

# By-Laws

Plan 73943

2 Elizabeth Bay Road  
Elizabeth Bay NSW 2011

## By-Law 1 Definitions

In these by-laws:

**Act** means *Strata Schemes Management Act 1996* (NSW) as amended.

**Authorised Users** means the representatives, contractors, agents, employees, licensees, clients, customers or invitees of a person:

**Authority** means any national, state or local government, semi-government, quasi government or other body or authority, statutory or otherwise, including but not limited to any court or tribunal having jurisdiction and power in relation to the Scheme.

**Balcony** means the areas shown on the Strata Plan as being a Terrace, Enclosed Terrace, Courtyard, Balcony or any other area generally considered to have the attributes of a balcony as determined by the Executive Committee.

**Building** means the building constructed within the Scheme and includes all, carparking, storage, Recreational Facilities and Common Property within the Scheme.

**Building Manager** means the person or corporation referred to in by-law 31, whether appointed by the Original Owner or the Owners Corporation.

**Building Management Agreement** means any building management agreement entered into in accordance with by-law 31.

**Common Property** means:

- a. Common property in the Scheme; and
- b. the Owners Corporation's personal property.

**Executive Committee** means the Executive Committee of the Owners Corporation elected in accordance with the Act.

**Garden Area** means an area of a Lot that has been established as a garden by the Original Owner including any area shown as a Planter on the Strata Plan.

**Gas Services** means any system for the reticulation of natural or other forms of combustible gas products to parts of the Common Property and individual Lots.

**Intercom System** means any System for communication between parts of the Common Property (including the entrances to the Building) and individual lots.

**Lot** means a lot in the Scheme.

**Occupier** means an Occupier or lessee of a Lot.

**Original Owner** means 2 Elizabeth Bay Road Pty Limited.

**Owner** means:

- a. the registered proprietor for the time being of a Lot;
- b. if a Lot is at any time subdivided, the Owners for the time being of the each of the new Lots created

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- as a result of that subdivision;
- c. in the context of a by-law granting exclusive use and special privileges over Common Property, the Owner(s) of the Lot(s) having the benefit of that exclusive use or special privilege; and
  - d. unless a by-law states otherwise, the mortgagee in possession of a Lot.

**Owners Corporation** means the Owners Corporation for the Scheme.

**Reception Area** means that area located on the Ground Floor as shown in the Strata Plan adjacent to the swimming pool and including the foyer, entrance-way and hallways.

**Recreational Facilities** means the swimming pool, spa, sauna and the gymnasium located on the Common Property and includes (but is not limited to) all gymnasium equipment, equipment used to operate and maintain the swimming pool, spa and sauna, swimming pool furniture, change rooms and the Common Property immediately surrounding the swimming pool, spa, sauna and gymnasium.

**Rules** means the rules created in accordance with by-law 2.1 as may be added to or varied by the Executive Committee from time to time.

**Scheme** means the strata scheme created on registration of the strata plan accompanying these by-laws.

**Security System** means any system designed to promote security within the Building, including any audio surveillance devices, visual security cameras and other audio/visual surveillance equipment.

**Storage Area** means any area that is designated on the Strata Plan as a storage area including designated storage areas that form part of a Lot and any area which the Original Owner or Owners' Corporation, as the case may be, has granted to a Lot Owner a right to the exclusive use and enjoyment, of an area of Common Property for the purpose of storage.

**Strata Manager** means the person appointed from time under Part 4 of the Act in relation to the Scheme.

**Strata Plan** means the plan of strata subdivision registered at the Office of Land and Property Information accompanying these by-laws.

**Unit Entitlements** means the unit entitlements determined in accordance with the Act as recorded on the Strata Plan.

## By-Law 2

### Rules

2.1 The Executive Committee may make Rules about the security, control, management, operation, use and quiet enjoyment of the Building. Rules must comply with and be consistent with the by-laws and the Act.

2.2 The Executive Committee may add to or change the Rules at any time.

2.3 An Owner or Occupier must comply with the Rules.

2.4 If a Rule is inconsistent with a by-law or the Act, the by-law or Act prevails to the extent of the inconsistency.

2.5 Any owner or Occupier may obtain a copy of the current Rules on reasonable notice from the Building Manager or the Strata Manager.

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### **By-Law 3 Noise**

An Owner or Occupier must not create any noise on a Lot or the Common Property, or install any device within the Owner's Lot, 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 4 Vehicles**

REPEALED

### **By-Law 5 Obstruction of common property**

An Owner or Occupier or any Authorised User must not obstruct the lawful use of Common Property by any person.

### **By-Law 6 Damage to lawns and plants on common property**

An Owner or Occupier or any Authorised User must not:

- a. damage any lawn, garden, tree, shrub, plant or flower being part of or situated on Common Property; or
- b. use any portion of the Common Property for a garden for their own purpose.

