised Owner to take such action the subject of section 108(1) of the Management Act as required to carry out works subject to and in accordance herewith, the ongoing maintenance of which is to be the responsibility of the Authorised Owner;

**Scope of Works** means the Scope of Works in Annexure E;

**strata plan** means strata plan number 61717; and

**strata scheme** means the strata scheme relating to the strata plan.

## **Annexure D Building Works Conditions**

### **1 Building Works Conditions**

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#### **1.1 General conditions applying to Building Works**

Building Works must:

- (a) be carried out in accordance with and comply with any applicable law or Approval;
- (b) be carried out in a proper and workmanlike manner and only by persons who are duly licensed to do so;
- (c) comply with the National Construction Code and the Building Code of Australia and not cause the parcel or any part of it to breach either of those codes;
- (d) be fit for their purpose;
- (e) only be carried out using materials belonging to you and not subject to any charge, lien, security interest or similar;
- (f) be carried out with due diligence and expedition and within a reasonable time;
- (g) cause a minimum of disruption to the use of the parcel and a minimum of damage to the parcel;
- (h) in any event, not occasion the occupation or use of open space areas of common property except as otherwise specifically approved in writing by the owners corporation;
- (i) except as otherwise approved by the owners corporation, be carried out only between the hours of 7:30am and 5:30pm (excluding on any day that is a Saturday, Sunday or public holiday in New South Wales) or between 8:30 am and Midday on a Saturday;
- (j) not cause damage to the parcel or any part of the parcel otherwise than authorised hereunder;
- (k) not adversely affect the structure or support of the parcel;
- (l) not compromise the proper functioning or performance of any existing system or element of the parcel, including without limitation with respect to waterproofing or fire protection; and
- (m) not cause or amount to a nuisance or hazard to other owners or occupiers of lots or interfere unreasonably with the use or enjoyment of the parcel by other owners or occupiers of lots.

#### **1.2 Connection to services**

Except as otherwise approved in writing by the owners corporation, to the extent the Building Works are connected to any electrical, gas, water or other services, they must be connected only to such services that are separately metered to your lot (provided such separately metered services are otherwise connected to the lot).

#### **1.3 Cleanliness, protection and rectification**

You must:

- (a) ensure the parcel is adequately protected from damage that may be caused by Building Works;
- (b) ensure any part of the parcel affected by Building Works is kept clean and tidy and is left clean and tidy on completion of Building Works; and
- (c) if Building Works cause damage to the parcel, rectify that damage, including doing any necessary Building Works.

#### 1.4 Bond

You must, before carrying out Building Works, pay a bond to the owners corporation to secure compliance with your obligations under these Building Works Conditions in respect of those Building Works.

#### 1.5 Plans and specifications

If the owners corporation has not previously been provided with them, you must provide a copy of any plans and specifications relating to Building Works to the owners corporation. Where those plans and specifications relate to any element of Building Works that is proposed to be undertaken, those plans and specifications must be provided to the owners corporation before that element of those Building Works is undertaken.

#### 1.6 Insurance

You must effect and maintain the following insurance (or ensure the same is effected and maintained):

- (a) any insurance required by law in connection with Building Works; and
- (b) contractors all-risk insurance (including public liability insurance to a limit of not less than \$5,000,000 per event) in respect of the conduct of the Building Works naming the owners corporation as a beneficiary.

#### 1.7 Ownership of works

Building Works form part of the common property only to the extent that they are affixed to the common property and occupy cubic space forming part of the common property.

#### 1.8 Definitions

In addition to the terms otherwise defined herein, in these Building Works Conditions, unless the context otherwise requires:

**Building Code of Australia** has the meaning given to it under the Environmental Planning and Assessment Act 1979;

**Building Works** means building works and related products and services that you are required or permitted to put effect to hereunder, and includes a reference to:

- (a) ancillary works, products and services that it is reasonably necessary to do or supply to facilitate the doing of those building works, and the supply of those products and services; and
- (b) as the context may require, a reference to the result of those building works and related products and services being done and supplied; and

**National Construction Code** means the National Construction Code published by the Australian Building Codes Board from time to time;.

**you** means a person who is required to comply with these Building Works Conditions, or whose Building Works are required to comply with these Building Works Conditions; and

**your** has a corresponding meaning to You.

## **Annexure E    Scope of Works**

### **1        Scope of Works**

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#### **1.1      Bathroom**

Renovation of the bathroom of the Authorised Lot including:

- (a)        removal of all fixtures, fittings, cabinetry, shower, toilet suite and vanity;
- (b)        removal of floor and wall tiling;
- (c)        installation of new floor and wall tiling including waterproofing works;
- (d)        installation of an exhaust fan, including penetration through a common property wall for external ventilation;
- (e)        installation of new fixtures, fittings, cabinetry, shower, toilet suite and vanity; and
- (f)        plumbing and electrical works as necessary.

## Schedule 2 Addition of Special By-Laws 14, 15, 16 and 17

# SPECIAL BY-LAW 14

*A by-law with respect to lot 123 works.*

## **1 Approval of work**

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### **1.1 Work**

Subject to the conditions herein the Authorised Owner may carry out and keep the Permitted Work.

### **1.2 Exclusive use**

Subject to the conditions herein the Authorised Owner has exclusive use of the Exclusive Use Area.

### **1.3 Building Works**

In respect of Building Works that the Authorised Owner is required or permitted to carry out under this by-law:

- (a) the Authorised Owner must comply, and those Building Works must comply, with the Building Works Conditions; and
- (b) those Building Works must be undertaken in accordance with, and comply with, any applicable provisions of the Scope of Works.

### **1.4 Ongoing maintenance and use**

The Authorised Owner, at their own cost:

- (a) is responsible for the ongoing proper maintenance of, and keeping in a state of good and serviceable repair, the Exclusive Use Area, and must do any Building Works necessary to effect the same;
- (b) must renew and replace any fixtures or fittings comprised in the Exclusive Use Area, and must do any Building Works necessary to effect the same;
- (c) must ensure that the Exclusive Use Area is used in accordance with and continues to comply with the requirements hereof and any applicable law or Approval; and
- (d) must ensure that the Exclusive Use Area is kept clean and tidy at all times and free from hazards posing a risk of injury or death to persons or damage to property.

### **1.5 Access**

The Authorised Owner must provide the owners corporation with access to the Authorised Lot and the Exclusive Use Area for the purpose of monitoring or enforcing compliance herewith (or if the Authorised Owner is not also the occupier of the Authorised Lot, the Authorised Owner must do all things within their power to procure such access) as follows:

- (a) during a period where Building Works are being carried out, within 24 hours of a request by the owners corporation; or
- (b) in any other case, to the extent otherwise required by law.

### **1.6 Indemnity**

The Authorised Owner will indemnify the owners corporation immediately on demand for any damage, cost, loss, claim, demand, suit or liability howsoever incurred by or brought against the owners corporation in connection with Building Works (or their use) or the use of the Exclusive Use Area, except to the extent that such damage, costs, loss, claim,

demand suit or liability is caused by the negligent act or omission of the owners corporation or of its agents, employees or contractors.

### **1.7 Default**

If the Authorised Owner fails to comply with any obligation hereunder the owners corporation may carry out that obligation and recover the cost of so doing from the Authorised Owner.

### **1.8 Scope of Works**

Any provisions set out in the Scope of Works have effect as if they were provisions hereof. To the extent that any provision in the Scope of Works is inconsistent with any other provision hereof, the provision in the Scope of Works prevails to the extent of that inconsistency.

## **2 Methods and procedures**

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### **2.1 Approvals**

In relation to any right granted to a person hereunder, that person must:

- (a) obtain all necessary Approvals (and ensure that all necessary Approvals are obtained) in relation to anything done or omitted to be done by them in the exercise of that right;
- (b) provide a copy of any such Approvals to the owners corporation;
- (c) in the event that such an Approval is required by law (or under the terms of an Approval) to be obtained before doing (or omitting to do) anything, supply a copy of that Approval to the owners corporation before doing (or omitting to do) that thing; and
- (d) provide a copy to the owners corporation of any certificate or document evidencing compliance with such an Approval, being a certificate or document required by law or under the terms of such an Approval to be obtained or provided.

### **2.2 Consent**

On written demand of a person granted a right hereunder, the owners corporation must provide its consent as may be required by any Authority in connection with an exercise by that person of that right, without limitation including by affixing its seal by way of consent to any application to a relevant consent authority for development consent, a construction certificate or a complying development certificate as contemplated by the Environmental Planning and Assessment Act 1979.

### **2.3 Bond**

Where a person is required under a provision hereof to pay a bond to secure compliance with an obligation, except to the extent that provision requires otherwise, that bond:

- (a) is an amount in Australian currency as otherwise provided herein, or in the absence of such provision:
  - (i) as reasonably determined from time to time by the owners corporation; or
  - (ii) in the absence of such a determination, the amount of \$500;
- (b) is payable to the owners corporation prior to the secured obligation arising and, if the owners corporation reasonably directs, in the manner so directed by it from time to time;
- (c) may be applied by the owners corporation against any liability or debt of that person to the owners corporation, including without limitation a debt arising under section 120 of the Management Act in connection with a failure to carry out work required to be carried out by that person in respect of the secured obligation; and

- (d) must be returned by the owners corporation to that person after the expiry of 1 month following the satisfaction or ending of the secured obligation, less any amount deducted by the owners corporation in accordance herewith.

## **2.4 Acting through others**

Except as otherwise provided herein, a person may exercise a right granted to them hereunder, or meet an obligation imposed upon them hereunder, by their servants, agents, or contractors, however that person:

- (a) will not by reason only of so doing be released from that obligation, or release that right; and
- (b) is liable for the acts or omissions of those servants, agents or contractors as fully as if they were those servants, agents or contractors and those acts or omissions were theirs.

## **2.5 Liability for occupiers and invitees**

Except as otherwise provided herein:

- (a) An owner or occupier of a lot must ensure, and must use their best endeavours to ensure, that their invitees, agents, contractors or employees (and, in the case of an owner, any occupier of their lot) comply with any obligations that they have hereunder, or (so far as those obligations are capable of such application) which they would have if those persons were owners or occupiers of lots.
- (b) An owner or occupier of a lot is liable for the acts or omissions of their invitees in breach hereof (and, in the case of an owner, any occupier of their lot) as fully as if those persons were that owner or occupier and those acts or omissions were theirs.

## **2.6 Exercise of care, skill and compliance with law**

Except as otherwise provided herein, a person must, in exercising a right granted to them hereunder, or in meeting an obligation imposed on them hereunder:

- (a) exercise due care and skill; and
- (b) do so in accordance with any applicable law.

## **2.7 Obligation to do work to remedy breach**

An owner or occupier of a lot is required to do any work necessary to remediate any breach by them hereof, including without limitation work to:

- (a) comply with the obligation breached;
- (b) repair any damage caused to the property;
- (c) clean any rubbish, dirt, debris, or staining caused to the property;
- (d) rectify any fault, malfunction or defect caused to any system, service, appliance or apparatus in the property; and
- (e) remediate a breach or non-compliance with any applicable law or the requirements of any Authority affecting the property and caused by that breach.

For the purposes of this clause 2.7 a reference to property includes the common property or personal property vested in the owners corporation.

## **2.8 Conditions attaching to remedial work**

An owner or occupier of a lot who is required to do work under clause 2.7 must, except as may be provided otherwise herein:

- (a) prior to undertaking such work, and upon completion of the work, notify the owners corporation in writing;
- (b) ensure that such work is done within 1 week from the breach requiring remediation, except to the extent otherwise provided herein;

- (c) ensure that such work is done:
  - (i) in accordance with any applicable law and any other applicable requirement hereof; and
  - (ii) in a proper and workmanlike manner and exercising due care and skill.

**Note.** *If an owner or occupier of a lot fails to do work hereunder the owners corporation may by law be entitled to do that work and recover the cost from that owner or occupier, or any person who becomes the owner of their lot.*

## **2.9 Power to carry out work and recover costs**

Within the meaning of section 120 of the Management Act, if:

- (a) work is required to be carried out by an owner or occupier of a lot under a term or condition hereof; and
- (b) that owner or occupier fails to carry out that work;

then the owners corporation may carry out that work and may recover the cost of carrying out that work from that owner or occupier, or any person who, after the work is carried out, becomes the owner of the lot.

