

# Contract for the sale and purchase of land 2019 edition

<b>TERM</b>	<b>MEANING OF TERM</b>	<b>NSW DAN:</b>
vendor's agent	<b>Infinity Property Agents</b> <b>38/112 McEvoy Street, Alexandria, NSW 2015</b> <b>Australia</b>	<b>Phone: 0411 641 662</b>
co-agent		
vendor	<b>Queenie Kwan-Lee Shen and Kevin Chun Lum Lee</b> <b>204/8 Karrabee Ave, Huntleys Coast, NSW 2111</b>	
vendor's solicitor	<b>Peninsula Conveyancing</b> <b>20 Gladstone Street, Newport NSW 2106</b> <b>PO Box 222, Newport NSW 2106</b>	<b>Phone: 9999 4871</b> <b>Email: sue@newportconvey.com.au</b> <b>Fax: 9940 0197</b> <b>Ref: SS:CW:2838</b>
date for completion land (address, plan details and title reference)	<b>42nd day after the contract date</b> <b>93/94-116 Culloden Road , Marsfield, New South Wales 2122</b> <b>Registered Plan: Lot 89 Plan SP 57169</b> <b>Folio Identifier 89/SP57169</b>	(clause 15)
improvements	<input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies <input type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input checked="" type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input type="checkbox"/> other:	
attached copies	<input type="checkbox"/> documents in the List of Documents as marked or as numbered: <input type="checkbox"/> other documents:	

**A real estate agent is permitted by legislation to fill up the items in this box in a sale of residential property.**

inclusions	<input checked="" type="checkbox"/> blinds <input checked="" type="checkbox"/> built-in wardrobes <input type="checkbox"/> clothes line <input type="checkbox"/> curtains	<input checked="" type="checkbox"/> dishwasher <input checked="" type="checkbox"/> fixed floor coverings <input checked="" type="checkbox"/> insect screens <input type="checkbox"/> other:	<input checked="" type="checkbox"/> light fittings <input checked="" type="checkbox"/> range hood <input type="checkbox"/> solar panels	<input checked="" type="checkbox"/> stove <input type="checkbox"/> pool equipment <input type="checkbox"/> TV antenna
exclusions				
purchaser				
purchaser's solicitor				
price	\$			
deposit	\$	(10% of the price, unless otherwise stated)		
balance	\$			
contract date	(if not stated, the date this contract was made)			

buyer's agent

\_\_\_\_\_  
vendor

**GST AMOUNT (optional)**

The price includes  
GST of: \$

\_\_\_\_\_  
witness

\_\_\_\_\_  
purchaser

☐ JOINT TENANTS    ☐ tenants in common    ☐ in unequal shares

\_\_\_\_\_  
witness

**Choices**

Vendor agrees to accept a **deposit-bond** (clause 3) ☒ NO ☐ yes

**Nominated Electronic Lodgment Network (ELN)** (clause 30): \_\_\_\_\_

**Electronic transaction** (clause 30)

☐ no ☐ YES

(if no, vendor must provide further details, such as the proposed applicable waiver, in the space below, or serve *within* 14 days of the contract date):

**Tax information (the parties promise this is correct as far as each party is aware)**

**Land tax** is adjustable

☒ NO ☐ yes

**GST:** Taxable supply

☒ NO ☐ yes in full ☐ yes to an extent

Margin scheme will be used in making the taxable supply

☒ NO ☐ yes

This sale is not a taxable supply because (one or more of the following may apply) the sale is:

- ☐ not made in the course or furtherance of an enterprise that the vendor carries on (section 9-5(b))
- ☒ by a vendor who is neither registered nor required to be registered for GST (section 9-5(d))
- ☐ GST-free because the sale is the supply of a going concern under section 38-325
- ☐ GST-free because the sale is subdivided farm land or farm land supplied for farming under Subdivision 38-O
- ☐ input taxed because the sale is of eligible residential premises (sections 40-65, 40-75(2) and 195-1)

Purchaser must make a *GSTRW payment*  
(GST residential withholding payment)

☐ NO ☐ yes (if yes, vendor must provide further details)

If the further details below are not fully completed at the contract date, the vendor must provide all these details in a separate notice *within* 14 days of the contract date.

**GSTRW payment (GST residential withholding payment) – further details**

Frequently the supplier will be the vendor. However, sometimes further information will be required as to which entity is liable for GST, for example, if the supplier is a partnership, a trust, part of a GST group or a participant in a GST joint venture.

Supplier's name:

Supplier's ABN:

Supplier's GST branch address (if applicable):

Supplier's business address:

Supplier's email address:

Supplier's phone number:

Supplier's proportion of *GSTRW payment*:

**If more than one supplier, provide the above details for each supplier.**

Amount purchaser must pay – price multiplied by the *GSTRW rate* (residential withholding rate):

Amount must be paid: ☐ AT COMPLETION ☐ at another time (specify):

Is any of the consideration not expressed as an amount in money? ☐ NO ☐ yes

If "yes", the GST inclusive market value of the non-monetary consideration: \$

Other details (including those required by regulation or the ATO forms):

## List of Documents

General	Strata or community title (clause 23 of the contract)
<input checked="" type="checkbox"/> 1 property certificate for the land <input type="checkbox"/> 2 plan of the land <input type="checkbox"/> 3 unregistered plan of the land <input type="checkbox"/> 4 plan of land to be subdivided <input type="checkbox"/> 5 document that is to be lodged with a relevant plan <input checked="" type="checkbox"/> 6 section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979 <input type="checkbox"/> 7 additional information included in that certificate under section 10.7(5) <input checked="" type="checkbox"/> 8 sewerage infrastructure location diagram (service location diagram) <input checked="" type="checkbox"/> 9 sewer lines location diagram (sewerage service diagram) <input type="checkbox"/> 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract <input type="checkbox"/> 11 <i>planning agreement</i> <input type="checkbox"/> 12 section 88G certificate (positive covenant) <input type="checkbox"/> 13 survey report <input type="checkbox"/> 14 building information certificate or building certificate given under <i>legislation</i> <input type="checkbox"/> 15 lease (with every relevant memorandum or variation) <input type="checkbox"/> 16 other document relevant to tenancies <input type="checkbox"/> 17 licence benefiting the land <input type="checkbox"/> 18 old system document <input type="checkbox"/> 19 Crown purchase statement of account <input type="checkbox"/> 20 building management statement <input checked="" type="checkbox"/> 21 form of requisitions <input type="checkbox"/> 22 <i>clearance certificate</i> <input type="checkbox"/> 23 land tax certificate	<input checked="" type="checkbox"/> 32 property certificate for strata common property <input type="checkbox"/> 33 plan creating strata common property <input type="checkbox"/> 34 strata by-laws <input type="checkbox"/> 35 strata development contract or statement <input type="checkbox"/> 36 strata management statement <input type="checkbox"/> 37 strata renewal proposal <input type="checkbox"/> 38 strata renewal plan <input type="checkbox"/> 39 leasehold strata - lease of lot and common property <input type="checkbox"/> 40 property certificate for neighbourhood property <input type="checkbox"/> 41 plan creating neighbourhood property <input type="checkbox"/> 42 neighbourhood development contract <input type="checkbox"/> 43 neighbourhood management statement <input type="checkbox"/> 44 property certificate for precinct property <input type="checkbox"/> 45 plan creating precinct property <input type="checkbox"/> 46 precinct development contract <input type="checkbox"/> 47 precinct management statement <input type="checkbox"/> 48 property certificate for community property <input type="checkbox"/> 49 plan creating community property <input type="checkbox"/> 50 community development contract <input type="checkbox"/> 51 community management statement <input type="checkbox"/> 52 document disclosing a change of by-laws <input type="checkbox"/> 53 document disclosing a change in a development or management contract or statement <input type="checkbox"/> 54 document disclosing a change in boundaries <input type="checkbox"/> 55 information certificate under Strata Schemes Management Act 2015 <input type="checkbox"/> 56 information certificate under Community Land Management Act 1989 <input type="checkbox"/> 57 disclosure statement - off the plan contract <input type="checkbox"/> 58 other document relevant to off the plan contract
<b>Home Building Act 1989</b>	<b>Other</b>
<input type="checkbox"/> 24 insurance certificate <input type="checkbox"/> 25 brochure or warning <input type="checkbox"/> 26 evidence of alternative indemnity cover	<input type="checkbox"/> 59
<b>Swimming Pools Act 1992</b>	
<input type="checkbox"/> 27 certificate of compliance <input type="checkbox"/> 28 evidence of registration <input type="checkbox"/> 29 relevant occupation certificate <input type="checkbox"/> 30 certificate of non-compliance <input type="checkbox"/> 31 detailed reasons of non-compliance	

**HOLDER OF STRATA OR COMMUNITY TITLE RECORDS – Name, address, email address and telephone number**

Dynamic Property Services

(02) 9267 6334

Locked Bag 22 Haymarket NSW 1238

**IMPORTANT NOTICE TO VENDORS AND PURCHASERS**

Before signing this contract you should ensure that you understand your rights and obligations, some of which are not written in this contract but are implied by law.

**WARNING—SMOKE ALARMS**

The owners of certain types of buildings and strata lots must have smoke alarms (or in certain cases heat alarms) installed in the building or lot in accordance with regulations under the *Environmental Planning and Assessment Act 1979*. It is an offence not to comply. It is also an offence to remove or interfere with a smoke alarm or heat alarm. Penalties apply.

**WARNING—LOOSE-FILL ASBESTOS INSULATION**

Before purchasing land that includes any residential premises (within the meaning of Division 1A of Part 8 of the *Home Building Act 1989*) built before 1985, a purchaser is strongly advised to consider the possibility that the premises may contain loose-fill asbestos insulation (within the meaning of Division 1A of Part 8 of the *Home Building Act 1989*). In particular, a purchaser should:

- (a) search the Register required to be maintained under Division 1A of Part 8 of the *Home Building Act 1989*, and
- (b) ask the relevant local council whether it holds any records showing that the residential premises contain loose-fill asbestos insulation.

For further information about loose-fill asbestos insulation (including areas in which residential premises have been identified as containing loose-fill asbestos insulation), contact NSW Fair Trading.

### **COOLING OFF PERIOD (PURCHASER'S RIGHTS)**

1. This is the statement required by section 66X of the *Conveyancing Act 1919* and applies to a contract for the sale of residential property.
2. **EXCEPT** in the circumstances listed in paragraph 3, the purchaser may rescind the contract at any time before 5 pm on—
  - (a) the tenth business day after the day on which the contract was made—in the case of an off the plan contract, or
  - (b) the fifth business day after the day on which the contract was made—in any other case.
3. There is **NO COOLING OFF PERIOD**:
  - (a) if, at or before the time the contract is made, the purchaser gives to the vendor (or the vendor's solicitor or agent) a certificate that complies with section 66W of the Act, or
  - (b) if the property is sold by public auction, or
  - (c) if the contract is made on the same day as the property was offered for sale by public auction but passed in, or
  - (d) if the contract is made in consequence of the exercise of an option to purchase the property, other than an option that is void under section 66ZG of the Act.
4. A purchaser exercising the right to cool off by rescinding the contract will forfeit to the vendor 0.25% of the purchase price of the property. The vendor is entitled to recover the amount forfeited from any amount paid by the purchaser as a deposit under the contract and the purchaser is entitled to a refund of any balance.

### **DISPUTES**

If you get into a dispute with the other party, the Law Society and Real Estate Institute encourage you to use informal procedures such as negotiation, independent expert appraisal, the Law Society Conveyancing Dispute Resolution Scheme or mediation (for example mediation under the Law Society Mediation Program).

### **AUCTIONS**

Regulations made under the Property, Stock and Business Agents Act 2002 prescribe a number of conditions applying to sales by auction.

## WARNINGS

1. Various Acts of Parliament and other matters can affect the rights of the parties to this contract. Some important matters are actions, claims, decisions, licences, notices, orders, proposals or rights of way involving:
 

<b>APA Group</b> <b>Australian Taxation Office</b> <b>Council</b> <b>County Council</b> <b>Department of Planning, Industry and Environment</b> <b>Department of Primary Industries</b> <b>Electricity and gas</b> <b>Land &amp; Housing Corporation</b> <b>Local Land Services</b>	<b>NSW Department of Education</b> <b>NSW Fair Trading</b> <b>Owner of adjoining land</b> <b>Privacy</b> <b>Public Works Advisory</b> <b>Subsidence Advisory NSW</b> <b>Telecommunications</b> <b>Transport for NSW</b> <b>Water, sewerage or drainage authority</b>
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If you think that any of these matters affects the property, tell your solicitor.
2. A lease may be affected by the Agricultural Tenancies Act 1990, the Residential Tenancies Act 2010 or the Retail Leases Act 1994.
3. If any purchase money is owing to the Crown, it will become payable before obtaining consent, or if no consent is needed, when the transfer is registered.
4. If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.
5. The vendor should continue the vendor's insurance until completion. If the vendor wants to give the purchaser possession before completion, the vendor should first ask the insurer to confirm this will not affect the insurance.
6. The purchaser will usually have to pay transfer duty (and sometimes surcharge purchaser duty) on this contract. If duty is not paid on time, a purchaser may incur penalties.
7. If the purchaser agrees to the release of deposit, the purchaser's right to recover the deposit may stand behind the rights of others (for example the vendor's mortgagee).
8. The purchaser should arrange insurance as appropriate.
9. Some transactions involving personal property may be affected by the Personal Property Securities Act 2009.
10. A purchaser should be satisfied that finance will be available at the time of completing the purchase.
11. Where the market value of the property is at or above a legislated amount, the purchaser may have to comply with a foreign resident capital gains withholding payment obligation (even if the vendor is not a foreign resident). If so, this will affect the amount available to the vendor on completion.
12. Purchasers of some residential properties may have to withhold part of the purchase price to be credited towards the GST liability of the vendor. If so, this will also affect the amount available to the vendor. More information is available from the ATO.

The vendor sells and the purchaser buys the *property* for the price under these provisions instead of Schedule 3 Conveyancing Act 1919, subject to any *legislation* that cannot be excluded.

## 1 Definitions (a term in *italics* is a defined term)

In this contract, these terms (in any form) mean –

<i>adjustment date</i>	the earlier of the giving of possession to the purchaser or completion;
<i>bank</i>	the Reserve Bank of Australia or an authorised deposit-taking institution which is a bank, a building society or a credit union;
<i>business day</i>	any day except a bank or public holiday throughout NSW or a Saturday or Sunday;
<i>cheque</i>	a cheque that is not postdated or stale;
<i>clearance certificate</i>	a certificate within the meaning of s14-220 of Schedule 1 to the <i>TA Act</i> , that covers one or more days falling within the period from and including the contract date to completion;
<i>deposit-bond</i>	a deposit bond or guarantee from an issuer, with an expiry date and for an amount each approved by the vendor;
<i>depositholder</i>	vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i> , or if no vendor's <i>solicitor</i> is named in this contract, the buyer's agent);
<i>document of title</i>	document relevant to the title or the passing of title;
<i>FRCGW percentage</i>	the percentage mentioned in s14-200(3)(a) of Schedule 1 to the <i>TA Act</i> (12.5% as at 1 July 2017);
<i>FRCGW remittance</i>	a remittance which the purchaser must make under s14-200 of Schedule 1 to the <i>TA Act</i> , being the lesser of the <i>FRCGW percentage</i> of the price (inclusive of GST, if any) and the amount specified in a <i>variation served by a party</i> ;
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in s4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<i>GSTRW payment</i>	a payment which the purchaser must make under s14-250 of Schedule 1 to the <i>TA Act</i> (the price multiplied by the <i>GSTRW rate</i> );
<i>GSTRW rate</i>	the rate determined under ss14-250(6), (8) or (9) of Schedule 1 to the <i>TA Act</i> (as at 1 July 2018, usually 7% of the price if the margin scheme applies, 1/11 <sup>th</sup> if not);
<i>legislation</i>	an Act or a by-law, ordinance, regulation or rule made under an Act;
<i>normally</i>	subject to any other provision of this contract;
<i>party</i>	each of the vendor and the purchaser;
<i>property</i>	the land, the improvements, all fixtures and the inclusions, but not the exclusions;
<i>planning agreement</i>	a valid voluntary agreement within the meaning of s7.4 of the Environmental Planning and Assessment Act 1979 entered into in relation to the <i>property</i> ;
<i>requisition</i>	an objection, question or requisition (but the term does not include a claim);
<i>rescind</i>	rescind this contract from the beginning;
<i>serve</i>	serve in writing on the other <i>party</i> ;
<i>settlement cheque</i>	an unendorsed <i>cheque</i> made payable to the person to be paid and – <ul style="list-style-type: none"> <li>• issued by a <i>bank</i> and drawn on itself; or</li> <li>• if authorised in writing by the vendor or the vendor's <i>solicitor</i>, some other <i>cheque</i>;</li> </ul>
<i>solicitor</i>	in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice <i>served by the party</i> ;
<i>TA Act</i>	Taxation Administration Act 1953;
<i>terminate</i>	terminate this contract for breach;
<i>variation</i>	a variation made under s14-235 of Schedule 1 to the <i>TA Act</i> ;
<i>within</i>	in relation to a period, at any time before or during the period; and
<i>work order</i>	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road (but the term does not include a notice under s22E of the Swimming Pools Act 1992 or clause 22 of the Swimming Pools Regulation 2018).

## 2 Deposit and other payments before completion

- 2.1 The purchaser must pay the deposit to the *depositholder* as stakeholder.
- 2.2 *Normally*, the purchaser must pay the deposit on the making of this contract, and this time is essential.
- 2.3 If this contract requires the purchaser to pay any of the deposit by a later time, that time is also essential.
- 2.4 The purchaser can pay any of the deposit by giving cash (up to \$2,000) or by unconditionally giving a *cheque* to the *depositholder* or to the vendor, vendor's agent or vendor's *solicitor* for sending to the *depositholder* or by payment by electronic funds transfer to the *depositholder*.
- 2.5 If any of the deposit is not paid on time or a *cheque* for any of the deposit is not honoured on presentation, the vendor can *terminate*. This right to *terminate* is lost as soon as the deposit is paid in full.
- 2.6 If the vendor accepts a bond or guarantee for the deposit, clauses 2.1 to 2.5 do not apply.

BREACH OF COPYRIGHT MAY RESULT IN LEGAL ACTION

- 2.7 If the vendor accepts a bond or guarantee for part of the deposit, clauses 2.1 to 2.5 apply only to the balance.
- 2.8 If any of the deposit or of the balance of the price is paid before completion to the vendor or as the vendor directs, it is a charge on the land in favour of the purchaser until *termination* by the vendor or completion, subject to any existing right.
- 2.9 If each *party* tells the *depositholder* that the deposit is to be invested, the *depositholder* is to invest the deposit (at the risk of the *party* who becomes entitled to it) with a *bank*, in an interest-bearing account in NSW, payable at call, with interest to be reinvested, and pay the interest to the *parties* equally, after deduction of all proper government taxes and financial institution charges and other charges.

### 3 Deposit-bond

- 3.1 This clause applies only if this contract says the vendor has agreed to accept a *deposit-bond* for the deposit (or part of it).
- 3.2 The purchaser must provide the original *deposit-bond* to the vendor's *solicitor* (or if no *solicitor* the *depositholder*) at or before the making of this contract and this time is essential.
- 3.3 If the *deposit-bond* has an expiry date and completion does not occur by the date which is 14 days before the expiry date, the purchaser must *serve* a replacement *deposit-bond* at least 7 days before the expiry date. The time for service is essential.
- 3.4 The vendor must approve a replacement *deposit-bond* if –
- 3.4.1 it is from the same issuer and for the same amount as the earlier *deposit-bond*; and
  - 3.4.2 it has an expiry date at least three months after its date of issue.
- 3.5 A breach of clauses 3.2 or 3.3 entitles the vendor to *terminate*. The right to *terminate* is lost as soon as –
- 3.5.1 the purchaser *serves* a replacement *deposit-bond*; or
  - 3.5.2 the deposit is paid in full under clause 2.
- 3.6 Clauses 3.3 and 3.4 can operate more than once.
- 3.7 If the purchaser *serves* a replacement *deposit-bond*, the vendor must *serve* the earlier *deposit-bond*.
- 3.8 The amount of any *deposit-bond* does not form part of the price for the purposes of clause 16.7.
- 3.9 The vendor must give the purchaser the *deposit-bond* –
- 3.9.1 on completion; or
  - 3.9.2 if this contract is *rescinded*.
- 3.10 If this contract is *terminated* by the vendor –
- 3.10.1 *normally*, the vendor can immediately demand payment from the issuer of the *deposit-bond*; or
  - 3.10.2 if the purchaser *serves* prior to *termination* a notice disputing the vendor's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 3.11 If this contract is *terminated* by the purchaser –
- 3.11.1 *normally*, the vendor must give the purchaser the *deposit-bond*; or
  - 3.11.2 if the vendor *serves* prior to *termination* a notice disputing the purchaser's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.

### 4 Transfer

- 4.1 *Normally*, the purchaser must *serve* at least 14 days before the date for completion –
- 4.1.1 the form of transfer; and
  - 4.1.2 particulars required to register any mortgage or other dealing to be lodged with the transfer by the purchaser or the purchaser's mortgagee.
- 4.2 If any information needed for the form of transfer is not disclosed in this contract, the vendor must *serve* it.
- 4.3 If the purchaser *serves* a form of transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for this form of transfer.
- 4.4 The vendor can require the purchaser to include a form of covenant or easement in the transfer only if this contract contains the wording of the proposed covenant or easement, and a description of the land benefited.

### 5 Requisitions

- 5.1 If a form of *requisitions* is attached to this contract, the purchaser is taken to have made those *requisitions*.
- 5.2 If the purchaser is or becomes entitled to make any other *requisition*, the purchaser can make it only by *serving* it –
- 5.2.1 if it arises out of this contract or it is a general question about the *property* or title - *within* 21 days after the contract date;
  - 5.2.2 if it arises out of anything *served* by the vendor - *within* 21 days after the later of the contract date and that *service*; and
  - 5.2.3 in any other case - *within* a reasonable time.

### 6 Error or misdescription

- 6.1 *Normally*, the purchaser can (but only before completion) claim compensation for an error or misdescription in this contract (as to the *property*, the title or anything else and whether substantial or not).
- 6.2 This clause applies even if the purchaser did not take notice of or rely on anything in this contract containing or giving rise to the error or misdescription.
- 6.3 However, this clause does not apply to the extent the purchaser knows the true position.



## 7 Claims by purchaser

*Normally*, the purchaser can make a claim (including a claim under clause 6) before completion only by *serving* it with a statement of the amount claimed, and if the purchaser makes one or more claims before completion –

- 7.1 the vendor can *rescind* if in the case of claims that are not claims for delay –
  - 7.1.1 the total amount claimed exceeds 5% of the price;
  - 7.1.2 the vendor *serves* notice of intention to *rescind*; and
  - 7.1.3 the purchaser does not *serve* notice waiving the claims *within* 14 days after that *service*; and
- 7.2 if the vendor does not *rescind*, the *parties* must complete and if this contract is completed –
  - 7.2.1 the lesser of the total amount claimed and 10% of the price must be paid out of the price to and held by the *depositholder* until the claims are finalised or lapse;
  - 7.2.2 the amount held is to be invested in accordance with clause 2.9;
  - 7.2.3 the claims must be finalised by an arbitrator appointed by the *parties* or, if an appointment is not made *within* 1 month of completion, by an arbitrator appointed by the President of the Law Society at the request of a *party* (in the latter case the *parties* are bound by the terms of the Conveyancing Arbitration Rules approved by the Law Society as at the date of the appointment);
  - 7.2.4 the purchaser is not entitled, in respect of the claims, to more than the total amount claimed and the costs of the purchaser;
  - 7.2.5 net interest on the amount held must be paid to the *parties* in the same proportion as the amount held is paid; and
  - 7.2.6 if the *parties* do not appoint an arbitrator and neither *party* requests the President to appoint an arbitrator *within* 3 months after completion, the claims lapse and the amount belongs to the vendor.

## 8 Vendor's rights and obligations

- 8.1 The vendor can *rescind* if –
  - 8.1.1 the vendor is, on reasonable grounds, unable or unwilling to comply with a *requisition*;
  - 8.1.2 the vendor *serves* a notice of intention to *rescind* that specifies the *requisition* and those grounds; and
  - 8.1.3 the purchaser does not *serve* a notice waiving the *requisition within* 14 days after that *service*.
- 8.2 If the vendor does not comply with this contract (or a notice under or relating to it) in an essential respect, the purchaser can *terminate* by *serving* a notice. After the *termination* –
  - 8.2.1 the purchaser can recover the deposit and any other money paid by the purchaser under this contract;
  - 8.2.2 the purchaser can sue the vendor to recover damages for breach of contract; and
  - 8.2.3 if the purchaser has been in possession a *party* can claim for a reasonable adjustment.

## 9 Purchaser's default

If the purchaser does not comply with this contract (or a notice under or relating to it) in an essential respect, the vendor can *terminate* by *serving* a notice. After the *termination* the vendor can –

- 9.1 keep or recover the deposit (to a maximum of 10% of the price);
- 9.2 hold any other money paid by the purchaser under this contract as security for anything recoverable under this clause –
  - 9.2.1 for 12 months after the *termination*; or
  - 9.2.2 if the vendor commences proceedings under this clause *within* 12 months, until those proceedings are concluded; and
- 9.3 sue the purchaser either –
  - 9.3.1 where the vendor has resold the *property* under a contract made *within* 12 months after the *termination*, to recover –
    - the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and
    - the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or
  - 9.3.2 to recover damages for breach of contract.

## 10 Restrictions on rights of purchaser

- 10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
  - 10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;
  - 10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);
  - 10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;
  - 10.1.4 any change in the *property* due to fair wear and tear before completion;
  - 10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;
  - 10.1.6 a condition, exception, reservation or restriction in a Crown grant;

- 10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
- 10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or
- 10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage, priority notice or writ).

- 10.2 The purchaser cannot *rescind* or *terminate* only because of a defect in title to or quality of the inclusions.
- 10.3 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* or require the vendor to change the nature of the title disclosed in this contract (for example, to remove a caution evidencing qualified title, or to lodge a plan of survey as regards limited title).

## 11 Compliance with work orders

- 11.1 *Normally*, the vendor must by completion comply with a *work order* made on or before the contract date and if this contract is completed the purchaser must comply with any other *work order*.
- 11.2 If the purchaser complies with a *work order*, and this contract is *rescinded* or *terminated*, the vendor must pay the expense of compliance to the purchaser.

## 12 Certificates and inspections

- The vendor must do everything reasonable to enable the purchaser, subject to the rights of any tenant –
- 12.1 to have the *property* inspected to obtain any certificate or report reasonably required;
- 12.2 to apply (if necessary in the name of the vendor) for –
  - 12.2.1 any certificate that can be given in respect of the *property* under *legislation*; or
  - 12.2.2 a copy of any approval, certificate, consent, direction, notice or order in respect of the *property* given under *legislation*, even if given after the contract date; and
- 12.3 to make 1 inspection of the *property* in the 3 days before a time appointed for completion.

## 13 Goods and services tax (GST)

- 13.1 Terms used in this clause which are not defined elsewhere in this contract and have a defined meaning in the *GST Act* have the same meaning in this clause.
- 13.2 *Normally*, if a *party* must pay the price or any other amount to the other *party* under this contract, GST is not to be added to the price or amount.
- 13.3 If under this contract a *party* must make an adjustment or payment for an expense of another party or pay an expense payable by or to a third party (for example, under clauses 14 or 20.7) –
  - 13.3.1 the *party* must adjust or pay on completion any GST added to or included in the expense; but
  - 13.3.2 the amount of the expense must be reduced to the extent the party receiving the adjustment or payment (or the representative member of a GST group of which that party is a member) is entitled to an input tax credit for the expense; and
  - 13.3.3 if the adjustment or payment under this contract is consideration for a taxable supply, an amount for GST must be added at the *GST rate*.
- 13.4 If this contract says this sale is the supply of a going concern –
  - 13.4.1 the *parties* agree the supply of the *property* is a supply of a going concern;
  - 13.4.2 the vendor must, between the contract date and completion, carry on the enterprise conducted on the land in a proper and business-like way;
  - 13.4.3 if the purchaser is not registered by the date for completion, the *parties* must complete and the purchaser must pay on completion, in addition to the price, an amount being the price multiplied by the *GST rate* ("the retention sum"). The retention sum is to be held by the *depositholder* and dealt with as follows –
    - if *within* 3 months of completion the purchaser serves a letter from the Australian Taxation Office stating the purchaser is registered with a date of effect of registration on or before completion, the *depositholder* is to pay the retention sum to the purchaser; but
    - if the purchaser does not serve that letter *within* 3 months of completion, the *depositholder* is to pay the retention sum to the vendor; and
  - 13.4.4 if the vendor, despite clause 13.4.1, serves a letter from the Australian Taxation Office stating the vendor has to pay GST on the supply, the purchaser must pay to the vendor on demand the amount of GST assessed.
- 13.5 *Normally*, the vendor promises the margin scheme will not apply to the supply of the *property*.
- 13.6 If this contract says the margin scheme is to apply in making the taxable supply, the *parties* agree that the margin scheme is to apply to the sale of the *property*.
- 13.7 If this contract says the sale is not a taxable supply –
  - 13.7.1 the purchaser promises that the *property* will not be used and represents that the purchaser does not intend the *property* (or any part of the *property*) to be used in a way that could make the sale a taxable supply to any extent; and
  - 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of –
    - a breach of clause 13.7.1; or
    - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if –

- 13.8.1 this sale is not a taxable supply in full; or
- 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent –
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
- 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.
- 13.12 If the vendor is liable for GST on rents or profits due to issuing an invoice or receiving consideration before completion, any adjustment of those amounts must exclude an amount equal to the vendor's GST liability.
- 13.13 If the purchaser must make a *GSTRW payment* the purchaser must –
- 13.13.1 at least 5 days before the date for completion, *serve* evidence of submission of a *GSTRW payment* notification form to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been *served*, by the transferee named in the transfer *served* with that direction;
- 13.13.2 produce on completion a *settlement cheque* for the *GSTRW payment* payable to the Deputy Commissioner of Taxation;
- 13.13.3 forward the *settlement cheque* to the payee immediately after completion; and
- 13.13.4 *serve* evidence of receipt of payment of the *GSTRW payment* and a copy of the settlement date confirmation form submitted to the Australian Taxation Office.

## 14 Adjustments

- 14.1 *Normally*, the vendor is entitled to the rents and profits and will be liable for all rates, water, sewerage and drainage service and usage charges, land tax, levies and all other periodic outgoings up to and including the *adjustment date* after which the purchaser will be entitled and liable.
- 14.2 The *parties* must make any necessary adjustment on completion.
- 14.3 If an amount that is adjustable under this contract has been reduced under *legislation*, the *parties* must on completion adjust the reduced amount.
- 14.4 The *parties* must not adjust surcharge land tax (as defined in the Land Tax Act 1956) but must adjust any other land tax for the year current at the *adjustment date* –
- 14.4.1 only if land tax has been paid or is payable for the year (whether by the vendor or by a predecessor in title) and this contract says that land tax is adjustable;
- 14.4.2 by adjusting the amount that would have been payable if at the start of the year –
- the person who owned the land owned no other land;
  - the land was not subject to a special trust or owned by a non-concessional company; and
  - if the land (or part of it) had no separate taxable value, by calculating its separate taxable value on a proportional area basis.
- 14.5 If any other amount that is adjustable under this contract relates partly to the land and partly to other land, the *parties* must adjust it on a proportional area basis.
- 14.6 *Normally*, the vendor can direct the purchaser to produce a *settlement cheque* on completion to pay an amount adjustable under this contract and if so –
- 14.6.1 the amount is to be treated as if it were paid; and
- 14.6.2 the *cheque* must be forwarded to the payee immediately after completion (by the purchaser if the *cheque* relates only to the *property* or by the vendor in any other case).
- 14.7 If on completion the last bill for a water, sewerage or drainage usage charge is for a period ending before the *adjustment date*, the vendor is liable for an amount calculated by dividing the bill by the number of days in the period then multiplying by the number of unbilled days up to and including the *adjustment date*.
- 14.8 The vendor is liable for any amount recoverable for work started on or before the contract date on the *property* or any adjoining footpath or road.

## 15 Date for completion

The *parties* must complete by the date for completion and, if they do not, a *party* can *serve* a notice to complete if that *party* is otherwise entitled to do so.

## 16 Completion

### • Vendor

- 16.1 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 16.2 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.
- 16.3 *Normally*, on completion the vendor must cause the legal title to the *property* (being an estate in fee simple) to pass to the purchaser free of any mortgage or other interest, subject to any necessary registration.
- 16.4 The legal title to the *property* does not pass before completion.

- 16.5 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgment fee to the purchaser.
- 16.6 If a *party serves* a land tax certificate showing a charge on any of the land, by completion the vendor must do all things and pay all money required so that the charge is no longer effective against the land.
- **Purchaser**
- 16.7 On completion the purchaser must pay to the vendor, by cash (up to \$2,000) or *settlement cheque* –
- 16.7.1 the price less any:
- deposit paid;
  - *FRCGW remittance* payable;
  - *GSTRW payment*; and
  - amount payable by the vendor to the purchaser under this contract; and
- 16.7.2 any other amount payable by the purchaser under this contract.
- 16.8 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 16.9 If any of the deposit is not covered by a bond or guarantee, on completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit.
- 16.10 On completion the deposit belongs to the vendor.
- **Place for completion**
- 16.11 *Normally*, the *parties* must complete at the completion address, which is –
- 16.11.1 if a special completion address is stated in this contract - that address; or
- 16.11.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place - that place; or
- 16.11.3 in any other case - the vendor's *solicitor's* address stated in this contract.
- 16.12 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
- 16.13 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.
- 17 Possession**
- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if –
- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Schedule 2, Part 7 of the Residential Tenancies Act 2010).
- 18 Possession before completion**
- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
- 18.2 The purchaser must not before completion –
- 18.2.1 let or part with possession of any of the *property*;
- 18.2.2 make any change or structural alteration or addition to the *property*; or
- 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.
- 18.3 The purchaser must until completion –
- 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
- 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.
- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor –
- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and
- 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate prescribed under s101 Civil Procedure Act 2005.
- 18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.
- 18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.
- 19 Rescission of contract**
- 19.1 If this contract expressly gives a *party* a right to *rescind*, the *party* can exercise the right –
- 19.1.1 only by *serving* a notice before completion; and
- 19.1.2 in spite of any making of a claim or *requisition*, any attempt to satisfy a claim or *requisition*, any arbitration, litigation, mediation or negotiation or any giving or taking of possession.
- 19.2 *Normally*, if a *party* exercises a right to *rescind* expressly given by this contract or any *legislation* –
- 19.2.1 the deposit and any other money paid by the purchaser under this contract must be refunded;
- 19.2.2 a *party* can claim for a reasonable adjustment if the purchaser has been in possession;
- 19.2.3 a *party* can claim for damages, costs or expenses arising out of a breach of this contract; and
- 19.2.4 a *party* will not otherwise be liable to pay the other *party* any damages, costs or expenses.

**20 Miscellaneous**

- 20.1 The *parties* acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.
- 20.2 Anything attached to this contract is part of this contract.
- 20.3 An area, bearing or dimension in this contract is only approximate.
- 20.4 If a *party* consists of 2 or more persons, this contract benefits and binds them separately and together.
- 20.5 A *party's solicitor* can receive any amount payable to the *party* under this contract or direct in writing that it is to be paid to another person.
- 20.6 A document under or relating to this contract is –
- 20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.3);
  - 20.6.2 served if it is served by the *party* or the *party's solicitor*;
  - 20.6.3 served if it is served on the *party's solicitor*, even if the *party* has died or any of them has died;
  - 20.6.4 served if it is served in any manner provided in s170 of the Conveyancing Act 1919;
  - 20.6.5 served if it is sent by email or fax to the *party's solicitor*, unless in either case it is not received;
  - 20.6.6 served on a person if it (or a copy of it) comes into the possession of the person; and
  - 20.6.7 served at the earliest time it is served, if it is served more than once.
- 20.7 An obligation to pay an expense of another *party* of doing something is an obligation to pay –
- 20.7.1 if the *party* does the thing personally - the reasonable cost of getting someone else to do it; or
  - 20.7.2 if the *party* pays someone else to do the thing - the amount paid, to the extent it is reasonable.
- 20.8 Rights under clauses 11, 13, 14, 17, 24, 30 and 31 continue after completion, whether or not other rights continue.
- 20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.
- 20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.
- 20.11 A reference to any *legislation* (including any percentage or rate specified in *legislation*) is also a reference to any corresponding later *legislation*.
- 20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.
- 20.13 Neither taking possession nor serving a transfer of itself implies acceptance of the *property* or the title.
- 20.14 The details and information provided in this contract (for example, on pages 1 - 3) are, to the extent of each *party's* knowledge, true, and are part of this contract.
- 20.15 Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked.

