

CONSOLIDATED BY-LAWS

The Owners - Strata Plan 83145

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1 Noise

An owner or occupier of a lot must not create any noise on the parcel likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using common property.

2 Vehicles

An owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the written approval of the owner's corporation.

3 Obstruction Of Common Property

An owner or occupier of a lot must not obstruct lawful use of common property by any person.

4 Damage to lawns and plants on common property.

An owner or occupier of a lot must not:

- 4.1** Damage any lawn, garden, tree, shrub, plant or flower being part of or situated on common property, or
- 4.2** Use for his or her own purposes as a garden any portion of the common property.

5 Damage To Common Property

- 5.1** An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property without the approval in writing of the owners' corporation.
- 5.2** An approval given by the owner's corporation under subclause (a) cannot authorise any additions to the common property.
- 5.3** This by-law does not prevent an owner or person authorised by an owner from installing:
 - 5.3.1** Any locking or other safety device for protection of the owner's lot against intruders, or
 - 5.3.2** Any structure or device to prevent harm to children.
- 5.4** Any such locking or safety device, other device or structure must be installed in a competent and proper manner and must have an appearance, after it has been installed, in keeping with the appearance of the rest of the building.
- 5.5** Despite section 62, the owner of a lot must maintain and keep in a state of good and serviceable repair any installation or structure referred to in subclause (c) that forms part of the common property and that services the lot.

6 Behaviour Of Owners And Occupiers

An owner or occupier of a lot when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.

7 Children Playing On Common Property In Building

An owner or occupier of a lot must not permit any child of whom the owner or occupier has control to play on common property within the building or, unless accompanied by an adult exercising effective control, to be or to remain on common property comprising a laundry, car parking area or other area of possible danger or hazard to children.

8 Behaviour Of Invitees

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

9 Depositing Rubbish And Other Material On Common Property

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using the common property.

10 Drying Of Laundry Items

An owner or occupier of a lot must not, except with the consent in writing of the owners corporation, hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the building other than on any lines provided by the owner's corporation for the purpose and there only for a reasonable period.

11 Cleaning Windows and Doors

An owner or occupier of a lot must keep clean all glass in windows and all doors on the boundary of the lot, including so much as is common property.

12 Storage Of Inflammable Liquids And Other Substances And Materials

12.1 An owner or occupier of a lot must not, except with the approval in writing of the owners corporation, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material.

12.2 This by-law does not apply to chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

13 Moving Furniture And Other Objects On Or Through Common Property

13.1 An owner or occupier of a lot must not transport any furniture or large object through or on common property within the building unless sufficient notice has first been given to the executive committee so as to enable the executive committee to arrange for its nominee to be present at the time when the owner or occupier does so.

- 13.2** The owners corporation may determine that furniture or large objects are to be transported through or on common property in a specified manner. If the owners corporation considers that the furniture or large object may damage common property it may refuse permission or grant permission subject to the provision of a suitable bond as security for the cost or make good any damage.
- 13.3** If the owners corporation has determined the manner in which furniture or large objects are to be transported, then an owner or occupier must comply with the determination.

14 Floor Coverings

- 14.1** An owner of a lot must ensure that all floor space within the lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of noise likely to disturb the peaceful enjoyment of the owner or occupier of another lot.
- 14.2** If the floor finish is other than carpet, then an owner must provide the owners corporation with an acoustic report signed by an acoustic engineer certifying that By-Law 14 (a) has or upon installation of the floor finish, be complied with.
- 14.3** This by-law does not apply to floor space comprising a kitchen, laundry, lavatory or bathroom.

15 Garbage Disposal

An owner or occupier of a lot:

- 15.1** Must maintain within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and adequately covered a receptacle for garbage, and
- 15.2** Must ensure that before refuse is placed in the receptacle it is security wrapped? or in the case of tins or other containers, completely drained, and
- 15.3** For the purpose of having the garbage collected, must place the receptacle within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage is normally collected, and
- 15.4** When the garbage has been collected, must promptly return the receptacle to the lot or other area referred to in paragraph (a),
- 15.5** Must not place anything in the receptacle of the owner or occupier of any other lot except with the permission of that owner or occupier, and
- 15.6** Must promptly remove any thing which the owner, occupier or garbage collector may have spilled from the receptacle and must take such action as may be necessary to clean the area within which that thing was spilled.