## **2.10 Application of the Civil Liability Act 2002**

- (a) Owners and occupiers of lots acknowledge and agree that:
  - (i) the provisions hereof make express provision for their rights, obligations and liabilities hereunder with respect to all matters to which the Civil Liability Act 2002 applies as contemplated by section 3A(2) of that act; and
  - (ii) to the extent permitted by law, that act does not apply in connection with those rights, obligations and liabilities.
- (b) Any provision hereof that is prevented by Part 2 of the Civil Liability Act 2002 is severed to the extent so prevented.

## **2.11 Recovery of amounts**

Any amount due to the owners corporation in connection herewith is recoverable by the owners corporation as a debt and:

- (a) bears interest as if it was a contribution unpaid by the owner (or, if the liable person is not an owner of a lot, as if they were such an owner); and
- (b) may be recovered by the owners corporation as if it was a contribution unpaid by the owner (or, if the liable person is not an owner of a lot, as if they were such an owner), including as to:
  - (i) any interest payable; and
  - (ii) the expenses of the owners corporation incurred in recovering those amounts.

**Note.** *The vote of an owner of a lot at a general meeting of the owners corporation may not count by law unless payment has been made before that meeting of amounts recoverable from the owner in connection herewith.*

## **2.12 Alteration of building affecting lot boundary**

An owner of a lot must comply with any obligation they may have under section 19 of the Development Act in respect of the strata scheme from time to time.



## **3 Definitions and interpretation**

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### **3.1 Interpretation**

Except to the extent the context otherwise requires, or as is otherwise expressly provided, herein:

- (a) the terms “herein”, “hereunder”, “hereof” and “herewith” mean, respectively, in, under, of and with this by-law;
- (b) the singular includes the plural and vice versa;
- (c) headings, notes, explanatory notes and similar do not form part of these by-laws and do not affect the operation of these by-laws;
- (d) a reference to a document, includes any amendment, replacement or novation of it;
- (e) where any word or phrase is given a definite meaning, any part of speech or other grammatical form of the word or phrase has a corresponding meaning;
- (f) any reference to legislation includes any amending or replacing legislation;
- (g) where words “includes”, “including”, “such as”, “like”, “for example” or similar are used, they are to be read as if immediately followed by the words “without limitation”;
- (h) where no time is specified for compliance with an obligation, that obligation must be complied with within a reasonable time;
- (i) any reference to legislation includes any subordinate legislation or other instrument created thereunder;
- (j) where two or more persons share a right or obligation hereunder, that right may be exercised, and that obligation must be met, jointly and severally;
- (k) where an obligation is imposed on a “person” hereunder, “person” does not include the owners corporation unless expressly provided otherwise; and
- (l) a term defined in the Management Act or Development Act will have the same meaning.

### **3.2 Functions of the owners corporation**

- (a) Without limiting its other functions, the owners corporation has the functions necessary for it to discharge the duties imposed on it, and exercise the powers and authorities conferred on it hereby.
- (b) No provision hereof that grants a right or remedy to the owners corporation limits or restricts any other right or remedy of the owners corporation arising under any other provision of the by-laws of the strata scheme or otherwise at law.

### **3.3 Severability**

- (a) To the extent that any term herein is inconsistent with the Management Act or any other Act or law it is to be severed and the remaining terms herein will be read and be enforceable as if so consistent.
- (b) To the extent that any term herein is inconsistent with another by-law of the strata scheme, the provisions herein prevail to the extent of that inconsistency.

### **3.4 Definitions**

Except to the extent the context otherwise requires, or as is otherwise expressly provided, herein:

**Approval** means:

- (a) an approval or certificate as may be required by law (or under the terms of an Approval) to be obtained from or provided by an Authority;
- (b) a development consent or complying development certificate within the meaning of the Environmental Planning and Assessment Act 1979;
- (c) a certificate within the meaning of Division 6.3 of the Environmental Planning and Assessment Act 1979;
- (d) any order, direction or other requirement given or made by an Authority;
- (e) an order made under Division 9.3, 9.4 or 9.5 of the Environmental Planning and Assessment Act 1979; and
- (f) an order made under Part 2 or Part 5 of Chapter 7 of the Local Government Act 1993;

**Authorised Lot** means lot 123 in the strata scheme bearing folio identifier 123/SP63776;

**Authorised Owner** means the owner of the Authorised Lot (or, if there is more than one such owner, those owners jointly and severally);

**Authority** means:

- (a) any Commonwealth, state or local government, semi-government, statutory, public or other body or person (or body or person otherwise authorised by law) having jurisdiction;
- (b) a consent authority or principal certifying authority within the meaning of the Environmental Planning and Assessment Act 1979;
- (c) the council having the relevant regulatory functions under Chapter 7 of the Local Government Act 1993; and
- (d) an authorised fire officer within the meaning of Schedule 5 clause 16 of the Environmental Planning and Assessment Act 1979;

**Building Works Conditions** means the provisions of Annexure F;

**Building Works** has the meaning given to it in the Building Works Conditions;

**common property** means the common property in the strata scheme;

**Development Act** means the Strata Schemes Development Act 2015;

**Exclusive Use Area** means:

- (a) those parts of the common property which are occupied by the Permitted Works (once complete); and
- (b) any part of the common property that is, as a result of the Permitted Works (once complete) altering the effective physical boundaries of the premises the subject of the Authorised Lot:
  - (i) only accessible from within that premises; or
  - (ii) enclosed within the effective physical boundaries of that premises;

and includes a reference to any common property the ongoing maintenance of which is to be the responsibility of the Authorised Owner in accordance with the Resolution;

**Management Act** means the Strata Schemes Management Act 2015;

**occupier** means:

- (a) the occupier of a lot, but only in relation to the lot occupied by that occupier;
- (b) where there is more than one occupier of that lot, means those occupiers jointly and severally, but only in relation to that lot; and

- (c) where there is more than one lot occupied by that occupier or occupiers, means that occupier or those occupiers (joint and severally) in respect of each such lot severally;

**owner** means:

- (a) the owner of a lot, but only in relation to the lot owned by that owner;
- (b) where there is more than one owner of that lot, means those owners jointly and severally, but only in relation to that lot; and
- (c) where there is more than one lot owned by that owner or owners, means that owner or those owners (joint and severally) in respect of each such lot severally;

**owners corporation** means the owners corporation created on registration of the strata plan;

**Permitted Work** means Building Works as set out in the Scope of Works.

**Resolution** means the special resolution of the owners corporation to authorise the Authorised Owner to take such action the subject of section 108(1) of the Management Act as required to carry out works subject to and in accordance herewith, the ongoing maintenance of which is to be the responsibility of the Authorised Owner;

**Scope of Works** means the Scope of Works in Annexure G;

**strata plan** means strata plan number 61717; and

**strata scheme** means the strata scheme relating to the strata plan.

## **Annexure F Building Works Conditions**

### **1 Building Works Conditions**

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#### **1.1 General conditions applying to Building Works**

Building Works must:

- (a) be carried out in accordance with and comply with any applicable law or Approval;
- (b) be carried out in a proper and workmanlike manner and only by persons who are duly licensed to do so;
- (c) comply with the National Construction Code and the Building Code of Australia and not cause the parcel or any part of it to breach either of those codes;
- (d) be fit for their purpose;
- (e) only be carried out using materials belonging to you and not subject to any charge, lien, security interest or similar;
- (f) be carried out with due diligence and expedition and within a reasonable time;
- (g) cause a minimum of disruption to the use of the parcel and a minimum of damage to the parcel;
- (h) in any event, not occasion the occupation or use of open space areas of common property except as otherwise specifically approved in writing by the owners corporation;
- (i) except as otherwise approved by the owners corporation, be carried out only between the hours of 7:30am and 5:30pm (excluding on any day that is a Saturday, Sunday or public holiday in New South Wales) or between 8:30 am and Midday on a Saturday;
- (j) not cause damage to the parcel or any part of the parcel otherwise than authorised hereunder;
- (k) not adversely affect the structure or support of the parcel;
- (l) not compromise the proper functioning or performance of any existing system or element of the parcel, including without limitation with respect to waterproofing or fire protection; and
- (m) not cause or amount to a nuisance or hazard to other owners or occupiers of lots or interfere unreasonably with the use or enjoyment of the parcel by other owners or occupiers of lots.

#### **1.2 Connection to services**

Except as otherwise approved in writing by the owners corporation, to the extent the Building Works are connected to any electrical, gas, water or other services, they must be connected only to such services that are separately metered to your lot (provided such separately metered services are otherwise connected to the lot).

#### **1.3 Cleanliness, protection and rectification**

You must:

- (a) ensure the parcel is adequately protected from damage that may be caused by Building Works;
- (b) ensure any part of the parcel affected by Building Works is kept clean and tidy and is left clean and tidy on completion of Building Works; and
- (c) if Building Works cause damage to the parcel, rectify that damage, including doing any necessary Building Works.

#### 1.4 Bond

You must, before carrying out Building Works, pay a bond to the owners corporation to secure compliance with your obligations under these Building Works Conditions in respect of those Building Works.

#### 1.5 Plans and specifications

If the owners corporation has not previously been provided with them, you must provide a copy of any plans and specifications relating to Building Works to the owners corporation. Where those plans and specifications relate to any element of Building Works that is proposed to be undertaken, those plans and specifications must be provided to the owners corporation before that element of those Building Works is undertaken.

#### 1.6 Insurance

You must effect and maintain the following insurance (or ensure the same is effected and maintained):

- (a) any insurance required by law in connection with Building Works; and
- (b) contractors all-risk insurance (including public liability insurance to a limit of not less than \$5,000,000 per event) in respect of the conduct of the Building Works naming the owners corporation as a beneficiary.

#### 1.7 Ownership of works

Building Works form part of the common property only to the extent that they are affixed to the common property and occupy cubic space forming part of the common property.

#### 1.8 Definitions

In addition to the terms otherwise defined herein, in these Building Works Conditions, unless the context otherwise requires:

**Building Code of Australia** has the meaning given to it under the Environmental Planning and Assessment Act 1979;

**Building Works** means building works and related products and services that you are required or permitted to put effect to hereunder, and includes a reference to:

- (a) ancillary works, products and services that it is reasonably necessary to do or supply to facilitate the doing of those building works, and the supply of those products and services; and
- (b) as the context may require, a reference to the result of those building works and related products and services being done and supplied; and

**National Construction Code** means the National Construction Code published by the Australian Building Codes Board from time to time;.

**you** means a person who is required to comply with these Building Works Conditions, or whose Building Works are required to comply with these Building Works Conditions; and

**your** has a corresponding meaning to You.

## **Annexure G    Scope of Works**

### **1        Scope of Works**

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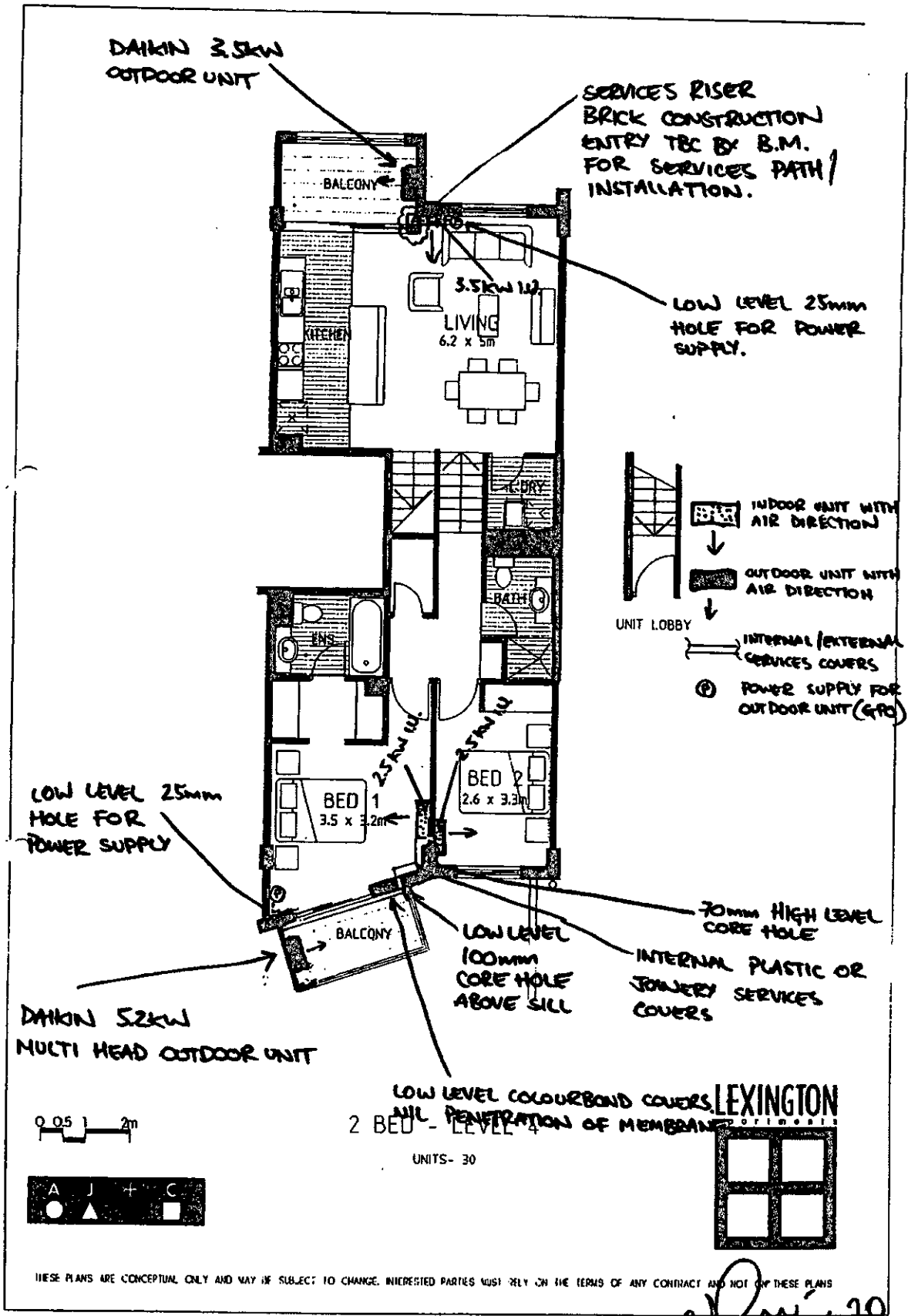
#### **1.1      Installation of air conditioners**