**21 Time limits in these provisions**

- 21.1 If the time for something to be done or to happen is not stated in these provisions, it is a reasonable time.
- 21.2 If there are conflicting times for something to be done or to happen, the latest of those times applies.
- 21.3 The time for one thing to be done or to happen does not extend the time for another thing to be done or to happen.
- 21.4 If the time for something to be done or to happen is the 29th, 30th or 31st day of a month, and the day does not exist, the time is instead the last day of the month.
- 21.5 If the time for something to be done or to happen is a day that is not a *business day*, the time is extended to the next *business day*, except in the case of clauses 2 and 3.2.
- 21.6 *Normally*, the time by which something must be done is fixed but not essential.

**22 Foreign Acquisitions and Takeovers Act 1975**

- 22.1 The purchaser promises that the Commonwealth Treasurer cannot prohibit and has not prohibited the transfer under the Foreign Acquisitions and Takeovers Act 1975.
- 22.2 This promise is essential and a breach of it entitles the vendor to *terminate*.

**23 Strata or community title****• Definitions and modifications**

- 23.1 This clause applies only if the land (or part of it) is a lot in a strata, neighbourhood, precinct or community scheme (or on completion is to be a lot in a scheme of that kind).
- 23.2 In this contract –
- 23.2.1 'change', in relation to a scheme, means –
    - a registered or registrable change from by-laws set out in this contract;
    - a change from a development or management contract or statement set out in this contract; or
    - a change in the boundaries of common property;
  - 23.2.2 'common property' includes association property for the scheme or any higher scheme;
  - 23.2.3 'contribution' includes an amount payable under a by-law;
  - 23.2.4 'information certificate' includes a certificate under s184 Strata Schemes Management Act 2015 and s26 Community Land Management Act 1989;
  - 23.2.5 'information notice' includes a strata information notice under s22 Strata Schemes Management Act 2015 and a notice under s47 Community Land Management Act 1989;

- 23.2.6 'normal expenses', in relation to an owners corporation for a scheme, means normal operating expenses usually payable from the administrative fund of an owners corporation for a scheme of the same kind;
- 23.2.7 'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;
- 23.2.8 'the *property*' includes any interest in common property for the scheme associated with the lot; and
- 23.2.9 'special expenses', in relation to an owners corporation, means its actual, contingent or expected expenses, except to the extent they are –
- normal expenses;
  - due to fair wear and tear;
  - disclosed in this contract; or
  - covered by moneys held in the capital works fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.5 apply but on a unit entitlement basis instead of an area basis.
- **Adjustments and liability for expenses**
- 23.5 The *parties* must adjust under clause 14.1 –
- 23.5.1 a regular periodic contribution;
- 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
- 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.
- 23.6 If a contribution is not a regular periodic contribution and is not disclosed in this contract –
- 23.6.1 the vendor is liable for it if it was determined on or before the contract date, even if it is payable by instalments; and
- 23.6.2 the purchaser is liable for all contributions determined after the contract date.
- 23.7 The vendor must pay or allow to the purchaser on completion the amount of any unpaid contributions for which the vendor is liable under clause 23.6.1.
- 23.8 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
- 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
- 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if –
- 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
- 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme, a proportional unit entitlement for the lot is disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion;
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme materially prejudices the purchaser and is not disclosed in this contract; or
- 23.9.4 a resolution is passed by the owners corporation before the contract date or before completion to give to the owners in the scheme for their consideration a strata renewal plan that has not lapsed at the contract date and there is not attached to this contract a strata renewal proposal or the strata renewal plan.
- **Notices, certificates and inspections**
- 23.10 The purchaser must give the vendor 2 copies of an information notice addressed to the owners corporation and signed by the purchaser.
- 23.11 The vendor must complete and sign 1 copy of the notice and give it to the purchaser on completion.
- 23.12 Each *party* can sign and give the notice as agent for the other.
- 23.13 The vendor must serve an information certificate issued after the contract date in relation to the lot, the scheme or any higher scheme at least 7 days before the date for completion.
- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the certificate and clause 21.3 does not apply to this provision. On completion the purchaser must pay the vendor the prescribed fee for the certificate.
- 23.15 The vendor authorises the purchaser to apply for the purchaser's own certificate.
- 23.16 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.
- **Meetings of the owners corporation**
- 23.17 If a general meeting of the owners corporation is convened before completion –
- 23.17.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.17.2 after the expiry of any cooling off period, the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.

**24 Tenancies**

- 24.1 If a tenant has not made a payment for a period preceding or current at the *adjustment date* –
- 24.1.1 for the purposes of clause 14.2, the amount is to be treated as if it were paid; and
- 24.1.2 the purchaser assigns the debt to the vendor on completion and will if required give a further assignment at the vendor's expense.
- 24.2 If a tenant has paid in advance of the *adjustment date* any periodic payment in addition to rent, it must be adjusted as if it were rent for the period to which it relates.
- 24.3 If the *property* is to be subject to a tenancy on completion or is subject to a tenancy on completion –
- 24.3.1 the vendor authorises the purchaser to have any accounting records relating to the tenancy inspected and audited and to have any other document relating to the tenancy inspected;
- 24.3.2 the vendor must *serve* any information about the tenancy reasonably requested by the purchaser before or after completion; and
- 24.3.3 *normally*, the purchaser can claim compensation (before or after completion) if –
- a disclosure statement required by the Retail Leases Act 1994 was not given when required;
  - such a statement contained information that was materially false or misleading;
  - a provision of the lease is not enforceable because of a non-disclosure in such a statement; or
  - the lease was entered into in contravention of the Retail Leases Act 1994.
- 24.4 If the *property* is subject to a tenancy on completion –
- 24.4.1 the vendor must allow or transfer –
- any remaining bond money or any other security against the tenant's default (to the extent the security is transferable);
  - any money in a fund established under the lease for a purpose and compensation for any money in the fund or interest earned by the fund that has been applied for any other purpose; and
  - any money paid by the tenant for a purpose that has not been applied for that purpose and compensation for any of the money that has been applied for any other purpose;
- 24.4.2 if the security is not transferable, each *party* must do everything reasonable to cause a replacement security to issue for the benefit of the purchaser and the vendor must hold the original security on trust for the benefit of the purchaser until the replacement security issues;
- 24.4.3 the vendor must give to the purchaser –
- a proper notice of the transfer (an attornment notice) addressed to the tenant;
  - any certificate given under the Retail Leases Act 1994 in relation to the tenancy;
  - a copy of any disclosure statement given under the Retail Leases Act 1994;
  - a copy of any document served on the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion; and
  - any document served by the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion;
- 24.4.4 the vendor must comply with any obligation to the tenant under the lease, to the extent it is to be complied with by completion; and
- 24.4.5 the purchaser must comply with any obligation to the tenant under the lease, to the extent that the obligation is disclosed in this contract and is to be complied with after completion.

**25 Qualified title, limited title and old system title**

- 25.1 This clause applies only if the land (or part of it) –
- 25.1.1 is under qualified, limited or old system title; or
- 25.1.2 on completion is to be under one of those titles.
- 25.2 The vendor must *serve* a proper abstract of title *within 7 days* after the contract date.
- 25.3 If an abstract of title or part of an abstract of title is attached to this contract or has been lent by the vendor to the purchaser before the contract date, the abstract or part is *served* on the contract date.
- 25.4 An abstract of title can be or include a list of documents, events and facts arranged (apart from a will or codicil) in date order, if the list in respect of each document –
- 25.4.1 shows its date, general nature, names of parties and any registration number; and
- 25.4.2 has attached a legible photocopy of it or of an official or registration copy of it.
- 25.5 An abstract of title –
- 25.5.1 must start with a good root of title (if the good root of title must be at least 30 years old, this means 30 years old at the contract date);
- 25.5.2 in the case of a leasehold interest, must include an abstract of the lease and any higher lease;
- 25.5.3 *normally*, need not include a Crown grant; and
- 25.5.4 need not include anything evidenced by the Register kept under the Real Property Act 1900.
- 25.6 In the case of land under old system title –
- 25.6.1 in this contract 'transfer' means conveyance;
- 25.6.2 the purchaser does not have to *serve* the form of transfer until after the vendor has *served* a proper abstract of title; and
- 25.6.3 each vendor must give proper covenants for title as regards that vendor's interest.
- 25.7 In the case of land under limited title but not under qualified title –

- 25.7.1 *normally*, the abstract of title need not include any document which does not show the location, area or dimensions of the land (for example, by including a metes and bounds description or a plan of the land);
- 25.7.2 clause 25.7.1 does not apply to a document which is the good root of title; and
- 25.7.3 the vendor does not have to provide an abstract if this contract contains a delimitation plan (whether in registrable form or not).

25.8 The vendor must give a proper covenant to produce where relevant.

25.9 The vendor does not have to produce or covenant to produce a document that is not in the possession of the vendor or a mortgagee.

25.10 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the Registrar-General of the registration copy of that document.

## **26 Crown purchase money**

26.1 This clause applies only if purchase money is payable to the Crown, whether or not due for payment.

26.2 The vendor is liable for the money, except to the extent this contract says the purchaser is liable for it.

26.3 To the extent the vendor is liable for it, the vendor is liable for any interest until completion.

26.4 To the extent the purchaser is liable for it, the *parties* must adjust any interest under clause 14.1.

## **27 Consent to transfer**

27.1 This clause applies only if the land (or part of it) cannot be transferred without consent under *legislation* or a *planning agreement*.

27.2 The purchaser must properly complete and then serve the purchaser's part of an application for consent to transfer of the land (or part of it) *within 7 days* after the contract date.

27.3 The vendor must apply for consent *within 7 days* after *service* of the purchaser's part.

27.4 If consent is refused, either *party* can *rescind*.

27.5 If consent is given subject to one or more conditions that will substantially disadvantage a *party*, then that *party* can *rescind within 7 days* after receipt by or *service* upon the *party* of written notice of the conditions.

27.6 If consent is not given or refused –

27.6.1 *within 42 days* after the purchaser serves the purchaser's part of the application, the purchaser can *rescind*; or

27.6.2 *within 30 days* after the application is made, either *party* can *rescind*.

27.7 Each period in clause 27.6 becomes 90 days if the land (or part of it) is –

27.7.1 under a *planning agreement*; or

27.7.2 in the Western Division.

27.8 If the land (or part of it) is described as a lot in an unregistered plan, each time in clause 27.6 becomes the later of the time and 35 days after creation of a separate folio for the lot.

27.9 The date for completion becomes the later of the date for completion and 14 days after *service* of the notice granting consent to transfer.

## **28 Unregistered plan**

28.1 This clause applies only if some of the land is described as a lot in an unregistered plan.

28.2 The vendor must do everything reasonable to have the plan registered *within 6 months* after the contract date, with or without any minor alteration to the plan or any document to be lodged with the plan validly required or made under *legislation*.

28.3 If the plan is not registered *within* that time and in that manner –

28.3.1 the purchaser can *rescind*; and

28.3.2 the vendor can *rescind*, but only if the vendor has complied with clause 28.2 and with any *legislation* governing the rescission.

28.4 Either *party* can serve notice of the registration of the plan and every relevant lot and plan number.

28.5 The date for completion becomes the later of the date for completion and 21 days after *service* of the notice.

28.6 Clauses 28.2 and 28.3 apply to another plan that is to be registered before the plan is registered.

## **29 Conditional contract**

29.1 This clause applies only if a provision says this contract or completion is conditional on an event.

29.2 If the time for the event to happen is not stated, the time is 42 days after the contract date.

29.3 If this contract says the provision is for the benefit of a *party*, then it benefits only that *party*.

29.4 If anything is necessary to make the event happen, each *party* must do whatever is reasonably necessary to cause the event to happen.

29.5 A *party* can *rescind* under this clause only if the *party* has substantially complied with clause 29.4.

29.6 If the event involves an approval and the approval is given subject to a condition that will substantially disadvantage a *party* who has the benefit of the provision, the *party* can *rescind within 7 days* after either *party* serves notice of the condition.

29.7 If the *parties* can lawfully complete without the event happening –

29.7.1 if the event does not happen *within* the time for it to happen, a *party* who has the benefit of the provision can *rescind within 7 days* after the end of that time;

29.7.2 if the event involves an approval and an application for the approval is refused, a *party* who has the benefit of the provision can *rescind within 7 days* after either *party* serves notice of the refusal; and



- 29.7.3 the date for completion becomes the later of the date for completion and 21 days after the earliest of –
- either *party* serving notice of the event happening;
  - every *party* who has the benefit of the provision serving notice waiving the provision; or
  - the end of the time for the event to happen.
- 29.8 If the *parties* cannot lawfully complete without the event happening –
- 29.8.1 if the event does not happen *within* the time for it to happen, either *party* can *rescind*;
- 29.8.2 if the event involves an approval and an application for the approval is refused, either *party* can *rescind*;
- 29.8.3 the date for completion becomes the later of the date for completion and 21 days after either *party* serves notice of the event happening.
- 29.9 A *party* cannot *rescind* under clauses 29.7 or 29.8 after the event happens.
- 30 Electronic transaction**
- 30.1 This *Conveyancing Transaction* is to be conducted as an *electronic transaction* if –
- 30.1.1 this contract says that it is an *electronic transaction*;
- 30.1.2 the *parties* otherwise agree that it is to be conducted as an *electronic transaction*; or
- 30.1.3 the *conveyancing rules* require it to be conducted as an *electronic transaction*.
- 30.2 However, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* –
- 30.2.1 if the land is not *electronically tradeable* or the transfer is not eligible to be lodged electronically; or
- 30.2.2 if, at any time after the *effective date*, but at least 14 days before the date for completion, a *party* serves a notice stating a valid reason why it cannot be conducted as an *electronic transaction*.
- 30.3 If, because of clause 30.2.2, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* –
- 30.3.1 each *party* must –
- bear equally any disbursements or fees; and
  - otherwise bear that *party's* own costs;
- incurred because this *Conveyancing Transaction* was to be conducted as an *electronic transaction*; and
- 30.3.2 if a *party* has paid all of a disbursement or fee which, by reason of this clause, is to be borne equally by the *parties*, that amount must be adjusted under clause 14.2.
- 30.4 If this *Conveyancing Transaction* is to be conducted as an *electronic transaction* –
- 30.4.1 to the extent that any other provision of this contract is inconsistent with this clause, the provisions of this clause prevail;
- 30.4.2 *normally*, words and phrases used in this clause 30 (italicised and in Title Case, such as *Electronic Workspace* and *Lodgment Case*) have the same meaning which they have in the *participation rules*;
- 30.4.3 the *parties* must conduct the *electronic transaction* –
- in accordance with the *participation rules* and the *ECNL*; and
  - using the nominated *ELN*, unless the *parties* otherwise agree;
- 30.4.4 a *party* must pay the fees and charges payable by that *party* to the *ELNO* and the *Land Registry* as a result of this transaction being an *electronic transaction*;
- 30.4.5 any communication from one *party* to another *party* in the *Electronic Workspace* made –
- after the *effective date*; and
  - before the receipt of a notice given under clause 30.2.2;
- is taken to have been received by that *party* at the time determined by s13A of the *Electronic Transactions Act 2000*; and
- 30.4.6 a document which is an *electronic document* is served as soon as it is first *Digitally Signed* in the *Electronic Workspace* on behalf of the *party* required to serve it.
- 30.5 *Normally*, the vendor must *within 7 days* of the *effective date* –
- 30.5.1 create an *Electronic Workspace*;
- 30.5.2 *populate* the *Electronic Workspace* with *title data*, the date for completion and, if applicable, *mortgagee details*; and
- 30.5.3 invite the purchaser and any *discharging mortgagee* to the *Electronic Workspace*.
- 30.6 If the vendor has not created an *Electronic Workspace* in accordance with clause 30.5, the purchaser may create an *Electronic Workspace*. If the purchaser creates the *Electronic Workspace* the purchaser must –
- 30.6.1 *populate* the *Electronic Workspace* with *title data*;
- 30.6.2 create and *populate* an *electronic transfer*;
- 30.6.3 *populate* the *Electronic Workspace* with the date for completion and a nominated *completion time*; and
- 30.6.4 invite the vendor and any *incoming mortgagee* to join the *Electronic Workspace*.
- 30.7 *Normally*, *within 7 days* of receiving an invitation from the vendor to join the *Electronic Workspace*, the purchaser must –
- 30.7.1 join the *Electronic Workspace*;
- 30.7.2 create and *populate* an *electronic transfer*;
- 30.7.3 invite any *incoming mortgagee* to join the *Electronic Workspace*; and
- 30.7.4 *populate* the *Electronic Workspace* with a nominated *completion time*.

- 30.8 If the purchaser has created the *Electronic Workspace* the vendor must *within 7 days* of being invited to the *Electronic Workspace* –
- 30.8.1 join the *Electronic Workspace*;
  - 30.8.2 *populate* the *Electronic Workspace* with *mortgagee details*, if applicable; and
  - 30.8.3 invite any *discharging mortgagee* to join the *Electronic Workspace*.
- 30.9 To complete the financial settlement schedule in the *Electronic Workspace* –
- 30.9.1 the purchaser must provide the vendor with *adjustment figures* at least *2 business days* before the date for completion;
  - 30.9.2 the vendor must confirm the *adjustment figures* at least *1 business day* before the date for completion; and
  - 30.9.3 if the purchaser must make a *GSTRW payment* or an *FRCGW remittance*, the purchaser must *populate* the *Electronic Workspace* with the payment details for the *GSTRW payment* or *FRCGW remittance* payable to the Deputy Commissioner of Taxation at least *2 business days* before the date for completion.
- 30.10 Before completion, the *parties* must ensure that –
- 30.10.1 all *electronic documents* which a *party* must *Digitally Sign* to complete the *electronic transaction* are *populated* and *Digitally Signed*;
  - 30.10.2 all certifications required by the *ECNL* are properly given; and
  - 30.10.3 they do everything else in the *Electronic Workspace* which that *party* must do to enable the *electronic transaction* to proceed to completion.
- 30.11 If completion takes place in the *Electronic Workspace* –
- 30.11.1 payment electronically on completion of the price in accordance with clause 16.7 is taken to be payment by a single *settlement cheque*;
  - 30.11.2 the completion address in clause 16.11 is the *Electronic Workspace*; and
  - 30.11.3 clauses 13.13.2 to 13.13.4, 16.8, 16.12, 16.13 and 31.2.2 to 31.2.4 do not apply.
- 30.12 If the computer systems of any of the *Land Registry*, the *ELNO* or the Reserve Bank of Australia are inoperative for any reason at the *completion time* agreed by the *parties*, a failure to complete this contract for that reason is not a default under this contract on the part of either *party*.
- 30.13 If the computer systems of the *Land Registry* are inoperative for any reason at the *completion time* agreed by the *parties*, and the *parties* choose that financial settlement is to occur despite this, then on financial settlement occurring –
- 30.13.1 all *electronic documents Digitally Signed* by the vendor, the *certificate of title* and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgment Case* for the *electronic transaction* shall be taken to have been unconditionally and irrevocably delivered to the purchaser or the purchaser's mortgagee at the time of financial settlement together with the right to deal with the land comprised in the *certificate of title*; and
  - 30.13.2 the vendor shall be taken to have no legal or equitable interest in the *property*.
- 30.14 A *party* who holds a *certificate of title* must act in accordance with any *Prescribed Requirement* in relation to the *certificate of title* but if there is no *Prescribed Requirement*, the vendor must serve the *certificate of title* after completion.
- 30.15 If the *parties* do not agree about the delivery before completion of one or more documents or things that cannot be delivered through the *Electronic Workspace*, the *party* required to deliver the documents or things –
- 30.15.1 holds them on completion in escrow for the benefit of; and
  - 30.15.2 must immediately after completion deliver the documents or things to, or as directed by; the *party* entitled to them.
- 30.16 In this clause 30, these terms (in any form) mean –
- |                              |   |
|------------------------------|---|
| <i>adjustment figures</i>    | details of the adjustments to be made to the price under clause 14;   |
| <i>certificate of title</i>  | the paper duplicate of the folio of the register for the land which exists immediately prior to completion and, if more than one, refers to each such paper duplicate;  |
| <i>completion time</i>       | the time of day on the date for completion when the <i>electronic transaction</i> is to be settled;   |
| <i>conveyancing rules</i>    | the rules made under s12E of the Real Property Act 1900;  |
| <i>discharging mortgagee</i> | any discharging mortgagee, chargee, covenant chargee or caveator whose provision of a <i>Digitally Signed</i> discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the <i>property</i> to be transferred to the purchaser; |
| <i>ECNL</i>                  | the Electronic Conveyancing National Law (NSW);   |
| <i>effective date</i>        | the date on which the <i>Conveyancing Transaction</i> is agreed to be an <i>electronic transaction</i> under clause 30.1.2 or, if clauses 30.1.1 or 30.1.3 apply, the contract date;  |
| <i>electronic document</i>   | a dealing as defined in the Real Property Act 1900 which may be created and <i>Digitally Signed</i> in an <i>Electronic Workspace</i> ;   |
| <i>electronic transfer</i>   | a transfer of land under the Real Property Act 1900 for the <i>property</i> to be prepared and <i>Digitally Signed</i> in the <i>Electronic Workspace</i> established for the purposes of the <i>parties' Conveyancing Transaction</i> ;  |

<i>electronic transaction</i>	a <i>Conveyancing Transaction</i> to be conducted for the <i>parties</i> by their legal representatives as <i>Subscribers</i> using an <i>ELN</i> and in accordance with the <i>ECNL</i> and the <i>participation rules</i> ;
<i>electronically tradeable</i>	a land title that is Electronically Tradeable as that term is defined in the <i>conveyancing rules</i> ;
<i>incoming mortgagee</i>	any mortgagee who is to provide finance to the purchaser on the security of the <i>property</i> and to enable the purchaser to pay the whole or part of the price;
<i>mortgagee details</i>	the details which a <i>party</i> to the <i>electronic transaction</i> must provide about any <i>discharging mortgagee</i> of the <i>property</i> as at completion;
<i>participation rules</i>	the participation rules as determined by the <i>ECNL</i> ;
<i>populate</i>	to complete data fields in the <i>Electronic Workspace</i> ; and
<i>title data</i>	the details of the title to the <i>property</i> made available to the <i>Electronic Workspace</i> by the <i>Land Registry</i> .

### 31 Foreign Resident Capital Gains Withholding

- 31.1 This clause applies only if –
- 31.1.1 the sale is not an excluded transaction within the meaning of s14-215 of Schedule 1 to the *TA Act*; and
- 31.1.2 a *clearance certificate* in respect of every vendor is not attached to this contract.
- 31.2 The purchaser must –
- 31.2.1 at least 5 days before the date for completion, serve evidence of submission of a purchaser payment notification to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been served, by the transferee named in the transfer served with that direction;
- 31.2.2 produce on completion a *settlement cheque* for the *FRCGW remittance* payable to the Deputy Commissioner of Taxation;
- 31.2.3 forward the *settlement cheque* to the payee immediately after completion; and
- 31.2.4 serve evidence of receipt of payment of the *FRCGW remittance*.
- 31.3 The vendor cannot refuse to complete if the purchaser complies with clauses 31.2.1 and 31.2.2.
- 31.4 If the vendor serves any *clearance certificate* or *variation*, the purchaser does not have to complete earlier than 7 days after that service and clause 21.3 does not apply to this provision.
- 31.5 If the vendor serves in respect of every vendor either a *clearance certificate* or a *variation* to 0.00 percent, clauses 31.2 and 31.3 do not apply.

### 32 Residential off the plan contract

- 32.1 This clause applies if this contract is an off the plan contract within the meaning of Division 10 of Part 4 of the *Conveyancing Act 1919* (the Division).
- 32.2 No provision of this contract has the effect of excluding, modifying or restricting the operation of the Division.
- 32.3 If the purchaser makes a claim for compensation under the terms prescribed by clause 6A of the *Conveyancing (Sale of Land) Regulation 2017* –
- 32.3.1 the purchaser cannot make a claim under this contract about the same subject matter, including a claim under clauses 6 or 7; and
- 32.3.2 the claim for compensation is not a claim under this contract.
- 32.4 This clause does not apply to a contract made before the commencement of the amendments to the Division under the *Conveyancing Legislation Amendment Act 2018*.

### **Special conditions**

These are the special conditions to the contract for the sale of land

BETWEEN QUEENIE KWAN-YEE SHEN & KEVIN CHUN LUM LEE

(Vendor)

And

(Purchaser)

### **WARRANTY AND INDEMNITY BY PURCHASER IN RELATION TO AN AGENT'S COMMISSION;**

1. The purchaser warrants that the Purchaser was not introduced to the Vendor or to the property by any real estate agent other than the real estate agent (if any) noted on the front page of the Contract and the Purchaser indemnifies the Vendor against any claim which might be made by any agent resulting from an introduction forming a breach of such warranty. It is agreed that this indemnity shall be a continuing indemnity not merging on completion. The vendor warrants no other agent other than the agent noted on the front page has been appointed to market or sell the property. The vendor agrees that the Vendor will indemnify the purchaser and keep indemnified the purchaser from and against any claim whatsoever for commission which may be made as a result of a breach of this warranty.

### **NO WARRANTIES BY OR ON BEHALF OF THE VENDOR:**

2. The purchaser acknowledges that they are purchasing the property in its present condition and state of repair; Subject to all defects latent and patent; Subject to any infestations and dilapidation; Subject to all existing water, sewerage, drainage and plumbing services and connections in respect of the property; and  
Subject to any non-compliance, with the Local Government Act or any Ordinance under that Act in respect of any building on the land.  
The purchaser agrees not to seek, terminate rescind or make any objection requisition or claim for compensation arising out of any of the matters covered by this clause.

### **DEATH OR INCAPACITY:**

3. If, prior to completion, either party (or if either party consists of more than one person comprising that party) should die or become subject to the provisions of the Mental Health Act or insane or incapable of managing his/her affairs or be declared bankrupt or, in the case of the relevant party or any one or more of the persons comprising the relevant party being a company, if prior to completion, that party or any one of the companies comprising that party should have a Receiver or Manager or provisional liquidator appointed to it, then in any of such events the other party shall be entitled to rescind the contract by giving notice in writing to the corresponding party or that party's solicitor or representatives herein named.

**NOTICE TO COMPLETE:**

4. The parties hereby acknowledge that the period of fourteen (14) days after service of a Notice to Complete pursuant to Clause 15 shall be deemed to be a reasonable time for completion and that no objection to such Notice shall be taken on the basis of reasonableness of time. The party issuing any Notice to Complete pursuant to this Clause shall be entitled to withdraw such Notice and to subsequently issue a further Notice in lieu thereof at his/her absolute discretion. The party that issues the Notice to Complete shall be entitled to recover the fee of \$275.00 (GST Inclusive) from the other party to cover the cost for issuing such Notice.

**INTEREST:**

5. The purchaser hereby acknowledges and agrees that if completion of this Contract shall not have taken place within the time specified as the date for completion on the first page of this contract, other than as a result of a default or delay of the Vendor the Purchaser shall pay to the Vendor in addition to the purchase price at the rate of Eight percentum (8%) per annum calculated on daily rests from the date for completion as provided for in this contract until the actual date of completion. This clause shall not in any way affect any the right or claim which either party may have against the other arising out of delay in completion of this contract. The parties hereby acknowledge and agree that this interest is to be paid not as a penalty but as a genuine attempt to compensate the Vendor for damages suffered as a result of the Purchasers failure to comply with the completion date of this contract.

**SMOKE ALARMS:**

6. The property has smoke alarms installed.

**SWIMMING POOL:**

7. The property does not have a swimming pool.

**ALTERATIONS TO THE CONTRACT**

8. Each party authorises its legal representative at any time after signature and prior to the time of exchange to make agreed alterations to this contract, including the addition of annexures and any such alteration or addition shall be binding upon the party deemed to have authorised same; and any annexure so added shall form part of the contract as if it was annexed prior to the agreement being signed.

## **AMENDMENTS:**

9. The contract shall be amended as follows:

9.1 Clause 8: by deletion of the words: “the vendor can rescind if.... And the insertion of the words “subject to any other provisions in the contract the Vendor can rescind if...” instead.

9.2 Clauses 10.1.8 and 10.1.9 delete the word “substance” and replace with the word “existence”;

9.3 Clause 14.4.2 is deleted and substituted with:

14.4.2 the amount to be adjusted shall be determined by multiplying the taxable value of the property (for land tax purposes for the land tax year current at the date of completion) by 1.6% or such other rate as applies as the date of completion (provided the amount to be adjusted must not exceed the amount of land tax that is actually paid or payable for the year).

9.4 Clause 16.5 deleted the words “plus another 20% of that fee”;

9.5 Delete 23.6 in its entirety

9.6 Delete 23.9.1

## **REQUISITIONS ON TITLE**

10. The Purchaser agrees that the only form of general Requisitions on Title the Purchaser may make pursuant to Clause 5 will be in the form of the Requisitions on Title attached.

## **PEXA SETTLEMENT:**

11. The parties agree that if a Pexa settlement is being conducted then the Purchaser’s solicitor/conveyancer will email the Order on the Agent to the Vendor’s conveyancer’s office before completion to be held in escrow pending completion.

## **RELEASE OF DEPOSIT**

12. Notwithstanding anything else herein contained, the deposit or any part of the deposit as the vendor may require shall be released to the vendor’s legal representative or as the vendor may direct for the sole purpose of a deposit, stamp duty or the balance of purchase monies on the purchase of Real Estate, provided that such is held within a trust account of a Real Estate Agent, Solicitor or Licensed Conveyancer, or paid to the Office of State Revenue, and providing such deposit shall not be further released without the purchaser’s express consent. The execution of this contract shall be full and irrevocable authority to the stakeholder named herein to release such deposit.

## **ELECTRONIC COMMUNICATION:**

- 13(a) This contract may be signed in any number of counterparts with the same effect as if the signatures of each counterpart were on the same instrument. Execution by either or both of the parties to the Contract of a facsimile or email of a copy of this Contract and transmission by facsimile or email of a copy of the Contract executed by that part or their representative to the other party or the other party's representative shall constitute a valid and binding execution of this Contract by such party or parties.
- (b) For the purpose of the Electronic Transactions Act 1999 (Cth) and Electronic Transactions Act 2000 (NSW) each of the parties consents to receiving and sending the Contract electronically and the receipt by each party of the electronic form of Contract shall be sufficient for the completion of the exchange of Contracts. Any wet-ink signed (if applicable) front pages are not required to be provided and no part may delay settlement for want of same.

## **EXCHANGE ON LESS THAN 10% DEPOSIT**

14. Although a full 10% deposit is payable by the purchaser, the vendor has agreed to allow the purchaser to exchange the contract on the basis that only part of the deposit is paid at the time of exchange being FIVE PERCENT (\$ ). The balance of the deposit must be paid by the purchaser on completion, or within seven (7) days upon written demand made to the purchaser by the vendor, provided that such demand shall not be made unless the purchaser shall be in default of any of his obligations under this contract, whichever is the first to occur. The total interest earned on the invested deposit will be paid solely to the vendor.
- Note: The full 10% deposit is to be inserted on the front page of the contract.

## STRATA TITLE (RESIDENTIAL) PROPERTY REQUISITIONS ON TITLE

Vendor:  
Purchaser:  
Property:  
Dated:

### Possession and tenancies

1. Vacant possession of the Property must be given on completion unless the Contract provides otherwise.
2. Is anyone in adverse possession of the Property or any part of it?
3.
  - (a) What are the nature and provisions of any tenancy or occupancy?
  - (b) If they are in writing, all relevant documentation should be produced, found in order and handed over on completion with notices of attornment.
  - (c) Please specify any existing breaches
  - (d) All rent should be paid up to or beyond the date of completion.
  - (e) Please provide details of any bond together with the Rental Bond Board's reference number.
  - (f) If any bond money is held by the Rental Bond Board, the appropriate transfer documentation duly signed should be handed over on completion.
4. Is the Property affected by a protected tenancy (tenancy affected by Parts 2, 3, 4 or 5 of the *Landlord Tenant (Amendment) Act 1948 (NSW)*)? If so, please provide details.
5. If the tenancy is subject to the Residential Tenancies Act 2010 (NSW);
  - (a) has either the vendor or any predecessor or the tenant applied to the NSW Civil and Administrative Tribunal for an order?
  - (b) have any orders been made by the NSW Civil and Administrative Tribunal? If so, please provide details.

### Title

6. Subject to the Contract, on completion the vendor should be registered as proprietor in fee simple to the Property free from all encumbrances and notations and recorded as the owner of the Property on the strata roll, free from all other interests.
7. On or before completion, any mortgage, any mortgage, caveat, writ or priority notice must be discharged, withdrawn, cancelled or removed as the case may be or, in the case of a mortgage, caveat, or priority notice, an executed discharge or withdrawal or removal handed over on completion together with a notice under Section 22 of the Strata Schemes Management Act 2015 (NSW) (Act)
8. Are there any proceedings pending or concluded that could result in the recording of any writ on the title to the Property or in the General Register of Deeds? If so, full details should be provided at least 14 days prior to completion.
9. When and where may the title documents be inspected?
10. Are any chattels or fixtures subject to any hiring or leasing agreement or charge or to any security interest under the *Personal Properties Securities Act 2009 (Cth)*? If so, details must be given and all indebtedness cleared and title transferred unencumbered to the vendor prior to completion.

### Adjustments

11. All outgoings referred to in clause 1.41 of the Contract must be paid up to and including the date of completion
12. Is the vendor liable to pay land tax or is the Property otherwise charged or liable to be charged with land tax?  
If so,
  - (a) to what year has a return been made?
  - (b) what is the taxable value of the Property for land tax purposes for the current year?



13. The vendor must serve on the purchaser a current land tax certificate (issued under Section 47 of the *Land Tax Management Act 1956 (NSW)* at least 14 days before completion.

**Survey and building**

14. Subject to the Contract, survey should be satisfactory and show that the whole of the Property and the common property is available, that there are no encroachments by or upon the Property or the common property.
15. Is the vendor in possession of a survey report? If so, please produce a copy for Inspection prior to completion. The original should be handed over on completion.
16. In respect of the Property and the common property;
- (a) Have the provisions of the *Local Government Act (NSW)*, the *Environmental Planning and Assessment Act 1979 (NSW)* and their regulations been complied with?
  - (b) Is there any matter that could be justified the making of an upgraded or demolition order in respect of any building or structure?
  - (c) Has the vendor a Building Certificate which relates to all current buildings or structures on the property? If so, it should be handed over on completion. Please provide a copy in advance.
  - (d) Has the vendor a Final Occupation Certificate issued under the Environmental Planning and Assessment Act 1979 for all current buildings or structures on the property? If so, it should be handed over on completion. Please provide a copy in advance.
  - (e) In respect of any residential building work carried out in the last 7 years,
    - (i) please identify the building work carried out;
    - (ii) when was the building work completed?
    - (iii) please state the builder's name and licence number;
    - (iv) please provide details of insurance under the *Home Building Act 1989 (NSW)*
  - (f) Are there any proposals by the Owners Corporation or an owner of a lot to make any additions or alterations to the property or to erect any new structures on the common property? If so, please provide details.
  - (g) Has any work been carried out by the vendor on the Property or the common property? If so,
    - (i) has the work been carried out in accordance with the by-laws and all necessary approvals and consents?
    - (ii) does the vendor have any continuing obligations in relation to the common property affected?
17. Is the vendor aware of any proposals to;
- (a) resume the whole or any part of the Property or the common property?
  - (b) carry out building alterations to an adjoining lot which may affect the boundary of that lot or the Property?
  - (c) deal with, acquire, transfer, lease or dedicate any of the common property?
  - (d) dispose of or otherwise deal with any lot vested in the Owners Corporation?
  - (e) create, vary or extinguish any easements, restrictions or positive covenants over the Property or the common property?
  - (f) subdivide or consolidate any lots and/or any common property or to convert any lots into common property?
  - (g) grant any licence to any person, entity or authority (including the Council) to use the whole or any part of the common property?
18. Has the Vendor (or any predecessor) or the Owners Corporation entered into any agreement with or granted any indemnity to the Council or any other authority concerning any development on the Property or on the common property?
19. In relation to any swimming pool on the Property or on the common property:
- (a) did its installation or construction commence before or after 1 August 1990?
  - (b) has the swimming pool been installed or constructed in accordance with approvals under the *Local Government Act 1919 (NSW)* and *Local Government Act 1993 (NSW)*?

- (c) does it comply with the provisions of the *Swimming Pool Act 1992 (NSW)* and regulations relating to access? If not, please provide details or the exemptions claimed;
- (d) have any notices or orders issued or been threatened under the *Swimming Pools Act 1992 (NSW)* or regulations?
- (e) if a certificate of non-compliance has been issued, please provide reasons for its issue if not disclosed in this Contract,
- (f) originals of certificate of compliance or non-compliance and occupation certificate should be handed over on settlement.

20.

- (a) Is the vendor aware of any dispute regarding boundary or dividing fences in the strata scheme?
- (b) Is the vendor aware of any notice, claim or proceedings under the *Dividing Fences Act 1991 (NSW)* or the *Encroachment of Buildings Act 1922 (NSW)* affecting the strata scheme?