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### By-Law 7

#### Damage to common property

7.1 An Owner or Occupier or any Authorised User must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the Common Property without the prior written approval of the Owners Corporation.

7.2 An approval given by the owners Corporation under by-law 7.1 cannot authorise any additions to the Common Property.

7.3 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;
- 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;

provided that such screen, structure or device complies with the Fire Safety Standards of Australia.

7.4 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.

7.5 Despite section 62 of the Act, the Owner must:

- a. maintain and keep in a state of good and serviceable repair any installation or structure referred to in by-law 7.3 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 installation or structure referred to in by-law 7.3.

7.6 If an Owner or person authorised by an Owner installs a device, screen or structure pursuant to clause 7.3, which does not comply with Fire Safety Standards of Australia or is not in keeping with the appearance of the Building in accordance with by-law 7.4, the Owners Corporation or any person authorised by it, may remove such screen, structure or device and replace it with a screen, structure or device which complies with Fire Safety Standards of Australia or is in keeping with the appearance of the Building in accordance with by law 7.4. The costs of the Owners Corporation in removing and replacing that screen, structure or device shall be a debt payable by the Owner to the Owners Corporation on demand.

### By-Law 8

#### Behaviour of owners, occupiers and invitees

8.1 An Owner or Occupier or any Authorised User 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.

8.2 An Owner or Occupier must take all reasonable steps to ensure that any Authorised User of the Owner or Occupier does 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 the Common Property.

8.3 Where these by-laws require an Authorised User to do anything or to refrain from doing anything, the Owner or Occupier inviting or permitting the Authorised User to enter the Building must ensure that the relevant Authorised User complies with such requirement.

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### By-Law 9

#### Children playing on common property in building

An Owner or Occupier or any Authorised User must not permit any child of whom the Owner or Occupier or any Authorised User has control to play or otherwise obstruct the lifts, stairs or access ways on Common Property or Recreational Facilities, unless accompanied by an adult exercising effective control, to enter or to remain within the Recreational facilities and Common Property including the car parking areas and other areas of possible danger or hazard to children.

### By-Law 10

#### Depositing rubbish and other material on common property

An Owner or Occupier or any Authorised User must not deposit or throw on the Common Property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of the Owner or Occupier of another Lot or of any person lawfully using the Common Property.

### By-Law 11

#### Drying of laundry items

An Owner or Occupier or any Authorised User must not, except with the consent in writing of the Owners Corporation, hang any washing, towel, bedding, clothing or other article on any part of the Lot or Common Property in such a way as to be visible from outside the Building or any other Lot within the Building other than on any lines provided by the Owners Corporation for the purpose and then only for a reasonable period.

### By-Law 12

#### Cleaning windows and doors

An Owner or Occupier must keep clean all glass in windows and all 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 13

#### Storage of inflammable liquids and other substances

13.1 An Owner or Occupier or any Authorised User 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, any explosive or combustible materials or materials capable of being used to create explosives or become combustible, corrosive agent or compound or toxic substance or other inflammable material.

13.2 This by law 13 does not apply to chemicals liquids, gases or other material stored in a legally approved storage vessel used and intended to be used for normal domestic purposes or any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

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### By-Law 14

#### Moving furniture and other objects on or through common property

14.1 An Owner or Occupier or any Authorised User must not transport any furniture, large objects or deliveries to or from the Lot through or over Common Property within the Building unless sufficient notice has first been given to the Building Manager (or, if a Building Manager has not been appointed, to the Executive Committee) so as to enable the Building Manager or the Executive Committee (as the case may be) to arrange for its nominee to be present at the time when the Owner or Occupier or any Authorised User undertakes the activity referred to in this by-law 14.1.

14.2 An Owner or Occupier or any Authorised User must be present and personally supervise the transportation of any furniture, large objects or deliveries to or from the Lot.

14.3 In the event that An Owner or Occupier or any Authorised User wishes to transport any furniture, large objects or deliveries to or from the Lot during after hours or during a period that the Building Manager is not available (or, if a Building Manager has not been appointed, to the Executive Committee, a representative of the Executive Committee is not available), the Owner or Occupier or any Authorised User shall be responsible to reimburse the Owners Corporation for the cost of hiring a supervisor to supervise the transportation.

14.4 The Owners Corporation may, by resolution, determine the manner in which furniture, large objects or deliveries to and from the Lot are to be transported through or over the Common Property (whether in the Building or not) and may impose appropriate conditions on such activities, including but not limited to the use of protective covers for surfaces forming part of the Common Property, prohibitions on the use of trolleys or other moving devices having metal wheels and insurance requirements.

14.5 If the Owners Corporation has determined, by resolution in accordance with by-law 14.2, the manner in which furniture, large objects or deliveries to and from the Lot are to be transported, then an Owner or Occupier or any Authorised User must not transport any furniture, large object or deliveries to and from the Lot through or over Common Property except in accordance with that resolution. The Building Manager may inspect any parts of the Common Property and may direct any Owner or Occupier in writing to rectify any damage caused by the transportation of furniture, large objects or deliveries by that Owner, Occupier or its Authorised Users.