Installation of split system air conditioning units servicing the Authorised Lot, including:

- (a)      installation of three head units internal to the Authorised Lot affixed to the common property wall;
- (b)      installation of two condenser units housed externally on the balconies and affixed to the common property; and
- (c)      plumbing, electrical and cabling works as necessary including drilling of common property walls as required.

#### **1.2      Plans and drawings**

A reference to, or the incorporation of, a plan, drawing, sketch or diagram herein is taken to be a reference to, or the incorporation of, the original of that document at its original scale.



THESE PLANS ARE CONCEPTUAL ONLY AND MAY BE SUBJECT TO CHANGE. INTERESTED PARTIES MUST RELY ON THE TERMS OF ANY CONTRACT AND NOT ON THESE PLANS

# SPECIAL BY-LAW 15

*A by-law with respect to lot 78 works.*

## **1 Approval of work**

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### **1.1 Work**

Subject to the conditions herein the Authorised Owner may carry out and keep the Permitted Work.

### **1.2 Exclusive use**

Subject to the conditions herein the Authorised Owner has exclusive use of the Exclusive Use Area.

### **1.3 Building Works**

In respect of Building Works that the Authorised Owner is required or permitted to carry out under this by-law:

- (a) the Authorised Owner must comply, and those Building Works must comply, with the Building Works Conditions; and
- (b) those Building Works must be undertaken in accordance with, and comply with, any applicable provisions of the Scope of Works.

### **1.4 Ongoing maintenance and use**

The Authorised Owner, at their own cost:

- (a) is responsible for the ongoing proper maintenance of, and keeping in a state of good and serviceable repair, the Exclusive Use Area, and must do any Building Works necessary to effect the same;
- (b) must renew and replace any fixtures or fittings comprised in the Exclusive Use Area, and must do any Building Works necessary to effect the same;
- (c) must ensure that the Exclusive Use Area is used in accordance with and continues to comply with the requirements hereof and any applicable law or Approval; and
- (d) must ensure that the Exclusive Use Area is kept clean and tidy at all times and free from hazards posing a risk of injury or death to persons or damage to property.

### **1.5 Access**

The Authorised Owner must provide the owners corporation with access to the Authorised Lot and the Exclusive Use Area for the purpose of monitoring or enforcing compliance herewith (or if the Authorised Owner is not also the occupier of the Authorised Lot, the Authorised Owner must do all things within their power to procure such access) as follows:

- (a) during a period where Building Works are being carried out, within 24 hours of a request by the owners corporation; or
- (b) in any other case, to the extent otherwise required by law.

### **1.6 Indemnity**

The Authorised Owner will indemnify the owners corporation immediately on demand for any damage, cost, loss, claim, demand, suit or liability howsoever incurred by or brought against the owners corporation in connection with Building Works (or their use) or the use of the Exclusive Use Area, except to the extent that such damage, costs, loss, claim, demand suit or liability is caused by the negligent act or omission of the owners corporation or of its agents, employees or contractors.



## **1.7 Default**

If the Authorised Owner fails to comply with any obligation hereunder the owners corporation may carry out that obligation and recover the cost of so doing from the Authorised Owner.

## **1.8 Scope of Works**

Any provisions set out in the Scope of Works have effect as if they were provisions hereof. To the extent that any provision in the Scope of Works is inconsistent with any other provision hereof, the provision in the Scope of Works prevails to the extent of that inconsistency.

# **2 Methods and procedures**

---

## **2.1 Approvals**

In relation to any right granted to a person hereunder, that person must:

- (a) obtain all necessary Approvals (and ensure that all necessary Approvals are obtained) in relation to anything done or omitted to be done by them in the exercise of that right;
- (b) provide a copy of any such Approvals to the owners corporation;
- (c) in the event that such an Approval is required by law (or under the terms of an Approval) to be obtained before doing (or omitting to do) anything, supply a copy of that Approval to the owners corporation before doing (or omitting to do) that thing; and
- (d) provide a copy to the owners corporation of any certificate or document evidencing compliance with such an Approval, being a certificate or document required by law or under the terms of such an Approval to be obtained or provided.

## **2.2 Consent**

On written demand of a person granted a right hereunder, the owners corporation must provide its consent as may be required by any Authority in connection with an exercise by that person of that right, without limitation including by affixing its seal by way of consent to any application to a relevant consent authority for development consent, a construction certificate or a complying development certificate as contemplated by the Environmental Planning and Assessment Act 1979.

## **2.3 Bond**

Where a person is required under a provision hereof to pay a bond to secure compliance with an obligation, except to the extent that provision requires otherwise, that bond:

- (a) is an amount in Australian currency as otherwise provided herein, or in the absence of such provision:
  - (i) as reasonably determined from time to time by the owners corporation; or
  - (ii) in the absence of such a determination, the amount of \$500;
- (b) is payable to the owners corporation prior to the secured obligation arising and, if the owners corporation reasonably directs, in the manner so directed by it from time to time;
- (c) may be applied by the owners corporation against any liability or debt of that person to the owners corporation, including without limitation a debt arising under section 120 of the Management Act in connection with a failure to carry out work required to be carried out by that person in respect of the secured obligation; and
- (d) must be returned by the owners corporation to that person after the expiry of 1 month following the satisfaction or ending of the secured obligation, less any amount deducted by the owners corporation in accordance herewith.

## **2.4 Acting through others**

Except as otherwise provided herein, a person may exercise a right granted to them hereunder, or meet an obligation imposed upon them hereunder, by their servants, agents, or contractors, however that person:

- (a) will not by reason only of so doing be released from that obligation, or release that right; and
- (b) is liable for the acts or omissions of those servants, agents or contractors as fully as if they were those servants, agents or contractors and those acts or omissions were theirs.

## **2.5 Liability for occupiers and invitees**

Except as otherwise provided herein:

- (a) An owner or occupier of a lot must ensure, and must use their best endeavours to ensure, that their invitees, agents, contractors or employees (and, in the case of an owner, any occupier of their lot) comply with any obligations that they have hereunder, or (so far as those obligations are capable of such application) which they would have if those persons were owners or occupiers of lots.
- (b) An owner or occupier of a lot is liable for the acts or omissions of their invitees in breach hereof (and, in the case of an owner, any occupier of their lot) as fully as if those persons were that owner or occupier and those acts or omissions were theirs.

## **2.6 Exercise of care, skill and compliance with law**

Except as otherwise provided herein, a person must, in exercising a right granted to them hereunder, or in meeting an obligation imposed on them hereunder:

- (a) exercise due care and skill; and
- (b) do so in accordance with any applicable law.

## **2.7 Obligation to do work to remedy breach**

An owner or occupier of a lot is required to do any work necessary to remediate any breach by them hereof, including without limitation work to:

- (a) comply with the obligation breached;
- (b) repair any damage caused to the property;
- (c) clean any rubbish, dirt, debris, or staining caused to the property;
- (d) rectify any fault, malfunction or defect caused to any system, service, appliance or apparatus in the property; and
- (e) remediate a breach or non-compliance with any applicable law or the requirements of any Authority affecting the property and caused by that breach.

For the purposes of this clause 2.7 a reference to property includes the common property or personal property vested in the owners corporation.

## **2.8 Conditions attaching to remedial work**

An owner or occupier of a lot who is required to do work under clause 2.7 must, except as may be provided otherwise herein:

- (a) prior to undertaking such work, and upon completion of the work, notify the owners corporation in writing;
- (b) ensure that such work is done within 1 week from the breach requiring remediation, except to the extent otherwise provided herein;

- (c) ensure that such work is done:
  - (i) in accordance with any applicable law and any other applicable requirement hereof; and
  - (ii) in a proper and workmanlike manner and exercising due care and skill.

**Note.** *If an owner or occupier of a lot fails to do work hereunder the owners corporation may by law be entitled to do that work and recover the cost from that owner or occupier, or any person who becomes the owner of their lot.*

## **2.9 Power to carry out work and recover costs**

Within the meaning of section 120 of the Management Act, if:

- (a) work is required to be carried out by an owner or occupier of a lot under a term or condition hereof; and
- (b) that owner or occupier fails to carry out that work;

then the owners corporation may carry out that work and may recover the cost of carrying out that work from that owner or occupier, or any person who, after the work is carried out, becomes the owner of the lot.

## **2.10 Application of the Civil Liability Act 2002**

- (a) Owners and occupiers of lots acknowledge and agree that:
  - (i) the provisions hereof make express provision for their rights, obligations and liabilities hereunder with respect to all matters to which the Civil Liability Act 2002 applies as contemplated by section 3A(2) of that act; and
  - (ii) to the extent permitted by law, that act does not apply in connection with those rights, obligations and liabilities.
- (b) Any provision hereof that is prevented by Part 2 of the Civil Liability Act 2002 is severed to the extent so prevented.

## **2.11 Recovery of amounts**

Any amount due to the owners corporation in connection herewith is recoverable by the owners corporation as a debt and:

- (a) bears interest as if it was a contribution unpaid by the owner (or, if the liable person is not an owner of a lot, as if they were such an owner); and
- (b) may be recovered by the owners corporation as if it was a contribution unpaid by the owner (or, if the liable person is not an owner of a lot, as if they were such an owner), including as to:
  - (i) any interest payable; and
  - (ii) the expenses of the owners corporation incurred in recovering those amounts.

**Note.** *The vote of an owner of a lot at a general meeting of the owners corporation may not count by law unless payment has been made before that meeting of amounts recoverable from the owner in connection herewith.*

## **2.12 Alteration of building affecting lot boundary**

An owner of a lot must comply with any obligation they may have under section 19 of the Development Act in respect of the strata scheme from time to time.

### **3 Definitions and interpretation**

---

#### **3.1 Interpretation**

Except to the extent the context otherwise requires, or as is otherwise expressly provided, herein:

- (a) the terms “herein”, “hereunder”, “hereof” and “herewith” mean, respectively, in, under, of and with this by-law;
- (b) the singular includes the plural and vice versa;
- (c) headings, notes, explanatory notes and similar do not form part of these by-laws and do not affect the operation of these by-laws;
- (d) a reference to a document, includes any amendment, replacement or novation of it;
- (e) where any word or phrase is given a definite meaning, any part of speech or other grammatical form of the word or phrase has a corresponding meaning;
- (f) any reference to legislation includes any amending or replacing legislation;
- (g) where words “includes”, “including”, “such as”, “like”, “for example” or similar are used, they are to be read as if immediately followed by the words “without limitation”;
- (h) where no time is specified for compliance with an obligation, that obligation must be complied with within a reasonable time;
- (i) any reference to legislation includes any subordinate legislation or other instrument created thereunder;
- (j) where two or more persons share a right or obligation hereunder, that right may be exercised, and that obligation must be met, jointly and severally;
- (k) where an obligation is imposed on a “person” hereunder, “person” does not include the owners corporation unless expressly provided otherwise; and
- (l) a term defined in the Management Act or Development Act will have the same meaning.