#### **Affectations, notices and claims**

21. In respect of the Property and the common property;

- (a) Is the vendor aware of any rights, licences, easements, covenants or restrictions as to use of them other than those disclosed in the Contract?
- (b) Has any claim been made by any person to close, obstruct or limit access to or from them or to prevent the enjoyment of any easement appurtenant to them?
- (c) Is the vendor aware of;
  - (i) any road, drain, sewer or storm water channel which intersects or runs through them?
  - (ii) any dedication to or use by the public of any right of way or other easement over any part of them?
  - (iii) any latent defects in them?
- (d) Has the Vendor any notice or knowledge of them being affected by the following:
  - (i) any notice requiring work to be done or money to be spent on them or any footpath or road adjoining? If so, such notice must be complied with prior to completion.
  - (ii) any work done or intended to be done on them or the adjoining street which may create a charge on them or the cost of which might be or become recoverable from the purchaser?
  - (iii) any sum due to any local or public authority recoverable from the purchaser? If so, it must be paid prior to completion.
  - (iv) any realignment or proposed realignment of any road adjoining them?
  - (v) any contamination including, but not limited to, materials or substances dangerous to health such as asbestos and fibreglass?

#### **Application, Orders etc**

- 22. Are there any applications made, proposed or threatened, whether by an owner of a lot or the Owners Corporation, to the NSW Civil and Administrative Tribunal, any Court or to the Registrar General for orders relating to the strata scheme, the Property or the common property (including orders to vary the strata scheme consequent upon damage or destruction or to terminate the strata scheme) which are yet to be determined? If so, please provide particulars.
- 23. Are there any mediations currently being conducted by the Commissioner of Fair Trading, Department of Finance Services and Innovation in relation to the Property or the common property which involve the vendor or the Owners Corporation? If so, please provide particulars.
- 24. Are there any;
  - (a) orders of the Tribunal;
  - (b) notices of or investigations by the Owners Corporation;
  - (c) notices or orders issued by any Court, or
  - (d) notices or orders issued by the Council or any public authority or water authority,

affecting the Property or the common property not yet complied with? In so far as they impose an obligation on the vendor they should be complied with by the vendor before completion.

25. Have any orders been made by any Court or Tribunal that money (including costs) payable by the Owners Corporation be paid from contributions levied in relation to the property? If so, please provide particulars.
26. Has the vendor made any complaints or been the subject of any complaints arising out of noise affecting the Property or emanating from the Property?
27. Has any proposal been given by any person or entity to the Owners Corporation for;
  - (a) a collective sale of the strata scheme; or
  - (b) a redevelopment of the strata scheme?

If so, please provide particulars of the proposal and the steps taken and decisions made in relation to the proposal to the present time.

#### **Owners Corporation Management**

28. Has the initial period expired?
29. Are any actions proposed to be taken or have any been taken by the Owners Corporation in the initial period which would be in breach of its powers without an order authorising them?
30. If the Property includes a utility lot, please specify the restrictions.
31. Do any special expenses (as defined in Clause 23.2 of the Contract, including any liabilities of the Owners Corporation) exceed 1% of the price?
32. Has an appointment of a strata managing agent and/or a building manager been made? If so,
  - (a) who has been appointed to each role?
  - (b) when does the term of each appointment expire; and,
  - (c) what functions have been delegated to the strata managing agent and/or the building manager.
33. Has the Owners Corporation entered into any agreement to provide amenities or services to the property? If so, please provide particulars.
34. Has a resolution been passed for the distribution of surplus money from the administrative fund or the capital works fund? If so, please provide particulars.
35. Had the by-laws adopted a common property memorandum as prescribed by the regulations for the purposes of Section 107 of the Act? If so, are there any proposals to amend the registered building management statement?
36. Is there a registered building management statement pursuant to Section 108 of the *Strata Schemes Development Act 2015 (NSW)*? If so, are there any proposals to amend the registered building management statement?
37. If the strata scheme was in existence at 30 November 2016, has the Owners Corporation taken steps to review the by-laws that were current at that date? If so, please provide particulars.
38. Are there any pending proposals to amend or repeal the current by-laws or to add to them?
39. Are there any proposals, policies or by-laws in relation to the conferral of common property rights or which deal with short term licences and/or holiday lettings?
40. If not attached to the Contract, a strata information certificate under Section 184 of the Act should be serviced on the purchaser at least 7 days prior to completion.
41. Has the Owners Corporation met all of its obligations under the Act relating to;
  - (a) insurances;
  - (b) fire safety;
  - (c) occupational health and safety;
  - (d) building defects and rectification in relation to any applicable warranties under the Home Building Act 1989 (NSW);
  - (e) the preparation and review of the 10 year plan for the capital works fund; and
  - (f) repair and maintenance.

- 42. Is the secretary of the Owners Corporation in receipt of a building bond for any building work on a building that is part of the Property or the common property?
- 43. Has an internal dispute resolution process been established? If so, what are its terms?
- 44. Has the Owners Corporation complied with its obligation to lodge tax returns with the Australian Taxation Office and has all tax liability been paid?

**Capacity**

- 45. If the Contract discloses that the vendor is a trustee, evidence should be produced to establish the trustee's power of sale.

**Requisitions and transfer**

- 46. If not attached to the Contract and the transaction is not an excluded transaction, any clearance certificate under Section 14-220 of the Schedule 1 of the Taxation Administration Act 1953 (Cth) should be served on the purchaser at least 7 days prior to completion.
- 47. If the transfer or any other document to be handed over on completion is executed pursuant to a power of attorney, then at least 7 days prior to completion a copy of the registered power of attorney should be produced, and found in order.
- 48. If the vendor has or is entitled to have possession of the title deeds the Certificate Authentication Code must be provided 7 days prior to settlement.
- 49. Searches, surveys, enquiries and inspection of the title deeds must provide satisfactory.
- 50. The purchaser reserves the right to make further requisitions prior to settlement.
- 51. Unless we are advised by you to the contrary prior to completion, it will be assumed that your replies to these requisitions remain unchanged as at the completion date.



FOLIO: 89/SP57169

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SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
29/7/2022	2:14 PM	5	5/4/2018

LAND

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LOT 89 IN STRATA PLAN 57169  
AT MARSFIELD  
LOCAL GOVERNMENT AREA RYDE

FIRST SCHEDULE

-----

QUEENIE KWAN-YEE SHEN  
KEVIN CHUN LUM LEE  
FUK LEUNG SHEN  
AS TENANTS IN COMMON IN EQUAL SHARES (T 5119042)

SECOND SCHEDULE (2 NOTIFICATIONS)

-----

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP55170  
2 SP55170 POSITIVE COVENANT

NOTATIONS

-----

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*



FOLIO: CP/SP55170

-----

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
29/7/2022	2:34 PM	20	3/12/2019

LAND

-----

THE COMMON PROPERTY IN THE STRATA SCHEME BASED ON STRATA PLAN 55170  
WITHIN THE PARCEL SHOWN IN THE TITLE DIAGRAM

AT MARSFIELD  
LOCAL GOVERNMENT AREA RYDE  
PARISH OF HUNTERS HILL COUNTY OF CUMBERLAND  
TITLE DIAGRAM SHEET 1 SP55170

FIRST SCHEDULE

-----

THE OWNERS - STRATA PLAN NO. 55170  
ADDRESS FOR SERVICE OF DOCUMENTS:  
C/- DYNAMIC PROPERTY SERVICES PTY LTD  
LEVEL 25, 66 GOULBURN ST  
SYDNEY 2000

SECOND SCHEDULE (4 NOTIFICATIONS)

-----

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 THE STRATA SCHEME AND DEVELOPMENT CONTRACT IN TERMS OF SECTION  
8(5) (A) OF THE STRATA SCHEMES (FREEHOLD DEVELOPMENT) ACT, 1973  
INCORPORATES DEVELOPMENT LOTS 28-31
- 3 AM534433 INITIAL PERIOD EXPIRED
- 4 AP731514 CONSOLIDATION OF REGISTERED BY-LAWS

SCHEDULE OF UNIT ENTITLEMENT (AGGREGATE: 306)

-----

STRATA PLAN 55170

LOT	ENT	LOT	ENT	LOT	ENT	LOT	ENT
1	- 4	2	- 4	3	- 4	4	- 5
5	- 3	6	- 3	7	- 3	8	- 3
9	- 3	10	- 3	11	- 4	12	- 3
13	- 4	14	- 4	15	- 5	16	- 3
17	- 3	18	- 3	19	- 3	20	- 3
21	- 3	22	- 4	23	- 4	24	- 4
25	- 4	26	- 4	27	- 5	28	- SP55448
29	- SP56513	30	- SP56529	31	- SP57169		

END OF PAGE 1 - CONTINUED OVER

FOLIO: CP/SP55170

PAGE 2

## SCHEDULE OF UNIT ENTITLEMENT (AGGREGATE: 306) (CONTINUED)

## STRATA PLAN 55170

LOT	ENT	LOT	ENT	LOT	ENT	LOT	ENT
-----	-----	-----	-----	-----	-----	-----	-----

## STRATA PLAN 55448

LOT	ENT	LOT	ENT	LOT	ENT	LOT	ENT
32 - 2		33 - 2		34 - 2		35 - 2	
36 - 2		37 - 2		38 - 2		39 - 2	
40 - 2		41 - 2		42 - 2		43 - 2	
44 - 2		45 - 2		46 - 2		47 - 2	
48 - 2		49 - 2					

## STRATA PLAN 56513

LOT	ENT	LOT	ENT	LOT	ENT	LOT	ENT
50 - 2		51 - 2		52 - 2		53 - 2	
54 - 2		55 - 2		56 - 2		57 - 2	
58 - 2		59 - 2		60 - 2		61 - 2	
62 - 2		63 - 2		64 - 2		65 - 2	
66 - 2		67 - 2					

## STRATA PLAN 56529

LOT	ENT	LOT	ENT	LOT	ENT	LOT	ENT
68 - 2		69 - 2		70 - 2		71 - 2	
72 - 2		73 - 2		74 - 2		75 - 2	
76 - 2		77 - 2		78 - 2		79 - 2	
80 - 2		81 - 2		82 - 2		83 - 2	
84 - 2		85 - 2					

## STRATA PLAN 57169

LOT	ENT	LOT	ENT	LOT	ENT	LOT	ENT
86 - 2		87 - 2		88 - 2		89 - 2	
90 - 2		91 - 2		92 - 2		93 - 2	
94 - 2		95 - 2		96 - 2		97 - 2	
98 - 2		99 - 2		100 - 2		101 - 2	
102 - 2		103 - 2		104 - 2		105 - 2	
106 - 2		107 - 2		108 - 2		109 - 2	
110 - 2		111 - 2		112 - 2		113 - 2	
114 - 2		115 - 2		116 - 2		117 - 2	
118 - 3		119 - 2		120 - 2		121 - 2	
122 - 2		123 - 2		124 - 2		125 - 2	
126 - 2		127 - 5		128 - 3		129 - 3	
130 - 3		131 - 3					

## NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

2838

PRINTED ON 29/7/2022

\* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register. InfoTrack an approved NSW Information Broker hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with Section 96B(2) of the Real Property Act 1900.

**SP1**

**WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION**

OFFICE USE ONLY

[illegible]

Plan Drawing only to appear in this space

57169

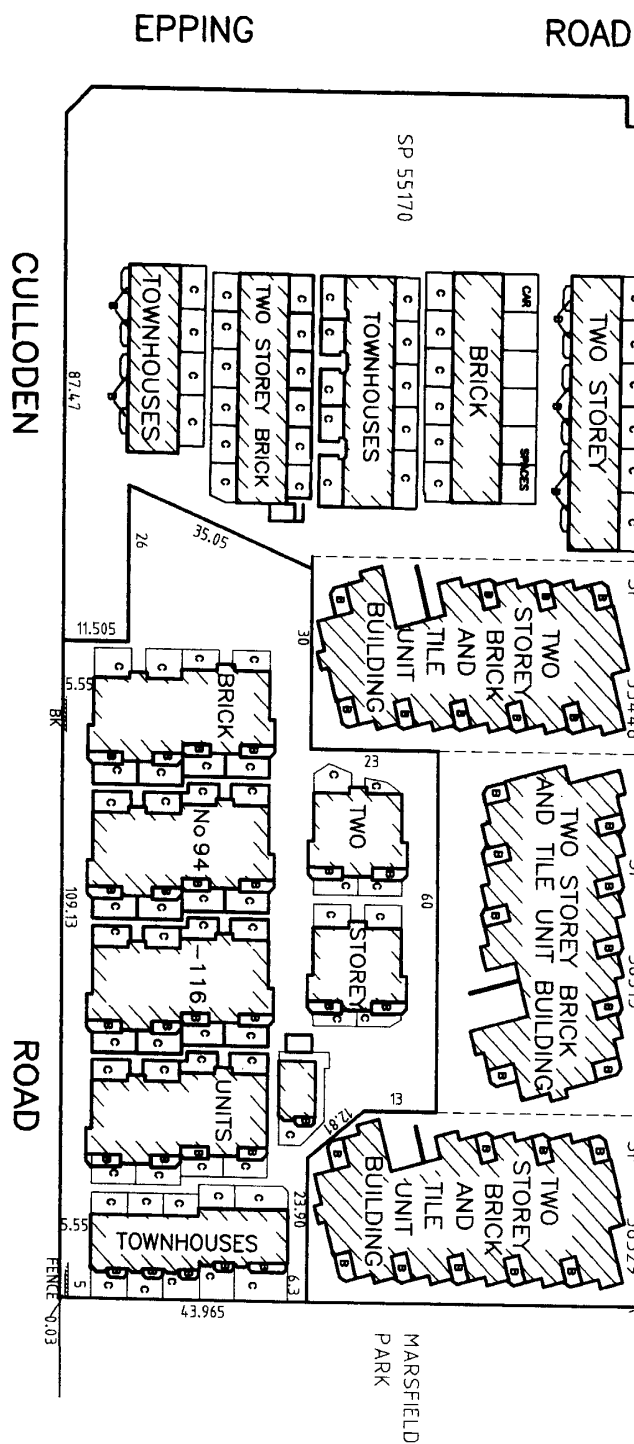


**WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION**

Sheet No. 2 of 5 Sheets

## LOCATION PLAN

STRATA PLAN 57169



B DENOTES BALCONIES  
C DENOTES COURTYARDS  
POSITIVE COVENANT VIDE SP 55170

Reduction Ratio 1: 800

**Lengths are in metres**

Surveyor Registered under Surveyors Act 1929

SURVEYOR'S REFERENCE: 95-13

*M. McSawell*  
General Manager/Authorised Person

Person

**\*OFFICE USE ONLY**

FORM 2

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

Sheet No. 3 of 5 Sheets

STRATA PLAN 57169



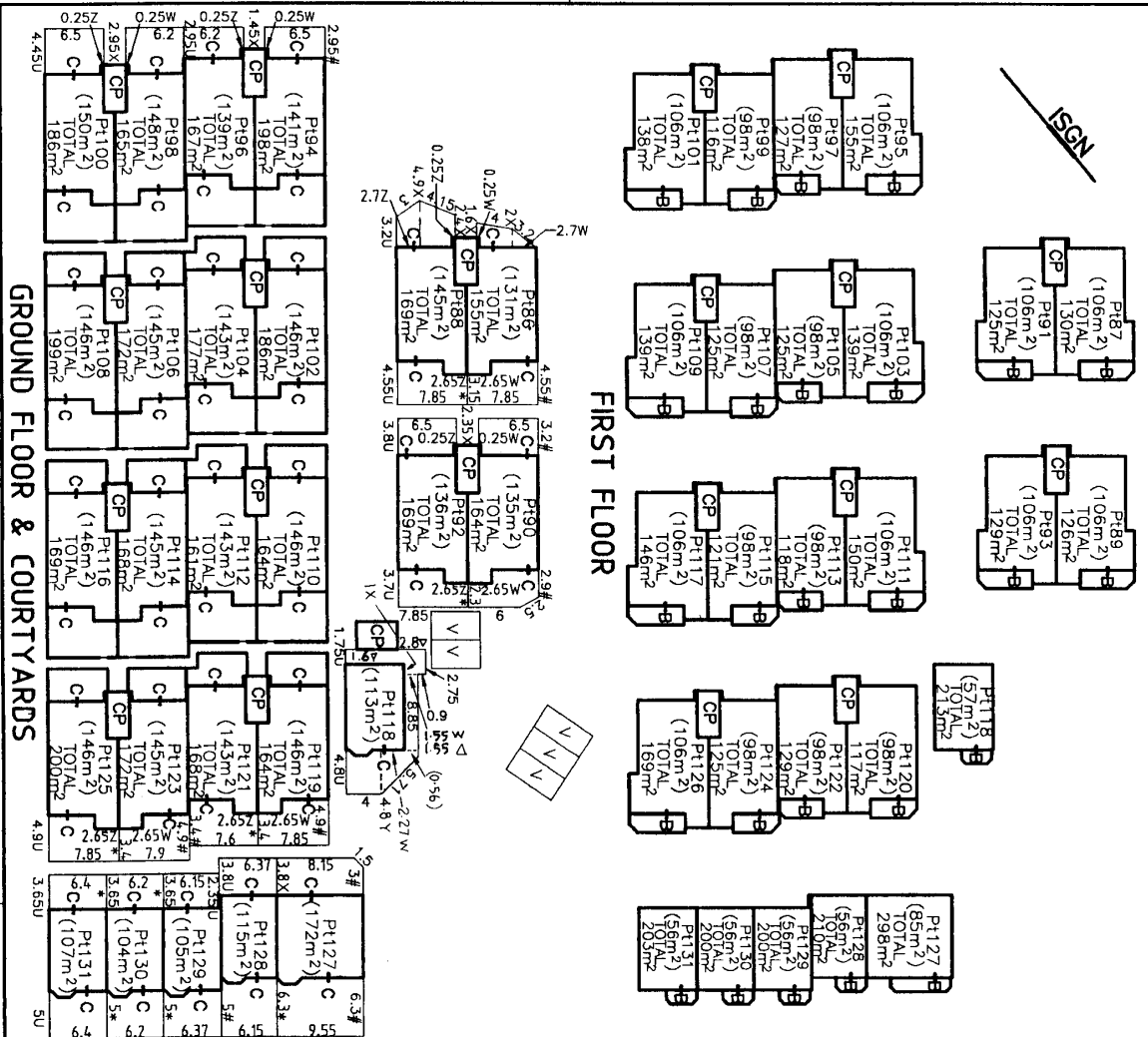
OFFICE USE ONLY

NOTES:  
AREAS ARE APPROXIMATE ONLY.  
A DENOTES BALCONY  
B DENOTES COURTYARD  
C DENOTES COMMON PROPERTY  
CP DENOTES FROM NORTHWEST FACE OF WALL  
W DENOTES FROM SOUTHWEST FACE OF WALL  
X DENOTES FROM NORTHEAST FACE OF WALL  
Y DENOTES FROM SOUTHEAST FACE OF WALL  
Z DENOTES LINE OF SOUTHEAST FACE OF WALL  
U DENOTES LINE OF NORTH WEST FACE OF WALL  
# DENOTES LINE OF NORTHEAST FACE OF WALL  
\* DENOTES LINE OF CENTRE OF PARTY WALL  
V DENOTES VISITOR CAR SPACE (COMMON PROPERTY)

THE STRATUM OF THE BALCONIES EXTEND TO A HEIGHT OF 2.5 ABOVE THE UPPER SURFACE OF THEIR RESPECTIVE FLOORS EXCEPT WHERE COVERED.

THE STRATUM OF THE COURTYARDS EXTEND 4 ABOVE THE UPPER SURFACE OF THEIR RESPECTIVE FLOORS EXCEPT WHERE COVERED & 1.5 BELOW THEIR RESPECTIVE FLOORS EXCEPT WHERE ON A CONCRETE SLAB FLOOR OVER A BASEMENT CAR PARK.

Ø UNIT



Reduction Ratio 1: 500

Lengths are in metres

Surveyor Registered under Surveyors Act 1929  
SURVEYOR'S REFERENCE: 95-13

General Manager/Authorised Person  
M. McDowell



FORM 2

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

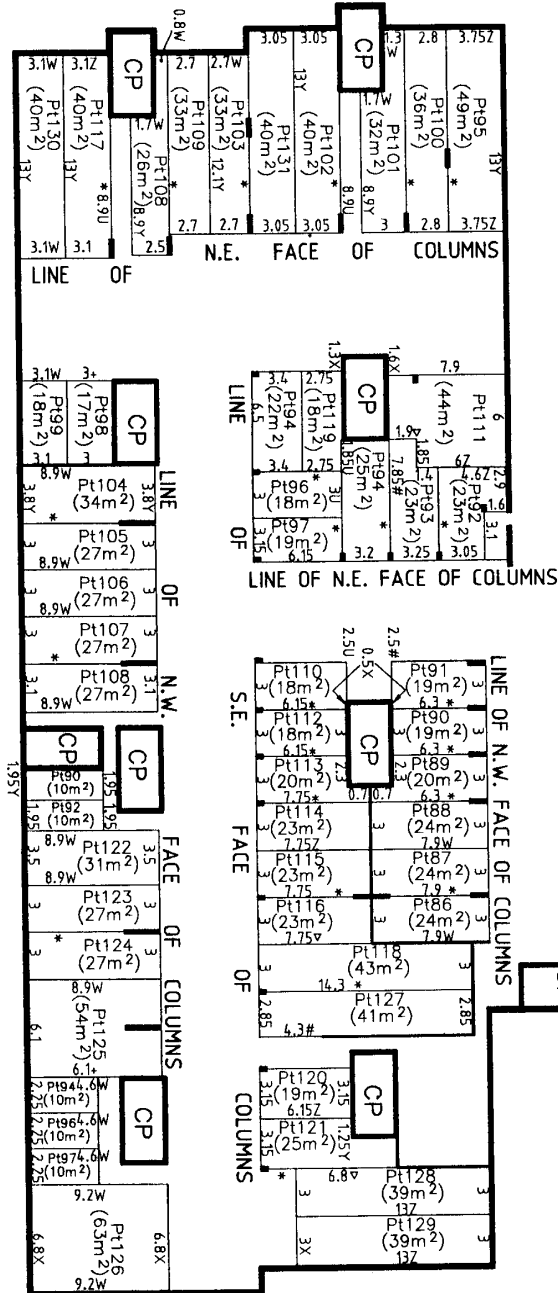
Sheet No. 4 of 5 Sheets

STRATA PLAN 57169



NOTES:  
AREAS ARE APPROXIMATE ONLY.  
CP DENOTES COMMON PROPERTY  
W DENOTES FROM NORTHWEST FACE OF WALL  
X DENOTES FROM SOUTHWEST FACE OF WALL  
Y DENOTES FROM NORTHEAST FACE OF WALL  
Z DENOTES FROM SOUTHEAST FACE OF WALL  
U DENOTES LINE OF SOUTHEAST FACE OF WALL  
V DENOTES LINE OF NORTH WEST FACE OF WALL  
# DENOTES LINE OF NORTHEAST FACE OF WALL  
+ DENOTES LINE OF SOUTH WEST FACE OF WALL  
\* DENOTES LINE OF CENTRE OF COLUMN

BASEMENT CAR SPACES



Reduction Ratio 1:300

Lengths are in metres

Surveyor Registered under Surveyors Act 1929  
SURVEYOR'S REFERENCE: 95-13  
*M. McDougall*  
Consent Manager/Authorised Person

**WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION**

Sheet No. 5 of 5 Sheets

STRATA PLAN 57169

## UNIT ENTITLEMENT

Lot No	Entitlement
105	2
106	2
107	2
108	2
109	2
110	2
111	2
112	2
113	2
114	2
115	2
116	2
117	2
118	3
119	2
120	2
121	2
122	2
123	2
124	2
125	2
126	2
127	5
128	3
129	3
130	3
131	3
TOTAL	306

**Lengths are in metres**

Surveyor Registered under Surveyors Act 1929

~~General Manager/~~Authorised Person

N. McDowell



FORM 1

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

\* OFFICE USE ONLY

COUNCIL'S CERTIFICATE  
RYDE COUNCIL

Having satisfied itself that the requirements of the Strata Titles Act, 1973 (other than the requirements for the registration of a plan) have been complied with, approves for the proposed plan of subdivision.

The approval is given on the condition that the plan be subject to the resolution on user referred to in section 49 of the Strata Titles Act, 1973.

Date: 30 JUNE 1997

Subdivision No. 10996

Complete or delete if inapplicable.  
The Street Plan/Strata Plan of Subdivision is part of a Development Scheme. The Council is satisfied that the plan is consistent with any conditions of the Development Consent and that the plan gives effect to the stage of the development statement to which it relates.

SURVEYOR'S CERTIFICATE  
IAN JAMES SOUTER  
of  
SUITE 6 HENRI COVE MARTIN REPORT 2106  
(1) I, the Surveyor, certify that:  
(a) I am a registered surveyor under the Surveyors Act 1992, New South Wales.  
(b) I am the holder of a valid licence to practise as a surveyor.  
(c) I am the holder of a valid licence to practise as a surveyor.  
(d) I am the holder of a valid licence to practise as a surveyor.  
(e) I am the holder of a valid licence to practise as a surveyor.  
(f) I am the holder of a valid licence to practise as a surveyor.  
(g) I am the holder of a valid licence to practise as a surveyor.  
(h) I am the holder of a valid licence to practise as a surveyor.  
(i) I am the holder of a valid licence to practise as a surveyor.  
(j) I am the holder of a valid licence to practise as a surveyor.  
(k) I am the holder of a valid licence to practise as a surveyor.  
(l) I am the holder of a valid licence to practise as a surveyor.  
(m) I am the holder of a valid licence to practise as a surveyor.  
(n) I am the holder of a valid licence to practise as a surveyor.  
(o) I am the holder of a valid licence to practise as a surveyor.  
(p) I am the holder of a valid licence to practise as a surveyor.  
(q) I am the holder of a valid licence to practise as a surveyor.  
(r) I am the holder of a valid licence to practise as a surveyor.  
(s) I am the holder of a valid licence to practise as a surveyor.  
(t) I am the holder of a valid licence to practise as a surveyor.  
(u) I am the holder of a valid licence to practise as a surveyor.  
(v) I am the holder of a valid licence to practise as a surveyor.  
(w) I am the holder of a valid licence to practise as a surveyor.  
(x) I am the holder of a valid licence to practise as a surveyor.  
(y) I am the holder of a valid licence to practise as a surveyor.  
(z) I am the holder of a valid licence to practise as a surveyor.

Signature: 10/4/1997

PLAN OF SUBDIVISION OF LOT 1 IN DP 869376  
LGA: RYDE Locality: MARSFIELD  
Parish: HUNTERS HILL County: CUMBERLAND  
Reduction Ratio 1: 500 Lengths are in metres  
Name of and address for the Owners' Corporation: THE OWNERS STRATA PLAN No. 55170 94-116 CULLODEN ROAD MARSFIELD NSW 2122  
Address required on original strata plan only.

STRATA PLAN 55170

Registered: 10-7-1997  
C.A. 1006 OF 30/6/1997  
Title System:  
Purpose: STRATA PLAN  
Ref. Map: U 0960 - 71  
Last Plan: DP 869376



Signature of the Registrar-General

Director

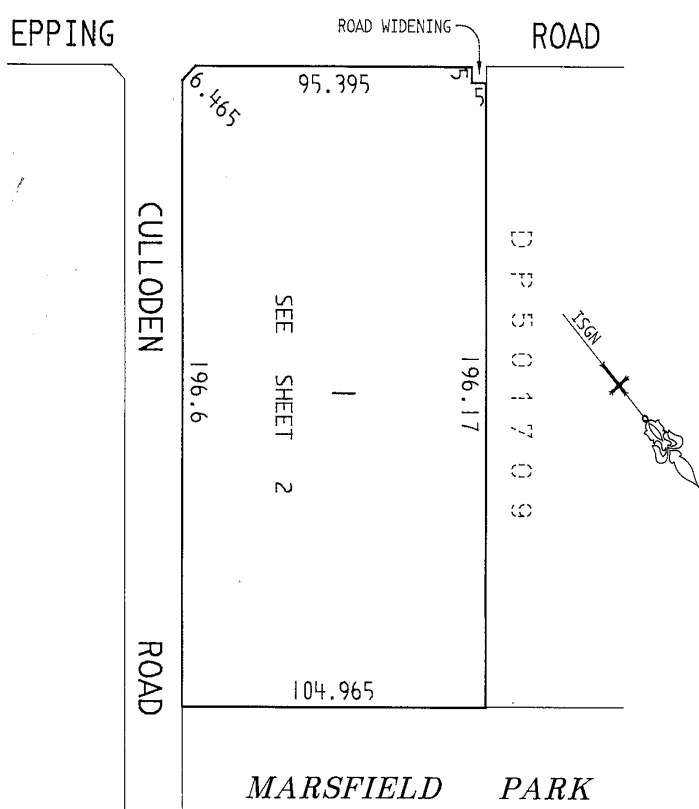
PURSUANT TO SEC. 7 (3), STRATA TITLES ACT, 1973 AND SEC. 88B OF THE CONVEYANCING ACT, 1919-1964, IT IS INTENDED TO CREATE:  
1. POSITIVE COVENANT.

EXECUTED BY ESARDA FINANCE CORPORATION LIMITED A.C.N. 004 346 043 by being signed, sealed and delivered by its Attorney, Ian Mackay Ellery, who certifies that he is the Acting Manager, Securities in the New South Wales Division of Esarda Finance Corporation Limited pursuant to powers of Attorney registered No. 197 Local 4142, in the presence of:

Principal: Esarda  
116 Market Street, NSW 2000  
Finance Officer

RESIDENTIAL MODEL BY LAWS adopted for this scheme  
garbage disposal Option  
keeping of animals Option A  
Schedule of by-laws in sheets filed with plan

THIS PLAN CONTAINS A STRATA DEVELOPMENT CONTRACT IN 25 SHEETS



SURVEYOR'S REFERENCE 95-13

Plan Drawing only to appear in this space

Plan Drawing only to appear in this space

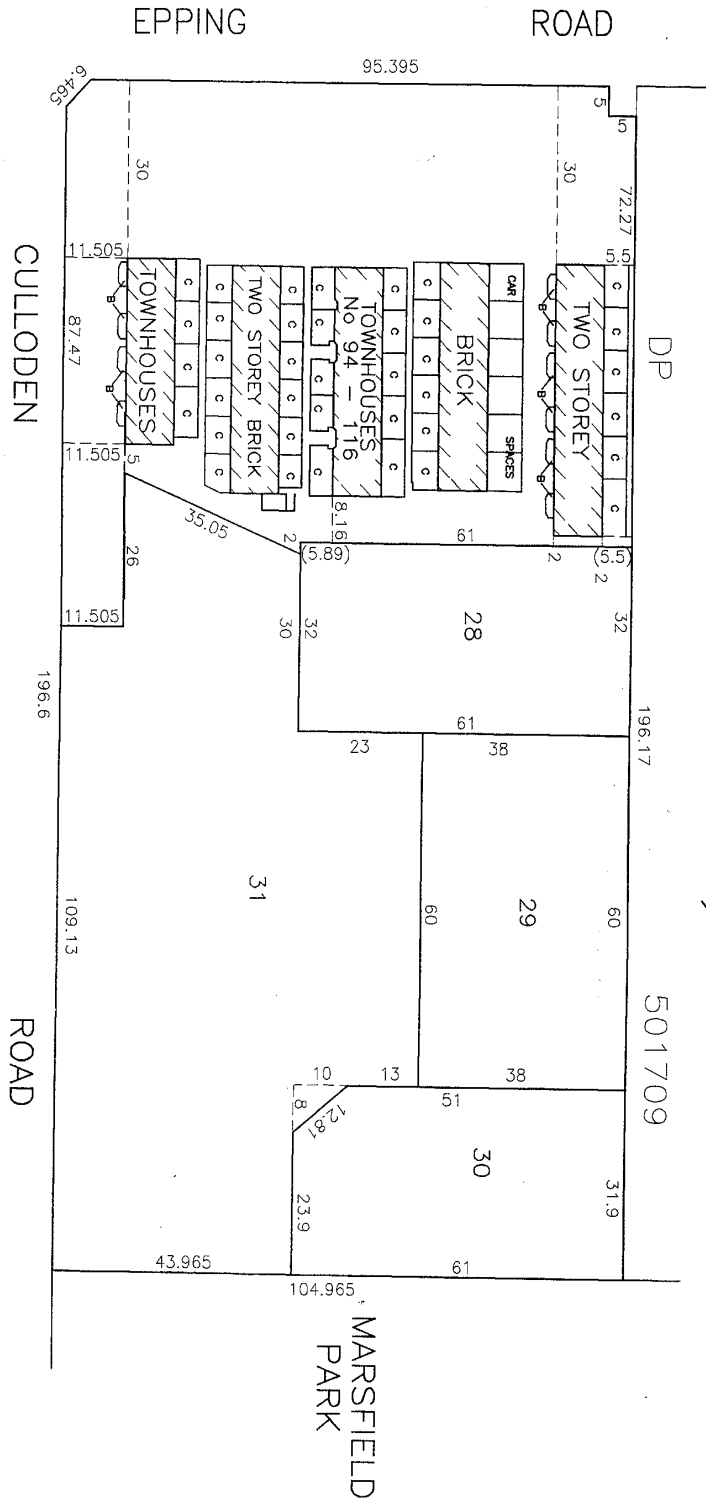
FORM 2

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

Sheet No. 2 of 4 Sheets

LOCATION PLAN

STRATA PLAN 55170



NOTES:  
 B DENOTES BALCONY  
 C DENOTES COURTYARD  
 LOTS 28, 29, 30 & 31 ARE DEVELOPMENT LOTS  
 POSITIVE COVENANT

Reduction Ratio 1: 800

Lengths are in metres

Surveyor Registered under Surveyors Act 1929

General Manager/Authorised Person

SURVEYOR'S REFERENCE: 95-13



FORM 2

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

Sheet No. 3 of 4 Sheets

GROUND FLOOR, COURTYARDS  
& CAR SPACES

STRATA PLAN 55170

BASEMENT CAR SPACES

Pt 22 (58m <sup>2</sup> )	Pt 23 (58m <sup>2</sup> )	Pt 24 (58m <sup>2</sup> )	Pt 25 (58m <sup>2</sup> )	Pt 26 (58m <sup>2</sup> )	Pt 27 (78m <sup>2</sup> )
------------------------------	------------------------------	------------------------------	------------------------------	------------------------------	------------------------------

Pt 22 (58m <sup>2</sup> )	Pt 23 (58m <sup>2</sup> )	Pt 24 (58m <sup>2</sup> )	Pt 25 (58m <sup>2</sup> )	Pt 26 (58m <sup>2</sup> )	Pt 27 (78m <sup>2</sup> )
------------------------------	------------------------------	------------------------------	------------------------------	------------------------------	------------------------------

FIRST FLOOR

Pt 22 (58m <sup>2</sup> )	Pt 23 (58m <sup>2</sup> )	Pt 24 (58m <sup>2</sup> )	Pt 25 (58m <sup>2</sup> )	Pt 26 (58m <sup>2</sup> )	Pt 27 (78m <sup>2</sup> )
------------------------------	------------------------------	------------------------------	------------------------------	------------------------------	------------------------------

UNIT ENTITLEMENT

Lot No	Entitlement
--------	-------------

1	4
2	4
3	4
4	5
5	3
6	3
7	3
8	3
9	3
10	3
11	4
12	3
13	4
14	4
15	5
16	3
17	3
18	3
19	3
20	3
21	3
22	4
23	4
24	4
25	4
26	4
27	5
28	36
29	36
30	36
31	100
TOTAL	306

ISGN

Pt 11 (70m <sup>2</sup> )	Pt 12 (70m <sup>2</sup> )	Pt 13 (70m <sup>2</sup> )	Pt 14 (70m <sup>2</sup> )	Pt 15 (94m <sup>2</sup> )
------------------------------	------------------------------	------------------------------	------------------------------	------------------------------

Pt 11 (70m <sup>2</sup> )	Pt 12 (70m <sup>2</sup> )	Pt 13 (70m <sup>2</sup> )	Pt 14 (70m <sup>2</sup> )	Pt 15 (94m <sup>2</sup> )
------------------------------	------------------------------	------------------------------	------------------------------	------------------------------

Pt 11 (70m <sup>2</sup> )	Pt 12 (70m <sup>2</sup> )	Pt 13 (70m <sup>2</sup> )	Pt 14 (70m <sup>2</sup> )	Pt 15 (94m <sup>2</sup> )
------------------------------	------------------------------	------------------------------	------------------------------	------------------------------

Pt 6 (63m <sup>2</sup> )	Pt 7 (63m <sup>2</sup> )	Pt 8 (63m <sup>2</sup> )	Pt 9 (63m <sup>2</sup> )	Pt 10 (53m <sup>2</sup> )
-----------------------------	-----------------------------	-----------------------------	-----------------------------	------------------------------

Pt 6 (63m <sup>2</sup> )	Pt 7 (63m <sup>2</sup> )	Pt 8 (63m <sup>2</sup> )	Pt 9 (63m <sup>2</sup> )	Pt 10 (53m <sup>2</sup> )
-----------------------------	-----------------------------	-----------------------------	-----------------------------	------------------------------

Pt 6 (63m <sup>2</sup> )	Pt 7 (63m <sup>2</sup> )	Pt 8 (63m <sup>2</sup> )	Pt 9 (63m <sup>2</sup> )	Pt 10 (53m <sup>2</sup> )
-----------------------------	-----------------------------	-----------------------------	-----------------------------	------------------------------

Pt 1 (58m <sup>2</sup> )	Pt 2 (58m <sup>2</sup> )	Pt 3 (58m <sup>2</sup> )	Pt 4 (78m <sup>2</sup> )
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Pt 1 (58m <sup>2</sup> )	Pt 2 (58m <sup>2</sup> )	Pt 3 (58m <sup>2</sup> )	Pt 4 (78m <sup>2</sup> )
-----------------------------	-----------------------------	-----------------------------	-----------------------------

Pt 1 (58m <sup>2</sup> )	Pt 2 (58m <sup>2</sup> )	Pt 3 (58m <sup>2</sup> )	Pt 4 (78m <sup>2</sup> )
-----------------------------	-----------------------------	-----------------------------	-----------------------------

NOTES:  
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B DENOTES BALCONY  
C DENOTES COURTYARD  
CP DENOTES COMMON PROPERTY  
W DENOTES FROM NORTHWEST FACE OF WALL  
X DENOTES FROM SOUTHWEST FACE OF WALL  
Y DENOTES FROM NORTHEAST FACE OF WALL  
V DENOTES VISITOR CAR SPACE (COMMON PROPERTY)  
THE STRATUM OF THE BALCONIES & GROUND FLOOR CAR SPACES (LOTS 16-21) EXTEND TO A HEIGHT OF 2.5  
ABOVE THE UPPER SURFACE OF THEIR RESPECTIVE FLOORS EXCEPT WHERE COVERED  
THE STRATUM OF THE COURTYARDS EXTEND 4 ABOVE THE UPPER SURFACE OF A BASEMENT CAR PARK.  
COVERED & 1.5 BELOW THEIR RESPECTIVE FLOORS EXCEPT WHERE ON A CONCRETE SLAB FLOOR OVER A BASEMENT CAR PARK.