16 Keeping Of Animals

Subject to section 49(4) of the Act, an owner or occupier of a lot must not, without the prior written approval of the Owners Corporation, keep any animal (except a cat, or a small caged bird, or fish kept in a secure aquarium on the lot) on the lot other common property.

Dogs, except guide dogs, may not be kept by residents within the Owner's lot or common property at any time.

The Owners Corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property excluding dogs,

If any owner or occupier of a lot keeps a cat, or small caged bird on the lot then the Owner or Occupier must:

- (a)** notify the Owners Corporation that the animal is being kept on the lot, and
- (b)** keep the animal within the lot and
- (c)** carry the animal when it is on the common property, and
- (d)** take such action as may be necessary to clean all areas of the lot or the common property that are soiled by the animal;

17 Appearance Of Lot

17.1 The owner or occupier of a lot must not, without the written consent of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.

17.2 Ensure the architectural integrity of the building, window coverings including louvers, curtains or blinds, when viewed from the exterior of the building must be in a style, quality and colour approved by the owner corporation (either by way of a standard rule, resolution or in relation to a specific application of an owner or occupier).

18 Notice-Board

An Owners Corporation must cause a notice-board to be affixed to some part of the common property.

19 Change In Use Of Lot To Be Notified

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes).

20 Alteration of Lot

20.1 An owner or occupier must not make any alterations to a lot without the prior consent of the owners corporation.

20.2 The owners corporation must not unreasonably withhold nor delay consent except where the alteration is to a load bearing wall or involves a structural alteration.

21 External Plan, Fixtures, Fittings and Signage

- (1)** An owner or occupier must not install or erect any Prohibited Commercial Signage on the lot or common property.
- (2)** An owner or occupier of a lot may place Permitted Commercial Signage on the common property pursuant to the terms and conditions in this by-law.
- (3)** The owners corporation via the strata committee, may place any restrictions in respect of any Permitted Commercial Signage placed on the common property.
- (4)** The owner or occupier must ensure the installation of any Permitted Commercial Signage is done in accordance with this by-law and is completed in a proper and workmanlike manner.
- (5)** The owner or occupier must ensure that any Permitted Commercial Signage is in keeping with the appearance of the scheme.
- (6)** The owner or occupier must ensure any Permitted Commercial Signage meets all requirements of the Authority including any Development Control Plan, or any other instrument, which regulates how signage is designed, erected and maintained within the strata scheme.
- (7)** The owner or occupier who installs any Permitted Commercial Signage must, at their cost properly maintain and keep the Permitted Commercial Signage in a state of good and serviceable repair and must replace or remove the Permitted Commercial Signage as required from time to time.
- (8)** The owner or occupier must remove the Permitted Commercial Signage prior to vacating the lot and immediately repair any damage caused to the common property as required by the owners corporation.
- (9)** The owner or occupier who installs any Permitted Commercial Signage shall be liable for any damage caused to any part of the common property affected by the Permitted Commercial Signage and will make good that damage immediately after it has occurred.
- (10)** The owner or occupier who installs any Permitted Commercial Signage indemnifies the owners corporation against -
 - (a)** any legal liability, loss, claim or proceedings in respect of any injury, loss or damage to the common Property, to other property or person to the extent that such injury, loss or damage arises from or in relation to the Permitted Commercial Signage;
 - (b)** any amount payable by way of increased insurance premiums by the owners corporation as a direct result of the Permitted Commercial Signage; and
 - (c)** any amount payable by way of increased fire safety compliance or local authority requirements as a direct result of the Permitted Commercial Signage.

Defined Terms and Interpretation

- (11)** Permitted Commercial Signage means any 'A' frame sandwich board placed on or near a commercial lot (being Lots 41, 42 and 43) used to promote and advertise a business that will be operated within a lot subject to the following criteria and all relevant approvals required by the original owner, the strata committee and all relevant Authorities:

- (a) Maximum of two advertising faces and be professionally constructed;
 - (b) Each sign must not exceed 600mm wide or 1m high;
 - (c) Can only relate to business carried out in a ground floor, street front premises and inside the property boundary;
 - (d) One sign per six lineal metres of frontage, to a maximum of four signs; and
 - (e) Must have a minimum 4.5m between signs.
- (12)** Prohibited Commercial Signage means any advertising panel, awning fascia sign, awning sign (above awning), awning sign (under awning), business identification sign, fin sign, flashing sign, flush wall sign, illuminated sign, moving/changing sign, pole or pylon sign, projecting wall sign, promotional banners and inflatable signs, bunting, canvas or fabric signs, roof signs, top hamper signs, window signs, video signs, flags, swinging signs, audio advertising or any other commercial signage as determined by the owners corporation, used to promote and advertise a business that will be operated within a lot.
- (13)** In this by-law, unless the context otherwise requires:
- (a) headings do not affect the interpretation of this by-law;
 - (b) words importing the singular include the plural and visa versa;
 - (c) words importing a gender include any gender;
 - (d) words defined in the Act have the meaning given to them in the Act; and
 - (e) references to legislation includes references to amending and replacing legislation.
- (14)** This by-law applies in conjunction with any existing relevant by-laws of the scheme, however to the extent of any inconsistency with the existing registered by-laws, this by-law prevails.

22 Service Lines and Pipes

- 22.1** The owner or a lot consents to and grants to the owners corporation the right to install plan, equipment and associated pipes, wires, cables and ducts within the common property and those parts of the owners lots in the basement level provided that the installation does not unreasonably interfere with the owners or occupiers use and enjoyment of their lot,
- 22.2** The owners corporation and a person authorised by the executive committee may enter a lot in order to exercise its rights under this by-law.

23 Swimming Pool

- 23.1** The following rules apply to the use of the swimming pool (subject to the owners corporation's right to add to or change the rules at any time), namely:
- 23.1.1** The swimming pool may only be used between the hours of 6am and 8pm or other hours nominated from time to time by the owners corporation.
 - 23.1.2** Children under the age of 12 years may use the swimming pool only if accompanied and supervised by an adult;
 - 23.1.3** Glass objects, drinking glasses, good and sharp objects are not permitted in the swimming pool;

23.1.4 Running, ball playing, noisy or hazardous activities are not permitted in or about the swimming pool; and

23.1.5 Swimming pool equipment must not, except with the consent of the owners corporation be interfered with, operated or adjusted.

23.2 The owners corporation must ensure that the swimming pool is maintained in accordance with Public Health (Swimming Pools and Spa Pools) Regulations 2000 and all other relevant and applicable laws.

24 Sauna

24.1 The following rules apply to the use of the sauna (subject to the owners corporation's right to add to or change the rules at any the), namely:

24.1.1 The sauna may only be used between the hours of 6am and 8pm or other hours nominated from time to time by the owners corporation.

24.1.2 Children under the age of 15 years cannot use the sauna;

24.1.3 Glass objects, drinking glasses, good and sharp objects are not permitted in the sauna;

24.1.4 Running, ball playing, noisy or hazardous activities are not permitted in or about the sauna; and

24.1.5 Sauna equipment must not, except with the consent of the owners corporation, be interfered with, operated or adjusted.

24.2 The owners corporation must ensure that the sauna is maintained in accordance with Public Health (Swimming Pools and Spa Pools) Regulations 2000 and all other relevant and applicable laws.

25 Gym

25.1 The following rules apply to the use of the gym (subject to the owners corporation's right to add to or change the rules at any time), namely:

25.1.1 The gym may only be used between the hours of 6am and 8pm or other hours nominated from time to time by the owners corporation.

25.1.2 Children under the age of 12 years may use the gym only if accompanied and supervised by an adult;

25.1.3 Glass objects, drinking glasses, good and sharp objects are not permitted in the gym;

25.1.4 Running, ball playing, noisy or hazardous activities are not permitted in or about the gym; and

25.1.5 Gym equipment must not, except with the consent of the owners corporation, be interfered with, operated or adjusted.

25.2 All users of the gym must be appropriately attired.

26 Control on Hours of Operation and Use of Facilities

26.1 The owners corporation may, by special resolution, make any of the following determinations if it considers the determination is appropriate for the control, management, administration, use or enjoyment of the lots or the lots and common property of the strata scheme;

26.1.1 That commercial or business activities may be conducted on a lot or common property only during certain times or on certain conditions.

26.1.2 That facilities situated on the common property may be used only during certain times or on certain conditions.

26.2 An owner or occupier of a lot must comply with a determination referred to in Clause 26.1.

27 Skate and Roller Boards

The use of skate or roller boards or similar devices on common property is not permitted.

28 Security

Owners and occupiers must not do anything which could affect the security of the strata scheme or the safety of owners or occupiers.