#### **3.2 Functions of the owners corporation**

- (a) Without limiting its other functions, the owners corporation has the functions necessary for it to discharge the duties imposed on it, and exercise the powers and authorities conferred on it hereby.
- (b) No provision hereof that grants a right or remedy to the owners corporation limits or restricts any other right or remedy of the owners corporation arising under any other provision of the by-laws of the strata scheme or otherwise at law.

#### **3.3 Severability**

- (a) To the extent that any term herein is inconsistent with the Management Act or any other Act or law it is to be severed and the remaining terms herein will be read and be enforceable as if so consistent.
- (b) To the extent that any term herein is inconsistent with another by-law of the strata scheme, the provisions herein prevail to the extent of that inconsistency.

#### **3.4 Definitions**

Except to the extent the context otherwise requires, or as is otherwise expressly provided, herein:

**Approval** means:

- (a) an approval or certificate as may be required by law (or under the terms of an Approval) to be obtained from or provided by an Authority;

- (b) a development consent or complying development certificate within the meaning of the Environmental Planning and Assessment Act 1979;
- (c) a "Part 4A certificate" within the meaning of section 109C of the Environmental Planning and Assessment Act 1979;
- (d) any order, direction or other requirement given or made by an Authority;
- (e) an order made under Division 2A or Division 3 of Part 6 of the Environmental Planning and Assessment Act 1979; and
- (f) an order made under Part 2 or Part 5 of Chapter 7 of the Local Government Act 1993;

**Authorised Lot** means lot 78 in the strata scheme bearing folio identifier 78/SP61717;

**Authorised Owner** means the owner of the Authorised Lot (or, if there is more than one such owner, those owners jointly and severally);

**Authority** means:

- (a) any Commonwealth, state or local government, semi-government, statutory, public or other body or person (or body or person otherwise authorised by law) having jurisdiction;
- (b) a consent authority or principal certifying authority within the meaning of the Environmental Planning and Assessment Act 1979;
- (c) the council having the relevant regulatory functions under Chapter 7 of the Local Government Act 1993; and
- (d) an authorised fire officer within the meaning of section 121ZC of the Environmental Planning and Assessment Act 1979;

**Building Works Conditions** means the provisions of Annexure H;

**Building Works** has the meaning given to it in the Building Works Conditions;

**common property** means the common property in the strata scheme;

**Development Act** means the Strata Schemes Development Act 2015;

**Exclusive Use Area** means:

- (a) those parts of the common property which are occupied by the Permitted Works (once complete); and
- (b) any part of the common property that is, as a result of the Permitted Works (once complete) altering the effective physical boundaries of the premises the subject of the Authorised Lot:
  - (i) only accessible from within that premises; or
  - (ii) enclosed within the effective physical boundaries of that premises;

and includes a reference to any common property the ongoing maintenance of which is to be the responsibility of the Authorised Owner in accordance with the Resolution;

**Management Act** means the Strata Schemes Management Act 2015;

**occupier** means:

- (a) the occupier of a lot, but only in relation to the lot occupied by that occupier;
- (b) where there is more than one occupier of that lot, means those occupiers jointly and severally, but only in relation to that lot; and
- (c) where there is more than one lot occupied by that occupier or occupiers, means that occupier or those occupiers (joint and severally) in respect of each such lot severally;

**owner** means:

- (a) the owner of a lot, but only in relation to the lot owned by that owner;
- (b) where there is more than one owner of that lot, means those owners jointly and severally, but only in relation to that lot; and
- (c) where there is more than one lot owned by that owner or owners, means that owner or those owners (joint and severally) in respect of each such lot severally;

**owners corporation** means the owners corporation created on registration of the strata plan;

**Permitted Work** means Building Works as set out in the Scope of Works.

**Resolution** means the special resolution of the owners corporation to authorise the Authorised Owner to take such action the subject of section 108(1) of the Management Act as required to carry out works subject to and in accordance herewith, the ongoing maintenance of which is to be the responsibility of the Authorised Owner;

**Scope of Works** means the Scope of Works in Annexure I;

**strata plan** means strata plan number 61717; and

**strata scheme** means the strata scheme relating to the strata plan.

# Annexure H Building Works Conditions

## 1 Building Works Conditions

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### 1.1 General conditions applying to Building Works

Building Works must:

- (a) be carried out in accordance with and comply with any applicable law or Approval;
- (b) be carried out in a proper and workmanlike manner and only by persons who are duly licensed to do so;
- (c) comply with the National Construction Code and the Building Code of Australia and not cause the parcel or any part of it to breach either of those codes;
- (d) be fit for their purpose;
- (e) only be carried out using materials belonging to you and not subject to any charge, lien, security interest or similar;
- (f) be carried out with due diligence and expedition and within a reasonable time;
- (g) cause a minimum of disruption to the use of the parcel and a minimum of damage to the parcel;
- (h) in any event, not occasion the occupation or use of open space areas of common property except as otherwise specifically approved in writing by the owners corporation;
- (i) except as otherwise approved by the owners corporation, be carried out only between the hours of 7:30am and 5:30pm (excluding on any day that is a Saturday, Sunday or public holiday in New South Wales) or between 8:30 am and Midday on a Saturday;
- (j) not cause damage to the parcel or any part of the parcel otherwise than authorised hereunder;
- (k) not adversely affect the structure or support of the parcel;
- (l) not compromise the proper functioning or performance of any existing system or element of the parcel, including without limitation with respect to waterproofing or fire protection; and
- (m) not cause or amount to a nuisance or hazard to other owners or occupiers of lots or interfere unreasonably with the use or enjoyment of the parcel by other owners or occupiers of lots.

### 1.2 Connection to services

Except as otherwise approved in writing by the owners corporation, to the extent the Building Works are connected to any electrical, gas, water or other services, they must be connected only to such services that are separately metered to your lot (provided such separately metered services are otherwise connected to the lot).

### 1.3 Cleanliness, protection and rectification

You must:

- (a) ensure the parcel is adequately protected from damage that may be caused by Building Works;
- (b) ensure any part of the parcel affected by Building Works is kept clean and tidy and is left clean and tidy on completion of Building Works; and
- (c) if Building Works cause damage to the parcel, rectify that damage, including doing any necessary Building Works.

#### 1.4 Bond

You must, before carrying out Building Works, pay a bond to the owners corporation to secure compliance with your obligations under these Building Works Conditions in respect of those Building Works.

#### 1.5 Plans and specifications

If the owners corporation has not previously been provided with them, you must provide a copy of any plans and specifications relating to Building Works to the owners corporation. Where those plans and specifications relate to any element of Building Works that is proposed to be undertaken, those plans and specifications must be provided to the owners corporation before that element of those Building Works is undertaken.

#### 1.6 Insurance

You must effect and maintain the following insurance (or ensure the same is effected and maintained):

- (a) any insurance required by law in connection with Building Works; and
- (b) contractors all-risk insurance (including public liability insurance to a limit of not less than \$5,000,000 per event) in respect of the conduct of the Building Works naming the owners corporation as a beneficiary.

#### 1.7 Ownership of works

Building Works form part of the common property only to the extent that they are affixed to the common property and occupy cubic space forming part of the common property.

#### 1.8 Definitions

In addition to the terms otherwise defined herein, in these Building Works Conditions, unless the context otherwise requires:

**Building Code of Australia** has the meaning given to it under the Environmental Planning and Assessment Act 1979;

**Building Works** means building works and related products and services that you are required or permitted to put effect to hereunder, and includes a reference to:

- (a) ancillary works, products and services that it is reasonably necessary to do or supply to facilitate the doing of those building works, and the supply of those products and services; and
- (b) as the context may require, a reference to the result of those building works and related products and services being done and supplied; and

**National Construction Code** means the National Construction Code published by the Australian Building Codes Board from time to time;.

**you** means a person who is required to comply with these Building Works Conditions, or whose Building Works are required to comply with these Building Works Conditions; and

**your** has a corresponding meaning to You.



# Annexure I Scope of Works

## 1 Scope of Works

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### 1.1 Main Bathroom

Renovation of the main bathroom of the Authorised Lot including:

- (a) removal of all fixtures, fittings, cabinetry, shower, toilet suite, villaboard and vanity;
- (b) installation of new fixtures, fittings, cabinetry, bath tub, shower, toilet suite, shower mixer in wall (including moving pipework under the bath), shower screen, mixers, towel rails, toilet roll holders, villaboard and vanity;
- (c) adjust heights of water points in vanity;
- (d) transfer of bath waste to shower waste;
- (e) removal of floor and wall tiling; and
- (f) installation of new floor and wall tiling;
- (g) waterproofing; and
- (h) plumbing and electrical works as necessary.

### 1.2 Small Bathroom

Renovation of the small bathroom of the Authorised Lot including:

- (a) removal of all fixtures, fittings, cabinetry, toilet suite and vanity;
- (b) installation of new fixtures, fittings, cabinetry, toilet suite, mixers, towel rails, toilet roll holders and vanity;
- (c) adjust heights of water points in vanity;
- (d) waste adjustment;
- (e) removal of floor and wall tiling; and
- (f) installation of new floor and wall tiling;
- (g) waterproofing; and
- (h) plumbing and electrical works as necessary.

# SPECIAL BY-LAW 16

*A by-law with respect to lot 20 works.*

## **1 Approval of work**

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### **1.1 Work**

Subject to the conditions herein the Authorised Owner may carry out and keep the Permitted Work.

### **1.2 Exclusive use**

Subject to the conditions herein the Authorised Owner has exclusive use of the Exclusive Use Area.

### **1.3 Building Works**

In respect of Building Works that the Authorised Owner is required or permitted to carry out under this by-law:

- (a) the Authorised Owner must comply, and those Building Works must comply, with the Building Works Conditions; and
- (b) those Building Works must be undertaken in accordance with, and comply with, any applicable provisions of the Scope of Works.

### **1.4 Ongoing maintenance and use**

The Authorised Owner, at their own cost:

- (a) is responsible for the ongoing proper maintenance of, and keeping in a state of good and serviceable repair, the Exclusive Use Area, and must do any Building Works necessary to effect the same;
- (b) must renew and replace any fixtures or fittings comprised in the Exclusive Use Area, and must do any Building Works necessary to effect the same;
- (c) must ensure that the Exclusive Use Area is used in accordance with and continues to comply with the requirements hereof and any applicable law or Approval; and
- (d) must ensure that the Exclusive Use Area is kept clean and tidy at all times and free from hazards posing a risk of injury or death to persons or damage to property.

### **1.5 Costs**

The Authorised Owner must pay the owners corporation's reasonable costs in connection herewith (including legal costs, disbursements, strata management costs, and registration costs, but excluding costs of consolidating by-laws other than this by-law for registration).

### **1.6 Access**

The Authorised Owner must provide the owners corporation with access to the Authorised Lot and the Exclusive Use Area for the purpose of monitoring or enforcing compliance herewith (or if the Authorised Owner is not also the occupier of the Authorised Lot, the Authorised Owner must do all things within their power to procure such access) as follows:

- (a) during a period where Building Works are being carried out, within 24 hours of a request by the owners corporation; or
- (b) in any other case, on reasonable request of the owners corporation.

### **1.7 Indemnity**

The Authorised Owner will indemnify the owners corporation immediately on demand for any damage, cost, loss, claim, demand, suit or liability howsoever incurred by or brought

against the owners corporation in connection with Building Works (or their use) or the use of the Exclusive Use Area.

## **1.8 Default**

If the Authorised Owner fails to comply with any obligation hereunder the owners corporation may carry out that obligation and recover the cost of so doing from the Authorised Owner.

## **1.9 Scope of Works**

Any provisions set out in the Scope of Works have effect as if they were provisions hereof. To the extent that any provision in the Scope of Works is inconsistent with any other provision hereof, the provision in the Scope of Works prevails to the extent of that inconsistency.

# **2 Methods and procedures**

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## **2.1 Approvals**

In relation to any right granted to a person hereunder, that person must:

- (a) obtain all necessary Approvals (and ensure that all necessary Approvals are obtained) in relation to anything done or omitted to be done by them in the exercise of that right;
- (b) provide a copy of any such Approvals to the owners corporation;
- (c) in the event that such an Approval is required by law (or under the terms of an Approval) to be obtained before doing (or omitting to do) anything, supply a copy of that Approval to the owners corporation before doing (or omitting to do) that thing; and
- (d) provide a copy to the owners corporation of any certificate or document evidencing compliance with such an Approval, being a certificate or document required by law or under the terms of such an Approval to be obtained or provided.