Reduction Ratio 1: 500

Lengths are in metres

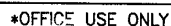
SURVEYOR'S REFERENCE: 95-13

Surveyor Registered under Surveyors Act 1928

General Manager/Authorised Person



1





**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND  
RESTRICTIONS AS TO USER INTENDED TO BE CREATED PURSUANT  
TO SECTION 7(3), STRATA TITLES ACT, 1973 AND SECTION 88B OF THE CONVEYANCING ACT, 1919**

**PART 1**

Lengths are in metres

(Sheet 1 of 2 sheets)

Strata Plan: **SP 55170**

Subdivision covered by Council Clerk's  
Certificate No. 1006  
of 30 JUNE 1997

**Full Name and Address  
of Proprietor of Land:**

Plexvon Pty. Limited of 101 Chatham Road  
Denistone NSW 2114

1. **Identity of Easement firstly referred  
to in the abovementioned plan**

Positive Covenant.

**Schedule of lots etc. affected**

**Lots Burdened**  
1-31

Lots, name of road or authority benefited  
Ryde Council

**PART 2**

1. **Terms of Positive Covenant Firstly Referred to in the abovementioned Plan.**

The Registered Proprietor will at his own expense well and sufficiently maintain and keep in good and substantial repair and working order in accordance with dimensions approved by the Prescribed Authority any detention basin which exists from time to time on the land.

Where the Registered Proprietor of the burdened lot fails to maintain the on-site detention system in accordance with the above and fails to comply with any written request of the Prescribed Authority within such reasonable time nominated in the said request, the Registered Proprietor shall meet any reasonable costs incurred by the Prescribed Authority in carrying out works necessary to reinstate satisfactory performance of the on-site detention system.

The Registered Proprietor hereby agrees to indemnify and keep indemnified the Prescribed Authority from and against all claims, demands, actions, suits, causes of action, sum or sums of money, compensation, damages, costs and expenses which the Prescribed Authority or any other person may suffer or incur as a result of any malfunction or non-operation of any such detention basin caused by any failure of the Registered Proprietor to comply with the terms of this covenant.

The term "Registered Proprietor" shall include the Registered Proprietor of the land from time to time, and all his heirs, executors, assigns and successors in title to the land and where there are two or more registered proprietors of the land the terms of this covenant shall bind all those registered proprietors jointly and severally.

**Name of Person or authority whose consent is required to release, vary or modify the easements and restrictions contained herein are as follows:**

As to that firstly referred to, Ryde Council.



*[Signature]*  
Director

*[Signature]*  
AT Full

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND  
RESTRICTIONS AS TO USER INTENDED TO BE CREATED PURSUANT  
TO SECTION 7(3), STRATA TITLES ACT, 1973 AND SECTION 88B OF THE CONVEYANCING ACT, 1919**

Lengths are in metres


(Sheet 2 of 2 sheets)

Strata Plan: **SP 55170**

Subdivision covered by Council Clerk's  
Certificate No. 1006  
of 30 JUNE 1997

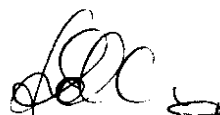
The Common Seal of Plexvon Pty. Limited  
was hereunto affixed by resolution of the  
Board of Directors in the presence of:-



  
#/Secretary

  
General Manager - Ryde Council

EXECUTED BY STRATA FINANCE CORPORATION  
LIMITED A.C.N. 011319613 by being signed, sealed and  
delivered by P. Aramby **Ian Macleay Ellery**  
(a Director) in the presence of **Acting Manager, Securities**  
in the Ryde Council's Division of Strata Finance  
Corporation (Unit 10, 11 and 12 of 100 of Aramby registered  
No. 157 Desk 4142, in the presence of





Perimalam Bazil  
113 Miller Street Nth Sydney  
Finance Officer



Form: 15CH  
Release: 2-0

**CONSOLIDATION/  
CHANGE OF BY-LAWS**  
New South Wales  
Strata Schemes Management Act 2015  
Real Property Act 1900



**AM534433L**

**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/SP 55170

(B) **LODGED BY**

Document  
Collection  
Box  
**1W**

Name, Address or DX, Telephone, and Customer Account Number if any  
DYNAMIC PROPERTY SERVICES  
DX 11643  
SYDNEY DOWNTOWN  
Reference: Lisa Branson Ph: 02 9267 6334

CODE

**CH**

- (C) The Owners-Strata Plan No. 55170 certify that a special resolution was passed on 11/2/2107
- (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. See below  
Amended by-law No. NOT APPLICABLE  
as fully set out below:  
By-law numbers 41, 42, 43, 44, 45, 46 & 47  
See annexure

- (F) A consolidated list of by-laws affecting the above mentioned strata scheme and incorporating the change referred to at Note (E) is annexed hereto and marked as Annexure A
- (G) The seal of The Owners-Strata Plan No. 55170 was affixed on 27/6/2017 in the presence of the following person(s) authorised by section 273 Strata Management Act 2015 to attest the affixing of the seal:

Signature: \_\_\_\_\_

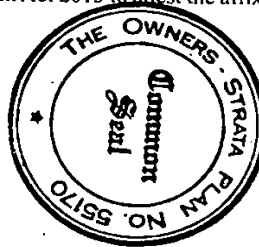
Name: Lisa Branson

Authority: Duly Authorised Officer

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

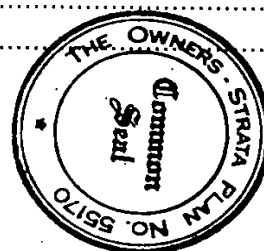
Authority: \_\_\_\_\_



## **ANNEXURE A**

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### **By-law 1 - Noise**

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

### **By-law 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 prior written approval of the owners corporation.

### **By-law 3 - Obstruction of common property**

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

### **By-law 4 - Damage to lawns and plants on common property**

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation:

- (a) damage any lawn, garden, tree, shrub, plant or flower being part of or situated on common property, or
- (b) use for his or her own purposes as a garden any portion of the common property.

### **By-law 5 - Damage to common property**

(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 except with the prior written approval of the owners corporation.

(2) An approval given by the owners corporation under subclause (1) cannot authorise any additions to the common property.

(3) This by-law does not prevent an owner or person authorised by an owner from installing:  
(a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or

(b) any screen or other device to prevent entry of animals or insects on the lot, or

(c) any structure or device to prevent harm to children, or

(d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.

(4) Any such locking or safety device, screen, 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) Despite section 62, the owner of a lot must:

(a) maintain and keep in a state of good and serviceable repair any installation or structure referred to in subclause (3) that forms part of the common property and that services the lot, and

(b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or structure referred to in subclause (3) that forms part of the common property and that services the lot.

#### **By-law 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.

#### **By-law 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.

#### **By-law 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.

#### **By-law 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 or discarded item except with the prior written approval of the owners corporation.

#### **By-law 10 - Drying of laundry items**

An owner or occupier of a lot must not, except with the prior written approval 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 owners corporation for the purpose and there only for a reasonable period.

#### **By-law 11 - Cleaning windows and doors**

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

- (a) the owners corporation resolves that it will keep the glass or specified part of the glass clean, or
- (b) that glass or part of the glass cannot be accessed by the owner or occupier of the lot safely or at all.

#### **By-law 12 - Storage of inflammable liquids and other substances and materials**

- (1) An owner or occupier of a lot must not, except with the prior written approval 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.
- (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.

#### **By-law 13 - Moving furniture and other objects on or through common property**

- (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.

(2) An owners corporation may resolve that furniture or large objects are to be transported through or on the common property (whether in the building or not) in a specified manner.

(3) If the owners corporation has specified, by resolution, the manner in which furniture or large objects are to be transported, an owner or occupier of a lot must not transport any furniture or large object through or on common property except in accordance with that resolution.

#### **By-law 14 - Floor coverings**

(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.

(2) This by-law does not apply to floor space comprising a kitchen, laundry, lavatory or bathroom.

#### **By-law 15 - Garbage disposal**

(1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:

(a) must maintain such receptacles 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 (except in the case of receptacles for recyclable material) adequately covered, and

(b) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and

(c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles 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, recyclable material or waste is normally collected, and

(d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a),

(e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and

(f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.

(2) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:

(a) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and

(b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.



### **By-law 16 - Keeping of animals**

(1) Subject to section 49 (4), an owner or occupier of a lot must not, without the prior written approval of the owners corporation, keep any animal (except fish kept in a secure aquarium on the lot) on the lot or the common property.

(2) The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property.

### **By-law 17 - Appearance of lot**

(1) The owner or occupier of a lot must not, without the prior written approval 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.

(2) This by-law does not apply to the hanging of any washing, towel, bedding, clothing or other article as referred to in by-law 10.

### **By-law 18 - 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).

### **By-law 19 - Provision of amenities or services**

(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:

- (a) window cleaning,
- (b) garbage disposal and recycling services,
- (c) electricity, water or gas supply,
- (d) telecommunication services (for example, cable television).

(2) If the owners corporation makes a resolution referred to in subclause (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.

**Note:** Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

### **By-law 20 - Special use**

That the Owners of Lots 1-131 (Inclusive) be granted the right to install:

- (a) A split system mounted air conditioner within the courtyard of the townhouse lots.
- (b) That the Owners of Lots 1-131 (Inclusive) be liable to maintain, replace or renew at his/her expense any costs associated with the works.
- (c) The Owner shall indemnify the Owners Corporation against damage which may arise as a result of the installation, removal or damage to the equipment installed and reinstate in a workman like manner any damage done to common property.
- (d) The Owner shall comply with the standards as implemented by Ryde Council in relation to acceptable noise levels.

### **By-law 21 – Exclusive use by-law**

That the Owners of Lots 1-131 (Inclusive) be individually granted exclusive use of the ceiling cavity to install within their respective lot.

(a) A ducted air conditioning system.

(b) That the Owners of Lots 1-131 (Inclusive) be liable individually to maintain, replace or renew at his/her own expense any costs associated with the works.

(c) That the Owners of Lots 1-131 (Inclusive) individually shall indemnify the Owners Corporation against damage which may arise as a result of the installation, removal or damage to the equipment installed and reinstate in a workman like manner any damage done to common property.

(d) That the Owners shall comply with the standards as complemented by Ryde Council in relation to acceptable noise levels.

### **By-law 22 – Gas charges**

#### **A. DEFINITIONS**

i) The following terms are defined to mean:

"Townhouse Owners" means each of the Owners or Occupiers of Lots 1 – 27 and 118 - 131 inclusive.

"Unit Owners" means each of the Owners or Occupiers of Lots 32 – 126 inclusive.

"Gas Charges" means the yearly costs of gas consumption by all Owners charged from time to time by the retail gas supplier, determined and measured on the common gas meter attached to the common property that services each Lot.

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

#### **B. SCOPE OF BY-LAW**

(iii) Townhouse Owners and Unit Owners are to pay the Gas Charges invoiced to the Owners Corporation according to the following table:

**Table of Gas Charges**

Groups of Lot Owners	Gas Charges Payable	
	75%	25%
Townhouse Owners	—	To be shared with Unit Owners and divided between the two groups of Lot Owners according to their unit entitlements.
Unit Owners	To be divided amongst this group of Lot Owners according to their unit entitlement.	To be shared with Townhouse Owners and divided between the two groups of Lot Owners according to their unit entitlements.

#### **C. POWERS**

(iv) The Owners Corporation shall have the following additional powers, authorities, duties and functions:

(a) The authority to divide the Gas Charges according to this by-law;

*A*

- (b) The power to debit all Owners for their proportion of Gas Charges on a quarterly basis; and
- (c) The power to recover from any Owner their unpaid proportion of Gas Charges as a debt due to the Owners Corporation in any court of competent jurisdiction.

### **By-law 23 – Security locks**

#### **A. DEFINITIONS**

i) in this by-law, the following terms are defined to mean:

"Owners" means each of the owners or occupiers in Strata Plan No. 55170.

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

#### **B. SCOPE OF BY-LAW**

iii) Owners and occupiers must maintain, renew, replace and repair locks, hinges and any other security devices installed in the unit entry doors, balcony doors, garage doors and letter boxes (and so much of the common property as is necessary) adjacent to the boundary of their respective lots.

iv) All locks, hinges and security devices maintained, renewed, replaced or repaired under this by law must, where applicable:

- (a) comply with all fire safety laws and any other requirements relating to fire safety as determined by the owners corporation or other authority; and

- (b) be installed in a competent and proper manner and must have an appearance after installation in keeping with the appearance of the rest of the building.

v) Owners and occupiers will be liable for any damage caused to any part of the common property as a result of the activities carried out and contemplated in this by law and will make good that damage immediately after it has occurred.

vi) Owners and occupiers 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 locks, hinges and security devices maintained, renewed, replaced or repaired under this by law including liability under section 65(6) in respect of any property of any Owners or occupier.

vii) To the extent that it may be necessary, the owners corporation determines that:

- (a) it is inappropriate to maintain, renew, replace or repair the locks, hinges and any other security devices referred to in this by law; and

- (b) its decision will not affect the safety of any building, structure or common property in the strata scheme or detract from the appearance of any property in the strata scheme.

viii) If any Owner or occupier fails to comply with any obligation under this by law, THEN the owners corporation may:

- (a) carry out all work necessary to perform that obligation;
- (b) enter upon any part of the parcel to carry out that work; and
- (c) recover the costs of carrying out that work from the owner.

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## **By-law 24 – Installation of skylights**

### **A. DEFINITIONS**

i) In this by-law, the following terms are defined to mean:

"Owners" means each of the owners in Strata Plan No. 55170.

"Skylight Installation Works" means the alterations and additions undertaken by Owners to install skylights to their lots (at their cost and to remain that Owner's fixtures) and so much of the common property roof as is necessary (including all ancillary structures) both before and after the making of this by-law in accordance with plans and drawings submitted by Owners to the executive committee (where applicable) at a later date but prior to the Skylight Installation Works being carried out (where applicable).

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

### **B. SCOPE OF BY-LAW**

iii) Owners must not carry out the Skylight Installation Works except in accordance with the conditions in paragraph C of this by-law and any other conditions as may be determined by the executive committee from time to time.

### **C. CONDITIONS**

The following conditions C(iv) to C(x) apply to Skylight Installation Works that are to be carried out after the date of the making of this by-law.

#### **Before commencing the Skylight Installation Works**

iv) Owners must obtain the prior approval of the executive committee for the proposed Skylight Installation Works.

v) Owners must submit all documents relating to the Skylight Installation Works as may be reasonably required by the executive committee, including but not limited to:

- a) plans and drawings; and / or
- b) structural diagrams.

vi) Owners must also obtain written approval for the performance of the Skylight Installation Works from:

- a) the relevant consent authority under the Environmental Planning and Assessment Act; and
- b) any other relevant statutory authority whose requirements apply to the Skylight Installation Works.

vii) Owners must effect the following insurances in the joint names of the Owner and owners corporation:

- a) contractors all works insurance;
- b) insurance required under the Home Building Act (NSW) 1989 (if required);
- c) workers compensation insurance; and
- d) public liability insurance in the amount of \$10,000,000.

#### **While carrying out the Skylight Installation Works**

viii) While carrying out the Skylight Installation Works, Owners must:

- a) transport all construction materials, equipment, debris and other material, in the manner reasonably directed by the executive committee;
  - b) protect all areas of the building outside their respective lot from damage by the Skylight Installation Works or the transportation of construction materials, equipment, debris;
  - c) keep all areas of the building outside their respective lot clean and tidy throughout the performance of the Skylight Installation Works;
  - d) only perform the Skylight Installation Works at the times approved by the executive committee;
  - e) not create noise that causes unreasonable discomfort, disturbance or interference with activities of any other occupier of the building;
  - f) remove all debris resulting from the Skylight Installation Works immediately from the building; and
  - g) comply with the requirements of the owners corporation to comply with any by-laws and any relevant statutory authority concerning the performance of the Skylight Installation Works.
- ix) Owners must ensure that the Skylight Installation Works shall be done:
- a) in a proper and workmanlike manner and by duly licensed contractors; and
  - b) in accordance with the drawings and specifications approved by the local council and executive committee, and
  - c) in accordance with the Building Code of Australia and all applicable Australian Standards.

After completing the Skylight Installation Works

- x) Owners must deliver to the executive committee any document reasonably required by the executive committee.

The following conditions apply to Skylight Installation Works carried out both before and after the date of the making of this by-law.

- xi) Owners must properly maintain and keep the common property to which the Skylight Installation Works are erected or attached in a state of good and serviceable repair.
- xii) Owners must (at that Owner's cost) properly maintain and keep the Skylight Installation Works in a state of good and serviceable repair and must replace the Skylight Installation Works (or any part of them) as required from time to time.
- xiii) To the extent that s 62(3) is applicable, the owners corporation determines it is inappropriate to maintain, renew, replace or repair any common property affected by the Skylight Installation Works proposed under this by-law.

Liability and Indemnity

- xiv) Owners will be liable for any damage caused to any part of the common property as a result of the erection, attachment, replacement or removal of the Skylight Installation Works to the common property and will make good that damage immediately after it has occurred.

xv) Owners must indemnify the owners corporation against any loss or damage the owners corporation suffers as a result of the performance, maintenance, replacement or removal of the Skylight Installation Works on the common property including liability under section 65(6) in respect of any property of the Owner.

xvi) Owners must indemnify the owners corporation for all of the costs of approving any plans, drawings or other documents or obtaining certification of the Skylight Installation Works or common property areas resulting from the Skylight incurred by the owners corporation (including legal costs) and will pay those amounts to the executive committee when requested or otherwise directed by it.

#### Right to Remedy Default

xvii) If Owners fail to comply with any obligation under this by-law, THEN the owners corporation may:

- a) carry out all work necessary to perform that obligation;
- b) enter upon any part of the parcel to carry out that work;
- c) recover the costs of carrying out that work from the defaulting Owner as a debt; and
- d) include reference to the debt on levy notices and any other levy reports or information.

xviii) Any debt for which the Owner is liable under this by-law, is due and payable on written demand or at the direction of the owners corporation and, 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 per cent or, if the regulations provide for another rate, that other rate and the interest will form part of that debt.

### **By-law 25 – Security access control devices**

#### **A. DEFINITIONS**

i) In this by-law, the following terms are defined to mean:

“Owners” means each of the owners in Strata Plan No. 55170.

“Security access control devices” means any keys, swipe cards or remote control devices issued by the Owners Corporation that allow access to common property areas.

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

#### **B. SCOPE OF BY-LAW**

iii) The Owners Corporation;

- (a) must provide a security access control device to an owner or occupier of a lot for the common areas including the gym and pool areas;

- (b) may limit the number of security access control devices provided to owners and occupiers of lots;

- (c) may charge a fee or bond for additional or replacement security access control devices

iv) An owner or occupier of a lot must:

- (a) take all reasonable steps not to lose security access control devices;

(b) return security access control devices to the Owners Corporation if no longer required or if moving out of the building; and

(c) notify the Owners Corporation immediately if a security access control devices is lost or stolen.

v) An owner or occupier of a lot must not:

(a) copy a security access control device;

(b) give a security access control device to someone who is not an owner or occupier.

vi) Security access control devices remain the property of the Owners Corporation.

## **By-law 26 – Courtyard maintenance**

### **PART 1**

#### **PART 1.1**

##### **GRANT OF RIGHT**

Notwithstanding anything contained in the by-laws applicable to the Scheme, in addition to the powers, authorities, duties and functions conferred or imposed on the Owners Corporation pursuant to the Act, the Owners Corporation shall have the additional powers, authorities, duties and functions to impose minimum standards of appearance and maintenance of the Courtyard containing Plants on the conditions set out in Part 3.

### **PART 1.2**

#### **THIS BY-LAW TO PREVAIL**

If there is any inconsistency between this by-law any other by-law applicable to the scheme, then the provisions of this by-law shall prevail to the extent of that inconsistency.

### **PART 2**

#### **DEFINITIONS & INTERPRETATION**

##### **2.1 Definitions**

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

(a) **Act** means the Strata Schemes Management Act, 1996 (NSW).

(b) **Authority** means any government, semi-government, statutory, public, private or other authority having any jurisdiction over the Lot or the Building including the Council.

(c) **Building** means the building situated at Marsfield Gardens 94-116 Culloden Road, Marsfield.

(d) **Council** means Ryde City Council.

(e) **Courtyard** means a courtyard area which includes a garden.

(f) **Essential Works** means any essential maintenance, repair, replacement, upgrading, or emergency works that the Owners Corporation is required to do under section 65 (1) of the Act or any other law to any part of common property structure or services including within a Lot.

(g) **Lot** means any lot with a Courtyard in strata plan number 55170.

(h) **Owner** means the owner(s) of the Lot.

(i) **Owners Corporation** means the owners corporation created by the registration of strata plan registration number 55170.

(j) **Plants** means any plants within the Courtyard.

(k) **Scheme** means the strata scheme created by the registration of strata plan registration number 55170.

(l) **Trees** being a plant that grows over 2 metres in height when mature.

## 2.2 Interpretation

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

- (a) the singular includes 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; and
- (e) reference to the Owner in this by-law includes any of the Owner's executors, administrators, successors, permitted assigns or transferees.

2.2.2 Despite anything contained in this by-law, 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**

The Owner or occupier of a Lot shall have the ongoing responsibility for the upkeep of the appearance of the Courtyard and shall:

- (a) ensure the Courtyard is kept in a tidy state to the satisfaction of the Owners Corporation;
- (b) ensure the Courtyard is kept free from rubbish and tree litter;
- (c) comply with all directions, orders and requirements of any Authority relating to the use and maintenance of the Courtyard, including any mandatory watering requirements imposed by any Authority including Council;
- (d) protect all affected areas of the Building outside the Lot from damage relating to the use and maintenance of the Courtyard;
- (e) use reasonable endeavours to ensure no nuisance is caused as a result of the use and maintenance of the Courtyard, including where relevant the prevention of water escape or noise;
- (f) maintain and upkeep those parts of the common property in contact with the Courtyard;
- (g) maintain the Courtyard, including the Plants or trees, by ensuring it is kept neatly lopped, pruned, healthy, fertilized (including but not limited to implementing weed control measures) and free from dead leaves;
- (h) obtain approval from the Owners Corporation if replacing or adding trees where such trees must be in keeping with the appearance, species and type of the other existing Plants in the Courtyard. Subject to the requirements of this by-law, no Owner or occupier shall remove Plants without first obtaining the approval of the Owners Corporation;
- (i) remain liable for any damage to any lot or common property arising out of or in connection with the use and maintenance of the Courtyard;
- (j) remove any Plants or trees which contravene the requirements of this by-law or any Authority and reinstate the Courtyard, as and when directed by the Owners Corporation;



(k) ensure that the use and maintenance of the Courtyard is not likely to disturb the peaceful enjoyment of the Owner or occupier of another lot;

(l) indemnify and keep indemnified the Owners Corporation against any costs or losses arising out of the use and maintenance of the Courtyard, including any liability in respect of the property of the Owner; and

(m) without derogating from the generality of paragraph (l) above, indemnifies and shall keep indemnified the Owners Corporation against any loss, damage to or destruction of the Courtyard caused howsoever by the Owners Corporation, its officers, employees, contractors or agents carrying out any Essential Works where the Owners or occupier is in breach of Part 4.

#### **PART 4 ESSENTIAL WORKS**

(a) In the event that the Owners Corporation is required to carry out Essential Works which may affect the Courtyard, the Owners Corporation shall give prior notice to the Owner (emergencies excepted).

(b) No Owner or occupier shall impede, inhibit, refuse, interfere with, restrict, hinder or obstruct the Owners Corporation's (or its officers, employees, contractors or agents) lawful entry and access to any part of the Courtyard to carry out Essential Works to the common property which may be attached to, in, under or about the Courtyard.

(c) The Owner acknowledges that the Owners Corporation shall have no obligation whatsoever to repair or reinstate any part of the lot damaged or destroyed by Essential Works where the Owner or occupier is in breach of paragraph (b).

(d) The Owners Corporation will have the power to recover from an Owner and/or Occupier, the cost to repair any damage caused to common property or to the property of another owner or occupier;

(e) The Owners Corporation will have the power to demand payment of moneys due under this by-law from an Owner or Occupier and recover this amount from the Owner or Occupier as a debt; and

(f) The Owners Corporation will have the power to include reference to such debt on notices under section 109 of the Act.

#### **By-law 27 – Limitation on occupiers of lots**

In order to address safety and security concerns for all members of the scheme, the owners corporation has determined it is appropriate to make the following restrictions in relation to the use of lots and common property:

(a) The number of persons permitted to sleep over night in a lot on more than 14 consecutive nights cannot exceed twice the number of bedrooms in the lot as specified in the strata plan (for example, the maximum of persons for a 2 bedroom lot is 4 persons);

(b) For the purpose of this by-law, 2 children under the age of 10 years equates to 1 adult;

(c) Persons occupying a lot in accordance with the limitation of this by-law are referred to as "permitted occupiers";

(d) The maximum number of permitted occupiers may be varied with the written consent of the owners corporation;

(e) No room may be subdivided, either permanently or temporarily, to create more rooms without the written consent of the owners corporation;

(f) By service of a written notice on a lot, the owners corporation or its authorised agent or representative is authorised to access and inspect the lot for the purpose of determining the number of occupiers to ensure compliance with this by-law;

(g) The written notice under this by-law is to be served on the lot, 48 hours prior to the inspection taking place.

(h) The executive committee is delegated the authority by the owners corporation to issue a written notice under this by-law.

### **By-law 28 – Use of recreational facilities**

In order to address safety and security concerns for all members of the strata scheme, the owners corporation has determined it is appropriate to make the following restrictions in relation to use of common property:

a) Each lot within the scheme has been issued with 1 security access control device to access the recreational facilities.

b) Use of the recreational facilities is to be limited to the permitted occupiers of the scheme and their accompanied guests.

c) Persons that are not permitted occupiers or their accompanied guests are prohibited from access to and use of any of the recreational facilities.

d) Permitted occupiers must agree to and follow, and ensure their accompanied guests follow, all advertised rules and terms & conditions of use of any of the recreational facilities.

e) The recreational facilities may not be used for commercial activities, group coaching or group training. Individual one on one coaching or training may be permitted but only with prior written consent from the Owners Corporation.

f) If the owners corporation becomes aware of a breach

- (i) of any of the above restrictions; or
- (ii) a by-law

the owners corporation may determine the security access control device for the residence(s) involved is to be cancelled.

g) The executive committee is delegated the authority by the owners corporation to make determinations to cancel a security access control device under this by-law.

h) The duration of the cancellation is determined by the executive committee;

i) Any exceptions are determined by written consent from the executive committee;

(i) A security access control device may be cancelled under this by-law with no notice to the lot owner and/or occupier.

### **Definitions**

**"Recreational Facilities"** refers to the basketball court, tennis court, and the pool, spa, sauna, change rooms and gymnasium housed in the one building and any other area deemed by the Executive Committee to be a Recreational Facility.

**"Security Access Control Device"** refers to the device used by residents to gain entry to the Recreational Facilities. It is often referred to as a 'swipe card' or 'access fob'.

**"Permitted Occupier"** refers to a person or persons as defined in By-Law 27 clause (c).

## **By-law 29 – Hard surface flooring works (all lots)**

### **1. Introduction**

1.1 This is a by-law made under Division 3 of Part 5 of Chapter 2 of the Act.

1.2 The purpose of this by-law is to:

- (a) REGULATE the installation, repair, maintenance, and replacement obligations for an Owner wishing to install the Works;
- (b) IMPOSE acoustic performance requirements for the Works;
- (c) PROHIBIT the installation or keeping of Works which do not meet the requirements of this by-law; and
- (d) EMPOWER the Owners Corporation to require removal of Works in case of breach of this by-law.

### **2. Definitions & Interpretation**

#### **2.1 Definitions**

In this by-law:

(a) "**5 Star Rating**" means the 5 Star Rating of the Association of Australian Acoustical Consultants from time to time, and for the time being:

- (i) Airborne Sound Insulation of not less than  $DnT,w + Ctr = 50$ ; and
- (ii) Impact Sound Isolation of not more than  $LnT,w = 45$ ,

or such other rating as the Owners Corporation may determine from time to time.

(b) "**Act**" means the *Strata Schemes Management Act, 1996* (NSW).

(c) "**Acoustic Certificate**" means an acoustic certificate prepared by a qualified acoustic engineer certifying that the Hard Surface Flooring, once installed, meets (or exceeds) the 5 Star Rating performance specified by this by-law.

(d) "**Authority**" means any statutory, governmental or other body having authority over the Lot or the Building including Council.

(e) "**Building**" means the building situated at 94 – 116 Culloden Road MARSFIELD NSW 2122.

(f) "**Conditions**" means the conditions specified in Clause 4.

(g) "**Council**" means Ryde City Council.

(h) "**Hard Surface Flooring**" means any flooring material whatsoever that is not carpet or covered by underlay including any hard surface flooring such as natural, synthetic or reconstituted stone or tiles, parquetry, natural wooden floor boards, engineered or other timber floor boards, linoleum, or such other materials comprising hard surface flooring within a Lot.

(i) "**Insurances**" means:

(i) Contractors' All Risks insurance cover taken out with a reputable insurer on terms approved by the Owners Corporation incorporating cover against public risk in respect of claims for death, injury, accident and damage occurring in the course of or by reason of the Works or their repair, maintenance or replacement;

- (ii) Workers' compensation insurance; and
- (iii) Public liability insurance for the amount of \$20,000,000.00.

(j) "**Lot**" means any lot in the Strata Scheme.

(k) "**Owner**" means the owner of the respective Lot.

(l) "**Owners Corporation**" means the owners corporation created on registration of the Strata Scheme.

(m) "**Strata Scheme**" means the strata scheme created upon registration of strata plan no 55170.

(n) "**WH & S Law**" means any work, health and safety law including the Work Health and Safety Act, 2011 (NSW) and the **Work Health and Safety Regulation, 2011** (NSW).

(o) "**Works**" means the works to be carried out by the Owner to Lot and common property for and in connection with the installation, repair, maintenance and replacement, if necessary, and/or removal of Hard Surface Flooring, together with the reinstatement of lot and common property (including the Lot) affected or damaged by any of the above works, all such works to be carried out strictly in accordance with the provisions of this by-law.

## 2.2 Interpretation

In this by-law:

- (a) headings are for reference only;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (e) any reference to an Owner or the Owners Corporation in this by-law includes their successors and permitted assigns;
- (f) the use of the word includes or including is not to be taken as limiting the meaning of the words preceding it;
- (g) reference to any statute includes all regulations and amendments to that statute and any statute passed in substitution for that statute or incorporating any of its provisions to the extent that they are incorporated;
- (h) any terms in this by-law which are not defined will have the same meaning as those defined in Act or the *Strata Schemes (Freehold Development) Act, 1973 (NSW)* respectively;
- (i) if any one or more of the provisions contained in this by-law shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this by-law will not be affected or impaired thereby and the invalid, illegal or unenforceable provision(s) shall be deemed severed or modified to the extent which is necessary to make the remainder of the provisions of this by-law enforceable;
- (j) if there is any inconsistency between any by-laws applicable to the Strata Scheme and this by-law, the provisions of this by-law shall prevail to the extent of the inconsistency;
- (k) where a specific number of a Lot is identified, reference is made to that specific Lot and corresponding Owner in the Strata Scheme; and

(l) reference to Works includes, where relevant, any ancillary equipment, fittings and other componentry of the Works whatsoever and any obligation under this by-law in respect of the Works applies to such ancillary equipment, fittings and componentry.

### 3. Grant of special privileges

Notwithstanding anything contained in the by-laws applicable to the Strata Scheme, but subject to the Owner's compliance with the Conditions, the Owner shall have the special privilege in respect of the common property to carry out and to keep the Works.

### 4. Conditions

#### 4.1 Before commencement of the Works

Before commencing the Works, the Owner shall, at its own cost:

(a) **(provide information)** provide to the Owners Corporation:

(i) a diagram showing the location of all parts of the Works; and

(ii) detailed information depicting the proposed specifications, method of installation and insulation, type, style and acoustic performance of the Hard Surface Works;

(b) **(submit a Section 52 by-law)** submit for the approval of the Owners Corporation a Section 52 by-law (together with any other requisite special resolutions) in respect of the Works (and incorporating the provisions of this by-law) in terms of the document attached at Annexure "A";

(c) **(obtain written authorisation)** obtain the written authorisation of the Owners Corporation to commence the Works;

(d) **(give consent)** give its written consent to the making of this by-law and to the repair and maintenance responsibilities imposed or conferred by this by-law in terms of the document attached at Annexure "B";

(e) **(approvals from Authorities)** obtain all necessary approvals/consents/permits from any Authority and provide a copy to the Owners Corporation;

(f) **(Insurances)** effect and maintain Insurances and provide a certificate of currency for the duration of the Works to the Owners Corporation;

(g) **(give notice)** give written notice to all occupiers at the Strata Scheme of the dates and times of its intended Works approved under this by-law; and

(h) **(costs)** pay all the costs of the Owners Corporation including:

(i) legal fees for reviewing the proposal for Hard Surface Flooring;

(ii) other reasonable professional fees required to properly consider or approve the proposal including strata management fees; and

(iii) registration fees for the Section 52 By-law, where relevant.

#### 4.2 Compliant Works generally

The Works must:

(a) **(no nuisance)** not cause any nuisance or other disturbance to an Owner or occupier of another lot in the Strata Scheme or any neighbouring property as a result of the completion of the Works and the Owner without limiting the generality of the foregoing an Owner shall ensure that the Works do not cause water escape or water penetration to lot or common property (including the Lot); and

(b) (**Authority's requirements**) have any approval, certification or other requisite documentation of any Authority and the Owner must strictly comply with the requirements, conditions and restrictions of any such approval, certification or other requisite documentation.

#### 4.3 Installation, repairs & maintenance

The Owner, when carrying out or effecting the Works (including, for clarity, its repair and maintenance and other obligations under this by-law), shall:

- (a) ensure the Works are carried out to "best practice" standards;
- (b) use duly licensed and insured employees, contractors and/or agents;
- (c) ensure compliance with the requirements of any Authority and/or the Owners Corporation;
- (d) ensure compliance with the current Australian Building Codes and Standards and WH & S Law;
- (e) ensure they are conducted expeditiously with a minimum of disruption;
- (f) ensure they are conducted in a proper and workmanlike manner;
- (g) effect and maintain the Insurances;
- (h) preserve the structural, fire and waterproofing integrity of the Building;
- (i) protect all affected areas of the Building from damage;
- (j) not store any items on or otherwise use any area of the common property except as may be permitted by this by-law or in writing by the Owners Corporation;
- (k) ensure that the Works are carried out between the hours of 8:00am and 4:00pm, Mondays – Fridays (public holidays excepted); and
- (l) be responsible for the Owner's employees, contractors and/or agents compliance with the requirements of this by-law.

#### 4.4 Access

An Owner shall provide to the Owners Corporation or its nominated representative(s) and any Authority access to inspect the Lot within twenty-four (24) hours of any request from time to time to assess compliance with this by-law and/or for the purposes of carrying out repair, maintenance, certification or registration of the common property that may adjoin the Works.