29 Closing Doors

You must take reasonable care to make sure that fire and security doors that are in the Strata Scheme are locked or closed when they are not being used.

30 Rules

30.1 The owners corporation may make rules about the security, control, management, operation, use and enjoyment of the facilities of the strata scheme.

30.2 The owners corporation may add to or change the rules at any time.

31 Owners Corporation may do work if Owners and Occupiers do not comply with By-Laws

31.1 The owners corporation may do anything in the strata scheme that;

31.1.1 an owner or occupier should have done under these by-laws; and

31.1.2 the owner or occupier has not done properly.

31.2 The owners corporation and persons authorised by the executive committee may enter a lot in ' order to exercise its rights under this by-law.

31.3 The owner or occupier who has not done what it should have done under the by-laws (or not done it properly) must pay the owners corporation's costs for doing work under this by-law.

31.4 The owners corporation is not liable for damages arising out of exercising rights under this by-law (except for damage it causes maliciously or negligently).

32 Provision of Amenities or Services

32.1 The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:

32.1.1. window cleaning;

32.1.2. garbage disposal and recycling services;

32.1.3. electricity, water or gas supply;

32.1.4. telecommunication services (e.g. cable television);

32.1.5. commercial cleaning;

32.1.6. security services.

32.2 If the owners corporation makes a resolution referred to in Clause 30.1 to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

33 Compliance with Planning and Other Requirements

33.1 The owner or occupier of a lot must ensure that the lot is not used for any purpose that is prohibited by law.

33.2 The owner or occupier of a lot must ensure that the lot is not occupied by more persons than are allowed by law to occupy the lot.

34 Owners Corporation Consent

34.1 Where these by-laws require the consent of the owners corporation, the consent must be in writing and given by the owners corporation pursuant to an ordinary resolution or the executive committee.

34.2 The consent may include reasonable conditions.

34.3 The owner or occupier must comply with any conditions imposed by the owners corporation in the granting of consent.

34.4 Unless otherwise stated in these by-laws the owners corporation may not unreasonably withhold nor delay consent nor impose unreasonable conditions.

35 Invalid, Illegal or Unenforceable By-Law

If any by-law or part of a by-law is or becomes invalid, illegal or unenforceable then that by-law or part of the by-law is deemed to be severed from these by-laws but as far as possible all the remaining by-laws are not affected.

36 Car Spaces

36.1 Any part of a lot designated for use for parking of vehicles must not be used by an owner or occupier for any other purpose without the consent of the owners corporation.

36.2 An owner or occupier must not park any vehicle, boat, trailer or caravan on common property except with the consent of the owners corporation.

36.3 Without limiting other by-laws, an owner or occupier must not cage or attach a door or any other fixture to a car space unless it is satisfied that it will not inhibit the use of any other car space or common property by another owner or that the proposed cage, door or other fixture is not in keeping with the appearance of the rest of the building.

36.4 An owner or occupier must not park a vehicle, boat, trailer or caravan in designated visitor car parking.

37 Security Keys

37.1 The owners corporation may restrict access to any part of the common property by means of a security key.

- 37.2** If the owners corporation takes action under Clause 35 (a), then the owners corporation must make security keys available to the owners and persons authorised by the owners corporation,
- 37.3** An owner must use all reasonable endeavours to ensure that a security key is only made available to an owner or occupier or other persons authorised by the owners corporation.
- 37.4** The owners corporation may charge a reasonable fee for:
- 37.4.1** additional or replacement security keys required by an owner; and
- 37.4.2** replacement of security keys for the whole of the building and common property if the security key is lost, stolen, misplaced or provided to a person who is not authorised to hold a security key where the owners corporation (acting reasonably) considers that the security of the common property and building is at risk.
- 37.5** Any security key issued to an owner or occupier remains the property of the owners corporation.

38 Procedures if you Lease your Apartment

If you lease or licence your apartment, you must include a requirement in the lease or licence that the Occupier return Security Keys issued by the Owners Corporation to the Owners Corporation when they no longer occupy your apartment.

39 Easements

Where some items of Common Property are burdened by easements, you and the Owners Corporation:

- 39.1** Must comply with your obligations under those easements; and
- 39.2** Must not do anything to prevent the benefited parties under those easements from exercising their rights to use Common Property under those easements.