## **2.2 Consent**

Despite anything herein the owners corporation is not required to provide its consent as may be required by any Authority in connection with the exercise by a person of a right granted hereunder, without limitation including by affixing its seal by way of consent to any application to a relevant consent authority for development consent, a construction certificate or a complying development certificate as contemplated by the Environmental Planning and Assessment Act 1979.

## **2.3 Bond**

Where a person is required under a provision hereof to pay a bond to secure compliance with an obligation, except to the extent that provision requires otherwise, that bond:

- (a) is an amount in Australian currency as otherwise provided herein, or in the absence of such provision:
  - (i) as reasonably determined from time to time by the owners corporation; or
  - (ii) in the absence of such a determination, the amount of \$500;
- (b) is payable to the owners corporation prior to the secured obligation arising and, if the owners corporation reasonably directs, in the manner so directed by it from time to time;
- (c) may be applied by the owners corporation against any liability or debt of that person to the owners corporation, including without limitation a debt arising under section 120 of the Management Act in connection with a failure to carry out work required to be carried out by that person in respect of the secured obligation; and

- (d) must be returned by the owners corporation to that person after the expiry of 1 month following the satisfaction or ending of the secured obligation, less any amount deducted by the owners corporation in accordance herewith.

## **2.4 Acting through others**

Except as otherwise provided herein, a person may exercise a right granted to them hereunder, or meet an obligation imposed upon them hereunder, by their servants, agents, or contractors, however that person:

- (a) will not by reason only of so doing be released from that obligation, or release that right; and
- (b) is liable for the acts or omissions of those servants, agents or contractors as fully as if they were those servants, agents or contractors and those acts or omissions were theirs.

## **2.5 Liability for occupiers and invitees**

Except as otherwise provided herein:

- (a) An owner or occupier of a lot must ensure, and must use their best endeavours to ensure, that their invitees, agents, contractors or employees (and, in the case of an owner, any occupier of their lot) comply with any obligations that they have hereunder, or (so far as those obligations are capable of such application) which they would have if those persons were owners or occupiers of lots.
- (b) An owner or occupier of a lot is liable for the acts or omissions of their invitees in breach hereof (and, in the case of an owner, any occupier of their lot) as fully as if those persons were that owner or occupier and those acts or omissions were theirs.

## **2.6 Exercise of care, skill and compliance with law**

Except as otherwise provided herein, a person must, in exercising a right granted to them hereunder, or in meeting an obligation imposed on them hereunder:

- (a) exercise due care and skill; and
- (b) do so in accordance with any applicable law.

## **2.7 Obligation to do work to remedy breach**

An owner or occupier of a lot is required to do any work necessary to remediate any breach by them hereof, including without limitation work to:

- (a) comply with the obligation breached;
- (b) repair any damage caused to the property;
- (c) clean any rubbish, dirt, debris, or staining caused to the property;
- (d) rectify any fault, malfunction or defect caused to any system, service, appliance or apparatus in the property; and
- (e) remediate a breach or non-compliance with any applicable law or the requirements of any Authority affecting the property and caused by that breach.

For the purposes of this clause 2.7 a reference to property includes the common property or personal property vested in the owners corporation.

## **2.8 Conditions attaching to remedial work**

An owner or occupier of a lot who is required to do work under clause 2.7 must, except as may be provided otherwise herein:

- (a) prior to undertaking such work, and upon completion of the work, notify the owners corporation in writing;
- (b) ensure that such work is done within 1 week from the breach requiring remediation, except to the extent otherwise provided herein;

- (c) ensure that such work is done:
  - (i) in accordance with any applicable law and any other applicable requirement hereof; and
  - (ii) in a proper and workmanlike manner and exercising due care and skill.

*Note. If an owner or occupier of a lot fails to do work hereunder the owners corporation may by law be entitled to do that work and recover the cost from that owner or occupier, or any person who becomes the owner of their lot.*

## **2.9 Power to carry out work and recover costs**

Within the meaning of section 120 of the Management Act, if:

- (a) work is required to be carried out by an owner or occupier of a lot under a term or condition hereof; and
- (b) that owner or occupier fails to carry out that work;

then the owners corporation may carry out that work and may recover the cost of carrying out that work from that owner or occupier, or any person who, after the work is carried out, becomes the owner of the lot.

## **2.10 Application of the Civil Liability Act 2002**

- (a) Owners and occupiers of lots acknowledge and agree that:
  - (i) the provisions hereof make express provision for their rights, obligations and liabilities hereunder with respect to all matters to which the Civil Liability Act 2002 applies as contemplated by section 3A(2) of that act; and
  - (ii) to the extent permitted by law, that act does not apply in connection with those rights, obligations and liabilities.
- (b) Any provision hereof that is prevented by Part 2 of the Civil Liability Act 2002 is severed to the extent so prevented.

## **2.11 Recovery of amounts**

Any amount due to the owners corporation in connection herewith is recoverable by the owners corporation as a debt and:

- (a) bears interest as if it was a contribution unpaid by the owner (or, if the liable person is not an owner of a lot, as if they were such an owner); and
- (b) may be recovered by the owners corporation as if it was a contribution unpaid by the owner (or, if the liable person is not an owner of a lot, as if they were such an owner), including as to:
  - (i) any interest payable; and
  - (ii) the expenses of the owners corporation incurred in recovering those amounts.

*Note. The vote of an owner of a lot at a general meeting of the owners corporation may not count by law unless payment has been made before that meeting of amounts recoverable from the owner in connection herewith.*

## **2.12 Alteration of building affecting lot boundary**

An owner of a lot must comply with any obligation they may have under section 19 of the Development Act in respect of the strata scheme from time to time.

### **3 Definitions and interpretation**

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#### **3.1 Interpretation**

Except to the extent the context otherwise requires, or as is otherwise expressly provided, herein:

- (a) the terms “herein”, “hereunder”, “hereof” and “herewith” mean, respectively, in, under, of and with this by-law;
- (b) the singular includes the plural and vice versa;
- (c) headings, notes, explanatory notes and similar do not form part of these by-laws and do not affect the operation of these by-laws;
- (d) a reference to a document, includes any amendment, replacement or novation of it;
- (e) where any word or phrase is given a definite meaning, any part of speech or other grammatical form of the word or phrase has a corresponding meaning;
- (f) any reference to legislation includes any amending or replacing legislation;
- (g) where words “includes”, “including”, “such as”, “like”, “for example” or similar are used, they are to be read as if immediately followed by the words “without limitation”;
- (h) where no time is specified for compliance with an obligation, that obligation must be complied with within a reasonable time;
- (i) any reference to legislation includes any subordinate legislation or other instrument created thereunder;
- (j) where two or more persons share a right or obligation hereunder, that right may be exercised, and that obligation must be met, jointly and severally;
- (k) where an obligation is imposed on a “person” hereunder, “person” does not include the owners corporation unless expressly provided otherwise; and
- (l) a term defined in the Management Act or Development Act will have the same meaning.

#### **3.2 Functions of the owners corporation**

- (a) Without limiting its other functions, the owners corporation has the functions necessary for it to discharge the duties imposed on it, and exercise the powers and authorities conferred on it hereby.
- (b) No provision hereof that grants a right or remedy to the owners corporation limits or restricts any other right or remedy of the owners corporation arising under any other provision of the by-laws of the strata scheme or otherwise at law.

#### **3.3 Severability**

- (a) To the extent that any term herein is inconsistent with the Management Act or any other Act or law it is to be severed and the remaining terms herein will be read and be enforceable as if so consistent.
- (b) To the extent that any term herein is inconsistent with another by-law of the strata scheme, the provisions herein prevail to the extent of that inconsistency.

#### **3.4 Definitions**

Except to the extent the context otherwise requires, or as is otherwise expressly provided, herein:

**Approval** means:

- (a) an approval or certificate as may be required by law (or under the terms of an Approval) to be obtained from or provided by an Authority;

- (b) a development consent or complying development certificate within the meaning of the Environmental Planning and Assessment Act 1979;
- (c) a certificate within the meaning of Division 6.3 of the Environmental Planning and Assessment Act 1979;
- (d) any order, direction or other requirement given or made by an Authority;
- (e) an order made under Division 9.3, 9.4 or 9.5 of the Environmental Planning and Assessment Act 1979; and
- (f) an order made under Part 2 or Part 5 of Chapter 7 of the Local Government Act 1993;

**Authorised Lot** means lot 20 in the strata scheme bearing folio identifier 20/SP61717;

**Authorised Owner** means the owner of the Authorised Lot (or, if there is more than one such owner, those owners jointly and severally);

**Authority** means:

- (a) any Commonwealth, state or local government, semi-government, statutory, public or other body or person (or body or person otherwise authorised by law) having jurisdiction;
- (b) a consent authority or principal certifying authority within the meaning of the Environmental Planning and Assessment Act 1979;
- (c) the council having the relevant regulatory functions under Chapter 7 of the Local Government Act 1993; and
- (d) an authorised fire officer within the meaning of Schedule 5 clause 16 of the Environmental Planning and Assessment Act 1979;

**Building Works Conditions** means the provisions of Annexure J;

**Building Works** has the meaning given to it in the Building Works Conditions;

**common property** means the common property in the strata scheme;

**Development Act** means the Strata Schemes Development Act 2015;

**Exclusive Use Area** means:

- (a) those parts of the common property which are occupied by the Permitted Works (once complete); and
- (b) any part of the common property that is, as a result of the Permitted Works (once complete) altering the effective physical boundaries of the premises the subject of the Authorised Lot:
  - (i) only accessible from within that premises; or
  - (ii) enclosed within the effective physical boundaries of that premises;

and includes a reference to any common property the ongoing maintenance of which is to be the responsibility of the Authorised Owner in accordance with the Resolution;

**Management Act** means the Strata Schemes Management Act 2015;

**occupier** means:

- (a) the occupier of a lot, but only in relation to the lot occupied by that occupier;
- (b) where there is more than one occupier of that lot, means those occupiers jointly and severally, but only in relation to that lot; and
- (c) where there is more than one lot occupied by that occupier or occupiers, means that occupier or those occupiers (joint and severally) in respect of each such lot severally;

**owner** means:

- (a) the owner of a lot, but only in relation to the lot owned by that owner;
- (b) where there is more than one owner of that lot, means those owners jointly and severally, but only in relation to that lot; and
- (c) where there is more than one lot owned by that owner or owners, means that owner or those owners (joint and severally) in respect of each such lot severally;

**owners corporation** means the owners corporation created on registration of the strata plan;

**Permitted Work** means Building Works as set out in the Scope of Works.

**Resolution** means the special resolution of the owners corporation to authorise the Authorised Owner to take such action the subject of section 108(1) of the Management Act as required to carry out works subject to and in accordance herewith, the ongoing maintenance of which is to be the responsibility of the Authorised Owner;

**Scope of Works** means the Scope of Works in Annexure K;

**strata plan** means strata plan number 61717; and

**strata scheme** means the strata scheme relating to the strata plan.



# Annexure J Building Works Conditions

## 1 Building Works Conditions

---

### 1.1 General conditions applying to Building Works

Building Works must:

- (a) be carried out in accordance with and comply with any applicable law or Approval;
- (b) be carried out in a proper and workmanlike manner and only by persons who are duly licensed to do so;
- (c) comply with the National Construction Code and the Building Code of Australia and not cause the parcel or any part of it to breach either of those codes;
- (d) be fit for their purpose;
- (e) only be carried out using materials belonging to you and not subject to any charge, lien, security interest or similar;
- (f) be carried out with due diligence and expedition and within a reasonable time;
- (g) cause a minimum of disruption to the use of the parcel and a minimum of damage to the parcel;
- (h) in any event, not occasion the occupation or use of open space areas of common property except as otherwise specifically approved in writing by the owners corporation;
- (i) except as otherwise approved by the owners corporation, be carried out only between the hours of 7:30am and 5:30pm (excluding on any day that is a Saturday, Sunday or public holiday in New South Wales) or between 8:30 am and Midday on a Saturday;
- (j) not cause damage to the parcel or any part of the parcel otherwise than authorised hereunder;
- (k) not adversely affect the structure or support of the parcel;
- (l) not compromise the proper functioning or performance of any existing system or element of the parcel, including without limitation with respect to waterproofing or fire protection; and
- (m) not cause or amount to a nuisance or hazard to other owners or occupiers of lots or interfere unreasonably with the use or enjoyment of the parcel by other owners or occupiers of lots.