#### 4.5 On completion of the Works

##### (a) Acoustic Certificate

Within seven (7) days of the installation of the Hard Surface Flooring, an Owner shall provide at its own cost, the Acoustic Certificate to the Owners Corporation.

##### (b) Requirement to inhibit the transmission of noise or nuisance to another Lot

An Owner having Hard Surface Flooring approved under this by-law must take all reasonable daily measures to inhibit the transmission of noise to another Lot such as:

- (i) the removal of shoes likely to transmit noise;
- (ii) not playing or permitting ball games, jumping etc within the Lot;
- (iii) preventing or minimising vibrations emitted from the use of stereos, televisions, furniture or machinery; and

(ii) preventing or minimising any other noise likely to cause a nuisance to another Lot Owner or occupier as a result of the use of the Lot.

(c) Complaints

An Owner who has installed Hard Surface Flooring under this by-law and notwithstanding the provision of the Acoustic Certificate hereby agrees, in case the Owners Corporation receives a complaint in contravention of Clause 4.2(a) or 4.5(b), that the Hard Surface Flooring is creating a disturbance, to bear the cost of the Owners Corporation engaging an acoustic engineer to assess compliance with this by-law. In the event that the Owners Corporation's engineer deems the Works to be non-compliant, the Owner irrevocably agrees to do such acts and things as may be directed by the Owners Corporation's engineer, at the Owner's sole cost, to achieve compliance with this by-law (failing which, the provisions of Clause 5 shall apply).

4.6 Owner liable & Ownership

(a) The Owner remains liable for any loss or damage to any lot or common property (including the Lot) arising howsoever out of or in connection with the Works including their use.

(b) The Works remain the property of the respective Owner exclusively serviced by them whether or not that Owner installed the Works. For the avoidance of doubt, the Owner shall be responsible to effect and maintain proper insurances in respect of its property.

4.7 Indemnity

The Owner indemnifies and shall keep indemnified and save harmless the Owners Corporation against any costs, losses, actions, liability or expense whatsoever arising out of or in connection with:

- (a) the Works including their use, maintenance, repair or replacement;
- (b) breach of this by-law; and/or
- (c) the requirements of any Authority for or in respect of the Works.

5. Breach of this by-law

If the Owner breaches any term or condition of this by-law or if the Works contravene the requirements of any Authority, the Owners Corporation may, without prejudice to its other rights and remedies:

- (a) demand the removal of the Works and require the reinstatement of the common property, at the cost of the relevant Owner;
- (b) enter upon the Lot and have any necessary work carried out and recover the cost of such work from the Owner (such costs to bear simple interest at an annual rate of 10% if unpaid within one (1) month of demand by the Owners Corporation); and
- (c) recover as a debt the costs together with any interest payable and the expenses of the Owners Corporation incurred in recovering those amounts.

6. Applicability

This by-law binds and ensures to the benefit of any and all future Owners.

**By-law 30 – Ducted range hood works**

**1. Introduction**

1.1 This is a by-law made under Division 3 of Part 5 of Chapter 2 of the Act.

1.2 The purpose of this by-law is to:

- (a) REGULATE the installation, repair, maintenance, and replacement obligations for an Owner wishing to install the Works;
- (b) PROHIBIT the installation or keeping of Works which do not meet the requirements of this by-law; and
- (c) EMPOWER the Owners Corporation to require removal of Works in case of breach of this by-law.

## 2. Definitions & Interpretation

### 2.1 Definitions

In this by-law:

- (a) "**Act**" means the *Strata Schemes Management Act, 1996* (NSW).
- (b) "**Authority**" means any statutory, governmental or other body having authority over the Lot or the Building including Council.
- (c) "**Building**" means the building situated at 94 – 116 Culloden Road MARSFIELD NSW 2122.
- (d) "**Conditions**" means the conditions specified in Clause 4.
- (e) "**Council**" means Ryde City Council.
- (f) "**Ducted Range Hood**" means an extractor or ducted range hood which utilises a ducting system to extract and expel fumes from the kitchen of the Lot outside of the Building through a wall only as permitted under this by-law.
- (g) "**Insurances**" means:
  - (i) Contractors' All Risks insurance cover taken out with a reputable insurer on terms approved by the Owners Corporation incorporating cover against public risk in respect of claims for death, injury, accident and damage occurring in the course of or by reason of the Works or their repair, maintenance or replacement;
  - (ii) Workers' compensation insurance; and
  - (iii) Public liability insurance for the amount of \$20,000,000.00.
- (h) "**Lot**" means any lot in the Strata Scheme.
- (i) "**Owner**" means the owner of the respective Lot.
- (j) "**Owners Corporation**" means the owners corporation created on registration of the Strata Scheme.
- (k) "**Strata Scheme**" means the strata scheme created upon registration of strata plan no 55170.
- (l) "**WH & S Law**" means any work, health and safety law including the *Work Health and Safety Act, 2011* (NSW) and the *Work Health and Safety Regulation, 2011* (NSW).
- (m) "**Works**" means the works to be carried out by the Owner to Lot and common property for and in connection with the installation, repair, maintenance and replacement, if necessary, and/or removal of the Ducted Range Hood, together with the reinstatement of lot and common property (including the Lot) affected or damaged by any of the above works, all such works to be carried out strictly in accordance with the provisions of this by-law.

### 2.2 Interpretation

In this by-law:



- (a) headings are for reference only;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (e) any reference to an Owner or the Owners Corporation in this by-law includes their successors and permitted assigns;
- (f) the use of the word includes or including is not to be taken as limiting the meaning of the words preceding it;
- (g) reference to any statute includes all regulations and amendments to that statute and any statute passed in substitution for that statute or incorporating any of its provisions to the extent that they are incorporated;
- (h) any terms in this by-law which are not defined will have the same meaning as those defined in Act or the *Strata Schemes (Freehold Development) Act, 1973* (NSW) respectively;
- (i) if any one or more of the provisions contained in this by-law shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this by-law will not be affected or impaired thereby and the invalid, illegal or unenforceable provision(s) shall be deemed severed or modified to the extent which is necessary to make the remainder of the provisions of this by-law enforceable;
- (j) if there is any inconsistency between any by-laws applicable to the Strata Scheme and this by-law, the provisions of this by-law shall prevail to the extent of the inconsistency;
- (k) where a specific number of a Lot is identified, reference is made to that specific Lot and corresponding Owner in the Strata Scheme; and
- (l) reference to Works includes, where relevant, any ancillary equipment, fittings and other componentry of the Works whatsoever and any obligation under this by-law in respect of the Works applies to such ancillary equipment, fittings and componentry.

### **3. Grant of special privileges**

Notwithstanding anything contained in the by-laws applicable to the Strata Scheme, but subject to the Owner's compliance with the Conditions, the Owner shall have the special privilege in respect of the common property to carry out and to keep the Works.

### **4. Conditions**

#### **4.1 Before commencement of the Works**

Before commencing the Works, the Owner shall, at its own cost:

- (a) **(provide information)** provide to the Owners Corporation:
  - (i) a diagram showing the location of all parts of the Works; and
  - (ii) detailed information depicting the specifications, proposed method of installation and fire-rating of the Works;
- (b) **(submit a Section 52 by-law)** submit for the approval of the Owners Corporation a Section 52 by-law (together with any other requisite special resolutions) in respect of the Works (and incorporating the provisions of this by-law) in terms of the document attached at Annexure "A";

- (c) **(obtain written authorisation)** obtain the written authorisation of the Owners Corporation to commence the Works;
- (d) **(give consent)** give its written consent to the making of this by-law and to the repair and maintenance responsibilities imposed or conferred by this by-law in terms of the document attached at Annexure "B";
- (e) **(approvals from Authorities)** obtain all necessary approvals/consents/permits from any Authority and provide a copy to the Owners Corporation;
- (f) **(Insurances)** effect and maintain Insurances and provide a certificate of currency for the duration of the Works to the Owners Corporation;
- (g) **(give notice)** give written notice to all occupiers at the Strata Scheme of the dates and times of its intended Works approved under this by-law; and
- (h) **(costs)** pay all the costs of the Owners Corporation including:
  - (i) legal fees for reviewing the proposal for the Works;
  - (ii) other reasonable professional fees required to properly consider or approve the proposal including strata management fees; and
  - (iii) registration fees for the Section 52 By-law.

#### 4.2 Compliant Works

The Works must:

- (a) **(appearance & amenity)** be and remain in keeping with the appearance and amenity of the Building from time to time in the opinion of the Owners Corporation;
- (b) **(utilities)** where relevant, have any utilities or other services required to operate the Works connected to the Lot's supply or account;
- (c) **(no nuisance)** not cause any nuisance or other disturbance to an owner or occupier of another lot in the Strata Scheme or any neighbouring property and the Owner shall ensure that the Works do not cause water escape or water penetration to lot or common property (including the Lot);
- (d) **(sound-rating)** without derogating from the generality of the foregoing, with a sound-rating or noise emission level which shall not cause nuisance to any other Owner or occupier or neighbouring property;
- (e) **(Authority's requirements)** have any approval, certification or other requisite documentation of any Authority and the Owner must strictly comply with the requirements, conditions and restrictions of any such approval, certification or other requisite documentation;
- (f) **(ducting)** in respect of ducting exiting the Building be installed as follows (or as the Owners Corporation may otherwise prescribe or permit from time to time):
  - (g) **(location)** within the boundaries of the balcony wall of the Lot (or elsewhere as approved by the Owners Corporation in writing). For clarity, the ducting is not to be permitted to be installed through any window or roof of the Lot and must be installed a safe distance away from any gas or electric hobs and more particularly:
    - (i) In respect of townhouses within the Strata Scheme, the ducting must be installed within the boundaries of the wall facing onto the Lot's courtyard next to the kitchen window;
    - (ii) In respect of ground floor Lots with a courtyard within the Strata Scheme, the ducting must be installed within the boundaries of the wall facing the courtyard next to the kitchen window;

(iii) In respect of upper floor Lots with a balcony within the Strata Scheme, the ducting must be installed within the boundaries of the wall facing the balcony next to the kitchen window; and

(h) (**diameter**) the ducting's diameter must not exceed 150mm;

(i) (**colour**) with such coverings or coatings so as to match the exterior walls of the Building from time to time;

(j) (**flame retardant**) with such flame retardant and heat resistant materials as required by current Australian Building Codes and Standards; and

(k) (**preservation of damp course etc**) in such a manner so as not to interfere with or otherwise damage the damp course or other waterproofing of the Building.

#### 4.3 Installation, repairs & maintenance

The Owner, when carrying out or effecting the Works (including, for clarity, its cleaning, repair and maintenance and other obligations under this by-law), shall, without derogating from the other requirements of this by-law:

(a) ensure the Works are carried out to "best practice" standards;

(b) use duly licensed and insured employees, contractors and/or agents;

(c) ensure compliance with the requirements of any Authority and/or the Owners Corporation;

(d) ensure compliance with the current Australian Building Codes and Standards and WH & S Law;

(e) ensure they are conducted expeditiously with a minimum of disruption;

(f) ensure they are conducted in a proper and workmanlike manner;

(g) effect and maintain the Insurances;

(h) preserve the structural, fire and waterproofing integrity of the Building;

(i) protect all affected areas of the Building from damage;

(j) not store any items on or otherwise use any area of the common property except as may be permitted by this by-law or in writing by the Owners Corporation;

(k) ensure that the Works are carried out between the hours of 8:00am and 4:00pm, Mondays – Fridays (public holidays excepted); and

(l) be responsible for the Owner's employees, contractors and/or agents compliance with the requirements of this by-law.

#### 4.4 Access

An Owner shall provide to the Owners Corporation or its nominated representative(s) and any Authority access to inspect the Lot within twenty-four (24) hours of any request from time to time to assess compliance with this by-law and/or for the purposes of carrying out repair, maintenance, certification or registration of the common property that may adjoin the Works (but not the Works per se which remain the sole responsibility of the Owner).

#### 4.5 Clean & tidy

The Owner must keep the Works clean and tidy.

#### 4.6 Owner liable & Ownership

(a) The Owner remains liable for any loss or damage to any lot or common property (including the Lot) arising howsoever out of or in connection with the Works including their installation or use.

(b) The Works remain the property of the respective Owner exclusively serviced by them whether or not that Owner installed the Works. For the avoidance of doubt, the Owner shall be responsible to effect and maintain proper insurances in respect of its property.

#### 4.7 Indemnity

The Owner indemnifies and shall keep indemnified and save harmless the Owners Corporation against any costs, losses, actions, liability or expense whatsoever arising out of or in connection with:

- (a) the Works including their use, maintenance, repair or replacement;
- (b) breach of this by-law; and/or
- (c) the requirements of any Authority for or in respect of the Works.

#### 5. Breach of this by-law

If the Owner breaches any term or condition of this by-law or if the Works contravene the requirements of any Authority, the Owners Corporation may, without prejudice to its other rights and remedies:

- (d) demand the removal of the Works and require the reinstatement of the common property, at the cost of the relevant Owner; or
- (e) enter upon the Lot and have any necessary work carried out and recover the cost of such work from the Owner (such costs to bear simple interest at an annual rate of 10% if unpaid within one (1) month of demand by the Owners Corporation); and
- (f) recover as a debt the costs together with any interest payable and the expenses of the Owners Corporation incurred in recovering those amounts.

#### 6. Applicability

This by-law binds and ensures to the benefit of any and all future Owners.

##### **By-law 31 – Responsibility for damage**

The owner of a lot shall be responsible for any damage to common property caused by the owner or their occupier, including invitees, builders, tradesmen, couriers and removalists.

##### **By-law 32 – Recovery of costs (damage to common property)**

(1) In this by-law:

“**Appliances**” means all appliances, devices and machines at a relevant Lot, including but not limited to hot water tanks, hot water heaters, dishwashers, baths and all electrical appliances, whether or not owned by an Owner or Occupier.

“**Excess**” means any excess paid to the Owners Corporation’s insurer on a claim under its insurance policy relating to damage caused to Common Property by an Owner’s Appliance or by his or her Occupier’s Appliance and includes any increase in insurance premiums payable by the Owners Corporation attributable to that damage.

“**Invitee**” means an invitee of an Owner or Occupier.

(2) Every owner must ensure that neither the owner nor any occupier or their Invitee does or allows to happen anything within or on their lot or the common property which causes any damage to common property.

(3) Every owner must ensure that all of the Appliances in their lot do not cause any damage to common property.

(4) In the event that an owner breaches clause (2) or (3) of this by-law (so that common property requires repair), the owners corporation may:

(a) recover from that owner the cost of repairing the damage caused to common property; or

(b) if insurance pays for all of that damage to common property, recover from that owner any Excess relating to the insurance claim; or

(c) if insurance pays for part of that damage to common property, recover from that owner any Excess relating to the insurance claim and the remaining cost of repairing the damage caused to common property.

(5) The owners corporation may issue an invoice to any owner for any amount due under this by-law. Where the owner has notified the owners corporation of an address for service in accordance with the provisions of the *Strata Schemes Management Act (Management Act)*, that invoice may be sent to that address.

(6) Any debt which arises pursuant to this by-law is due and owing to the owners corporation whether or not an invoice is served on the person liable for payment.

(7) Any amount due to be paid to the owners corporation pursuant to this by-law will, if not paid at the end of one month after an invoice has issued in relation to that debt, bear simple interest at the annual rate set by the Management Act with respect to outstanding contributions.

(8) The owners corporation may recover as a debt interest calculated in accordance with clause (7).

(9) The owners corporation may recover all of its expenses, of any type whatsoever, incurred in the recovery of any debt (and interest) due under this by-law from any person liable for that debt (and interest) on an indemnity basis including but not limited to:

(a) all amounts payable by the owners corporation to the strata managing agent;

(b) the cost of issuing an invoice for the debt; and

(c) all legal costs incurred in connection with the recovery of the debt.

(10) The owners corporation will also be entitled to recover as a debt due by a person liable to make any payment under this by-law, the expenses of recovering any expenses for which that person is liable under this by-law.

(11) Any expense of the owners corporation which is recoverable pursuant to this by-law will become due and payable at such time as the owners corporation becomes liable to pay the expense.

(12) Any invoice issued by the owners corporation or the strata managing agent stating the amount recoverable by the owners corporation as a debt from the owner and the amount of interest due thereon, will be prima facie evidence of the matters set out in that invoice.

(13) The owners corporation is entitled to recover expenses under this by-law in either the same action or a separate action from the one in which it seeks to recover any other amount due under this by-law.

### **By-law 33 – Works (Lot No 27)**

The provisions of Special By-law No 30 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 27 in the Strata Scheme.

### **By-law 34 – Works (Lot No 97)**

The provisions of Special By-law No 30 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 97 in the Strata Scheme.

### **By-law 35 – Awning works (lot 5 – 10)**

#### **1. Introduction**

1.1 This is a by-law made under Division 3 of Part 5 of Chapter 2 of the Act.

1.2 The purpose of this by-law is to:

- (a) REGULATE the installation, repair, maintenance, and replacement obligations for an Owner wishing to install the Works;
- (b) PROHIBIT the installation or keeping of Works which do not meet the requirements of this by-law; and
- (c) EMPOWER the Owners Corporation to require removal of Works in case of breach of this by-law.

#### **2. Definitions & Interpretation**

##### **2.1 Definitions**

In this by-law:

- (a) "**Act**" means the *Strata Schemes Management Act, 1996* (NSW).
- (b) "**Authority**" means any statutory, governmental or other body having authority over the Lot or the Building including Council.
- (c) "**Building**" means the building situated at 94 – 116 Culloden Road MARSFIELD NSW 2122.
- (d) "**Conditions**" means the conditions specified in Clause 4.
- (e) "**Council**" means Ryde City Council.
- (f) "**Awning**" means a permanent roof structure with associated guttering and drainage fixed to an existing pergola installed within the courtyard of the Lot outside of the Building only as permitted under this by-law.
- (g) "**Insurances**" means:
  - (i) Contractors' All Risks insurance cover taken out with a reputable insurer on terms approved by the Owners Corporation incorporating cover against public risk in respect of claims for death, injury, accident and damage occurring in the course of or by reason of the Works or their repair, maintenance or replacement;
  - (ii) Workers' compensation insurance; and
  - (iii) Public liability insurance for the amount of \$20,000,000.00.

- (h) "**Lot**" means Lots 5 - 10 inclusive.
- (i) "**Owner**" means the owner of the respective Lot.
- (j) "**Owners Corporation**" means the owners corporation created on registration of the Strata Scheme.
- (k) "**Strata Scheme**" means the strata scheme created upon registration of strata plan no 55170.
- (l) "**WH & S Law**" means any work, health and safety law including the *Work Health and Safety Act, 2011 (NSW)* and the *Work Health and Safety Regulation, 2011 (NSW)*.
- (m) "**Works**" means the works to be carried out by the Owner to Lot and common property for and in connection with the installation, repair, maintenance and replacement, if necessary, and/or removal of the Awning, together with the reinstatement of lot and common property (including the Lot) affected or damaged by any of the above works, all such works to be carried out strictly in accordance with the provisions of this by-law.

## 2.2 Interpretation

In this by-law:

- (a) headings are for reference only;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (e) any reference to an Owner or the Owners Corporation in this by-law includes their successors and permitted assigns;
- (f) the use of the word includes or including is not to be taken as limiting the meaning of the words preceding it;
- (g) reference to any statute includes all regulations and amendments to that statute and any statute passed in substitution for that statute or incorporating any of its provisions to the extent that they are incorporated;
- (h) any terms in this by-law which are not defined will have the same meaning as those defined in Act or the *Strata Schemes (Freehold Development) Act, 1973 (NSW)* respectively;
- (i) if any one or more of the provisions contained in this by-law shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this by-law will not be affected or impaired thereby and the invalid, illegal or unenforceable provision(s) shall be deemed severed or modified to the extent which is necessary to make the remainder of the provisions of this by-law enforceable;
- (j) if there is any inconsistency between any by-laws applicable to the Strata Scheme and this by-law, the provisions of this by-law shall prevail to the extent of the inconsistency;
- (k) where a specific number of a Lot is identified, reference is made to that specific Lot and corresponding Owner in the Strata Scheme; and
- (l) reference to Works includes, where relevant, any ancillary equipment, fittings and other componentry of the Works whatsoever and any obligation under this by-law in respect of the Works applies to such ancillary equipment, fittings and componentry.

### 3. Grant of special privileges

Notwithstanding anything contained in the by-laws applicable to the Strata Scheme, but subject to the Owner's compliance with the Conditions, the Owner shall have the special privilege in respect of the common property to carry out and to keep the Works.

### 4. Conditions

#### 4.1 Before commencement of the Works

Before commencing the Works, the Owner shall, at its own cost:

(a) **(provide information)** provide to the Owners Corporation:

(i) a diagram showing the location of all parts of the Works; and

(ii) detailed information depicting the specifications, proposed method of installation of the Works;

(b) **(submit a Section 52 by-law)** submit for the approval of the Owners Corporation a Section 52 by-law (together with any other requisite special resolutions) in respect of the Works (and incorporating the provisions of this by-law) in terms of the document attached at Annexure "A";

(c) **(obtain written authorisation)** obtain the written authorisation of the Owners Corporation to commence the Works;

(d) **(give consent)** give its written consent to the making of this by-law and to the repair and maintenance responsibilities imposed or conferred by this by-law in terms of the document attached at Annexure "B";

(e) **(approvals from Authorities)** obtain all necessary approvals/consents/permits from any Authority and provide a copy to the Owners Corporation;

(f) **(Insurances)** effect and maintain Insurances and provide a certificate of currency for the duration of the Works to the Owners Corporation;

(g) **(give notice)** give written notice to all occupiers at the Strata Scheme of the dates and times of its intended Works approved under this by-law; and

(h) **(costs)** pay all the costs of the Owners Corporation including:

(i) legal fees for reviewing the proposal for the Works;

(ii) other reasonable professional fees required to properly consider or approve the proposal including strata management fees; and

(iii) registration fees for the Section 52 By-law.

#### 4.2 Compliant Works

The Works must:

(a) **(appearance & amenity)** be and remain in keeping with the appearance and amenity of the Building from time to time in the opinion of the Owners Corporation;

(b) **(utilities)** where relevant, have any utilities or other services required to operate the Works connected to the Lot's supply or account;



- (c) **(no nuisance)** not cause any nuisance or other disturbance to an owner or occupier of another lot in the Strata Scheme or any neighbouring property and the Owner shall ensure that the Works do not cause water escape or water penetration to lot or common property (including the Lot);
- (d) **(sound-rating)** without derogating from the generality of the foregoing, with a sound-rating or noise emission level which shall not cause nuisance to any other Owner or occupier or neighbouring property;
- (e) **(Authority's requirements)** have any approval, certification or other requisite documentation of any Authority and the Owner must strictly comply with the requirements, conditions and restrictions of any such approval, certification or other requisite documentation;
- (f) **(awning)** in respect of awnings attached to the Building to be installed as follows (or as the Owners Corporation may otherwise prescribe or permit from time to time);
- (g) **(location)** within the boundaries of the Lot:
  - (i) In respect to Lot 5 – 10 within the Strata Scheme, the awning must be installed within the boundaries of the wall facing onto the Lot's courtyard;
  - (ii) In respect of Lots 1-4 and 11-131, an awning MAY NOT be installed.
- (h) **(colour)** with such coverings or coatings as to match the exterior of the Building or as approved by the Executive Committee from time to time;
- (i) **(flame retardant)** with such flame retardant and heat resistant materials as required by current Australian Building Codes and Standards; and
- (j) **(preservation of damp course etc)** in such a manner so as not to interfere with or otherwise damage the damp course or other waterproofing of the Building.

#### **Installation, repairs & maintenance**

The Owner, when carrying out or effecting the Works (including, for clarity, its cleaning, repair and maintenance and other obligations under this by-law), shall, without derogating from the other requirements of this by-law:

- (a) ensure the Works are carried out to "best practice" standards;
- (b) use duly licensed and insured employees, contractors and/or agents;
- (c) ensure compliance with the requirements of any Authority and/or the Owners Corporation including providing an engineer's certificate for the Works upon request of the Executive Committee;
- (d) ensure compliance with the current Australian Building Codes and Standards and WH & S Law;
- (e) ensure they are conducted expeditiously with a minimum of disruption;
- (f) ensure they are conducted in a proper and workmanlike manner;
- (g) effect and maintain the Insurances;
- (h) preserve the structural, fire and waterproofing integrity of the Building;
- (i) protect all affected areas of the Building from damage;
- (j) not store any items on or otherwise use any area of the common property except as may be permitted by this by-law or in writing by the Owners Corporation;

(k) ensure that the Works are carried out between the hours of 8:00am and 4:00pm, Mondays – Fridays (public holidays excepted); and

(l) be responsible for the Owner's employees, contractors and/or agents compliance with the requirements of this by-law.

#### **4.3 Access**

An Owner shall provide to the Owners Corporation or its nominated representative(s) and any Authority access to inspect the Lot within twenty-four (24) hours of any request from time to time to assess compliance with this by-law and/or for the purposes of carrying out repair, maintenance, certification or registration of the common property that may adjoin the Works (but not the Works per se which remain the sole responsibility of the Owner).

#### **4.4 Clean & tidy**

The Owner must keep the Works clean and tidy.

#### **4.5 Owner liable & Ownership**

(a) The Owner remains liable for any loss or damage to any lot or common property (including the Lot) arising howsoever out of or in connection with the Works including their installation or use;

(b) The Works remain the property of the respective Owner exclusively serviced by them whether or not that Owner installed the Works. For the avoidance of doubt, the Owner shall be responsible to effect and maintain proper insurances in respect of its property.

(c) The Owner is liable for all costs for the removal and reinstatement of the awning if the common property pergola structure to which the awning is attached requires repair or replacement.

#### **4.6 Indemnity**

The Owner indemnifies and shall keep indemnified and save harmless the Owners Corporation against any costs, losses, actions, liability or expense whatsoever arising out of or in connection with:

(a) the Works including their use, maintenance, repair or replacement;

(b) breach of this by-law; and/or

(c) the requirements of any Authority for or in respect of the Works.

#### **5. Breach of this by-law**

If the Owner breaches any term or condition of this by-law or if the Works contravene the requirements of any Authority, the Owners Corporation may, without prejudice to its other rights and remedies:

(a) demand the removal of the Works and require the reinstatement of the common property, at the cost of the relevant Owner; or

(b) enter upon the Lot and have any necessary work carried out and recover the cost of such work from the Owner (such costs to bear simple interest at an annual rate of 10% if unpaid within one (1) month of demand by the Owners Corporation); and

(c) recover as a debt the costs together with any interest payable and the expenses of the Owners Corporation incurred in recovering those amounts.

## **6. Applicability**

This by-law binds and enures to the benefit of any and all future Owners.

**Annexure "A"**  
**Form of Special Resolution & Section 52 By-law**

**MOTION< >**

Subject to the by-law in the next succeeding motion being approved, The Owners – Strata Plan No 55170 SPECIALLY RESOLVE pursuant to Section 65A of the *Strata Schemes Management Act, 1996* (NSW) for the purpose of improving or enhancing the common property to specifically authorise the Works carried out by the owner of lot ..... to lot and common property on the terms and in the manner as set out in the by-law the subject of the next succeeding motion.

**Section 52 By-law**

**MOTION < >**

Subject to the preceding motion being passed, The Owners – Strata Plan No 55170 SPECIALLY RESOLVE pursuant to Section 52 of the *Strata Schemes Management Act, 1996* (NSW) to make a by-law in the following terms:

**SPECIAL BY-LAW NO < >**

**Works (Lot No .....)**

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The provisions of Special By-law No 35 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot ..... in the Strata Scheme.



**Annexure "B"**  
**FORM OF CONSENT**

The Registrar General  
Land & Property Management Authority  
Land & Property Information  
1 Prince Albert Road  
SYDNEY NSW 2000

Dear Registrar

**SPECIAL BY-LAW NO ... | BY-LAW FOR AWNING WORKS**  
**STRATA SCHEME SP55170, 94 – 116 CULLODEN ROAD MARSFIELD NSW 2122**  
**CONSENT PURSUANT TO SECTIONS 52 & 65A(4) of the *Strata Schemes***  
***Management Act, 1996 (NSW)***

I/we the Owner(s) of Lot ..... hereby consent to the making of Special By-law No ...  
proposed to be made at the \*extraordinary/\*annual general meeting on .....  
or at any adjournment of that meeting and the conferring or imposition on me/us of  
the ongoing responsibility to repair and maintain the works for Hard Surface  
Flooring to be carried out by me/us to my/our Lot and exclusively servicing my/our  
Lot on the terms and conditions set out in Special By-law No 35

Dated: .....

.....  
Signature of the Owner of Lot .....

.....  
Name of the Owner of Lot .....

.....  
Signature of the Owner of Lot .....

.....  
Name of the Owner of Lot .....

(\*Delete where not applicable)

Cc: *The Secretary*  
*The Owners – Strata Plan No 55170*  
*c/- Dynamic Property Services Pty Ltd*

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## **By-law 36 – Kitchen, laundry and bathroom works**

### **1. Introduction**

1.1 This by-law authorises Works to be conducted on Common Property by each Owner.

1.2 This by-law further grants to each Owner exclusive use of so much of the Works as comprise part of the Common Property so that the Owner may use and enjoy the benefit of the Works on certain terms and conditions.

### **2. Definitions & Interpretation**

2.1 In this by-law:

**"Building"** means the building to which the Works are attached.

**"Common Property"** means the common property for the Strata Scheme.

**"Development Act"** means the Strata Schemes (Freehold Development) Act 1973.

**"Executive Committee"** means the executive committee of the Owners Corporation.

**"Lot"** means all lots within the Strata Scheme.

**"Management Act"** means the Strata Schemes Management Act 1996.

**"Owner"** means the owner of a Lot for the time being and that owners successors in title. Where relevant a reference to Owner will be to the Owner who carried out or intends to carry out particular Works or whose Lot was benefited by particular Works.

**"Owners Corporation"** means the owners corporation for the Strata Scheme.

**"Strata Managing Agent"** means a strata managing agent appointed to the Strata Scheme pursuant to the Management Act.

**"Strata Plan"** means the strata plan for the Strata Scheme.

**"Strata Scheme"** means the Strata Scheme in respect of which this by-law applies.

**"Strata Legislation"** means the Development Act and the Management Act.

**"Works"** means:

(a) Bathroom renovations, including removal of tiles, removal of fixtures, waterproofing, new lights in the ceiling, new floor and wall tiles. New fixtures and affixing them to walls, new plumbing including chasing pipes into common property walls, new floor drains, affixing new fixtures to walls, extraction fans including ducting them through common property walls and ceilings, and all associated electrical and plumbing works; and

(b) Kitchen renovations, including removal of tiles and flooring, removal of fixtures, waterproofing if necessary, new lights in the ceiling, new flooring, new fixtures and affixing them to walls, new plumbing including chasing pipes into common property walls, new floor drains, extraction fans and rangehoods including ducting them through common property walls and ceilings and all associated electrical and plumbing works; and

(c) Laundry renovations, including removal of tiles, removal of fixtures, waterproofing, new lights in the ceiling, new floor and wall tiles. New fixtures and affixing them to walls, new plumbing including chasing pipes into common property walls, new floor drains, affixing new fixtures to walls, extraction fans including ducting them through common property walls and ceilings, and all associated electrical and plumbing works.

## **2.2 In this by-law**

2.2.1 headings have been inserted for guidance only and do not affect the interpretation of this by-law.

2.2.2 references to any statutory or like provisions include any statutory or like provisions amending, consolidating or replacing the same, and all by-laws, ordinances, proclamations, regulations, rules and other authorities made under them.

2.2.3 words importing the singular number include the plural and vice versa.

2.2.4 words importing the masculine, feminine or neuter gender include both of the other two genders.

2.2.5 where any word or phrase is given a definite meaning any part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

2.2.6 where any decision needs to be made by the Owners Corporation that decision may be made by the Executive Committee unless the decision would constitute a decision on any matter or type of matter that the Owners Corporation has determined in general meeting is to be decided only by the Owners Corporation in general meeting or is decision which can only be made by the Owners Corporation in general meeting pursuant to the Strata Legislation.

2.2.7 any expression used in this by-law and which is defined in the Strata Legislation will have the same meaning as that expression has in that legislation unless a contrary intention is expressed in this by-law. And

2.2.8 if there is any inconsistency between this by-law and any other by-law applicable to the Strata Scheme, then the provisions of this by-law will prevail to the extent of that inconsistency.

## **3. Authorisation and Right of Exclusive Use**

### **3.1 Authorisation**

3.1.1 Each Owner is specifically authorised to and has a special privilege to conduct the Works on the Common Property subject to obtaining the prior written consent from the Executive Committee.

3.1.2 Before commencing the Works, the Owner shall, at its own cost:

(a) **(provide information)** provide to the Owners Corporation:

(i) a diagram showing the location of all parts of the Works; and

(ii) detailed information depicting the proposed specifications, materials, method of installation and waterproofing of the Works;

### **3.2 The Grant of Exclusive Use**

3.2.1 Each Owner will have a right of exclusive use and enjoyment of so much of their Works as comprise part of the Common Property on the terms and conditions Set Out in this by-law.

### **3.3 Rights of the Owners Corporation**

3.3.1 The right of exclusive use and enjoyment granted to each Owner is subject to the Owners Corporation being able to obtain access to and the use of any part of that Common Property required for the purposes of fulfilling any obligation which the Owners Corporation may have under the Strata Legislation or any other law.

### **3.4 Responsibility for Maintenance and Upkeep**

3.4.1 Each Owner is responsible at all times for the proper maintenance of, and keeping in a state of good and serviceable repair, their Works and, when necessary, renewing or replacing any part of their Works.

## **4. Terms & Conditions**

### **4.1 Before Commencement of the Works**

4.1.1 Before commencing the Works each Owner must give the Owners Corporation and surrounding residents at least 14 days' notice of commencement.

4.1.2 The Works must not be conducted until this by-law is registered.

### **4.2 During the Conduct of the Works**

4.2.1 During the Works, an Owner must:

#### **4.2.1.1 Standard of Workmanship**

ensure the Works are carried Out in a proper and workmanlike manner by appropriately qualified and licensed tradespersons utilising only first quality materials which are good and suitable for the purpose for which they are used, including waterproofing all bathroom floors and other wet areas forming part of the Works (in a proper and workmanlike manner).

#### **4.2.1.2 Time for Completion of Works**

make sure the Works are carried Out with due diligence and are completed as soon as practicable from the date of commencement.

#### **4.2.1.3 Transportation of Construction Equipment**

ensure that all construction materials and equipment are transported in accordance with any manner reasonably directed by the Owners Corporation.

#### **4.2.1.4 Debris**

ensure that any debris is removed from the Common Property daily and strictly in accordance with the reasonable directions of the Owners Corporation.

#### **4.2.1.5 Storage of Building Materials on Common Property**

make sure that no building materials are stored on Common Property.

#### **4.2.1.6 Times for Renovations**

ensure that the Works are only carried Out between the hours of 8.00am – 4.00pm on Monday - Friday and are not performed on weekends or public holidays.

#### **4.2.1.7 Times for Operation of Noisy Equipment**

make sure that percussion tools and noisy equipment such as jack hammers and tile cutters are only used between 8.00am – 3.00pm Monday— Friday and are not performed on weekends or public holidays.

#### **4.2.1.8 Interruption to Services**

give the occupiers of other lots at least 48 hours prior notice of any planned interruption to the services in the Strata Scheme such as water, electricity, television, cable television.

#### **4.2.1.9 Vehicles**

ensure that no tradesperson's vehicles obstruct the Common Property other than on a temporary and non-recurring basis when delivering or removing materials or equipment and then only for such time as is reasonably necessary.

#### **4.2.1.10 Costs of Works**

pay all costs associated with the Works.



4.2.1.11 Comply with All Laws comply with all statutes, by-laws, regulations, rules and other laws for the time being in force and which are applicable to the Works, and

4.2.1.12 Right of Access

give the Owners Corporations nominated representative(s) access to inspect the Works within 48 hours of any requests from the Owners Corporation.

#### **4.3 After the Conduct of the Works**

4.3.1 After the Works are complete, each Owner must:

4.3.1.1 promptly notify the Owners Corporation that the Works are complete.

4.3.1.2 restore all Common Property damaged or affected by the Works as nearly as possible to the state which they were in immediately prior to commencement of the Works, and

4.3.1.3 provide the Owners Corporation's nominated representative(s) access to inspect the Works within 48 hours of any request from the Owners Corporation, in order to ascertain compliance with this by-law (the Owners Corporation's right to inspect the Works will expire once it is reasonably satisfied that the conditions of this by-law, have been complied with).

4.3.1.4 provide to the Owners Corporation copies of all warranties and certificates including but not limited to waterproofing

#### **4.4 Enduring Obligations**

Each Owner must:

4.4.1 make good any damage to another lot or the Common Property caused by the Works no matter when such damage may become evident, and

4.4.2 notify the Owners Corporation that any damage to another lot or the Common Property caused by the Works has been repaired, and

4.4.3 comply with all statutes, by-laws, regulations, rules and other laws for the time being in force and which are applicable to the Works (for example, the conditions of the Local Council's approval for the Works).