40 Building Works and Alterations

- 40.1** Subject to the provisions of this by-law, an owner must obtain the consent of the owners corporation to carry out building works or alterations that will affect common property.
- 40.2** The consent of the owners corporation is required:
- 40.2.1** To remove or alter any structural wall;
- 40.2.2** To affix any lattice or grill to any part of the terrace or balcony area of the owner's or occupier's lot that is not in keeping with the appearance of the rest of the building,
- 40.3** The consent of the owners corporation is not required to:
- 40.3.1** Install a toilet, a basin, a bathroom, a kitchen and other items forming part of the general fit-out of a lot;
- 40.3.2** Alter or remove non-structural walls within a lot; or
- 40.3.3** Make openings in a non-structural common property walls between 2 lots owned by the 1 owner.

- 40.4** In addition to the consent of the owners corporation under By-Law 40 (a), an owner must obtain the approval of the North Sydney Council or any other Government Agency if required.
- 40.5** Consent of the owners corporation is not required to carry out minor work to the interior of common property enclosing a lot
- 40.6** Consent of the owners corporation is not required to the carrying out of building works or alterations contemplated by an exclusive use or special privilege by-law.
- 40.7** Consent of the owners corporation to the carrying out of building works or alterations will constitute approval to the lodgement of a development application to the North Sydney Council or any other Government agency (if required).

Notice to Owners Corporation

- 40.8** An owner must give to the owners corporation at least 30 days notice before carrying out any building work or alterations. This applies whether or not consent of the owners corporation is required.
- 40.9** The notice under Clause 40.8 must describe the proposed alterations or works sufficient detail for the owners corporation to ascertain:
 - 40.9.1** The estimated time period to the carrying out of the proposed alterations or building works;
 - 40.9.2** The nature and extent of the proposed alterations or building works;
 - 40.9.3** Whether any common property will be affected.
- 40.10** An owner should ascertain from the owners corporation where service lines, pipes and conduits are located within the building.
- 40.11** A condition of consent in carrying out of building works by the owners corporation may require:
 - i.** A certificate from a structural engineer that the proposed work will not have any adverse effect on common property or any lot; and
 - ii.** Evidence that appropriate insurances are in place in respect of the carrying out of the building works or alterations.

Carrying out of Building Works or Alterations

- 40.12** Prior to carrying out any building works or alterations, an owner or occupier:
 - 40.12.1** Must ensure that a work method statement is prepared by a suitable qualified or licensed person to ensure that a safe work environment and method are enforced; and
 - 40.12.2** Must provide owners corporation with a copy of the works method statement.
- 40.13** During the carrying out of any building works or alterations an owner or occupier must:
 - 40.13.1** Ensure that persons carrying out or involved in doing the building work or alterations comply with the owners corporation's reasonable requirements about the times and means by which access is obtained to the parcel.
 - 40.13.2** Ensure that no damage occurs to services is obtained to the parcel.

- 40.13.3 Ensure that the building works or alterations are carried out by a suitable qualified or licensed person to the satisfaction of the owners corporation and if appropriate the local Council or other Government agency.
 - 40.13.4 Take all reasonable precautions to ensure that no damage is caused to the common property.
 - 40.13.5 Repair any damage caused to the common property as a result of the building works or alterations; and
 - 40.13.6 Carry out the building works or alterations promptly.
- 40.14 An owner indemnifies the owners corporation against claims, demands and liability of any kind that may arise in respect of damage to any property or death or injury to any person arising out of the carrying out of building work or alterations to a lot or common property.

41 Preservation of Fire Safety

The owner or occupier of a lot must not do anything or permit any invitees of the owner or occupier to do anything on the lot or common property that is likely to affect the operation of fire safety devices in the parcel or to reduce the level of fire safety in the lots or common property.

42 Prevention of Hazards

The owner or occupier of a lot must not do anything or permit any invitees of the owner or occupier to do anything on the lot or common property that is likely to create a hazard or danger to the owner or occupier of another lot or any person lawfully using the common property.

43 Compliance with Planning and Other Requirements

- 43.1 The owner or occupier of a lot must ensure that the lot is not used for any purpose that is prohibited by law.
- 43.2 The owner or occupier of a lot used for residential purpose must ensure that the lot is not occupied by more persons than are allowed by law to occupy the lot.

Special By-Law 1 – Cost Recovery to Owners Corporation

A) Definitions

i. The following terms are defined to mean:

'Costs' includes any fine, charge, fee or invoice imposed on the Owners Corporation by a local council, other statutory or lawful authorities or any contractor or agent engaged by the Owners Corporation or Lot owner.