### 1.2 Connection to services

Except as otherwise approved in writing by the owners corporation, to the extent the Building Works are connected to any electrical, gas, water or other services, they must be connected only to such services that are separately metered to your lot (provided such separately metered services are otherwise connected to the lot).

### 1.3 Cleanliness, protection and rectification

You must:

- (a) ensure the parcel is adequately protected from damage that may be caused by Building Works;
- (b) ensure any part of the parcel affected by Building Works is kept clean and tidy and is left clean and tidy on completion of Building Works; and
- (c) if Building Works cause damage to the parcel, rectify that damage, including doing any necessary Building Works.

#### 1.4 Bond

You must, before carrying out Building Works, pay a bond to the owners corporation to secure compliance with your obligations under these Building Works Conditions in respect of those Building Works.

#### 1.5 Plans and specifications

If the owners corporation has not previously been provided with them, you must provide a copy of any plans and specifications relating to Building Works to the owners corporation. Where those plans and specifications relate to any element of Building Works that is proposed to be undertaken, those plans and specifications must be provided to the owners corporation before that element of those Building Works is undertaken.

#### 1.6 Insurance

You must effect and maintain the following insurance (or ensure the same is effected and maintained):

- (a) any insurance required by law in connection with Building Works; and
- (b) contractors all-risk insurance (including public liability insurance to a limit of not less than \$5,000,000 per event) in respect of the conduct of the Building Works naming the owners corporation as a beneficiary.

#### 1.7 Ownership of works

Building Works form part of the common property only to the extent that they are affixed to the common property and occupy cubic space forming part of the common property.

#### 1.8 Definitions

In addition to the terms otherwise defined herein, in these Building Works Conditions, unless the context otherwise requires:

**Building Code of Australia** has the meaning given to it under the Environmental Planning and Assessment Act 1979;

**Building Works** means building works and related products and services that you are required or permitted to put effect to hereunder, and includes a reference to:

- (a) ancillary works, products and services that it is reasonably necessary to do or supply to facilitate the doing of those building works, and the supply of those products and services; and
- (b) as the context may require, a reference to the result of those building works and related products and services being done and supplied; and

**National Construction Code** means the National Construction Code published by the Australian Building Codes Board from time to time;.

**you** means a person who is required to comply with these Building Works Conditions, or whose Building Works are required to comply with these Building Works Conditions; and

**your** has a corresponding meaning to You.

## **Annexure K Scope of Works**

### **1 Scope of Works**

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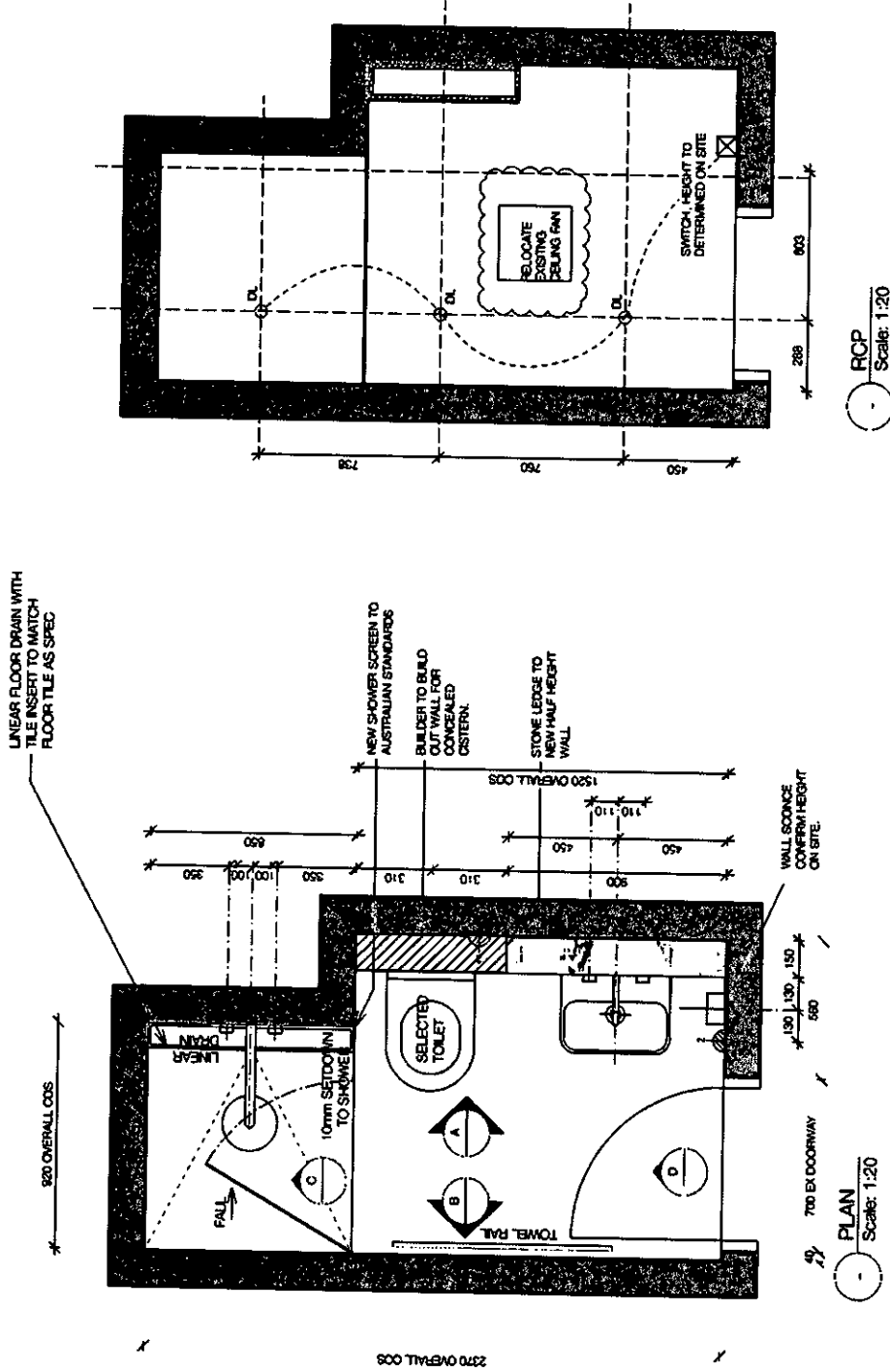
#### **1.1 Bathroom**

Renovation of the bathroom of the Authorised Lot including:

- (a) removal of all fixtures, fittings, cabinetry, bath tub, shower, toilet suite and vanity;
- (b) installation of new fixtures, fittings, cabinetry, bath tub, shower, toilet suite and vanity;
- (c) removal of floor and wall tiling;
- (d) installation of new floor and wall tiling including waterproofing works; and
- (e) plumbing and electrical works as necessary.

#### **1.2 Plans and drawings**

A reference to, or the incorporation of, a plan, drawing, sketch or diagram herein is taken to be a reference to, or the incorporation of, the original of that document at its original scale.

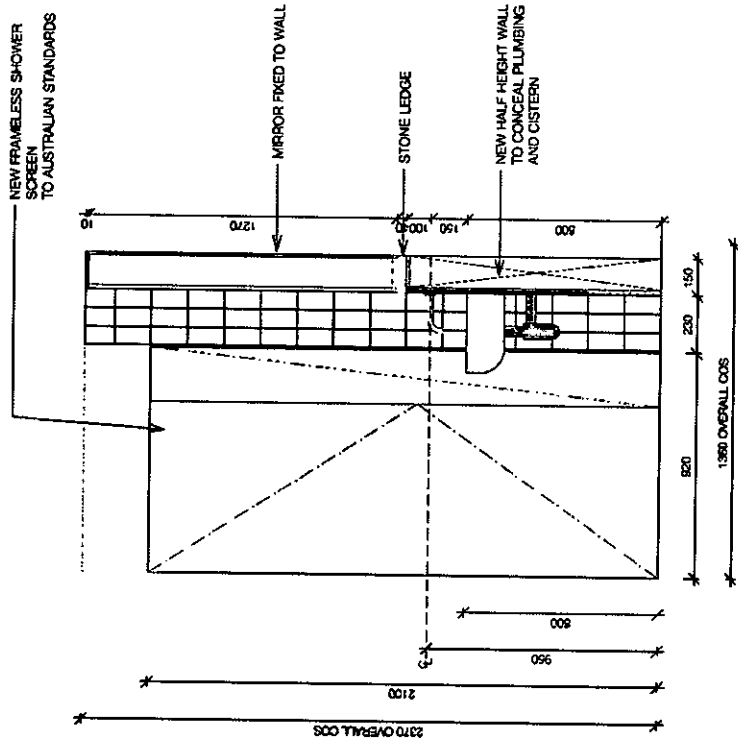


Project:	A REVISED 26.11.2018	
Drawn:	Issue:	26.11.2018
<b>Bathroom Plan</b>		
Client: ANV	Scale: 1:20	Job No:
Date: 26/11/18		
<b>SK-100</b>		

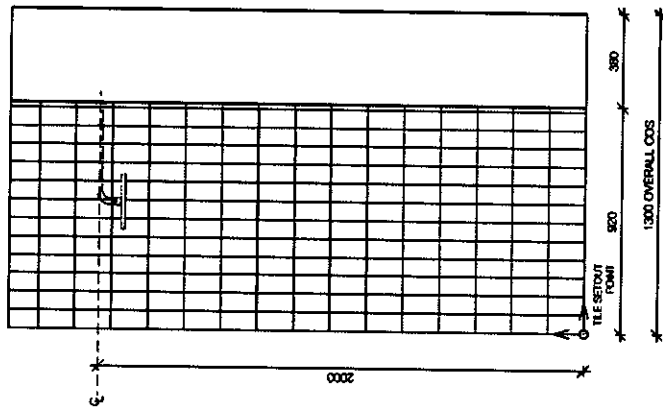
**Hussey Residence**  
 Luke Hussey  
 Address: Unit 20, 15-19 Boundary Street DARLINGHURST

Every set of drawings or plan is to be accompanied by a copy of the following information: 1. A copy of the relevant legislation and the OCE. 2. A copy of the project (see Schedule of Conditions)





**C** ELEVATION  
 Scale: 1:20



**C** ELEVATION  
 Scale: 1:20

Drawn: <b>SK-102</b>
Check: <b>SK-102</b>
Scale: 1:20
Date: 26/10/19
Job No:

**Project:**  
**Hussey Residence**  
 14-16 Hussey  
 Address: Unit 20, 15-16 Boundary Street DARLINGHURST

Drawn: **SK-102**  
 Check: **SK-102**  
 Scale: 1:20  
 Date: 26/10/19  
 Job No:

Notes: All dimensions are in millimetres unless otherwise stated. All dimensions are to face unless otherwise stated. All dimensions are to face unless otherwise stated. All dimensions are to face unless otherwise stated.

# SPECIAL BY-LAW 17

*A by-law with respect to lot 122 works.*

## **1 Approval of work**

---

### **1.1 Work**

Subject to the conditions herein the Authorised Owner may carry out and keep the Permitted Work.

### **1.2 Exclusive use**

Subject to the conditions herein the Authorised Owner has exclusive use of the Exclusive Use Area.

### **1.3 Building Works**

In respect of Building Works that the Authorised Owner is required or permitted to carry out under this by-law:

- (a) the Authorised Owner must comply, and those Building Works must comply, with the Building Works Conditions; and
- (b) those Building Works must be undertaken in accordance with, and comply with, any applicable provisions of the Scope of Works.

### **1.4 Ongoing maintenance and use**

The Authorised Owner, at their own cost:

- (a) is responsible for the ongoing proper maintenance of, and keeping in a state of good and serviceable repair, the Exclusive Use Area, and must do any Building Works necessary to effect the same;
- (b) must renew and replace any fixtures or fittings comprised in the Exclusive Use Area, and must do any Building Works necessary to effect the same;
- (c) must ensure that the Exclusive Use Area is used in accordance with and continues to comply with the requirements hereof and any applicable law or Approval; and
- (d) must ensure that the Exclusive Use Area is kept clean and tidy at all times and free from hazards posing a risk of injury or death to persons or damage to property.

### **1.5 Access**

The Authorised Owner must provide the owners corporation with access to the Authorised Lot and the Exclusive Use Area for the purpose of monitoring or enforcing compliance herewith (or if the Authorised Owner is not also the occupier of the Authorised Lot, the Authorised Owner must do all things within their power to procure such access) as follows:

- (a) during a period where Building Works are being carried out, within 24 hours of a request by the owners corporation; or
- (b) in any other case, to the extent otherwise required by law.