#### **4.5 Indemnity**

Each Owner indemnifies and keeps indemnified the Owners Corporation against all actions, proceedings, claims, demands, costs, damages and expenses which may be incurred by or brought or made against the Owners Corporation arising Out of the Works or the altered state or use of the Common Property arising therefrom.

#### **4.6 Access**

The Owners Corporation must give each Owner and the Owner's tradespersons reasonable access through the Common Property for the purpose of carrying Out the Works and enabling each Owner to comply with any condition imposed by this by-law.

#### **5.0 Breach of this By-Law**

5.1 If an Owner breaches any condition of this by-law and fails to rectify that breach within 30 days of service of a written notice from the Owners Corporation requiring rectification of that breach, then the Owners Corporation may

5.1.1 rectify any such breach.

5.1.2 enter on any part of the Common Property or the Lot, by its agents, employees or contractors for the purpose of rectifying any such breach, and

5.1.3 recover as a debt due from that Owner the costs of the rectification together with the expenses of the Owners Corporation incurred in recovering those costs including legal costs on an indemnity basis.

5.2 Nothing in this clause restricts the rights of or the remedies available to the Owners Corporation as a consequence of a breach of this by-law.

#### **By-law 37 – Works (Lot No 70)**

The provisions of Special By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 70 in the Strata Scheme.

#### **By-law 38 – Works (Lot No 112)**

The provisions of Special By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 112 in the Strata Scheme.

#### **By-law 39 – Works (Lot No 122)**

The provisions of Special By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 122 in the Strata Scheme.

#### **By-law 40 – Works (Lot No 16)**

The provisions of Special By-law No 30 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 16 in the Strata Scheme.

#### **By-law 41 – Smoke penetration**

(1) An owner or occupier, and any invitee of the owner or occupier, must not smoke tobacco or any other substance on the common property.

(2) 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.

#### **By-law 42 – 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.

#### **By-law 43 – Storage of inflammable liquids and other substances and materials**

(1) An owner or occupier of a lot must not, except with the prior written approval 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.

(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.

**By-law 44 – Compliance with planning and other requirements**

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

(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.

**By-law 45 – Lot 27 flooring works**

The provisions of Special By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 27 in the Strata Scheme

**By-law 46 – Lot 55 flooring works**

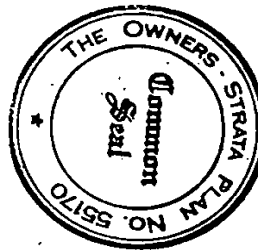
The provisions of Special By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 55 in the Strata Scheme

**By-law 47 – Recessed light fittings**

An owner of a lot is permitted to change and install recessed light fittings within any room of their Lot subject to complying with the provisions of Special By-law 36.

The seal of The Owners – Strata Plan No. 55170 was affixed on 27 June 2017 in the presence of the following person(s) authorised by Section 273 of the Strata Management Act 2015 to attest the affixing of the seal



Signature: 

Name: Lisa Branson

Authority: Duly Authorised Officer

**Approved Form 10**

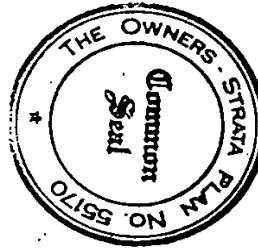
**Certificate re Initial Period**

The owners corporation certifies that in respect of the strata scheme:

that the initial period has expired.

~~the original proprietor owns all of the lots in the strata scheme and any purchaser under an exchanged contract for the purchase of a lot in the scheme has consented to any plan or dealing being lodged with this certificate.~~

The seal of The Owners - Strata Plan No. 55170  
was affixed on 27 June 2017  
in the presence of the following person(s) authorised  
by Section 273 of the Strata Management Act 2015  
to attest the affixing of the seal



Signature: 

Name: Lisa Branson

Authority: Duly Authorised Officer

Form: 15CH  
Release: 2.1

**CONSOLIDATION/  
CHANGE OF BY-LAWS**

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



**AP731514M**

**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/SP 55170				
(B) LODGED BY	<table border="1"><tr><td>Document Collection Box  <b>1W</b></td><td>Name, Address or DX, Telephone, and Customer Account Number if any DYNAMIC PROPERTY SERVICES DX 11643 SYDNEY DOWNTOWN Reference: <b>Lisa Branson Ph:02 9267 6334</b></td></tr></table>	Document Collection Box  <b>1W</b>	Name, Address or DX, Telephone, and Customer Account Number if any DYNAMIC PROPERTY SERVICES DX 11643 SYDNEY DOWNTOWN Reference: <b>Lisa Branson Ph:02 9267 6334</b>	<table border="1"><tr><td>CODE  <b>CH</b></td></tr></table>	CODE  <b>CH</b>
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CODE  <b>CH</b>					

- (C) The Owners-Strata Plan No. 55170 certify that a special resolution was passed on 18/07/2019
- (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. BY-LAW 59  
Amended by-law No. NOT APPLICABLE

as fully set out below:

See annexure

- (F) A consolidated list of by-laws affecting the above mentioned strata scheme and incorporating the change referred to at Note (E) is annexed hereto and marked as Annexure A
- (G) The seal of The Owners-Strata Plan No. 55170 was affixed on 26/11/2019 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:

Name: **Lisa Branson**

Authority: Duly Authorised Officer - Dynamic Property Services P/L  
Strata Managing Agent

Signature:

Name:

Authority:

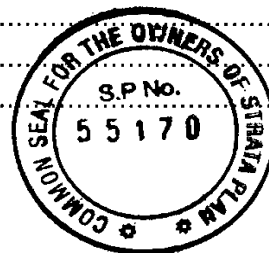


## ANNEXURE A

### **STRATA PLAN 55170**

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### **By-law 1 - Noise**

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

### **By-law 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 prior written approval of the owners corporation.

### **By-law 3 - Obstruction of common property**

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

### **By-law 4 - Damage to lawns and plants on common property**

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation:

- (a) damage any lawn, garden, tree, shrub, plant or flower being part of or situated on common property, or
- (b) use for his or her own purposes as a garden any portion of the common property.

### **By-law 5 - Damage to common property**

(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 except with the prior written approval of the owners corporation.

(2) An approval given by the owners corporation under subclause (1) cannot authorise any additions to the common property.

(3) This by-law does not prevent an owner or person authorised by an owner from installing:

(a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or

(b) any screen or other device to prevent entry of animals or insects on the lot, or

(c) any structure or device to prevent harm to children, or

(d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.

(4) Any such locking or safety device, screen, 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) Despite section 62, the owner of a lot must:

(a) maintain and keep in a state of good and serviceable repair any installation or structure referred to in subclause (3) that forms part of the common property and that services the lot, and

(b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or structure referred to in subclause (3) that forms part of the common property and that services the lot.



#### **By-law 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.

#### **By-law 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.

#### **By-law 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.

#### **By-law 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 or discarded item except with the prior written approval of the owners corporation.

#### **By-law 10 - Drying of laundry items**

An owner or occupier of a lot must not, except with the prior written approval 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 owners corporation for the purpose and there only for a reasonable period.

#### **By-law 11 - Cleaning windows and doors**

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

- (a) the owners corporation resolves that it will keep the glass or specified part of the glass clean, or
- (b) that glass or part of the glass cannot be accessed by the owner or occupier of the lot safely or at all.

#### **By-law 12 - Storage of inflammable liquids and other substances and materials**

- (1) An owner or occupier of a lot must not, except with the prior written approval 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.
- (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.

#### **By-law 13 - Moving furniture and other objects on or through common property**

- (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.

(2) An owners corporation may resolve that furniture or large objects are to be transported through or on the common property (whether in the building or not) in a specified manner.

(3) If the owners corporation has specified, by resolution, the manner in which furniture or large objects are to be transported, an owner or occupier of a lot must not transport any furniture or large object through or on common property except in accordance with that resolution.

#### **By-law 14 - Floor coverings**

(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.

(2) This by-law does not apply to floor space comprising a kitchen, laundry, lavatory or bathroom.

#### **By-law 15 - Garbage disposal**

(1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:

(a) must maintain such receptacles 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 (except in the case of receptacles for recyclable material) adequately covered, and

(b) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and

(c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles 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, recyclable material or waste is normally collected, and

(d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a),

(e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and

(f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.

(2) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:

(a) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and

(b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.

### **By-law 16 - Keeping of animals**

- (1) Subject to section 49 (4), an owner or occupier of a lot must not, without the prior written approval of the owners corporation, keep any animal (except fish kept in a secure aquarium on the lot) on the lot or the common property.
- (2) The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property.

### **By-law 17 - Appearance of lot**

- (1) The owner or occupier of a lot must not, without the prior written approval 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.
- (2) This by-law does not apply to the hanging of any washing, towel, bedding, clothing or other article as referred to in by-law 10.

### **By-law 18 - 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).

### **By-law 19 - Provision of amenities or services**

- (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:
  - (a) window cleaning,
  - (b) garbage disposal and recycling services,
  - (c) electricity, water or gas supply,
  - (d) telecommunication services (for example, cable television).
- (2) If the owners corporation makes a resolution referred to in subclause (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.

**Note:** Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

### **By-law 20 - Special use**

That the Owners of Lots 1-131 (Inclusive) be granted the right to install:

- (a) A split system mounted air conditioner within the courtyard of the townhouse lots.
- (b) That the Owners of Lots 1-131 (Inclusive) be liable to maintain, replace or renew at his/her expense any costs associated with the works.
- (c) The Owner shall indemnify the Owners Corporation against damage which may arise as a result of the installation, removal or damage to the equipment installed and reinstate in a workman like manner any damage done to common property.
- (d) The Owner shall comply with the standards as implemented by Ryde Council in relation to acceptable noise levels.

### **By-law 21 – Exclusive use by-law**

That the Owners of Lots 1-131 (Inclusive) be individually granted exclusive use of the ceiling cavity to install within their respective lot.

(a) A ducted air conditioning system.

(b) That the Owners of Lots 1-131 (Inclusive) be liable individually to maintain, replace or renew at his/her own expense any costs associated with the works.

(c) That the Owners of Lots 1-131 (Inclusive) individually shall indemnify the Owners Corporation against damage which may arise as a result of the installation, removal or damage to the equipment installed and reinstate in a workman like manner any damage done to common property.

(d) That the Owners shall comply with the standards as complemented by Ryde Council in relation to acceptable noise levels.

### **By-law 22 – Gas charges**

#### **A. DEFINITIONS**

i) The following terms are defined to mean:

"Townhouse Owners" means each of the Owners or Occupiers of Lots 1-27, 118 and 127-131 inclusive.

"Unit Owners" means each of the Owners or Occupiers of Lots 32-117 and 119-126 inclusive.

"Gas Charges" means the yearly costs of gas consumption by all Owners charged from time to time by the retail gas supplier, determined and measured on the common gas meter attached to the common property that services each Lot.

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

#### **B. SCOPE OF BY-LAW**

(iii) Townhouse Owners and Unit Owners are to pay the Gas Charges invoiced to the Owners Corporation according to the following table:

<b>Table of Gas Charges</b>		
Groups of Lot Owners	Gas Charges Payable	
	75%	25%
Townhouse Owners	—	To be shared with Unit Owners and divided between the two groups of Lot Owners according to their unit entitlements.
Unit Owners	To be divided amongst this group of Lot Owners according to their unit entitlement.	To be shared with Townhouse Owners and divided between the two groups of Lot Owners according to their unit entitlements.

#### **C. POWERS**

(iv) The Owners Corporation shall have the following additional powers, authorities, duties and functions:

(a) The authority to divide the Gas Charges according to this by-law;

- (b) The power to debit all Owners for their proportion of Gas Charges on a quarterly basis; and
- (c) The power to recover from any Owner their unpaid proportion of Gas Charges as a debt due to the Owners Corporation in any court of competent jurisdiction.

### **By-law 23 – Security locks**

#### **A. DEFINITIONS**

i) in this by-law, the following terms are defined to mean:

“Owners” means each of the owners or occupiers in Strata Plan No. 55170.

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

#### **B. SCOPE OF BY-LAW**

iii) Owners and occupiers must maintain, renew, replace and repair locks, hinges and any other security devices installed in the unit entry doors, balcony doors, garage doors and letter boxes (and so much of the common property as is necessary) adjacent to the boundary of their respective lots.

iv) All locks, hinges and security devices maintained, renewed, replaced or repaired under this by law must, where applicable:

- (a) comply with all fire safety laws and any other requirements relating to fire safety as determined by the owners corporation or other authority; and

- (b) be installed in a competent and proper manner and must have an appearance after installation in keeping with the appearance of the rest of the building.

v) Owners and occupiers will be liable for any damage caused to any part of the common property as a result of the activities carried out and contemplated in this by law and will make good that damage immediately after it has occurred.

vi) Owners and occupiers 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 locks, hinges and security devices maintained, renewed, replaced or repaired under this by law including liability under section 65(6) in respect of any property of any Owners or occupier.

vii) To the extent that it may be necessary, the owners corporation determines that:

- (a) it is inappropriate to maintain, renew, replace or repair the locks, hinges and any other security devices referred to in this by law; and

- (b) its decision will not affect the safety of any building, structure or common property in the strata scheme or detract from the appearance of any property in the strata scheme.

viii) If any Owner or occupier fails to comply with any obligation under this by law, THEN the owners corporation may:

- (a) carry out all work necessary to perform that obligation;

- (b) enter upon any part of the parcel to carry out that work; and

- (c) recover the costs of carrying out that work from the owner.

## **By-law 24 – Installation of skylights**

### **A. DEFINITIONS**

i) In this by-law, the following terms are defined to mean:

“Owners” means each of the owners in Strata Plan No. 55170.

“Skylight Installation Works” means the alterations and additions undertaken by Owners to install skylights to their lots (at their cost and to remain that Owner’s fixtures) and so much of the common property roof as is necessary (including all ancillary structures) both before and after the making of this by-law in accordance with plans and drawings submitted by Owners to the executive committee (where applicable) at a later date but prior to the Skylight Installation Works being carried out (where applicable).

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

### **B. SCOPE OF BY-LAW**

iii) Owners must not carry out the Skylight Installation Works except in accordance with the conditions in paragraph C of this by-law and any other conditions as may be determined by the executive committee from time to time.

### **C. CONDITIONS**

The following conditions C(iv) to C(x) apply to Skylight Installation Works that are to be carried out after the date of the making of this by-law.

#### **Before commencing the Skylight Installation Works**

iv) Owners must obtain the prior approval of the executive committee for the proposed Skylight Installation Works.

v) Owners must submit all documents relating to the Skylight Installation Works as may be reasonably required by the executive committee, including but not limited to:

- a) plans and drawings; and / or
- b) structural diagrams.

vi) Owners must also obtain written approval for the performance of the Skylight Installation Works from:

- a) the relevant consent authority under the Environmental Planning and Assessment Act; and
- b) any other relevant statutory authority whose requirements apply to the Skylight Installation Works.

vii) Owners must effect the following insurances in the joint names of the Owner and owners corporation:

- a) contractors all works insurance;
- b) insurance required under the Home Building Act (NSW) 1989 (if required);
- c) workers compensation insurance; and
- d) public liability insurance in the amount of \$10,000,000.

#### **While carrying out the Skylight Installation Works**

viii) While carrying out the Skylight Installation Works, Owners must:

- a) transport all construction materials, equipment, debris and other material, in the manner reasonably directed by the executive committee;
  - b) protect all areas of the building outside their respective lot from damage by the Skylight Installation Works or the transportation of construction materials, equipment, debris;
  - c) keep all areas of the building outside their respective lot clean and tidy throughout the performance of the Skylight Installation Works;
  - d) only perform the Skylight Installation Works at the times approved by the executive committee;
  - e) not create noise that causes unreasonable discomfort, disturbance or interference with activities of any other occupier of the building;
  - f) remove all debris resulting from the Skylight Installation Works immediately from the building; and
  - g) comply with the requirements of the owners corporation to comply with any by-laws and any relevant statutory authority concerning the performance of the Skylight Installation Works.
- ix) Owners must ensure that the Skylight Installation Works shall be done:
- a) in a proper and workmanlike manner and by duly licensed contractors; and
  - b) in accordance with the drawings and specifications approved by the local council and executive committee, and
  - c) in accordance with the Building Code of Australia and all applicable Australian Standards.

After completing the Skylight Installation Works

- x) Owners must deliver to the executive committee any document reasonably required by the executive committee.

The following conditions apply to Skylight Installation Works carried out both before and after the date of the making of this by-law.

- xi) Owners must properly maintain and keep the common property to which the Skylight Installation Works are erected or attached in a state of good and serviceable repair.
- xii) Owners must (at that Owner's cost) properly maintain and keep the Skylight Installation Works in a state of good and serviceable repair and must replace the Skylight Installation Works (or any part of them) as required from time to time.
- xiii) To the extent that s 62(3) is applicable, the owners corporation determines it is inappropriate to maintain, renew, replace or repair any common property affected by the Skylight Installation Works proposed under this by-law.

Liability and Indemnity

- xiv) Owners will be liable for any damage caused to any part of the common property as a result of the erection, attachment, replacement or removal of the Skylight Installation Works to the common property and will make good that damage immediately after it has occurred.

xv) Owners must indemnify the owners corporation against any loss or damage the owners corporation suffers as a result of the performance, maintenance, replacement or removal of the Skylight Installation Works on the common property including liability under section 65(6) in respect of any property of the Owner.

xvi) Owners must indemnify the owners corporation for all of the costs of approving any plans, drawings or other documents or obtaining certification of the Skylight Installation Works or common property areas resulting from the Skylight incurred by the owners corporation (including legal costs) and will pay those amounts to the executive committee when requested or otherwise directed by it.

#### Right to Remedy Default

xvii) If Owners fail to comply with any obligation under this by-law, THEN the owners corporation may:

- a) carry out all work necessary to perform that obligation;
- b) enter upon any part of the parcel to carry out that work;
- c) recover the costs of carrying out that work from the defaulting Owner as a debt; and
- d) include reference to the debt on levy notices and any other levy reports or information.

xviii) Any debt for which the Owner is liable under this by-law, is due and payable on written demand or at the direction of the owners corporation and, 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 per cent or, if the regulations provide for another rate, that other rate and the interest will form part of that debt.

### **By-law 25 – Security access control devices**

#### **A. DEFINITIONS**

i) In this by-law, the following terms are defined to mean:

“Owners” means each of the owners in Strata Plan No. 55170.

“Security access control devices” means any keys, swipe cards or remote control devices issued by the Owners Corporation that allow access to common property areas.

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

#### **B. SCOPE OF BY-LAW**

iii) The Owners Corporation;

- (a) must provide a security access control device to an owner or occupier of a lot for the common areas including the gym and pool areas;
- (b) may limit the number of security access control devices provided to owners and occupiers of lots;
- (c) may charge a fee or bond for additional or replacement security access control devices

iv) An owner or occupier of a lot must:

- (a) take all reasonable steps not to lose security access control devices;



- (b) return security access control devices to the Owners Corporation if no longer required or if moving out of the building; and
  - (c) notify the Owners Corporation immediately if a security access control devices is lost or stolen.
- v) An owner or occupier of a lot must not:
- (a) copy a security access control device;
  - (b) give a security access control device to someone who is not an owner or occupier.
- vi) Security access control devices remain the property of the Owners Corporation.

## **By-law 26 – Courtyard maintenance**

### **PART 1**

#### **PART 1.1**

##### **GRANT OF RIGHT**

Notwithstanding anything contained in the by-laws applicable to the Scheme, in addition to the powers, authorities, duties and functions conferred or imposed on the Owners Corporation pursuant to the Act, the Owners Corporation shall have the additional powers, authorities, duties and functions to impose minimum standards of appearance and maintenance of the Courtyard containing Plants on the conditions set out in Part 3.

#### **PART 1.2**

##### **THIS BY-LAW TO PREVAIL**

If there is any inconsistency between this by-law any other by-law applicable to the scheme, then the provisions of this by-law shall prevail to the extent of that inconsistency.

### **PART 2**

#### **DEFINITIONS & INTERPRETATION**

##### 2.1 Definitions

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

- (a) **Act** means the Strata Schemes Management Act, 1996 (NSW).
- (b) **Authority** means any government, semi-government, statutory, public, private or other authority having any jurisdiction over the Lot or the Building including the Council.
- (c) **Building** means the building situated at Marsfield Gardens 94-116 Culloden Road, Marsfield.
- (d) **Council** means Ryde City Council.
- (e) **Courtyard** means a courtyard area which includes a garden.
- (f) **Essential Works** means any essential maintenance, repair, replacement, upgrading, or emergency works that the Owners Corporation is required to do under section 65 (1) of the Act or any other law to any part of common property structure or services including within a Lot.
- (g) **Lot** means any lot with a Courtyard in strata plan number 55170.
- (h) **Owner** means the owner(s) of the Lot.
- (i) **Owners Corporation** means the owners corporation created by the registration of strata plan registration number 55170.

(j) **Plants** means any plants within the Courtyard.

(k) **Scheme** means the strata scheme created by the registration of strata plan registration number 55170.

(l) **Trees** being a plant that grows over 2 metres in height when mature.

## 2.2 Interpretation

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

- (a) the singular includes 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; and
- (e) reference to the Owner in this by-law includes any of the Owner's executors, administrators, successors, permitted assigns or transferees.

2.2.2 Despite anything contained in this by-law, 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**

The Owner or occupier of a Lot shall have the ongoing responsibility for the upkeep of the appearance of the Courtyard and shall:

- (a) ensure the Courtyard is kept in a tidy state to the satisfaction of the Owners Corporation;
- (b) ensure the Courtyard is kept free from rubbish and tree litter;
- (c) comply with all directions, orders and requirements of any Authority relating to the use and maintenance of the Courtyard, including any mandatory watering requirements imposed by any Authority including Council;
- (d) protect all affected areas of the Building outside the Lot from damage relating to the use and maintenance of the Courtyard;
- (e) use reasonable endeavours to ensure no nuisance is caused as a result of the use and maintenance of the Courtyard, including where relevant the prevention of water escape or noise;
- (f) maintain and upkeep those parts of the common property in contact with the Courtyard;
- (g) maintain the Courtyard, including the Plants or trees, by ensuring it is kept neatly lopped, pruned, healthy, fertilized (including but not limited to implementing weed control measures) and free from dead leaves;
- (h) obtain approval from the Owners Corporation if replacing or adding trees where such trees must be in keeping with the appearance, species and type of the other existing Plants in the Courtyard. Subject to the requirements of this by-law, no Owner or occupier shall remove Plants without first obtaining the approval of the Owners Corporation;
- (i) remain liable for any damage to any lot or common property arising out of or in connection with the use and maintenance of the Courtyard;
- (j) remove any Plants or trees which contravene the requirements of this by-law or any Authority and reinstate the Courtyard, as and when directed by the Owners Corporation;

(k) ensure that the use and maintenance of the Courtyard is not likely to disturb the peaceful enjoyment of the Owner or occupier of another lot;

(l) indemnify and keep indemnified the Owners Corporation against any costs or losses arising out of the use and maintenance of the Courtyard, including any liability in respect of the property of the Owner; and

(m) without derogating from the generality of paragraph (l) above, indemnifies and shall keep indemnified the Owners Corporation against any loss, damage to or destruction of the Courtyard caused howsoever by the Owners Corporation, its officers, employees, contractors or agents carrying out any Essential Works where the Owners or occupier is in breach of Part 4.

#### **PART 4 ESSENTIAL WORKS**

(a) In the event that the Owners Corporation is required to carry out Essential Works which may affect the Courtyard, the Owners Corporation shall give prior notice to the Owner (emergencies excepted).

(b) No Owner or occupier shall impede, inhibit, refuse, interfere with, restrict, hinder or obstruct the Owners Corporation's (or its officers, employees, contractors or agents) lawful entry and access to any part of the Courtyard to carry out Essential Works to the common property which may be attached to, in, under or about the Courtyard.

(c) The Owner acknowledges that the Owners Corporation shall have no obligation whatsoever to repair or reinstate any part of the lot damaged or destroyed by Essential Works where the Owner or occupier is in breach of paragraph (b).

(d) The Owners Corporation will have the power to recover from an Owner and/or Occupier, the cost to repair any damage caused to common property or to the property of another owner or occupier;

(e) The Owners Corporation will have the power to demand payment of moneys due under this by-law from an Owner or Occupier and recover this amount from the Owner or Occupier as a debt; and

(f) The Owners Corporation will have the power to include reference to such debt on notices under section 109 of the Act.

#### **By-law 27 – Limitation on occupiers of lots**

In order to address safety and security concerns for all members of the scheme, the owners corporation has determined it is appropriate to make the following restrictions in relation to the use of lots and common property:

(a) The number of persons permitted to sleep over night in a lot on more than 14 consecutive nights cannot exceed twice the number of bedrooms in the lot as specified in the strata plan (for example, the maximum of persons for a 2 bedroom lot is 4 persons);

(b) For the purpose of this by-law, 2 children under the age of 10 years equates to 1 adult;

(c) Persons occupying a lot in accordance with the limitation of this by-law are referred to as "permitted occupiers";

(d) The maximum number of permitted occupiers may be varied with the written consent of the owners corporation;

(e) No room may be subdivided, either permanently or temporarily, to create more rooms without the written consent of the owners corporation;

(f) By service of a written notice on a lot, the owners corporation or its authorised agent or representative is authorised to access and inspect the lot for the purpose of determining the number of occupiers to ensure compliance with this by-law;

(g) The written notice under this by-law is to be served on the lot, 48 hours prior to the inspection taking place.

(h) The executive committee is delegated the authority by the owners corporation to issue a written notice under this by-law.

### **By-law 28 – Use of recreational facilities**

In order to address safety and security concerns for all members of the strata scheme, the owners corporation has determined it is appropriate to make the following restrictions in relation to use of common property:

a) Each lot within the scheme has been issued with 1 security access control device to access the recreational facilities.

b) Use of the recreational facilities is to be limited to the permitted occupiers of the scheme and their accompanied guests.

c) Persons that are not permitted occupiers or their accompanied guests are prohibited from access to and use of any of the recreational facilities.

d) Permitted occupiers must agree to and follow, and ensure their accompanied guests follow, all advertised rules and terms & conditions of use of any of the recreational facilities.

e) The recreational facilities may not be used for commercial activities, group coaching or group training. Individual one on one coaching or training may be permitted but only with prior written consent from the Owners Corporation.

f) If the owners corporation becomes aware of a breach

- (i) of any of the above restrictions; or
- (ii) a by-law

the owners corporation may determine the security access control device for the residence(s) involved is to be cancelled.

g) The executive committee is delegated the authority by the owners corporation to make determinations to cancel a security access control device under this by-law.

h) The duration of the cancellation is determined by the executive committee;

i) Any exceptions are determined by written consent from the executive committee;

(i) A security access control device may be cancelled under this by-law with no notice to the lot owner and/or occupier.

### **Definitions**

**"Recreational Facilities"** refers to the basketball court, tennis court, and the pool, spa, sauna, change rooms and gymnasium housed in the one building and any other area deemed by the Executive Committee to be a Recreational Facility.

**"Security Access Control Device"** refers to the device used by residents to gain entry to the Recreational Facilities. It is often referred to as a 'swipe card' or 'access fob'.

**"Permitted Occupier"** refers to a person or persons as defined in By-Law 27 clause (c).

## **By-law 29 – Hard surface flooring works (all lots)**

### **1. Introduction**

1.1 This is a by-law made under Division 3 of Part 5 of Chapter 2 of the Act.

1.2 The purpose of this by-law is to:

- (a) REGULATE the installation, repair, maintenance, and replacement obligations for an Owner wishing to install the Works;
- (b) IMPOSE acoustic performance requirements for the Works;
- (c) PROHIBIT the installation or keeping of Works which do not meet the requirements of this by-law; and
- (d) EMPOWER the Owners Corporation to require removal of Works in case of breach of this by-law.

### **2. Definitions & Interpretation**

#### **2.1 Definitions**

In this by-law:

- (a) “**5 Star Rating**” means the 5 Star Rating of the Association of Australian Acoustical Consultants from time to time, and for the time being:
  - (i) Airborne Sound Insulation of not less than  $DnT,w + Ctr = 50$ ; and
  - (ii) Impact Sound Isolation of not more than  $LnT,w = 45$ ,or such other rating as the Owners Corporation may determine from time to time.
- (b) “**Act**” means the *Strata Schemes Management Act, 1996* (NSW).
- (c) “**Acoustic Certificate**” means an acoustic certificate prepared by a qualified acoustic engineer certifying that the Hard Surface Flooring, once installed, meets (or exceeds) the 5 Star Rating performance specified by this by-law.
- (d) “**Authority**” means any statutory, governmental or other body having authority over the Lot or the Building including Council.
- (e) “**Building**” means the building situated at 94 – 116 Culloden Road MARSFIELD NSW 2122.
- (f) “**Conditions**” means the conditions specified in Clause 4.
- (g) “**Council**” means Ryde City Council.
- (h) “**Hard Surface Flooring**” means any flooring material whatsoever that is not carpet or covered by underlay including any hard surface flooring such as natural, synthetic or reconstituted stone or tiles, parquetry, natural wooden floor boards, engineered or other timber floor boards, linoleum, or such other materials comprising hard surface flooring within a Lot.
- (i) “**Insurances**” means:
  - (i) Contractors’ All Risks insurance cover taken out with a reputable insurer on terms approved by the Owners Corporation incorporating cover against public risk in respect of claims for death, injury, accident and damage occurring in the course of or by reason of the Works or their repair, maintenance or replacement;

- (ii) Workers' compensation insurance; and
- (iii) Public liability insurance for the amount of \$20,000,000.00.

(j) "**Lot**" means any lot in the Strata Scheme.

(k) "**Owner**" means the owner of the respective Lot.

(l) "**Owners Corporation**" means the owners corporation created on registration of the Strata Scheme.

(m) "**Strata Scheme**" means the strata scheme created upon registration of strata plan no 55170.

(n) "**WH & S Law**" means any work, health and safety law including the Work Health and Safety Act, 2011 (NSW) and the **Work Health and Safety Regulation, 2011** (NSW).

(o) "**Works**" means the works to be carried out by the Owner to Lot and common property for and in connection with the installation, repair, maintenance and replacement, if necessary, and/or removal of Hard Surface Flooring, together with the reinstatement of lot and common property (including the Lot) affected or damaged by any of the above works, all such works to be carried out strictly in accordance with the provisions of this by-law.

## 2.2 Interpretation

In this by-law:

- (a) headings are for reference only;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (e) any reference to an Owner or the Owners Corporation in this by-law includes their successors and permitted assigns;
- (f) the use of the word includes or including is not to be taken as limiting the meaning of the words preceding it;
- (g) reference to any statute includes all regulations and amendments to that statute and any statute passed in substitution for that statute or incorporating any of its provisions to the extent that they are incorporated;
- (h) any terms in this by-law which are not defined will have the same meaning as those defined in Act or the *Strata Schemes (Freehold Development) Act, 1973 (NSW)* respectively;
- (i) if any one or more of the provisions contained in this by-law shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this by-law will not be affected or impaired thereby and the invalid, illegal or unenforceable provision(s) shall be deemed severed or modified to the extent which is necessary to make the remainder of the provisions of this by-law enforceable;
- (j) if there is any inconsistency between any by-laws applicable to the Strata Scheme and this by-law, the provisions of this by-law shall prevail to the extent of the inconsistency;
- (k) where a specific number of a Lot is identified, reference is made to that specific Lot and corresponding Owner in the Strata Scheme; and

(l) reference to Works includes, where relevant, any ancillary equipment, fittings and other componentry of the Works whatsoever and any obligation under this by-law in respect of the Works applies to such ancillary equipment, fittings and componentry.

### 3. Grant of special privileges

Notwithstanding anything contained in the by-laws applicable to the Strata Scheme, but subject to the Owner's compliance with the Conditions, the Owner shall have the special privilege in respect of the common property to carry out and to keep the Works.

### 4. Conditions

#### 4.1 Before commencement of the Works

Before commencing the Works, the Owner shall, at its own cost:

(a) **(provide information)** provide to the Owners Corporation:

(i) a diagram showing the location of all parts of the Works; and

(ii) detailed information depicting the proposed specifications, method of installation and insulation, type, style and acoustic performance of the Hard Surface Works;

(b) **(submit a Section 52 by-law)** submit for the approval of the Owners Corporation a Section 52 by-law (together with any other requisite special resolutions) in respect of the Works (and incorporating the provisions of this by-law) in terms of the document attached at Annexure "A";

(c) **(obtain written authorisation)** obtain the written authorisation of the Owners Corporation to commence the Works;

(d) **(give consent)** give its written consent to the making of this by-law and to the repair and maintenance responsibilities imposed or conferred by this by-law in terms of the document attached at Annexure "B";

(e) **(approvals from Authorities)** obtain all necessary approvals/consents/permits from any Authority and provide a copy to the Owners Corporation;

(f) **(Insurances)** effect and maintain Insurances and provide a certificate of currency for the duration of the Works to the Owners Corporation;

(g) **(give notice)** give written notice to all occupiers at the Strata Scheme of the dates and times of its intended Works approved under this by-law; and

(h) **(costs)** pay all the costs of the Owners Corporation including:

(i) legal fees for reviewing the proposal for Hard Surface Flooring;

(ii) other reasonable professional fees required to properly consider or approve the proposal including strata management fees; and

(iii) registration fees for the Section 52 By-law, where relevant.

#### 4.2 Compliant Works generally

The Works must:

(a) **(no nuisance)** not cause any nuisance or other disturbance to an Owner or occupier of another lot in the Strata Scheme or any neighbouring property as a result of the completion of the Works and the Owner without limiting the generality of the foregoing an Owner shall ensure that the Works do not cause water escape or water penetration to lot or common property (including the Lot); and

(b) (**Authority's requirements**) have any approval, certification or other requisite documentation of any Authority and the Owner must strictly comply with the requirements, conditions and restrictions of any such approval, certification or other requisite documentation.

#### 4.3 Installation, repairs & maintenance

The Owner, when carrying out or effecting the Works (including, for clarity, its repair and maintenance and other obligations under this by-law), shall:

- (a) ensure the Works are carried out to "best practice" standards;
- (b) use duly licensed and insured employees, contractors and/or agents;
- (c) ensure compliance with the requirements of any Authority and/or the Owners Corporation;
- (d) ensure compliance with the current Australian Building Codes and Standards and WH & S Law;
- (e) ensure they are conducted expeditiously with a minimum of disruption;
- (f) ensure they are conducted in a proper and workmanlike manner;
- (g) effect and maintain the Insurances;
- (h) preserve the structural, fire and waterproofing integrity of the Building;
- (i) protect all affected areas of the Building from damage;
- (j) not store any items on or otherwise use any area of the common property except as may be permitted by this by-law or in writing by the Owners Corporation;
- (k) ensure that the Works are carried out between the hours of 8:00am and 4:00pm, Mondays – Fridays (public holidays excepted); and
- (l) be responsible for the Owner's employees, contractors and/or agents compliance with the requirements of this by-law.

#### 4.4 Access

An Owner shall provide to the Owners Corporation or its nominated representative(s) and any Authority access to inspect the Lot within twenty-four (24) hours of any request from time to time to assess compliance with this by-law and/or for the purposes of carrying out repair, maintenance, certification or registration of the common property that may adjoin the Works.

#### 4.5 On completion of the Works

##### (a) Acoustic Certificate

Within seven (7) days of the installation of the Hard Surface Flooring, an Owner shall provide at its own cost, the Acoustic Certificate to the Owners Corporation.

##### (b) Requirement to inhibit the transmission of noise or nuisance to another Lot

An Owner having Hard Surface Flooring approved under this by-law must take all reasonable daily measures to inhibit the transmission of noise to another Lot such as:

- (i) the removal of shoes likely to transmit noise;
- (ii) not playing or permitting ball games, jumping etc within the Lot;
- (iii) preventing or minimising vibrations emitted from the use of stereos, televisions, furniture or machinery; and



- (ii) preventing or minimising any other noise likely to cause a nuisance to another Lot Owner or occupier as a result of the use of the Lot.

#### (c) Complaints

An Owner who has installed Hard Surface Flooring under this by-law and notwithstanding the provision of the Acoustic Certificate hereby agrees, in case the Owners Corporation receives a complaint in contravention of Clause 4.2(a) or 4.5(b), that the Hard Surface Flooring is creating a disturbance, to bear the cost of the Owners Corporation engaging an acoustic engineer to assess compliance with this by-law. In the event that the Owners Corporation's engineer deems the Works to be non-compliant, the Owner irrevocably agrees to do such acts and things as may be directed by the Owners Corporation's engineer, at the Owner's sole cost, to achieve compliance with this by-law (failing which, the provisions of Clause 5 shall apply).

#### 4.6 Owner liable & Ownership

(a) The Owner remains liable for any loss or damage to any lot or common property (including the Lot) arising howsoever out of or in connection with the Works including their use.

(b) The Works remain the property of the respective Owner exclusively serviced by them whether or not that Owner installed the Works. For the avoidance of doubt, the Owner shall be responsible to effect and maintain proper insurances in respect of its property.

#### 4.7 Indemnity

The Owner indemnifies and shall keep indemnified and save harmless the Owners Corporation against any costs, losses, actions, liability or expense whatsoever arising out of or in connection with:

- (a) the Works including their use, maintenance, repair or replacement;
- (b) breach of this by-law; and/or
- (c) the requirements of any Authority for or in respect of the Works.