'Lot' means any Lot in the strata plan.

'Occupier' means the occupier of a Lot. 'owner' means the owner's of the Lot.

'Owners Corporation' means the owners corporation created by the registration of strata Plan sP83145.

'Owners Corporations Agents' means the Strata Managing Agent, Executive Committee or any contractor, legal counsel or other personnel engaged by the Owners Corporation.

'Owners Agents' means any real estate agent, property manager or any contractor engaged by a lot owner or the occupant of the lot or visitors to the lot.

'The Act' means the Strata Schemes Management Act 1996.

'Works' means any repair, maintenance, replacement or refurbishment undertaken at the strata scheme.

Where any terms used in this by-law are defined in the strata Schemes Management Act 1996, they will have the same meaning as the terms attributed under that Act.

B) Rights and obligation of owners

- i. A lot owner shall be liable to compensate the Owners Corporation for the costs of any works performed on lot property that is charged to the owners corporation by the owners corporations agent or the lot owners agents;
- ii. A lot owner shall be liable to compensate the owners corporation for the costs of the owners Corporation remedying a breach of a duty imposed by Chapter 4 of the Act.
- iii. A lot owner shall be liable to compensate the Owners Corporation for the costs of the Owners Corporation successfully defending an adjudication, tribunal or other legal application made by a lot owner or for the costs debt recovery action initiated by the Owners Corporation or the Owners Corporations agents.
- iv. Any costs imposed upon a lot owner in sub-clauses B (i), (ii) and (iii) above shall be payable to the Owners Corporation successfully defending an adjudication, tribunal or other legal application made by a lot owner or for the costs debt recovery action initiated by the Owners Corporation or the Owners Corporations agents.
- v. In the event that a lot owner believes a charge imposed upon them pursuant to this By-Law is unjust, the lot owner may request that the Owners Corporation waive the charge by a resolution of the Owners Corporation at the next general meeting of the Owners Corporation.
- vi. In the event the Owners Corporation rejects a request made by a lot owner pursuant to sub-clause B (v) above, all charges imposed by this By-Law shall stand.

C) Rights/ Powers and Obligations of the Owners Corporation

The Owners Corporation shall have the following additional powers authorities, duties, functions and obligations:

- i. The owners corporation shall have the power to recover all costs outlined in clause B) above from a lot owner as a debt by way of a levy charged to the lot owner;
- ii. The Owners Corporation must serve upon the owner a written notice of the contribution payable;
- iii. The Owners Corporation may charge interest upon any contribution payable under this By-Law pursuant to section 79 of the Act;
- iv. The Owners Corporation may initiate debt recovery proceedings for any contribution payable under this By-Law pursuant to section 80 of the Act;
- v. All monies recovered by the owners corporation shall form part of the fund to which the relevant contribution belongs.

Special By-Law 2 – Air Conditioning Works

Scope of By-Law

Owners must not carry out any Air Conditioning Works except in accordance with the following conditions.*

The owner corporation is authorised to affix the common seal to any documents required for approval of any Air Conditioning Works by the local council or other consent authority.

Conditions

1. Before commencing the Air Conditioning works, owners must apply to the Executive Committee in writing for Approval, provide the Required Documents, adhere to all council regulations (in particular all noise regulations) and Insure
2. While carrying out the Air Conditioning Works, Owners must comply with the Works Requirements
3. After completing the Air Conditioning Works, Owners must Submit, and Maintain.
4. At all times, Owners must indemnify, accept Liability and acknowledge that if the relevant Owner fails to comply with any obligation under this by-law, THEN the Owners Corporation may take steps to Remedy,

* See explanatory notes

Explanatory Notes

These notes form part of this by-law.

Where any of the by-law terms are defined in the Strata Schemes Management Act 1996 (Act), they will have the same meaning as those works are attributed under the Act.

In this by-law, except when the context otherwise required:

- (a) the singular includes the plural and vice versa,
- (b) words implying any gender encompass all genders, and
- (c) references to any statutory rule or regulation include any variation, re-enactment or replacement of the statutory rule or regulation.

Owners means registered owners and occupiers in the strata scheme.