### **1.6 Indemnity**

The Authorised Owner will indemnify the owners corporation immediately on demand for any damage, cost, loss, claim, demand, suit or liability howsoever incurred by or brought against the owners corporation in connection with Building Works (or their use) or the use of the Exclusive Use Area, except to the extent that such damage, costs, loss, claim, demand suit or liability is caused by the negligent act or omission of the owners corporation or of its agents, employees or contractors.

## **1.7 Default**

If the Authorised Owner fails to comply with any obligation hereunder the owners corporation may carry out that obligation and recover the cost of so doing from the Authorised Owner.

## **1.8 Scope of Works**

Any provisions set out in the Scope of Works have effect as if they were provisions hereof. To the extent that any provision in the Scope of Works is inconsistent with any other provision hereof, the provision in the Scope of Works prevails to the extent of that inconsistency.

# **2 Methods and procedures**

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## **2.1 Approvals**

In relation to any right granted to a person hereunder, that person must:

- (a) obtain all necessary Approvals (and ensure that all necessary Approvals are obtained) in relation to anything done or omitted to be done by them in the exercise of that right;
- (b) provide a copy of any such Approvals to the owners corporation;
- (c) in the event that such an Approval is required by law (or under the terms of an Approval) to be obtained before doing (or omitting to do) anything, supply a copy of that Approval to the owners corporation before doing (or omitting to do) that thing; and
- (d) provide a copy to the owners corporation of any certificate or document evidencing compliance with such an Approval, being a certificate or document required by law or under the terms of such an Approval to be obtained or provided.

## **2.2 Consent**

On written demand of a person granted a right hereunder, the owners corporation must provide its consent as may be required by any Authority in connection with an exercise by that person of that right, without limitation including by affixing its seal by way of consent to any application to a relevant consent authority for development consent, a construction certificate or a complying development certificate as contemplated by the Environmental Planning and Assessment Act 1979.

## **2.3 Bond**

Where a person is required under a provision hereof to pay a bond to secure compliance with an obligation, except to the extent that provision requires otherwise, that bond:

- (a) is an amount in Australian currency as otherwise provided herein, or in the absence of such provision:
  - (i) as reasonably determined from time to time by the owners corporation; or
  - (ii) in the absence of such a determination, the amount of \$500;
- (b) is payable to the owners corporation prior to the secured obligation arising and, if the owners corporation reasonably directs, in the manner so directed by it from time to time;
- (c) may be applied by the owners corporation against any liability or debt of that person to the owners corporation, including without limitation a debt arising under section 120 of the Management Act in connection with a failure to carry out work required to be carried out by that person in respect of the secured obligation; and
- (d) must be returned by the owners corporation to that person after the expiry of 1 month following the satisfaction or ending of the secured obligation, less any amount deducted by the owners corporation in accordance herewith.



## **2.4 Acting through others**

Except as otherwise provided herein, a person may exercise a right granted to them hereunder, or meet an obligation imposed upon them hereunder, by their servants, agents, or contractors, however that person:

- (a) will not by reason only of so doing be released from that obligation, or release that right; and
- (b) is liable for the acts or omissions of those servants, agents or contractors as fully as if they were those servants, agents or contractors and those acts or omissions were theirs.

## **2.5 Liability for occupiers and invitees**

Except as otherwise provided herein:

- (a) An owner or occupier of a lot must ensure, and must use their best endeavours to ensure, that their invitees, agents, contractors or employees (and, in the case of an owner, any occupier of their lot) comply with any obligations that they have hereunder, or (so far as those obligations are capable of such application) which they would have if those persons were owners or occupiers of lots.
- (b) An owner or occupier of a lot is liable for the acts or omissions of their invitees in breach hereof (and, in the case of an owner, any occupier of their lot) as fully as if those persons were that owner or occupier and those acts or omissions were theirs.

## **2.6 Exercise of care, skill and compliance with law**

Except as otherwise provided herein, a person must, in exercising a right granted to them hereunder, or in meeting an obligation imposed on them hereunder:

- (a) exercise due care and skill; and
- (b) do so in accordance with any applicable law.

## **2.7 Obligation to do work to remedy breach**

An owner or occupier of a lot is required to do any work necessary to remediate any breach by them hereof, including without limitation work to:

- (a) comply with the obligation breached;
- (b) repair any damage caused to the property;
- (c) clean any rubbish, dirt, debris, or staining caused to the property;
- (d) rectify any fault, malfunction or defect caused to any system, service, appliance or apparatus in the property; and
- (e) remediate a breach or non-compliance with any applicable law or the requirements of any Authority affecting the property and caused by that breach.

For the purposes of this clause 2.7 a reference to property includes the common property or personal property vested in the owners corporation.

## **2.8 Conditions attaching to remedial work**

An owner or occupier of a lot who is required to do work under clause 2.7 must, except as may be provided otherwise herein:

- (a) prior to undertaking such work, and upon completion of the work, notify the owners corporation in writing;
- (b) ensure that such work is done within 1 week from the breach requiring remediation, except to the extent otherwise provided herein;
- (c) ensure that such work is done:

- (i) in accordance with any applicable law and any other applicable requirement hereof; and
- (ii) in a proper and workmanlike manner and exercising due care and skill.

*Note.* If an owner or occupier of a lot fails to do work hereunder the owners corporation may by law be entitled to do that work and recover the cost from that owner or occupier, or any person who becomes the owner of their lot.

## **2.9 Power to carry out work and recover costs**

Within the meaning of section 120 of the Management Act, if:

- (a) work is required to be carried out by an owner or occupier of a lot under a term or condition hereof; and
- (b) that owner or occupier fails to carry out that work;

then the owners corporation may carry out that work and may recover the cost of carrying out that work from that owner or occupier, or any person who, after the work is carried out, becomes the owner of the lot.

## **2.10 Application of the Civil Liability Act 2002**

- (a) Owners and occupiers of lots acknowledge and agree that:
  - (i) the provisions hereof make express provision for their rights, obligations and liabilities hereunder with respect to all matters to which the Civil Liability Act 2002 applies as contemplated by section 3A(2) of that act; and
  - (ii) to the extent permitted by law, that act does not apply in connection with those rights, obligations and liabilities.
- (b) Any provision hereof that is prevented by Part 2 of the Civil Liability Act 2002 is severed to the extent so prevented.

## **2.11 Recovery of amounts**

Any amount due to the owners corporation in connection herewith is recoverable by the owners corporation as a debt and:

- (a) bears interest as if it was a contribution unpaid by the owner (or, if the liable person is not an owner of a lot, as if they were such an owner); and
- (b) may be recovered by the owners corporation as if it was a contribution unpaid by the owner (or, if the liable person is not an owner of a lot, as if they were such an owner), including as to:
  - (i) any interest payable; and
  - (ii) the expenses of the owners corporation incurred in recovering those amounts.

*Note.* The vote of an owner of a lot at a general meeting of the owners corporation may not count by law unless payment has been made before that meeting of amounts recoverable from the owner in connection herewith.

## **2.12 Alteration of building affecting lot boundary**

An owner of a lot must comply with any obligation they may have under section 19 of the Development Act in respect of the strata scheme from time to time.

## **3 Definitions and interpretation**

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### **3.1 Interpretation**

Except to the extent the context otherwise requires, or as is otherwise expressly provided, herein:

- (a) the terms “herein”, “hereunder”, “hereof” and “herewith” mean, respectively, in, under, of and with this by-law;
- (b) the singular includes the plural and vice versa;
- (c) headings, notes, explanatory notes and similar do not form part of these by-laws and do not affect the operation of these by-laws;
- (d) a reference to a document, includes any amendment, replacement or novation of it;
- (e) where any word or phrase is given a definite meaning, any part of speech or other grammatical form of the word or phrase has a corresponding meaning;
- (f) any reference to legislation includes any amending or replacing legislation;
- (g) where words “includes”, “including”, “such as”, “like”, “for example” or similar are used, they are to be read as if immediately followed by the words “without limitation”;
- (h) where no time is specified for compliance with an obligation, that obligation must be complied with within a reasonable time;
- (i) any reference to legislation includes any subordinate legislation or other instrument created thereunder;
- (j) where two or more persons share a right or obligation hereunder, that right may be exercised, and that obligation must be met, jointly and severally;
- (k) where an obligation is imposed on a “person” hereunder, “person” does not include the owners corporation unless expressly provided otherwise; and
- (l) a term defined in the Management Act or Development Act will have the same meaning.

### **3.2 Functions of the owners corporation**

- (a) Without limiting its other functions, the owners corporation has the functions necessary for it to discharge the duties imposed on it, and exercise the powers and authorities conferred on it hereby.
- (b) No provision hereof that grants a right or remedy to the owners corporation limits or restricts any other right or remedy of the owners corporation arising under any other provision of the by-laws of the strata scheme or otherwise at law.

### **3.3 Severability**

- (a) To the extent that any term herein is inconsistent with the Management Act or any other Act or law it is to be severed and the remaining terms herein will be read and be enforceable as if so consistent.
- (b) To the extent that any term herein is inconsistent with another by-law of the strata scheme, the provisions herein prevail to the extent of that inconsistency.

### **3.4 Definitions**

Except to the extent the context otherwise requires, or as is otherwise expressly provided, herein:

**Approval** means:

- (a) an approval or certificate as may be required by law (or under the terms of an Approval) to be obtained from or provided by an Authority;

- (b) a development consent or complying development certificate within the meaning of the Environmental Planning and Assessment Act 1979;
- (c) a certificate within the meaning of Division 6.3 of the Environmental Planning and Assessment Act 1979;
- (d) any order, direction or other requirement given or made by an Authority;
- (e) an order made under Division 9.3, 9.4 or 9.5 of the Environmental Planning and Assessment Act 1979; and
- (f) an order made under Part 2 or Part 5 of Chapter 7 of the Local Government Act 1993;

**Authorised Lot** means lot 122 in the strata scheme bearing folio identifier 122/SP63776;

**Authorised Owner** means the owner of the Authorised Lot (or, if there is more than one such owner, those owners jointly and severally);

**Authority** means:

- (a) any Commonwealth, state or local government, semi-government, statutory, public or other body or person (or body or person otherwise authorised by law) having jurisdiction;
- (b) a consent authority or principal certifying authority within the meaning of the Environmental Planning and Assessment Act 1979;
- (c) the council having the relevant regulatory functions under Chapter 7 of the Local Government Act 1993; and
- (d) an authorised fire officer within the meaning of Schedule 5 clause 16 of the Environmental Planning and Assessment Act 1979;

**Building Works Conditions** means the provisions of Annexure L;

**Building Works** has the meaning given to it in the Building Works Conditions;

**common property** means the common property in the strata scheme;

**Development Act** means the Strata Schemes Development Act 2015;

**Exclusive Use Area** means:

- (a) those parts of the common property which are occupied by the Permitted Works (once complete); and
- (b) any part of the common property that is, as a result of the Permitted Works (once complete) altering the effective physical boundaries of the premises the subject of the Authorised Lot:
  - (i) only accessible from within that premises; or
  - (ii) enclosed within the effective physical boundaries of that premises;

and includes a reference to any common property the ongoing maintenance of which is to be the responsibility of the Authorised Owner in accordance with the Resolution;

**Management Act** means the Strata Schemes Management Act 2015;

**occupier** means:

- (a) the occupier of a lot, but only in relation to the lot occupied by that occupier;
- (b) where there is more than one occupier of that lot, means those occupiers jointly and severally, but only in relation to that lot; and
- (c) where there is more than one lot occupied by that occupier or occupiers, means that occupier or those occupiers (joint and severally) in respect of each such lot severally;

**owner** means:

- (a) the owner of a lot, but only in relation to the lot owned by that owner;
- (b) where there is more than one owner of that lot, means those owners jointly and severally, but only in relation to that lot; and
- (c) where there is more than one lot owned by that owner or owners, means that owner or those owners (joint and severally) in respect of each such lot severally;

**owners corporation** means the owners corporation created on registration of the strata plan;

**Permitted Work** means Building Works as set out in the Scope of Works.

**Resolution** means the special resolution of the owners corporation to authorise the Authorised Owner to take such action the subject of section 108(1) of the Management Act as required to carry out works subject to and in accordance herewith, the ongoing maintenance of which is to be the responsibility of the Authorised Owner;

**Scope of Works** means the Scope of Works in Annexure M;

**strata plan** means strata plan number 61717; and

**strata scheme** means the strata scheme relating to the strata plan.

# Annexure L Building Works Conditions

## 1 Building Works Conditions

---

### 1.1 General conditions applying to Building Works

Building Works must:

- (a) be carried out in accordance with and comply with any applicable law or Approval;
- (b) be carried out in a proper and workmanlike manner and only by persons who are duly licensed to do so;
- (c) comply with the National Construction Code and the Building Code of Australia and not cause the parcel or any part of it to breach either of those codes;
- (d) be fit for their purpose;
- (e) only be carried out using materials belonging to you and not subject to any charge, lien, security interest or similar;
- (f) be carried out with due diligence and expedition and within a reasonable time;
- (g) cause a minimum of disruption to the use of the parcel and a minimum of damage to the parcel;
- (h) in any event, not occasion the occupation or use of open space areas of common property except as otherwise specifically approved in writing by the owners corporation;
- (i) except as otherwise approved by the owners corporation, be carried out only between the hours of 7:30am and 5:30pm (excluding on any day that is a Saturday, Sunday or public holiday in New South Wales) or between 8:30 am and Midday on a Saturday;
- (j) not cause damage to the parcel or any part of the parcel otherwise than authorised hereunder;
- (k) not adversely affect the structure or support of the parcel;
- (l) not compromise the proper functioning or performance of any existing system or element of the parcel, including without limitation with respect to waterproofing or fire protection; and
- (m) not cause or amount to a nuisance or hazard to other owners or occupiers of lots or interfere unreasonably with the use or enjoyment of the parcel by other owners or occupiers of lots.