#### 5. Breach of this by-law

If the Owner breaches any term or condition of this by-law or if the Works contravene the requirements of any Authority, the Owners Corporation may, without prejudice to its other rights and remedies:

- (a) demand the removal of the Works and require the reinstatement of the common property, at the cost of the relevant Owner;
- (b) enter upon the Lot and have any necessary work carried out and recover the cost of such work from the Owner (such costs to bear simple interest at an annual rate of 10% if unpaid within one (1) month of demand by the Owners Corporation); and
- (c) recover as a debt the costs together with any interest payable and the expenses of the Owners Corporation incurred in recovering those amounts.

#### 6. Applicability

This by-law binds and ensures to the benefit of any and all future Owners.

### **By-law 30 – Ducted range hood works**

#### **1. Introduction**

1.1 This is a by-law made under Division 3 of Part 5 of Chapter 2 of the Act.

1.2 The purpose of this by-law is to:

- (a) REGULATE the installation, repair, maintenance, and replacement obligations for an Owner wishing to install the Works;
- (b) PROHIBIT the installation or keeping of Works which do not meet the requirements of this by-law; and
- (c) EMPOWER the Owners Corporation to require removal of Works in case of breach of this by-law.

## 2. Definitions & Interpretation

### 2.1 Definitions

In this by-law:

- (a) "**Act**" means the *Strata Schemes Management Act, 1996* (NSW).
- (b) "**Authority**" means any statutory, governmental or other body having authority over the Lot or the Building including Council.
- (c) "**Building**" means the building situated at 94 – 116 Culloden Road MARSFIELD NSW 2122.
- (d) "**Conditions**" means the conditions specified in Clause 4.
- (e) "**Council**" means Ryde City Council.
- (f) "**Ducted Range Hood**" means an extractor or ducted range hood which utilises a ducting system to extract and expel fumes from the kitchen of the Lot outside of the Building through a wall only as permitted under this by-law.
- (g) "**Insurances**" means:
  - (i) Contractors' All Risks insurance cover taken out with a reputable insurer on terms approved by the Owners Corporation incorporating cover against public risk in respect of claims for death, injury, accident and damage occurring in the course of or by reason of the Works or their repair, maintenance or replacement;
  - (ii) Workers' compensation insurance; and
  - (iii) Public liability insurance for the amount of \$20,000,000.00.
- (h) "**Lot**" means any lot in the Strata Scheme.
- (i) "**Owner**" means the owner of the respective Lot.
- (j) "**Owners Corporation**" means the owners corporation created on registration of the Strata Scheme.
- (k) "**Strata Scheme**" means the strata scheme created upon registration of strata plan no 55170.
- (l) "**WH & S Law**" means any work, health and safety law including the *Work Health and Safety Act, 2011* (NSW) and the *Work Health and Safety Regulation, 2011* (NSW).
- (m) "**Works**" means the works to be carried out by the Owner to Lot and common property for and in connection with the installation, repair, maintenance and replacement, if necessary, and/or removal of the Ducted Range Hood, together with the reinstatement of lot and common property (including the Lot) affected or damaged by any of the above works, all such works to be carried out strictly in accordance with the provisions of this by-law.

### 2.2 Interpretation

In this by-law:

- (a) headings are for reference only;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (e) any reference to an Owner or the Owners Corporation in this by-law includes their successors and permitted assigns;
- (f) the use of the word includes or including is not to be taken as limiting the meaning of the words preceding it;
- (g) reference to any statute includes all regulations and amendments to that statute and any statute passed in substitution for that statute or incorporating any of its provisions to the extent that they are incorporated;
- (h) any terms in this by-law which are not defined will have the same meaning as those defined in Act or the *Strata Schemes (Freehold Development) Act, 1973* (NSW) respectively;
- (i) if any one or more of the provisions contained in this by-law shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this by-law will not be affected or impaired thereby and the invalid, illegal or unenforceable provision(s) shall be deemed severed or modified to the extent which is necessary to make the remainder of the provisions of this by-law enforceable;
- (j) if there is any inconsistency between any by-laws applicable to the Strata Scheme and this by-law, the provisions of this by-law shall prevail to the extent of the inconsistency;
- (k) where a specific number of a Lot is identified, reference is made to that specific Lot and corresponding Owner in the Strata Scheme; and
- (l) reference to Works includes, where relevant, any ancillary equipment, fittings and other componentry of the Works whatsoever and any obligation under this by-law in respect of the Works applies to such ancillary equipment, fittings and componentry.

### **3. Grant of special privileges**

Notwithstanding anything contained in the by-laws applicable to the Strata Scheme, but subject to the Owner's compliance with the Conditions, the Owner shall have the special privilege in respect of the common property to carry out and to keep the Works.

### **4. Conditions**

#### **4.1 Before commencement of the Works**

Before commencing the Works, the Owner shall, at its own cost:

- (a) **(provide information)** provide to the Owners Corporation:
  - (i) a diagram showing the location of all parts of the Works; and
  - (ii) detailed information depicting the specifications, proposed method of installation and fire-rating of the Works;
- (b) **(submit a Section 52 by-law)** submit for the approval of the Owners Corporation a Section 52 by-law (together with any other requisite special resolutions) in respect of the Works (and incorporating the provisions of this by-law) in terms of the document attached at Annexure "A";

- (c) (**obtain written authorisation**) obtain the written authorisation of the Owners Corporation to commence the Works;
- (d) (**give consent**) give its written consent to the making of this by-law and to the repair and maintenance responsibilities imposed or conferred by this by-law in terms of the document attached at Annexure "B";
- (e) (**approvals from Authorities**) obtain all necessary approvals/consents/permits from any Authority and provide a copy to the Owners Corporation;
- (f) (**Insurances**) effect and maintain Insurances and provide a certificate of currency for the duration of the Works to the Owners Corporation;
- (g) (**give notice**) give written notice to all occupiers at the Strata Scheme of the dates and times of its intended Works approved under this by-law; and
- (h) (**costs**) pay all the costs of the Owners Corporation including:
  - (i) legal fees for reviewing the proposal for the Works;
  - (ii) other reasonable professional fees required to properly consider or approve the proposal including strata management fees; and
  - (iii) registration fees for the Section 52 By-law.

#### 4.2 Compliant Works

The Works must:

- (a) (**appearance & amenity**) be and remain in keeping with the appearance and amenity of the Building from time to time in the opinion of the Owners Corporation;
- (b) (**utilities**) where relevant, have any utilities or other services required to operate the Works connected to the Lot's supply or account;
- (c) (**no nuisance**) not cause any nuisance or other disturbance to an owner or occupier of another lot in the Strata Scheme or any neighbouring property and the Owner shall ensure that the Works do not cause water escape or water penetration to lot or common property (including the Lot);
- (d) (**sound-rating**) without derogating from the generality of the foregoing, with a sound-rating or noise emission level which shall not cause nuisance to any other Owner or occupier or neighbouring property;
- (e) (**Authority's requirements**) have any approval, certification or other requisite documentation of any Authority and the Owner must strictly comply with the requirements, conditions and restrictions of any such approval, certification or other requisite documentation;
- (f) (**ducting**) in respect of ducting exiting the Building be installed as follows (or as the Owners Corporation may otherwise prescribe or permit from time to time):
  - (g) (**location**) within the boundaries of the balcony wall of the Lot (or elsewhere as approved by the Owners Corporation in writing). For clarity, the ducting is not to be permitted to be installed through any window or roof of the Lot and must be installed a safe distance away from any gas or electric hobs and more particularly:
    - (i) In respect of townhouses within the Strata Scheme, the ducting must be installed within the boundaries of the wall facing onto the Lot's courtyard next to the kitchen window;
    - (ii) In respect of ground floor Lots with a courtyard within the Strata Scheme, the ducting must be installed within the boundaries of the wall facing the courtyard next to the kitchen window;

(iii) In respect of upper floor Lots with a balcony within the Strata Scheme, the ducting must be installed within the boundaries of the wall facing the balcony next to the kitchen window; and

(h) (**diameter**) the ducting's diameter must not exceed 150mm;

(i) (**colour**) with such coverings or coatings so as to match the exterior walls of the Building from time to time;

(j) (**flame retardant**) with such flame retardant and heat resistant materials as required by current Australian Building Codes and Standards; and

(k) (**preservation of damp course etc**) in such a manner so as not to interfere with or otherwise damage the damp course or other waterproofing of the Building.

#### 4.3 Installation, repairs & maintenance

The Owner, when carrying out or effecting the Works (including, for clarity, its cleaning, repair and maintenance and other obligations under this by-law), shall, without derogating from the other requirements of this by-law:

(a) ensure the Works are carried out to "best practice" standards;

(b) use duly licensed and insured employees, contractors and/or agents;

(c) ensure compliance with the requirements of any Authority and/or the Owners Corporation;

(d) ensure compliance with the current Australian Building Codes and Standards and WH & S Law;

(e) ensure they are conducted expeditiously with a minimum of disruption;

(f) ensure they are conducted in a proper and workmanlike manner;

(g) effect and maintain the Insurances;

(h) preserve the structural, fire and waterproofing integrity of the Building;

(i) protect all affected areas of the Building from damage;

(j) not store any items on or otherwise use any area of the common property except as may be permitted by this by-law or in writing by the Owners Corporation;

(k) ensure that the Works are carried out between the hours of 8:00am and 4:00pm, Mondays – Fridays (public holidays excepted); and

(l) be responsible for the Owner's employees, contractors and/or agents compliance with the requirements of this by-law.

#### 4.4 Access

An Owner shall provide to the Owners Corporation or its nominated representative(s) and any Authority access to inspect the Lot within twenty-four (24) hours of any request from time to time to assess compliance with this by-law and/or for the purposes of carrying out repair, maintenance, certification or registration of the common property that may adjoin the Works (but not the Works per se which remain the sole responsibility of the Owner).

#### 4.5 Clean & tidy

The Owner must keep the Works clean and tidy.

#### 4.6 Owner liable & Ownership

(a) The Owner remains liable for any loss or damage to any lot or common property (including the Lot) arising howsoever out of or in connection with the Works including their installation or use.

(b) The Works remain the property of the respective Owner exclusively serviced by them whether or not that Owner installed the Works. For the avoidance of doubt, the Owner shall be responsible to effect and maintain proper insurances in respect of its property.

#### 4.7 Indemnity

The Owner indemnifies and shall keep indemnified and save harmless the Owners Corporation against any costs, losses, actions, liability or expense whatsoever arising out of or in connection with:

- (a) the Works including their use, maintenance, repair or replacement;
- (b) breach of this by-law; and/or
- (c) the requirements of any Authority for or in respect of the Works.

#### 5. Breach of this by-law

If the Owner breaches any term or condition of this by-law or if the Works contravene the requirements of any Authority, the Owners Corporation may, without prejudice to its other rights and remedies:

- (d) demand the removal of the Works and require the reinstatement of the common property, at the cost of the relevant Owner; or
- (e) enter upon the Lot and have any necessary work carried out and recover the cost of such work from the Owner (such costs to bear simple interest at an annual rate of 10% if unpaid within one (1) month of demand by the Owners Corporation); and
- (f) recover as a debt the costs together with any interest payable and the expenses of the Owners Corporation incurred in recovering those amounts.

#### 6. Applicability

This by-law binds and ensures to the benefit of any and all future Owners.

#### **By-law 31 – Responsibility for damage**

The owner of a lot shall be responsible for any damage to common property caused by the owner or their occupier, including invitees, builders, tradesmen, couriers and removalists.

#### **By-law 32 – Recovery of costs (damage to common property)**

(1) In this by-law:

“**Appliances**” means all appliances, devices and machines at a relevant Lot, including but not limited to hot water tanks, hot water heaters, dishwashers, baths and all electrical appliances, toilets and taps, whether or not owned by an Owner or Occupier.

“**Excess**” means any excess paid to the Owners Corporation’s insurer on a claim under its insurance policy relating to damage caused to Common Property by an Owner’s Appliance or by his or her Occupier’s Appliance and includes any increase in insurance premiums payable by the Owners Corporation attributable to that damage.

“**Invitee**” means an invitee of an Owner or Occupier.

(2) Every owner must ensure that neither the owner nor any occupier or their Invitee does or allows to happen anything within or on their lot or the common property which causes any damage to common property.

(3) Every owner must ensure that all of the Appliances in their lot do not cause any damage to common property.

(4) In the event that an owner breaches clause (2) or (3) of this by-law (so that common property requires repair), the owners corporation may:

(a) recover from that owner the cost of repairing the damage caused to common property; or

(b) if insurance pays for all of that damage to common property, recover from that owner any Excess relating to the insurance claim; or

(c) if insurance pays for part of that damage to common property, recover from that owner any Excess relating to the insurance claim and the remaining cost of repairing the damage caused to common property.

(5) The owners corporation may issue an invoice to any owner for any amount due under this by-law. Where the owner has notified the owners corporation of an address for service in accordance with the provisions of the *Strata Schemes Management Act (Management Act)*, that invoice may be sent to that address.

(6) Any debt which arises pursuant to this by-law is due and owing to the owners corporation whether or not an invoice is served on the person liable for payment.

(7) Any amount due to be paid to the owners corporation pursuant to this by-law will, if not paid at the end of one month after an invoice has issued in relation to that debt, bear simple interest at the annual rate set by the Management Act with respect to outstanding contributions.

(8) The owners corporation may recover as a debt interest calculated in accordance with clause (7).

(9) The owners corporation may recover all of its expenses, of any type whatsoever, incurred in the recovery of any debt (and interest) due under this by-law from any person liable for that debt (and interest) on an indemnity basis including but not limited to:

(a) all amounts payable by the owners corporation to the strata managing agent;

(b) the cost of issuing an invoice for the debt; and

(c) all legal costs incurred in connection with the recovery of the debt.

(10) The owners corporation will also be entitled to recover as a debt due by a person liable to make any payment under this by-law, the expenses of recovering any expenses for which that person is liable under this by-law.

(11) Any expense of the owners corporation which is recoverable pursuant to this by-law will become due and payable at such time as the owners corporation becomes liable to pay the expense.

(12) Any invoice issued by the owners corporation or the strata managing agent stating the amount recoverable by the owners corporation as a debt from the owner and the amount of interest due thereon, will be prima facie evidence of the matters set out in that invoice.

(13) The owners corporation is entitled to recover expenses under this by-law in either the same action or a separate action from the one in which it seeks to recover any other amount due under this by-law.

### **By-law 33 – Works (Lot No 27)**

The provisions of Special By-law No 30 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 27 in the Strata Scheme.

### **By-law 34 – Works (Lot No 97)**

The provisions of Special By-law No 30 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 97 in the Strata Scheme.

### **By-law 35 – Awning works (lot 5 – 10)**

#### **1. Introduction**

1.1 This is a by-law made under Division 3 of Part 5 of Chapter 2 of the Act.

1.2 The purpose of this by-law is to:

- (a) REGULATE the installation, repair, maintenance, and replacement obligations for an Owner wishing to install the Works;
- (b) PROHIBIT the installation or keeping of Works which do not meet the requirements of this by-law; and
- (c) EMPOWER the Owners Corporation to require removal of Works in case of breach of this by-law.

#### **2. Definitions & Interpretation**

##### **2.1 Definitions**

In this by-law:

- (a) "**Act**" means the *Strata Schemes Management Act, 1996* (NSW).
- (b) "**Authority**" means any statutory, governmental or other body having authority over the Lot or the Building including Council.
- (c) "**Building**" means the building situated at 94 – 116 Culloden Road MARSFIELD NSW 2122.
- (d) "**Conditions**" means the conditions specified in Clause 4.
- (e) "**Council**" means Ryde City Council.
- (f) "**Awning**" means a permanent roof structure with associated guttering and drainage fixed to an existing pergola installed within the courtyard of the Lot outside of the Building only as permitted under this by-law.
- (g) "**Insurances**" means:
  - (i) Contractors' All Risks insurance cover taken out with a reputable insurer on terms approved by the Owners Corporation incorporating cover against public risk in respect of claims for death, injury, accident and damage occurring in the course of or by reason of the Works or their repair, maintenance or replacement;
  - (ii) Workers' compensation insurance; and
  - (iii) Public liability insurance for the amount of \$20,000,000.00.



(h) "**Lot**" means Lots 5 - 10 inclusive.

(i) "**Owner**" means the owner of the respective Lot.

(j) "**Owners Corporation**" means the owners corporation created on registration of the Strata Scheme.

(k) "**Strata Scheme**" means the strata scheme created upon registration of strata plan no 55170.

(l) "**WH & S Law**" means any work, health and safety law including the *Work Health and Safety Act, 2011* (NSW) and the *Work Health and Safety Regulation, 2011* (NSW).

(m) "**Works**" means the works to be carried out by the Owner to Lot and common property for and in connection with the installation, repair, maintenance and replacement, if necessary, and/or removal of the Awning, together with the reinstatement of lot and common property (including the Lot) affected or damaged by any of the above works, all such works to be carried out strictly in accordance with the provisions of this by-law.

## 2.2 Interpretation

In this by-law:

(a) headings are for reference only;

(b) the singular includes the plural and vice versa;

(c) words denoting any gender include all genders;

(d) where a word or phrase is defined its other grammatical forms have a corresponding meaning;

(e) any reference to an Owner or the Owners Corporation in this by-law includes their successors and permitted assigns;

(f) the use of the word includes or including is not to be taken as limiting the meaning of the words preceding it;

(g) reference to any statute includes all regulations and amendments to that statute and any statute passed in substitution for that statute or incorporating any of its provisions to the extent that they are incorporated;

(h) any terms in this by-law which are not defined will have the same meaning as those defined in Act or the *Strata Schemes (Freehold Development) Act, 1973* (NSW) respectively;

(i) if any one or more of the provisions contained in this by-law shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this by-law will not be affected or impaired thereby and the invalid, illegal or unenforceable provision(s) shall be deemed severed or modified to the extent which is necessary to make the remainder of the provisions of this by-law enforceable;

(j) if there is any inconsistency between any by-laws applicable to the Strata Scheme and this by-law, the provisions of this by-law shall prevail to the extent of the inconsistency;

(k) where a specific number of a Lot is identified, reference is made to that specific Lot and corresponding Owner in the Strata Scheme; and

(l) reference to Works includes, where relevant, any ancillary equipment, fittings and other componentry of the Works whatsoever and any obligation under this by-law in respect of the Works applies to such ancillary equipment, fittings and componentry.

### 3. Grant of special privileges

Notwithstanding anything contained in the by-laws applicable to the Strata Scheme, but subject to the Owner's compliance with the Conditions, the Owner shall have the special privilege in respect of the common property to carry out and to keep the Works.

### 4. Conditions

#### 4.1 Before commencement of the Works

Before commencing the Works, the Owner shall, at its own cost:

(a) **(provide information)** provide to the Owners Corporation:

(i) a diagram showing the location of all parts of the Works; and

(ii) detailed information depicting the specifications, proposed method of installation of the Works;

(b) **(submit a Section 52 by-law)** submit for the approval of the Owners Corporation a Section 52 by-law (together with any other requisite special resolutions) in respect of the Works (and incorporating the provisions of this by-law) in terms of the document attached at Annexure "A";

(c) **(obtain written authorisation)** obtain the written authorisation of the Owners Corporation to commence the Works;

(d) **(give consent)** give its written consent to the making of this by-law and to the repair and maintenance responsibilities imposed or conferred by this by-law in terms of the document attached at Annexure "B";

(e) **(approvals from Authorities)** obtain all necessary approvals/consents/permits from any Authority and provide a copy to the Owners Corporation;

(f) **(Insurances)** effect and maintain Insurances and provide a certificate of currency for the duration of the Works to the Owners Corporation;

(g) **(give notice)** give written notice to all occupiers at the Strata Scheme of the dates and times of its intended Works approved under this by-law; and

(h) **(costs)** pay all the costs of the Owners Corporation including:

(i) legal fees for reviewing the proposal for the Works;

(ii) other reasonable professional fees required to properly consider or approve the proposal including strata management fees; and

(iii) registration fees for the Section 52 By-law.

#### 4.2 Compliant Works

The Works must:

(a) **(appearance & amenity)** be and remain in keeping with the appearance and amenity of the Building from time to time in the opinion of the Owners Corporation;

(b) **(utilities)** where relevant, have any utilities or other services required to operate the Works connected to the Lot's supply or account;

- (c) **(no nuisance)** not cause any nuisance or other disturbance to an owner or occupier of another lot in the Strata Scheme or any neighbouring property and the Owner shall ensure that the Works do not cause water escape or water penetration to lot or common property (including the Lot);
- (d) **(sound-rating)** without derogating from the generality of the foregoing, with a sound-rating or noise emission level which shall not cause nuisance to any other Owner or occupier or neighbouring property;
- (e) **(Authority's requirements)** have any approval, certification or other requisite documentation of any Authority and the Owner must strictly comply with the requirements, conditions and restrictions of any such approval, certification or other requisite documentation;
- (f) **(awning)** in respect of awnings attached to the Building to be installed as follows (or as the Owners Corporation may otherwise prescribe or permit from time to time);
- (g) **(location)** within the boundaries of the Lot:
  - (i) In respect to Lot 5 – 10 within the Strata Scheme, the awning must be installed within the boundaries of the wall facing onto the Lot's courtyard;
  - (ii) In respect of Lots 1-4 and 11-131, an awning MAY NOT be installed.
- (h) **(colour)** with such coverings or coatings as to match the exterior of the Building or as approved by the Executive Committee from time to time;
- (i) **(flame retardant)** with such flame retardant and heat resistant materials as required by current Australian Building Codes and Standards; and
- (j) **(preservation of damp course etc)** in such a manner so as not to interfere with or otherwise damage the damp course or other waterproofing of the Building.

#### **Installation, repairs & maintenance**

The Owner, when carrying out or effecting the Works (including, for clarity, its cleaning, repair and maintenance and other obligations under this by-law), shall, without derogating from the other requirements of this by-law:

- (a) ensure the Works are carried out to "best practice" standards;
- (b) use duly licensed and insured employees, contractors and/or agents;
- (c) ensure compliance with the requirements of any Authority and/or the Owners Corporation including providing an engineer's certificate for the Works upon request of the Executive Committee;
- (d) ensure compliance with the current Australian Building Codes and Standards and WH & S Law;
- (e) ensure they are conducted expeditiously with a minimum of disruption;
- (f) ensure they are conducted in a proper and workmanlike manner;
- (g) effect and maintain the Insurances;
- (h) preserve the structural, fire and waterproofing integrity of the Building;
- (i) protect all affected areas of the Building from damage;
- (j) not store any items on or otherwise use any area of the common property except as may be permitted by this by-law or in writing by the Owners Corporation;

(k) ensure that the Works are carried out between the hours of 8:00am and 4:00pm, Mondays – Fridays (public holidays excepted); and

(l) be responsible for the Owner's employees, contractors and/or agents compliance with the requirements of this by-law.

#### **4.3 Access**

An Owner shall provide to the Owners Corporation or its nominated representative(s) and any Authority access to inspect the Lot within twenty-four (24) hours of any request from time to time to assess compliance with this by-law and/or for the purposes of carrying out repair, maintenance, certification or registration of the common property that may adjoin the Works (but not the Works per se which remain the sole responsibility of the Owner).

#### **4.4 Clean & tidy**

The Owner must keep the Works clean and tidy.

#### **4.5 Owner liable & Ownership**

(a) The Owner remains liable for any loss or damage to any lot or common property (including the Lot) arising howsoever out of or in connection with the Works including their installation or use.

(b) The Works remain the property of the respective Owner exclusively serviced by them whether or not that Owner installed the Works. For the avoidance of doubt, the Owner shall be responsible to effect and maintain proper insurances in respect of its property.

(c) The Owner is liable for all costs for the removal and reinstatement of the awning if the common property pergola structure to which the awning is attached requires repair or replacement.

#### **4.6 Indemnity**

The Owner indemnifies and shall keep indemnified and save harmless the Owners Corporation against any costs, losses, actions, liability or expense whatsoever arising out of or in connection with:

(a) the Works including their use, maintenance, repair or replacement;

(b) breach of this by-law; and/or

(c) the requirements of any Authority for or in respect of the Works.

#### **5. Breach of this by-law**

If the Owner breaches any term or condition of this by-law or if the Works contravene the requirements of any Authority, the Owners Corporation may, without prejudice to its other rights and remedies:

(a) demand the removal of the Works and require the reinstatement of the common property, at the cost of the relevant Owner; or

(b) enter upon the Lot and have any necessary work carried out and recover the cost of such work from the Owner (such costs to bear simple interest at an annual rate of 10% if unpaid within one (1) month of demand by the Owners Corporation); and

(c) recover as a debt the costs together with any interest payable and the expenses of the Owners Corporation incurred in recovering those amounts.

## **6. Applicability**

This by-law binds and enures to the benefit of any and all future Owners.

**Annexure "A"**  
**Form of Special Resolution & Section 52 By-law**

**MOTION< >**

Subject to the by-law in the next succeeding motion being approved, The Owners – Strata Plan No 55170 SPECIALLY RESOLVE pursuant to Section 65A of the *Strata Schemes Management Act, 1996* (NSW) for the purpose of improving or enhancing the common property to specifically authorise the Works carried out by the owner of lot ..... to lot and common property on the terms and in the manner as set out in the by-law the subject of the next succeeding motion.

**Section 52 By-law**

**MOTION < >**

Subject to the preceding motion being passed, The Owners – Strata Plan No 55170 SPECIALLY RESOLVE pursuant to Section 52 of the *Strata Schemes Management Act, 1996* (NSW) to make a by-law in the following terms:

**SPECIAL BY-LAW NO < >**

**Works (Lot No .....)**

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The provisions of Special By-law No 35 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot ..... in the Strata Scheme.

**Annexure "B"**  
**FORM OF CONSENT**

The Registrar General  
Land & Property Management Authority  
Land & Property Information  
1 Prince Albert Road  
SYDNEY NSW 2000

Dear Registrar

**SPECIAL BY-LAW NO ... | BY-LAW FOR AWNING WORKS**  
**STRATA SCHEME SP55170, 94 – 116 CULLODEN ROAD MARSFIELD NSW 2122**  
**CONSENT PURSUANT TO SECTIONS 52 & 65A(4) of the *Strata Schemes***  
***Management Act, 1996 (NSW)***

I/we the Owner(s) of Lot ..... hereby consent to the making of Special By-law No ...  
proposed to be made at the \*extraordinary/\*annual general meeting on .....  
or at any adjournment of that meeting and the conferring or imposition on me/us of  
the ongoing responsibility to repair and maintain the works for Hard Surface  
Flooring to be carried out by me/us to my/our Lot and exclusively servicing my/our  
Lot on the terms and conditions set out in Special By-law No 35

Dated:

.....  
Signature of the Owner of Lot .....

.....  
Name of the Owner of Lot .....

.....  
Signature of the Owner of Lot .....

.....  
Name of the Owner of Lot .....

(\*Delete where not applicable)

Cc:    *The Secretary*  
          *The Owners – Strata Plan No 55170*  
          *c/- Dynamic Property Services Pty Ltd*

## **By-law 36 – Kitchen, laundry and bathroom works**

### **1. Introduction**

1.1 This by-law authorises Works to be conducted on Common Property by each Owner.

1.2 This by-law further grants to each Owner exclusive use of so much of the Works as comprise part of the Common Property so that the Owner may use and enjoy the benefit of the Works on certain terms and conditions.

### **2. Definitions & Interpretation**

2.1 In this by-law:

**"Building"** means the building to which the Works are attached.

**"Common Property"** means the common property for the Strata Scheme.

**"Development Act"** means the Strata Schemes (Freehold Development) Act 1973.

**"Executive Committee"** means the executive committee of the Owners Corporation.

**"Lot"** means all lots within the Strata Scheme.

**"Management Act"** means the Strata Schemes Management Act 1996.

**"Owner"** means the owner of a Lot for the time being and that owners successors in title. Where relevant a reference to Owner will be to the Owner who carried out or intends to carry out particular Works or whose Lot was benefited by particular Works.

**"Owners Corporation"** means the owners corporation for the Strata Scheme.

**"Strata Managing Agent"** means a strata managing agent appointed to the Strata Scheme pursuant to the Management Act.

**"Strata Plan"** means the strata plan for the Strata Scheme.

**"Strata Scheme"** means the Strata Scheme in respect of which this by-law applies.

**"Strata Legislation"** means the Development Act and the Management Act.

**"Works"** means:

(a) Bathroom renovations, including removal of tiles, removal of fixtures, waterproofing, new lights in the ceiling, new floor and wall tiles. New fixtures and affixing them to walls, new plumbing including chasing pipes into common property walls, new floor drains, affixing new fixtures to walls, extraction fans including ducting them through common property walls and ceilings, and all associated electrical and plumbing works; and

(b) Kitchen renovations, including removal of tiles and flooring, removal of fixtures, waterproofing if necessary, new lights in the ceiling, new flooring, new fixtures and affixing them to walls, new plumbing including chasing pipes into common property walls, new floor drains, extraction fans and rangehoods including ducting them through common property walls and ceilings and all associated electrical and plumbing works; and

(c) Laundry renovations, including removal of tiles, removal of fixtures, waterproofing, new lights in the ceiling, new floor and wall tiles. New fixtures and affixing them to walls, new plumbing including chasing pipes into common property walls, new floor drains, affixing new fixtures to walls, extraction fans including ducting them through common property walls and ceilings, and all associated electrical and plumbing works.



## 2.2 In this by-law

2.2.1 headings have been inserted for guidance only and do not affect the interpretation of this by-law.

2.2.2 references to any statutory or like provisions include any statutory or like provisions amending, consolidating or replacing the same, and all by-laws, ordinances, proclamations, regulations, rules and other authorities made under them.

2.2.3 words importing the singular number include the plural and vice versa.

2.2.4 words importing the masculine, feminine or neuter gender include both of the other two genders.

2.2.5 where any word or phrase is given a definite meaning any part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

2.2.6 where any decision needs to be made by the Owners Corporation that decision may be made by the Executive Committee unless the decision would constitute a decision on any matter or type of matter that the Owners Corporation has determined in general meeting is to be decided only by the Owners Corporation in general meeting or is decision which can only be made by the Owners Corporation in general meeting pursuant to the Strata Legislation.

2.2.7 any expression used in this by-law and which is defined in the Strata Legislation will have the same meaning as that expression has in that legislation unless a contrary intention is expressed in this by-law. And

2.2.8 if there is any inconsistency between this by-law and any other by-law applicable to the Strata Scheme, then the provisions of this by-law will prevail to the extent of that inconsistency.

## 3. Authorisation and Right of Exclusive Use

### 3.1 Authorisation

3.1.1 Each Owner is specifically authorised to and has a special privilege to conduct the Works on the Common Property subject to obtaining the prior written consent from the Executive Committee.

3.1.2 Before commencing the Works, the Owner shall, at its own cost:

(a) **(provide information)** provide to the Owners Corporation:

(i) a diagram showing the location of all parts of the Works; and

(ii) detailed information depicting the proposed specifications, materials, method of installation and waterproofing of the Works;

### 3.2 The Grant of Exclusive Use

3.2.1 Each Owner will have a right of exclusive use and enjoyment of so much of their Works as comprise part of the Common Property on the terms and conditions Set Out in this by-law.

### 3.3 Rights of the Owners Corporation

3.3.1 The right of exclusive use and enjoyment granted to each Owner is subject to the Owners Corporation being able to obtain access to and the use of any part of that Common Property required for the purposes of fulfilling any obligation which the Owners Corporation may have under the Strata Legislation or any other law.

### **3.4 Responsibility for Maintenance and Upkeep**

3.4.1 Each Owner is responsible at all times for the proper maintenance of, and keeping in a state of good and serviceable repair, their Works and, when necessary, renewing or replacing any part of their Works.

## **4. Terms & Conditions**

### **4.1 Before Commencement of the Works**

4.1.1 Before commencing the Works each Owner must give the Owners Corporation and surrounding residents at least 14 days' notice of commencement.

4.1.2 The Works must not be conducted until this by-law is registered.

### **4.2 During the Conduct of the Works**

4.2.1 During the Works, an Owner must:

#### **4.2.1.1 Standard of Workmanship**

ensure the Works are carried Out in a proper and workmanlike manner by appropriately qualified and licensed tradespersons utilising only first quality materials which are good and suitable for the purpose for which they are used, including waterproofing all bathroom floors and other wet areas forming part of the Works (in a proper and workmanlike manner).

#### **4.2.1.2 Time for Completion of Works**

make sure the Works are carried Out with due diligence and are completed as soon as practicable from the date of commencement.

#### **4.2.1.3 Transportation of Construction Equipment**

ensure that all construction materials and equipment are transported in accordance with any manner reasonably directed by the Owners Corporation.

#### **4.2.1.4 Debris**

ensure that any debris is removed from the Common Property daily and strictly in accordance with the reasonable directions of the Owners Corporation.

#### **4.2.1.5 Storage of Building Materials on Common Property**

make sure that no building materials are stored on Common Property.

#### **4.2.1.6 Times for Renovations**

ensure that the Works are only carried Out between the hours of 8.00am – 4.00pm on Monday - Friday and are not performed on weekends or public holidays.

#### **4.2.1.7 Times for Operation of Noisy Equipment**

make sure that percussion tools and noisy equipment such as jack hammers and tile cutters are only used between 8.00am – 3.00pm Monday— Friday and are not performed on weekends or public holidays.

#### **4.2.1.8 Interruption to Services**

give the occupiers of other lots at least 48 hours prior notice of any planned interruption to the services in the Strata Scheme such as water, electricity, television, cable television.

#### **4.2.1.9 Vehicles**

ensure that no tradesperson's vehicles obstruct the Common Property other than on a temporary and non-recurring basis when delivering or removing materials or equipment and then only for such time as is reasonably necessary.

#### **4.2.1.10 Costs of Works**

pay all costs associated with the Works.

4.2.1.11 Comply with All Laws comply with all statutes, by-laws, regulations, rules and other laws for the time being in force and which are applicable to the Works, and

4.2.1.12 Right of Access

give the Owners Corporations nominated representative(s) access to inspect the Works within 48 hours of any requests from the Owners Corporation.

#### **4.3 After the Conduct of the Works**

4.3.1 After the Works are complete, each Owner must:

4.3.1.1 promptly notify the Owners Corporation that the Works are complete.

4.3.1.2 restore all Common Property damaged or affected by the Works as nearly as possible to the state which they were in immediately prior to commencement of the Works, and

4.3.1.3 provide the Owners Corporation's nominated representative(s) access to inspect the Works within 48 hours of any request from the Owners Corporation, in order to ascertain compliance with this by-law (the Owners Corporation's right to inspect the Works will expire once it is reasonably satisfied that the conditions of this by-law, have been complied with).

4.3.1.4 provide to the Owners Corporation copies of all warranties and certificates including but not limited to waterproofing

#### **4.4 Enduring Obligations**

Each Owner must:

4.4.1 make good any damage to another lot or the Common Property caused by the Works no matter when such damage may become evident, and

4.4.2 notify the Owners Corporation that any damage to another lot or the Common Property caused by the Works has been repaired, and

4.4.3 comply with all statutes, by-laws, regulations, rules and other laws for the time being in force and which are applicable to the Works (for example, the conditions of the Local Council's approval for the Works).

#### **4.5 Indemnity**

Each Owner indemnifies and keeps indemnified the Owners Corporation against all actions, proceedings, claims, demands, costs, damages and expenses which may be incurred by or brought or made against the Owners Corporation arising Out of the Works or the altered state or use of the Common Property arising therefrom.

#### **4.6 Access**

The Owners Corporation must give each Owner and the Owner's tradespersons reasonable access through the Common Property for the purpose of carrying Out the Works and enabling each Owner to comply with any condition imposed by this by-law.

#### **5.0 Breach of this By-Law**

5.1 If an Owner breaches any condition of this by-law and fails to rectify that breach within 30 days of service of a written notice from the Owners Corporation requiring rectification of that breach, then the Owners Corporation may

5.1.1 rectify any such breach.

5.1.2 enter on any part of the Common Property or the Lot, by its agents, employees or contractors for the purpose of rectifying any such breach, and

5.1.3 recover as a debt due from that Owner the costs of the rectification together with the expenses of the Owners Corporation incurred in recovering those costs including legal costs on an indemnity basis.

5.2 Nothing in this clause restricts the rights of or the remedies available to the Owners Corporation as a consequence of a breach of this by-law.

#### **By-law 37 – Works (Lot No 70)**

The provisions of Special By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 70 in the Strata Scheme.

#### **By-law 38 – Works (Lot No 112)**

The provisions of Special By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 112 in the Strata Scheme.

#### **By-law 39 – Works (Lot No 122)**

The provisions of Special By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 122 in the Strata Scheme.

#### **By-law 40 – Works (Lot No 16)**

The provisions of Special By-law No 30 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 16 in the Strata Scheme.

#### **By-law 41 – Smoke penetration**

(1) An owner or occupier, and any invitee of the owner or occupier, must not smoke tobacco or any other substance on the common property.

(2) 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.