Air Conditioning Works means the additions and alterations undertaken by Owners (at the relevant Owner's cost and to remain that Owner's fixtures) to install an air conditioning unit in their lot and the common property (including all ancillary structures) which must:

- (a) have the following specifications:
 - (i) type - wall or ceiling mounted,
 - (ii) make and model - inverter model split system (single unit system or multi-unit system) air conditioning unit or similar as approved as determined by the owners corporation.
 - (iii) colour - white

- (iv) size - as approved / determined by the owners corporation,
- (v) noise level - minimal, to ensure the lease noise impact on the strata scheme and which must comply with any applicable law,
- (b) so far as the internal part of the air conditioning unit is concerned, be positioned close to the external wall and external verandah of the relevant lot to minimise the volume of pipes, wiring and ancillary equipment to be installed,
- (c) so far as the external part of the air conditioning unit is concerned, be located on the external verandah of the relevant lot and hidden from view from the exterior of the building (behind masonry walls and oriented so that the narrowest part faces the street). The external part of the air conditioning unit must not be visible from the exterior of the building unless approved by the Executive Committee,
- (d) so far as pipes and ancillary equipment are concerned, be installed within the air space between the gyprock and common or party wall or be surface mounted,
- (e) so far as external electrical wiring is concerned, be hidden from view from the exterior of the building and must be surface mounted on external walls,
- (f) so far as internal electrical wiring is concerned, be hidden from view from the exterior of the building and must be installed within existing wall cavities or discreetly surface mounted on internal walls,
- (g) include adequate drainage equipment (with minimal impact on the common property and appearance) and must be connected through the verandah drainage system to an external drain to allow for overflow of water or condensation from the air conditioning unit,
- (h) include adequate electrical equipment (with minimal impact on the common property) for connecting the air conditioning system to electricity supply in the relevant lot,
- (i) so far as all wall penetrations for pipes/water outlets are concerned, they must be of minimum size,
- (j) comply with any other requirement or condition determined by the Executive Committee (acting reasonably) from time to time, and
- (k) be otherwise undertaken in accordance with the Requirement Documents and in accordance with this by-law, but which must not:
 - (i) be a window mounted air conditioning unit
 - (ii) impact on the effective fire rating of common property walls,
 - (iii) penetrate fire rating walls; or
 - (iv) any other air conditioning unit which does not comply with the requirements and specifications set out in this by-law.

Condition 1 - Before Commencing Air Conditioning Works

Approval means:

- (a) formal approval from the Executive Committee for the Air Conditioning Works, such approval not to be unreasonably withheld; and
- (b) where the Owner is merely an occupier in the strata scheme, approval from the registered owner of the relevant lot occupied.

Required Documents means copies of approvals from all relevant statutory authorities (as required) as well as any plans, drawings, diagrams and any other documents reasonably required by the Owners Corporation and relevant to the Air Conditioning Works which the Owner must submit to the Executive Committee for its approval.

Insure means the relevant Owner must effect and maintain contractors all works insurance, insurance required under the Home Building Act 1989 {if applicable}, works compensation insurance and public liability insurance in the amount of \$10,000,000 in the joint names of the relevant Owner and Owners Corporation.

Condition 2 - While Carrying Out Air Conditioning Works

Works Requirement means the following requirements (and any other requirements determined by the Owners Corporation with respect to carrying out the Air Conditioning Works from time to time) which the relevant Owner must comply with (at their cost) when carrying out the Air Conditioning Works.

- (1) The relevant Owner must:
 - (a) ensure that all wall penetrations for pipes/water outlets are of minimum size and properly sealed,
 - (b) transport all construction materials, equipment, debris and other material, in the manner reasonably directed by the Owners Corporation,
 - (c) protect all affected areas of the building outside their lot from damage by the Air Conditioning Works or the transportation of construction materials, equipment, debris,
 - (d) keep all affected areas of the building outside their lot clean and tidy throughout the performance of the Air Conditioning Works,
 - (e) only perform the Air Conditioning Works at the times approved by the Owners Corporation,
 - (f) not create noise that causes unreasonably discomfort, disturbance or interference with activities of any other occupier of the building,
 - (g) remove all debris resulting from the Air Conditioning Works immediately from the building, and
 - (h) comply with the requirements of the Owners Corporation to comply with any by-laws and any relevant statutory authority concerning the performance of the Air Conditioning Works.
- (2) The relevant Owner must also ensure that the Air Conditioning Works are carried out:
 - (a) in accordance with this by-law;
 - (b) in accordance with the Required Documents;
 - (c) in accordance with the terms and conditions set out by the relevant authorities;
 - (d) in accordance with the drawings and specifications approved by the Executive Committee; and
 - (e) in a proper and workmanlike manner and by duly licensed and insured contractors.