### 1.2 Connection to services

Except as otherwise approved in writing by the owners corporation, to the extent the Building Works are connected to any electrical, gas, water or other services, they must be connected only to such services that are separately metered to your lot (provided such separately metered services are otherwise connected to the lot).

### 1.3 Cleanliness, protection and rectification

You must:

- (a) ensure the parcel is adequately protected from damage that may be caused by Building Works;
- (b) ensure any part of the parcel affected by Building Works is kept clean and tidy and is left clean and tidy on completion of Building Works; and
- (c) if Building Works cause damage to the parcel, rectify that damage, including doing any necessary Building Works.

#### 1.4 Bond

You must, before carrying out Building Works, pay a bond to the owners corporation to secure compliance with your obligations under these Building Works Conditions in respect of those Building Works.

#### 1.5 Plans and specifications

If the owners corporation has not previously been provided with them, you must provide a copy of any plans and specifications relating to Building Works to the owners corporation. Where those plans and specifications relate to any element of Building Works that is proposed to be undertaken, those plans and specifications must be provided to the owners corporation before that element of those Building Works is undertaken.

#### 1.6 Insurance

You must effect and maintain the following insurance (or ensure the same is effected and maintained):

- (a) any insurance required by law in connection with Building Works; and
- (b) contractors all-risk insurance (including public liability insurance to a limit of not less than \$5,000,000 per event) in respect of the conduct of the Building Works naming the owners corporation as a beneficiary.

#### 1.7 Ownership of works

Building Works form part of the common property only to the extent that they are affixed to the common property and occupy cubic space forming part of the common property.

#### 1.8 Definitions

In addition to the terms otherwise defined herein, in these Building Works Conditions, unless the context otherwise requires:

**Building Code of Australia** has the meaning given to it under the Environmental Planning and Assessment Act 1979;

**Building Works** means building works and related products and services that you are required or permitted to put effect to hereunder, and includes a reference to:

- (a) ancillary works, products and services that it is reasonably necessary to do or supply to facilitate the doing of those building works, and the supply of those products and services; and
- (b) as the context may require, a reference to the result of those building works and related products and services being done and supplied; and

**National Construction Code** means the National Construction Code published by the Australian Building Codes Board from time to time;.

**you** means a person who is required to comply with these Building Works Conditions, or whose Building Works are required to comply with these Building Works Conditions; and

**your** has a corresponding meaning to You.

## **Annexure M Scope of Works**

### **1 Scope of Works**

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#### **1.1 Installation of air conditioner – main bedroom**

Installation of a split system air conditioner servicing the main bedroom of the Authorised Lot, including:

- (a) installation of a head unit internal to the main bedroom of the Authorised Lot affixed to the common property wall;
- (b) installation of a condenser housed externally on the balcony off the main bedroom and affixed to the common property wall (to be affixed on a wall bracket off the balcony floor by between 50 to 100mm); and
- (c) plumbing, electrical and cabling works as necessary including drilling of common property walls as required,

with the works and installation to be undertaken in accordance with clause 2.9 of Special By-Law 2 of the Strata Scheme.

#### **1.2 Installation of air conditioner – living room**

Installation of a split system air conditioner servicing the Authorised Lot, including:

- (a) installation of a head unit internal to the living room of the Authorised Lot affixed to the common property wall;
- (b) installation of a condenser housed externally on the balcony off the living room and affixed to the common property wall (to be affixed on a wall bracket off the balcony floor by between 50 to 100mm); and
- (c) plumbing, electrical and cabling works as necessary including drilling of common property walls as required,

with the works and installation to be undertaken in accordance with clause 2.9 of Special By-Law 2 of the Strata Scheme.

#### **1.3 Works in accordance with the annexed plans, drawings and diagrams**

Undertaking of the works as contemplated and denoted by the annexed plans, drawings and diagrams prepared by Maison Air Conditioning.

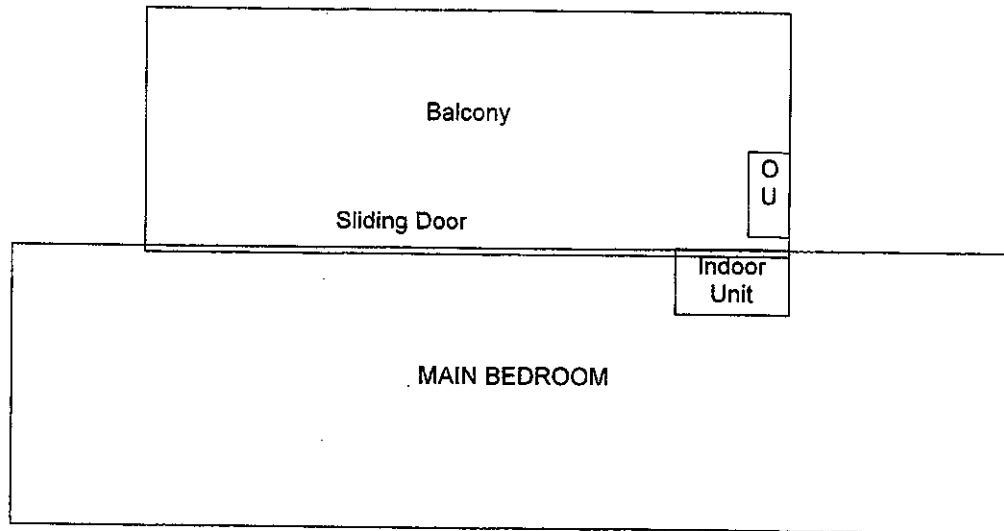




maisonaircon.com.au

## AIR CONDITIONING INSTALLATION DIAGRAM

29/100 BARCOM AVENUE, DARLINGHURST NSW 2010



### NOTES:

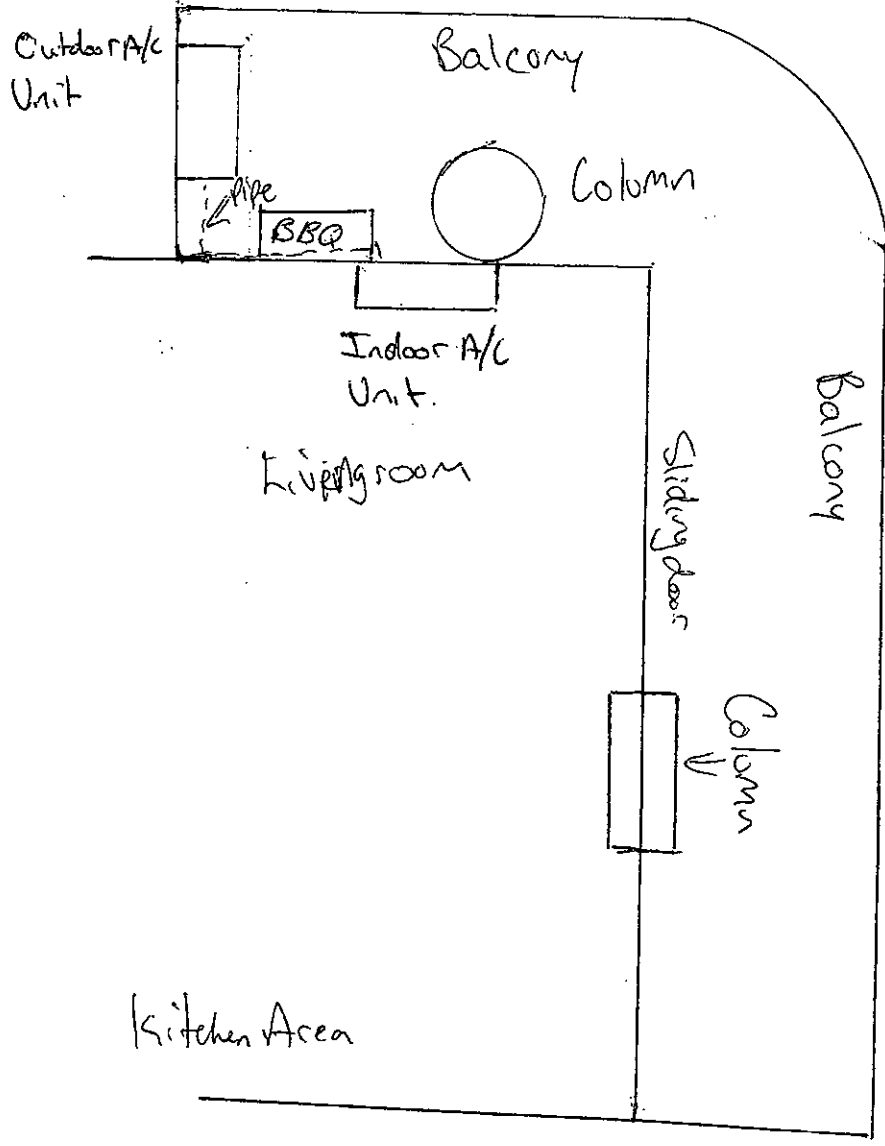
- All cables + pipeworks will be neatly concealed within Colorbond cover externally
- All pipeworks internally will be run in conduits where required
- Abbreviation: IU Indoor Unit OU Outdoor Unit

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Maison Air Conditioning | Shop 1, 188 Maroubra Rd, Maroubra 2035 | 1300.643.078 | [contact@maisonaircon.com.au](mailto:contact@maisonaircon.com.au)  
ABN 68 162 378 341 | Gold Licence. AU3106 | 321979C [maisonaircon.com.au](http://maisonaircon.com.au)

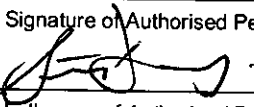
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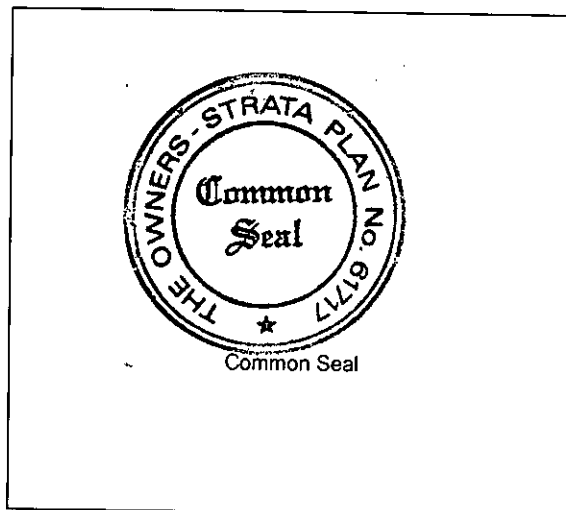
Clinton  
29/100 Barseem Ave  
Darlinghurst



## Execution

THE COMMON SEAL of **The Owners—Strata Plan No 61717** was hereunto affixed on the date shown in the presence of the following, being the person(s) authorised under section 273 of the Strata Schemes Management Act 2015 to attest the affixing of the seal:

Signature of Authorised Person 
Full name of Authorised Person STUART JENNETT
Capacity of Authorised Person <b>AUTHORISED SIGNATORY</b> <b>BCS STRATA MANAGEMENT PTY LTD</b>
Address of signatory



Signature of Authorised Person
Full name of Authorised Person
Capacity of Authorised Person
Address of signatory

23. 10. 2020
Date of affixing of the Seal