#### **By-law 42 – 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.

#### **By-law 43 – Storage of inflammable liquids and other substances and materials**

(1) An owner or occupier of a lot must not, except with the prior written approval 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.

(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.

#### **By-law 44 – Compliance with planning and other requirements**

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

(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.

#### **By-law 45 – Lot 27 flooring works**

The provisions of Special By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 27 in the Strata Scheme

#### **By-law 46 – Lot 55 flooring works**

The provisions of Special By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 55 in the Strata Scheme

#### **By-law 47 – Recessed light fittings**

An owner of a lot is permitted to change and install recessed light fittings within any room of their Lot subject to complying with the provisions of Special By-law 36.

#### **By-law 48 – Building 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.

### **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.

### **1.9 Application**

Before commencing Permitted Work hereunder, the Authorised Owner (or a person claiming to be an Authorised Owner) ("**Applicant**") must provide to the strata committee of the owners corporation a notice in the form at Annexure C setting out the following:

(a) A description of the proposed work including drawings, plans and specifications sufficiently clear and detailed to allow the strata committee to determine whether, in its view, the proposed work is Permitted Work hereunder.

(b) Evidence, to the reasonable satisfaction of the strata committee, that the other provisions hereof applying to the proposed work are or would be complied with.

(c) Evidence, to the reasonable satisfaction of the strata committee, that the Applicant is an Authorised Owner hereunder, and that the Applicant has (or will) comply with the obligations they have (or will have) hereunder in respect of the proposed work.

(d) Their irrevocable and unconditional consent to the making of a by-law by the owners corporation after completion of the proposed Works substantially in the form of the by-law set out in Annexure D to this By-Law.

The owners corporation may, at its discretion, elect to charge a fee to the Applicant in connection with the giving of a notice under this clause in an amount determined by the strata committee (acting reasonably) from time to time, in which case the Applicant must, immediately upon demand, pay that fee.

### **1.10 Conditions**

The conditions within this by-law must be in accordance with the building's registered by-laws 20, 21, 29 and 36.

## **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**

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**

### **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 each lot in the strata scheme severally;

**Authorised Owner** means the following owners (and, within the 2 years following the making hereof, only the following owners in respect of whose lot written consent was provided—whether by that owner or a former owner—to the making hereof):

(a) the owner of an Authorised Lot, but only in relation to the Authorised Lot owned by that Owner;

(b) where there is more than one owner of that Authorised Lot, means those owners jointly and severally, but only in relation to that Authorised Lot; and

(c) where there is more than one Authorised Lot owned by that owner or owners, means that owner or those owners (joint and severally) in respect of each such Authorised Lot 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 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 55170; and

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

### **By-law 49 – Rules**

- (1) The Strata Committee may make Rules about the security, control, management, operation, use and enjoyment of the Building. Rules must comply with and be consistent with the by-laws and the Act.
- (2) The Strata Committee may add to, delete or change the Rules at anytime.
- (3) An Owner or Occupier must comply with the Rules.
- (4) If a Rule is inconsistent with a by-law or the Act, the by-laws or Act prevails to the extent of the inconsistency.
- (5) Any Owner or Occupier may obtain a copy of the current Rules on reasonable notice from the Strata Manager.

### **By-law 50 – Lot 13 – Insertion of core hole**

#### **Scope of By-law**

- 1) This by-law grants the Owner special privileges subject to the provisions of this by-law.
- 2) The Owners Corporation consents to the grant of special privileges.
- 3) To the extent of any inconsistency with previous by-laws and any common property memorandum, this by-law prevails.

#### **Definitions**

- 4) In this by-law:
  - a) **Act** means the Strata Schemes Management Act 2015 (NSW).
  - b) **Owner** means the owner or owners of lot 13 from time to time in Strata Plan No. 55170.
  - c) **Special privileges** means the rights to carry out and maintain the works that alter and add to the common property (Works) including:
    - i) Drilling a core hole from the centre point of the garage ceiling through to the kitchen area of Lot 13; and
    - ii) works ancillary and necessary for the Works including preparation finishing, and sealing.

#### **Conditions for the Works**

- 5) The Owner must ensure that the Works are in keeping with the overall appearance of the building.
- 6) The Owner obtains the requisite approval for the Works under the Environmental Planning and Assessment Act 1979 (NSW) and any other relevant statutory authority as required at the time of carrying out the Works.
- 7) The Owner provides the Owners Corporation with any documents relating to the Works upon its reasonable request at the time of carrying out the Works.
- 8) The Owner warrants that the Works comply with requisite building standards set out in the National Construction Code and Building Code of Australia (as applicable), current at the time of carrying out the Works.

- 9) The Works are completed by duly licensed and insured contractors, in a proper and workmanlike manner.
- 10) The Works are carried out at times suitable to the Owners Corporation, or in accordance with Local Government requirements.
- 11) The Owner complies with the reasonable requests of the Owners Corporation for access and egress to the building in respect of the carrying out of the Works by their contractors.
- 12) The Owner uses their reasonable endeavours to conduct the Works at the suitable times, as determined by clause 10, and to reduce the impact of noise, dust and debris resulting from the Works.
- 13) The Owner warrants that the Works will not affect the structural integrity of the building, nor any existing fire safety measures that are the responsibility of the Owners Corporation.
- 14) The Owner warrants that the Works, should they affect any waterproofing in the building, will be sealed to preserve the integrity of the existing waterproofing using techniques pursuant to clause 8.

#### **Liability for Maintenance and Repair**

- 15) The Owner must, at their cost, maintain and keep the Works in a state of good and serviceable repair.
- 16) The Owner is liable for maintaining and keeping the Works in a state of good and serviceable repair.
- 17) If the Works are required to be removed or replaced in full or in part, the Owner is responsible for that replacement or removal.
- 18) For the avoidance of doubt, the Owners Corporation determines, pursuant to section 108 of the Act, that the Owner is responsible for the ongoing maintenance of the Works, including upkeep and any necessary renewal.

#### **Indemnity**

- 19) The Owner indemnifies the Owners Corporation against:
  - a) legal liability, loss, claim or proceedings for injury, loss or damage to the common property as a direct result of the Works; and
  - b) Amounts payable for increased fire safety or local authority compliance as a direct result of the Works.
- 20) The Owners Corporation reserves its rights to pursue the Owner to enforce its indemnity.

#### **Breach of By-law**

- 21) The Owners Corporation reserves the right to remediate a breach of this by-law by repairing or replacing the Works, or recovering any loss from the Owner, should that breach not be rectified within a reasonable time after the Owners Corporation has notified the Owner in writing to rectify the breach.
- 22) The Owner must pay the costs associated with the making of this by-law.

### **By-law 51 – Lot 72 flooring works**

The provisions of By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 72 in the Strata Scheme

### **By-law 52 – Lot 34 flooring works**

The provisions of By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 34 in the Strata Scheme

### **By-law 53 – Lot 9 flooring works**

The provisions of By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 9 in the Strata Scheme

### **By-Law 54 – Lot 108 flooring works**

The provisions of By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 108 in the Strata Scheme

### **By-Law 55 – Lot 13 flooring works**

The provisions of By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 13 in the Strata Scheme

### **By-Law 56 – Lot 16 flooring works**

The provisions of By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 16 in the Strata Scheme

### **By-Law 57 – Lot 84 flooring works**

The provisions of By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 84 in the Strata Scheme

### **By-Law 58 – Lot 79 flooring works**

The provisions of By-law No 29 are adopted for the purposes of this by-law as if fully set out herein with the exception of the amendment or the definition of "Lot" as follows:

"Lot" means lot 79 in the Strata Scheme

## **By-Law 59 – Lot 79 bathroom works**

*A by-law with respect to lot 79 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**

### **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 79 in the strata scheme bearing folio identifier 79/SP56529;

**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 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 56529; and

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

## **Annexure A 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 B      Scope of Works**

### **1 Scope of Works**

#### **1.1 Ensuite Bathroom**

Renovation of the ensuite bathroom of the Authorised Lot including:

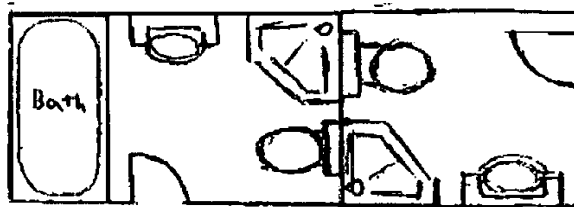
- (a) removal of all fixtures, fittings, cabinetry, shower, toilet suite and vanity;
- (b) installation of new fixtures, fittings, cabinetry, shower, toilet suite and vanity;
- (c) removal of floor and wall tiling;
- (d) installation of new floor and wall tiling including waterproofing works; and
- (e)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

#### **1.2 Main Bathroom**

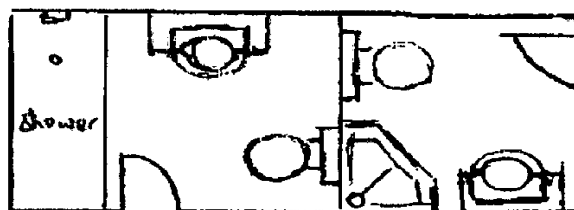
Renovation of the main bathroom of the Authorised Lot including:

- (a) removal of all fixtures, fittings, cabinetry, bath tub, shower, toilet suite and vanity;
- (b) installation of new fixtures, fittings, cabinetry, 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.

*Before*



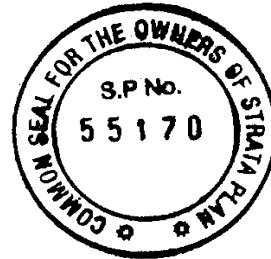
*After*



The seal of The Owners – Strata Plan No. 55170  
was affixed on 26 November 2019  
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:

Name: Lisa Branson  
Authority: Duly Authorised Officer  
Dynamic Property Services  
Strata Managing Agent





**Infotrack Pty Ltd**  
**Dx 578**  
**SYDNEY NSW 2001**

**Issue Date:** 29 July 2022  
**Certificate No:** PLN2022/3126  
**Your Ref:** 2838

## PLANNING CERTIFICATE SECTION 10.7

NSW Environmental Planning and Assessment Act 1979 ('Act')

**Property Address:** 93/94-116 Culloden Rd MARSFIELD NSW 2122  
**Legal Description:** Lot 89 SP 57169  
**Property Reference:** 537945  
**Land Reference:** 36593

### INFORMATION PROVIDED PURSUANT TO SECTION 10.7(2) OF THE ACT AND SCHEDULE 4 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

#### 1. NAMES OF RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS AND DEVELOPMENT CONTROL PLANS

##### a) LOCAL ENVIRONMENTAL PLAN AND DEEMED ENVIRONMENTAL PLANNING INSTRUMENTS

Ryde Local Environment Plan 2014

##### b) PROPOSED LOCAL ENVIRONMENTAL PLANS that are or have been the subject of community consultation or public exhibition under the Act.

Nil

##### c) DEVELOPMENT CONTROL PLANS

City of Ryde Development Control Plan 2014

##### d) STATE ENVIRONMENTAL PLANNING POLICIES AND INSTRUMENTS

The Minister for Planning has notified Council that the following State Environmental Planning Policies and Proposed State Environmental Plans apply to the land and should be specified in this certificate:

##### State Environmental Planning Policies

State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy (Industry and Employment) 2021

State Environmental Planning Policy (Planning Systems) 2021  
State Environmental Planning Policy (Precincts - Eastern Harbour City) 2021  
State Environmental Planning Policy (Primary Production) 2021  
State Environmental Planning Policy (Resilience and Hazards) 2021  
State Environmental Planning Policy (Resources and Energy) 2021  
State Environmental Planning Policy (Transport and Infrastructure) 2021

#### **Deemed State Environmental Planning Policies**

NIL

#### **Proposed State Environmental Planning Policies**

NIL

***Note:** Specific constraints and zoning of the land may affect the applicability of certain provisions within the Policies listed above.*

## **2. ZONING AND LAND USE UNDER RELEVANT LOCAL ENVIRONMENTAL PLANS**

### **(a) ZONING and ZONING TABLE**

#### **Ryde Local Environmental Plan 2014 - Zone R4 - High Density Residential**

##### **1 Objectives of zone**

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

##### **2 Permitted without consent**

Home occupations

##### **3 Permitted with consent**

Bed and Breakfast accommodation; Boarding houses; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies (attached); Dwelling houses; Environmental protection works; Home-based child care; Home businesses; Home industries; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation areas; Residential care facilities; Residential flat buildings; Respite day care centres; Roads; Secondary dwellings; Serviced apartments; Shop top housing

##### **4 Prohibited**

Pond-based aquaculture; Tank-based aquaculture; Any development not specified in item 2 or 3

### **(b) DEVELOPMENT STANDARDS FOR THE ERECTION OF A DWELLING HOUSE**

No development standards under the Local Environment Plan apply to the land that fix minimum land dimension for the erection of a dwelling house on the land.

### **(c) CRITICAL HABITAT**

No. The land does not include or comprise critical habitat under Local Environmental Plan.

### **(d) CONSERVATION AREA (however described)**

No. The land has not been identified as being within a heritage conservation area under the Local Environment Plan.

City of Ryde

**(e) ITEMS OF ENVIRONMENTAL HERITAGE (however described)**

No. An item of environmental heritage is not situated on the land under the Local Environmental Plan.

**2A. ZONING AND LAND USE UNDER STATE ENVIRONMENTAL PLANNING POLICY (SYDNEY REGION GROWTH CENTRES) 2006**

This policy was repealed by *State Environmental Planning Policy (Precincts – Central River City) 2021* on 1 March 2022. The *State Environmental Planning Policy (Precincts – Central River City) 2021* **does not** apply to land within the Ryde Local Government Area.

**OTHER PRESCRIBED INFORMATION**

**3. COMPLYING DEVELOPMENT**

- (1) The extent to which the land is land on which complying development may be carried out under each of the codes for complying development because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18(1)(c3) and 1.19 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- (2) The extent to which complying development may not be carried out on that land because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18(1)(c3) and 1.19 of that Policy and the reasons why it may not be carried out under those clauses.
- (3) If the council does not have sufficient information to ascertain the extent to which complying development may or may not be carried out on the land, a statement that a restriction applies to the land, but it may not apply to all of the land, and that council does not have sufficient information to ascertain the extent to which complying development may or may not be carried out on the land.

**Rural Housing Code, Greenfield Housing Code and Inland Code**

The Rural Housing Code, Greenfield Housing Code and Inland Code **do not apply** to this Local Government Area.

**Housing Code, Low Rise Housing Diversity Code, Industrial and Business Building Code, Housing Alterations Code, Industrial and Business Alterations Code, Subdivisions Code, General Development Code, Demolition Code, Fire Safety Code, and Container Recycling Facilities Code**

Housing Code, Low Rise Housing Diversity Code, Industrial and Business Building Code, Housing Alterations Code, Industrial and Business Alterations Code, Subdivisions Code, General Development Code, Demolition Code, Fire Safety Code, and Container Recycling Facilities Code **do apply** to this Local Government Area.

Clause 1.17A(1)(c) to (e), (2), (3) and (4); 1.18(1)(c3); and 1.19 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* determine the extent to which complying development **may** or **may not** be carried out on land in response to the provisions of those clauses.

Refer to **Appendix 1** for detail on what codes **may** or **may not** allow complying development on the land.

**Note: All Exempt and Complying Development Codes:** Council does not have sufficient information to ascertain the extent of a land-based exclusion on a property. Despite any statement preventing the carrying out of complying development in the Codes listed in Appendix 1, complying development may still be carried out providing the

development is not on the land affected by the exclusion and meets the requirements and standards of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

#### **4, 4A (Repealed)**

#### **4B Annual charges under Local Government Act 1993 for coastal protection services that relate to existing coastal protection works**

Whether the owner (or any previous owner) of the land has consented in writing to the land being subject to annual charges under section 496B of the *Local Government Act 1993* for coastal protection services that relate to existing coastal protection works (within the meaning of section 553B of that Act).

NO

*Note. "Existing coastal protection works" are works to reduce the impact of coastal hazards on land (such as seawalls, revetments, groynes and beach nourishment) that existed before the commencement of section 553B of the Local Government Act 1993.*

#### **5. MINE SUBSIDENCE**

**Whether or not the land is proclaimed to be a mine subsidence district within the meaning of the Coal Mine Subsidence Compensation Act 2017.**

No. The land has not been proclaimed to be a mine subsidence district.

#### **6. ROAD WIDENING AND ROAD REALIGNMENT**

**Whether or not the land is affected by any road widening or road realignment.**

The land is not affected by any road widening or road realignment under:

- (a) Division 2 of Part 3 of the Roads Act 1993, or
- (b) any environmental planning instrument, or
- (c) any resolution of Council.

#### **7. COUNCIL AND OTHER PUBLIC AUTHORITY POLICIES ON HAZARD RISK RESTRICTIONS**

**Whether or not the land is affected by a policy adopted by the council, or adopted by any other public authority and notified to the council for the express purpose of its adoption by that authority being referred to in planning certificates issued by the council, that restricts the development of the land because of the likelihood of:**

- (i) landslip - NO.
- (ii) bush fire - NO.
- (iii) tidal inundation - NO.
- (iv) subsidence - NO.
- (v) acid sulphate soil - NO.
- (vi) any other risk (other than flooding) - NO.

*Note: The fact that land has not been identified as being affected by a policy to restrict development because of the risks referred to does not mean that the risk is non-existent.*

#### **7A. FLOOD RELATED DEVELOPMENT CONTROLS**

(1) Whether or not the land or part of the land is within the flood planning area and subject to flood related development controls - **YES**

(2) Whether or not the land or part of the land is between the flood planning area and the probable maximum flood

and subject to flood related development controls - **YES**

(3) In this clause-

**flood planning area** has the same meaning as in the Floodplain Development Manual.

**Floodplain Development Manual** means the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

**probable maximum flood** has the same meaning as in the Floodplain Development Manual.

## **8. LAND RESERVED FOR ACQUISITION**

**Whether or not any environmental planning instrument or proposed environmental planning instrument referred to in Clause 1 makes provision in relation to the acquisition of the land by a public authority, as referred to in Section 3.15 of the Act.**

No Environmental Planning Instrument applying to the land provides for the acquisition of the land by a public authority as referred to in Section 3.15 of the Act.

## **9. CONTRIBUTIONS PLAN**

**The name of each contributions plan applying to the land:**

- City of Ryde Section 7.11 Development Contributions Plan 2020.
- City of Ryde Fixed Rate Levy (Section 7.12) Development Contributions Plan 2020.

## **9A. BIODIVERSITY CERTIFIED LAND**

This land is not biodiversity certified land Under Part 8 of the *Biodiversity Conservation Act 2016*.

**Note:** Biodiversity certified land includes land certified under Part 7AA of the *Threatened Species Conservation Act 1995* that is taken to be certified under Part 8 of the *Biodiversity Conservation Act 2016*.

## **10. BIODIVERSITY STEWARDSHIP SITES**

The land is not the subject of a biodiversity stewardship agreement under Part 5 of the *Biodiversity Conservation Act 2016*.

**Note:** Biodiversity stewardship agreements include biobanking agreements under Part 7A of the *Threatened Species Conservation Act 1995* that are taken to be biodiversity stewardship agreements under Part 5 of the *Biodiversity Conservation Act 2016*.

## **10A. NATIVE VEGETATION CLEARING SET ASIDES**

Council has not been notified that the land contains a set aside area under section 60ZC of the *Local Land Services Act 2013* by Local Land Services.

## **11. BUSH FIRE PRONE LAND**

The land described in this certificate is not bush fire prone land (as defined in the Act)

## **12. PROPERTY VEGETATION PLANS**

The land is not subject to a property vegetation plan under the *Native Vegetation Act 2003*.

## **13. ORDERS UNDER TREES (DISPUTES BETWEEN NEIGHBOURS) ACT 2006**

There has not been an order made under the Trees (Disputes between Neighbours) Act 2006 to carry out work in relation to a tree on the land.

#### **14. DIRECTIONS UNDER PART 3A (REPEALED)**

There is no direction in force under section 75P (2)(c1) of the *Environmental Planning and Assessment Act 1979*.

#### **15. CONDITIONS FOR SENIORS HOUSING**

There are no terms of a kind referred to in Clause 88(2) of Chapter 3, Part 5 of State Environmental Planning Policy (Housing) 2021 that have been imposed as a condition of development consent granted after 11 October 2007 in relation to the land.

#### **16. SITE COMPATIBILITY CERTIFICATES FOR INFRASTRUCTURE, SCHOOLS OR TAFE ESTABLISHMENTS**

There is no valid site compatibility certificate (infrastructure) or site compatibility certificate (schools or TAFE establishments), of which the Council is aware, in respect of proposed development on the land.

#### **17. SITE COMPATIBILITY CERTIFICATES AND CONDITIONS FOR AFFORDABLE RENTAL HOUSING**

(1) There is no current site compatibility certificate (affordable rental housing) that Council is aware of, in respect of proposed development on the land.

(2) There are no terms of a kind referred to in Clause 21(1) or 40(1) of Chapter 2, Part 2, Division 1 or 5 of State Environmental Planning Policy (Housing) 2021 that have been imposed as a condition of consent to a development application in respect of the land.

#### **18. PAPER SUBDIVISION INFORMATION**

(1) The name of any development plan adopted by a relevant authority that applies to the land or that is proposed to be subject to a consent ballot. NIL

(2) The date of any subdivision order that applies to the land. NIL

(3) Words and expressions used in this clause have the same meaning as they have in Part 16C of *Environmental Planning and Assessment Regulation 2000*.

**Note:** *City of Ryde does not hold any paper subdivision within the meaning of this clause.*

#### **19. SITE VERIFICATION CERTIFICATES**

There is no current site verification certificate of which the Council is aware in respect of the land.

#### **20. LOOSE-FILL ASBESTOS INSULATION**

The land does NOT include any residential premises (within the meaning of Division 1A of Part 8 of the *Home Building Act 1989*) that are listed on the register that is required to be maintained under that Division.

#### **21. AFFECTED BUILDING NOTICES AND BUILDING PRODUCT RECTIFICATION ORDERS**

(1) Whether or not there is any affected building notice of which the council is aware that is in force in respect of the land.

No

(2) (a) Whether or not there is any building product rectification order of which the council is aware that is in force in respect of the land and has not been fully complied with,

No

and



(b) Whether or not there is any notice of intention to make a building product rectification order of which the council is aware that has been given in respect of the land and is outstanding.

No

(3) In this clause:

Affected building notice has the same meaning as in Part 4 of the Building Products (Safety) Act 2017.

Building product rectification order has the same meaning as in the Building Products (Safety) Act 2017.

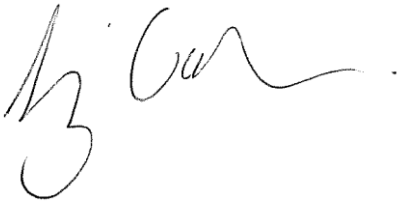
**Note.** *The following matters are prescribed by section 59 (2) of the Contaminated Land Management Act 1997 as additional matters to be specified in a planning certificate:*

- (a) The land to which this certificate relates IS NOT significantly contaminated land.
- (b) The land to which this certificate relates IS NOT subject to a management order.
- (c) The land to which this certificate relates IS NOT the subject of an approved voluntary management proposal.
- (d) The land to which this certificate relates IS NOT subject to an ongoing maintenance order.
- (e) The land to which this certificate relates IS NOT subject of a site audit statement.

**Note.** (i) *Pursuant to Section 10.7(5) of the Environmental Planning and Assessment Act 1979, the City of Ryde may provide advice on additional matters affecting the land of which it may be aware. You are advised that information on either heritage, endangered or adequately conserved bushland, draft Development Control Plans, Master Plans or other relevant matters, applies to the land and is available on the s10.7(5) Certificate for the land.*

(ii) *s10.7(5) Certificates under the Environmental Planning and Assessment Act 1979, contain all the information under s10.7(2) and as such, an application and fee for a combined s10.7 certificate must be applied for.*

**Note:** *The information in this certificate is current as of the date of the certificate.*



Liz Coad  
Director City Planning and Environment

## Appendix 1 – Complying Development

**Housing Alterations Code, Industrial and Business Alterations Code, Subdivisions Code, General Development Code, Demolition Code, Fire Safety Code, and Container Recycling Facilities Code.**

If any of the following statements are **YES** in response to the provisions of Clause 1.17A(1)(c) to (e), (2), (3) and (4) and 1.18(1)(c3) complying development **may not** be carried out on land under the above codes:

<b>1.17A Requirements for complying development for all environmental planning instruments</b>	
To be complying development for the purposes of any environmental planning instrument, the development must not:	
be on land that is, or is part of, a wilderness area (within the meaning of the <i>Wilderness Act 1987</i> ) (See 1.17A(1)(c))	NO
be carried out on land that: (i) comprises an item that is listed on the State Heritage Register under the <i>Heritage Act 1977</i> or on which such an item is located, (ii) is subject to an interim heritage order under that Act or on which is located an item that is so subject, or (iii) is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified. (See 1.17A(1)(d))	NO
Except as otherwise provided by this Policy, be on land that is within an environmentally sensitive area (See 1.17A(1)(e)).	NO
<b>1.18 General requirements for complying development under this Policy</b>	
To be complying development for the purposes of this Policy, the development must:	
Not be carried out on land that comprises, or on which there is, a draft heritage item (See 1.18(c3))	NO

## **Housing Code, Low Rise Housing Diversity Code, and Industrial and Business Building Code**

If any of the following statements are **YES** in response to the provisions of Clause 1.17A(1)(c) to (e), (2), (3) and (4); 1.18(1)(c3); and 1.19 complying development **may not** be carried out on land under the above codes:

<b>1.17A Requirements for complying development for all environmental planning instruments</b>	
To be complying development for the purposes of any environmental planning instrument, the development must not:	
be on land that is, or is part of, a wilderness area (within the meaning of the <i>Wilderness Act 1987</i> ) (See 1.17A(1)(c))	NO

<p>be carried out on land that:</p> <p>(i) comprises an item that is listed on the State Heritage Register under the <i>Heritage Act 1977</i> or on which such an item is located,</p> <p>(ii) is subject to an interim heritage order under that Act or on which is located an item that is so subject, or</p> <p>(iii) is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified.</p> <p>(See 1.17A(1)(d))</p>	NO
<p>Except as otherwise provided by this Policy, be on land that is within an environmentally sensitive area (See 1.17A(1)(e)).</p>	NO
<b>1.18 General requirements for complying development under this Policy</b>	
To be complying development for the purposes of this Policy, the development must:	
<p>Not be carried out on land that comprises, or on which there is, a draft heritage item (See 1.18(c3))</p>	NO
<b>1.19 Land on which complying development may not be carried out</b>	
To be complying development specified for the Housing Code, Low Rise Housing Diversity Code, and Industrial and Business Building Code the development must not be carried out on:	
<p>Land within a heritage conservation area or a draft heritage conservation area, unless the development is a detached outbuilding, detached development (other than a detached studio) or swimming pool (See 1.19(1)(a)).</p> <p>However, any complying development under the Industrial and Business Building Code must not be carried out on land within a heritage conservation area or a draft heritage conservation area (See 1.19(5)(a)).</p>	NO
<p>Land that is reserved for a public purpose by an environmental planning instrument (See 1.19(1)(b) and 1.19(5)(b))</p>	NO
<p>Land identified on an Acid Sulfate Soils Map as being Class 1 or Class 2 (See 1.19(1)(c) and 1.19(5)(c))</p>	NO
<p>Land that is significantly contaminated land within the meaning of the <i>Contaminated Land Management Act 1997</i> (see 1.19(1)(c1) and 1.19(5)(d))</p>	NO
<p>Land identified by an environmental planning instrument as being:</p> <p>(i) within a buffer area, or</p> <p>(ii) within a river front area, or</p> <p>(iii) within an ecologically sensitive area, or</p> <p>(iv) environmentally sensitive land, or</p> <p>(v) within a protected area.</p> <p>(See 1.19(1)(e) and 1.19(5)(f))</p>	<p>Council does not have sufficient information to ascertain the extent of this land-based exclusion on a property</p>

Land that is identified by an environmental planning instrument, a development control plan or a policy adopted by the council as being or affected by: (i) a coastline hazard, or (ii) a coastal hazard, or (iii) a coastal erosion hazard. (see 1.19(1)(f) and 1.19(5)(g))	Council does not have sufficient information to ascertain the extent of this land-based exclusion on a property
Land in a foreshore area (see 1.19(1)(g) and 1.19(5)(h))	NO
(3A) Development specified in the Low Rise Housing Diversity Code is not complying development under that code if it is carried out on land on which there is a heritage item or a draft heritage item.	NO

**Service Location Print**  
Application Number: 8001842255

Application Number: 8001842255

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## Disclaimer

The information on this print shows if we provide any water, wastewater or stormwater services to this property. It may not be accurate or to scale. If you'd like to see the location of private wastewater pipes on the property, please buy a **Sewer service diagram**.

# Asset Information

## Legend

Sewer		Property Details	
Sewer Main (with flow arrow & size type text)		Boundary Line	
Disused Main		Easement Line	
Rising Main		House Number	
Maintenance Hole (with upstream depth to invert)		Lot Number	
Sub-surface chamber		Proposed Land	
Maintenance Hole with Overflow chamber		Sydney Water Heritage Site (please call 132 092 and ask for the Heritage Unit)	
Ventshaft EDUCT			
Ventshaft INDUCT			
Property Connection Point (with chainage to downstream MH)			
Concrete Encased Section			
Terminal Maintenance Shaft			
Maintenance Shaft			
Rodding Point			
Lamphole			
Vertical			
Pumping Station			
Sewer Rehabilitation			
Pressure Sewer		Water	
Pressure Sewer Main		WaterMain - Potable (with size type text)	
Pump Unit (Alarm, Electrical Cable, Pump Unit)		Disconnected Main - Potable	
Property Valve Boundary Assembly		Proposed Main - Potable	
Stop Valve		Water Main - Recycled	
Reducer / Taper		Special Supply Conditions - Potable	
Flushing Point		Special Supply Conditions - Recycled	
Vacuum Sewer		Restrained Joints - Potable	
Pressure Sewer Main		Restrained Joints - Recycled	
Division Valve		Hydrant	
Vacuum Chamber		Maintenance Hole	
Clean Out Point		Stop Valve	
Stormwater		Stop Valve with By-pass	
Stormwater Pipe		Stop Valve with Tapers	
Stormwater Channel		Closed Stop Valve	
Stormwater Gully		Air Valve	
Stormwater Maintenance Hole		Valve	
		Scour	
		Reducer / Taper	
		Vertical Bends	
		Reservoir	
		Recycled Water is shown as per Potable above. Colour as indicated	
		Private Mains	
		Potable Water Main	
		Recycled Water Main	
		Sewer Main	
		Symbols for Private Mains shown grey	

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## Pipe Types

<b>ABS</b>	Acrylonitrile Butadiene Styrene	<b>AC</b>	Asbestos Cement
<b>BRICK</b>	Brick	<b>CI</b>	Cast Iron
<b>CICL</b>	Cast Iron Cement Lined	<b>CONC</b>	Concrete
<b>COPPER</b>	Copper	<b>DI</b>	Ductile Iron
<b>DICL</b>	Ductile Iron Cement (mortar) Lined	<b>DIPL</b>	Ductile Iron Polymeric Lined
<b>EW</b>	Earthenware	<b>FIBG</b>	Fibreglass
<b>FL BAR</b>	Forged Locking Bar	<b>GI</b>	Galvanised Iron
<b>GRP</b>	Glass Reinforced Plastics	<b>HDPE</b>	High Density Polyethylene
<b>MS</b>	Mild Steel	<b>MSCL</b>	Mild Steel Cement Lined
<b>PE</b>	Polyethylene	<b>PC</b>	Polymer Concrete
<b>PP</b>	Polypropylene	<b>PVC</b>	Polyvinylchloride
<b>PVC - M</b>	Polyvinylchloride, Modified	<b>PVC - O</b>	Polyvinylchloride, Oriented
<b>PVC - U</b>	Polyvinylchloride, Unplasticised	<b>RC</b>	Reinforced Concrete
<b>RC-PL</b>	Reinforced Concrete Plastics Lined	<b>S</b>	Steel
<b>SCL</b>	Steel Cement (mortar) Lined	<b>SCL IBL</b>	Steel Cement Lined Internal Bitumen Lined
<b>SGW</b>	Salt Glazed Ware	<b>SPL</b>	Steel Polymeric Lined
<b>SS</b>	Stainless Steel	<b>STONE</b>	Stone
<b>VC</b>	Vitrified Clay	<b>WI</b>	Wrought Iron
<b>WS</b>	Woodstave		

## Further Information

Please consult the Dial Before You Dig enquiries page on the Sydney Water website.

**For general enquiries please call the Customer Contact Centre on 132 092**

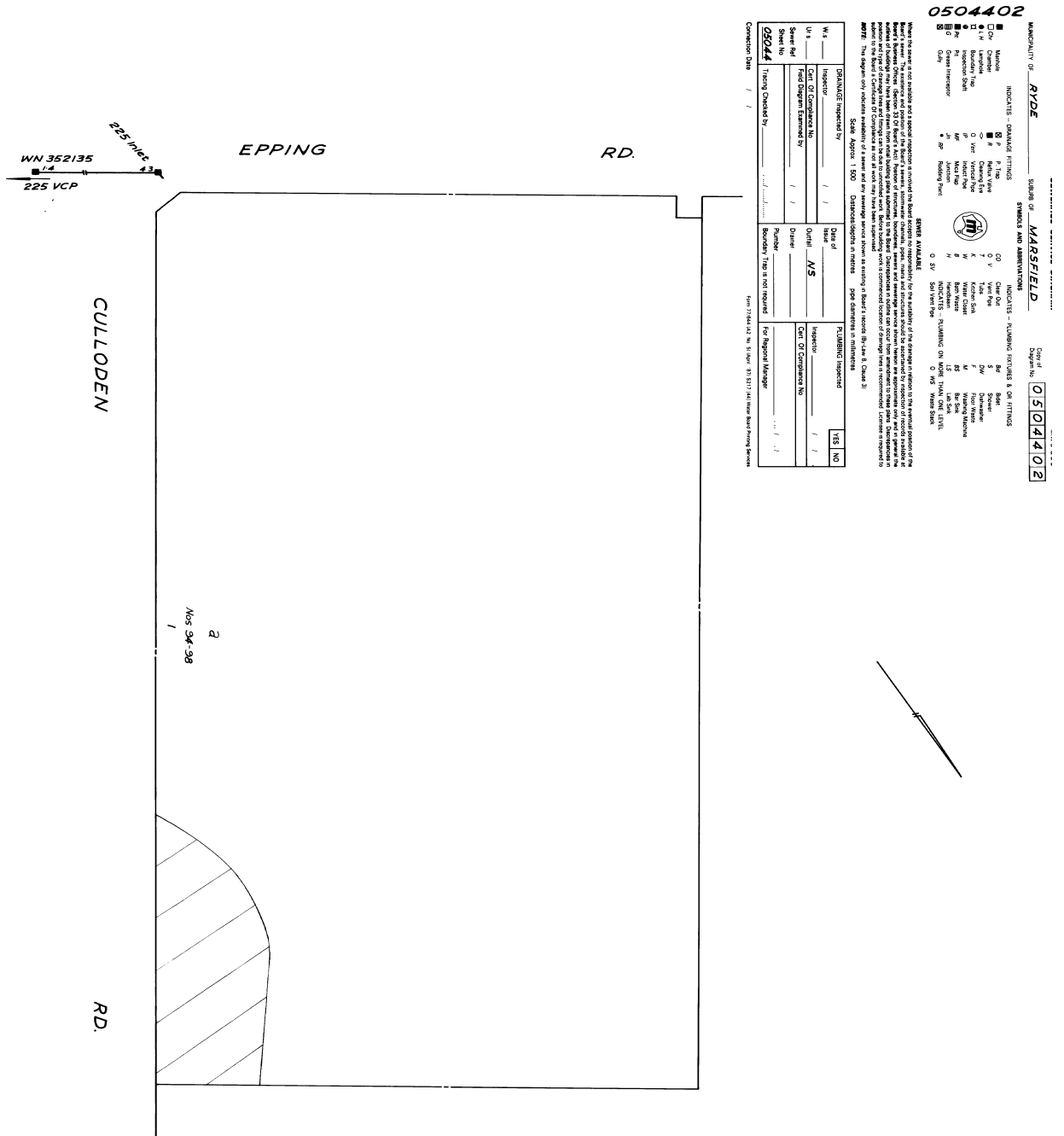
**In an emergency, or to notify Sydney Water of damage or threats to its structures, call 13 20 90 (24 hours, 7 days)**

### Disclaimer

The information on this print shows if we provide any water, wastewater or stormwater services to this property. It may not be accurate or to scale. If you'd like to see the location of private wastewater pipes on the property, please buy a **Sewer service diagram**.

# Sewer Service Diagram

Application Number: 8001842254



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## Disclaimer

**Disclaimer**  
The information in this diagram shows the private wastewater pipes on this property. It may not be accurate or to scale and may not show our pipes, structures or all property boundaries. If you'd like to see these, please buy a **Service location print**.