Condition 3 - After Carrying Out Air Conditioning Works

Submit means the relevant Owner must submit any documents relating to the completed Air Conditioning Works reasonably required by the Owners Corporation to be provided to the Owners Corporation by the relevant Owner after completing the Air Conditioning Works.

Maintain means the relevant Owner must properly maintain and keep the Air Conditioning Works and common property to which the Air Conditioning Works are erected or attached in a state of good and serviceable repair and/or replace the Air Conditioning Works if considered necessary by the Owners Corporation.

Condition 4 - At All Times

Indemnify means the relevant Owners must indemnify the Owners Corporation against any loss or damage the Owners Corporation suffers as a result of the performance, maintenance or replacement of the Air Conditioning Works on the common property and for obtaining certification of the Air Conditioning Works incurred by the Owners Corporation (including legal costs) and will pay those amounts to the Owners Corporation upon request.

Liability means the relevant Owner's liability for any damage caused to any part of the common property as a result of the erection, attachment, removal or replacement of the Air Conditioning Works to the common property and the responsibility to make good that damage immediately after it has occurred.

Remedy means the Owners Corporation's right to:

- carry out all work necessary to perform that obligation,
- enter upon any part of the parcel to carry out that work, and
- recover the costs of carrying out that work from the relevant Owner as a debt (and include reference of that debt on levy notices and any other levy reports or information) and the relevant owner acknowledges that any debt for which the relevant Owner is liable under this by-law, is due and payable on written demand or at the direction of the Owners Corporation, if not paid at the end of 1 month from the date on which it is due, will bear until paid, simple interest at an annual rate of 10 percent or, if the regulations provide for another rate, that other rate and the interest will form part of the debt.

Special By-Law 3 – Minor renovations by owners - delegation of functions

(1) The owners corporation:

- (a) **Specially resolves** in accordance with Section 141(1) of the Strata Schemes Management Act 2015 (NSW) to make an additional by-law in the following terms and to complete, affix the seal to and lodge in the office of the Registrar-General notification of the same in the manner contemplated by Section 141(2)(a) of the Strata Schemes Management Act 2015 (NSW):

- (b) Within the meaning of section 110(6)(b) of the *Strata Schemes Management Act 2015* (NSW) the owners corporation is permitted to delegate its functions under Section 110 of that ACT to the strata committee.
- (c) Resolves to delegate its functions to the strata committee in accordance with the by-law made in (a).

Special By-Law 4 – Smoking on Premises

- (1) For the purposes of this by-law:
 - (a) “smoke” means smoke, hold or otherwise have control over ignited tobacco or any other product that is intended to be smoked and is ignited;
 - (b) “the property” means all lots and the common property of the strata scheme;
 - (c) an owner of a lot, and a director or shareholder of a corporate owner shall be an occupier of that lot if he or she resides in the lot.
- (2) The owner or occupier of a lot must not smoke nor allow smoking within a lot or within the common property.
- (3) Without limiting paragraph 1, the owner or occupier of a lot must not allow any invitee to smoke within his/her lot or upon common property.
- (4) The Owners' Corporation delegates to the strata managing agent responsibility for:
 - (a) The service of a notice, in a form approved by the Director-General, on the owner or occupier of a lot requiring the owner or occupier to comply if satisfied that the owner or occupier has contravened this by-law and
 - (b) Commencing legal proceedings seeking Orders, requiring a person who fails to comply with a notice served in (a), to pay the statutory pecuniary penalty and any costs of the Owners' Corporation in the proceedings.

Special By-Law 5 – Lot 43 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

- (a)** 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:
 - (i)** during a period where Building Works are being carried out, within 24 hours of a request by the owners corporation; or
 - (ii)** in any other case, to the extent otherwise required by law.
- (b)** The Authorised Owner must provide the owners corporation with access to the Authorised Lot for the purpose of repairing, maintaining, renewing, replacing, or inspecting the common property communications riser located within the Authorised Lot (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 reasonably required.

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.

2.9 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

3.2 the owners corporation unless expressly provided otherwise; and

(l) a term defined in the Management Act or Development Act will have the same meaning.

3.3 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.

3.4 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.

3.5 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 43 in the strata scheme bearing folio identifier 43/SP83145;

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 A;

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 B;

strata plan means strata plan number 83145; and

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