14.6 An Owner or Occupier or any Authorised User must not make any deliveries to the Common Property unless a prior appointment has been made with the Building Manager or the Executive Committee. The Owners Corporation may, from time to time, make rules and impose conditions in relation to the use of any loading dock forming part of the Common Property, including in relation to the maximum height and weight of vehicles and the hours in which access is permitted.

14.7 An Owner or Occupier or any Authorised User shall comply with any Rules and directions by the Building Manager (or, if a Building Manager has not been appointed, directions by the Executive Committee), as to the transportation of any furniture, large objects or deliveries to or from the Lot through or over Common Property within the Building, including what lift or lifts may be used to transport such items.

### By-Law 15

#### Floor coverings

*This by-law is currently being registered with Land and Property Information*



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### **By-Law 16** **Garbage disposal**

16.1 An Owner or Occupier must:

- a. dispose of general waste by using the garbage chute in the Building, which can be accessed on each floor through the garbage room located on the Common Property;
- b. ensure that no glass or sharp items or any other items that may damage or block the garbage chute are placed in the garbage chute;
- c. dispose of recyclable waste by placing it in an appropriate container in the garbage area located on Basement Level One;
- d. ensure that before refuse is placed in any receptacle it is securely wrapped or, in the case of tins or other containers, completely cleaned and drained, and
- e. promptly remove any thing which the Owner, Occupier or any Authorised User or garbage collector may have spilled from the receptacle and must take such action as may be necessary to clean the area within which that thing was spilled.

16.2 Owners and Occupiers and any Authorised Users must comply with the directions from time to time of the Building Manager or the Executive Committee as to the manner of disposal of garbage.

16.3 In the event that an Owner, Occupier or Authorised User does not dispose of items or rubbish as set out in this by-law 16, or either leaves items or rubbish in the garbage room located on each level or on any Common Property, or damages the garbage chute by the incorrect disposal of items or rubbish, the Original Owner during the initial period or the Owners Corporation following the expiration of the initial period, or any person authorised by it, may remove the items or rubbish or undertake any works necessary repair the garbage chute as may be required. The costs of the Original Owner or Owners Corporation, as the case may be, undertaking such removal or repair works shall be a debt payable by the Owner to the Original Owner or Owners Corporation, as the case may be, on demand.

16.4 Nothing in this by-law 16 requires an Owner or Occupier or any Authorised User to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.

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### **By-Law 17** **Keeping of animals**

17.1 Subject to section 49(4) of the Act, an Owner or Occupier or any Authorised User must not, without the prior written approval of the Owners Corporation, keep any animal (except a cat, a small dog (capable of being carried whilst on Common Property), a small caged bird or fish kept in its secure aquarium) on the Lot or the Common Property unless the Owners Corporation gives its prior written approval to the keeping of an animal on a Lot or the Common Property.

17.2 The Owner or Occupier or any Authorised User who keeps an animal on the Lot under by-law 17.1 must at all times:

- a. keep the animal within the Lot;
- b. ensure that the animal is kept clean and free of vermin and noxious smells at all times;
- c. carry the animal when it is on the Common Property;
- d. take such action as may be necessary to clean all areas of the Lot or the Common Property that are soiled by the animal; and
- e. ensure that the animal does not cause unreasonable interference (including in relation to the generation of noise) with Owners or Occupiers of any other Lot.

17.3 Despite by-law 17.1, an Owner may keep an animal on the Owner's Lot if:

- a. the Original Owner approved of the keeping of such animal, prior to the date on which the relevant Owner became the owner of a Lot; and
- b. the Owner otherwise complies with by-law 17.2,

and provided that such right shall continue only for so long only as the animal referred to in the Original Owner's approval is alive.

17.4 In the event that a dispute arises between the Owners Corporation and an Owner or Occupier as to whether an Owner or Occupier is complying with this by-law 17, such dispute shall be referred to an expert appointed by the Commissioner of Strata Titles for determination, whose decision shall be binding on the parties.

### **By-Law 18** **Appearance of lot**

18.1 The Owner or Occupier or any Authorised User must not, without the written consent of the Owners Corporation, affix or display anything to the exterior of the Building or a Lot within the Building or the Common Property or 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 or detracts from the appearance of the Building. This prohibition includes (without Limitation):

- a. the display of "for sale" or "for lease" signs, or any other form of notice or advertising; and
- b. satellite dishes or antennas.

18.2 This by-law 18 does not apply to the hanging of any washing, towel, bedding, clothing or other article as referred to in by-law 11.



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### **By-Law 19** **Notice board**

19.1 The Owners Corporation will cause a notice-board to be affixed to some part of the Common Property.

19.2 An Owner or Occupier may not affix any signs or notices on the notice-board without the consent of the Owners Corporation.

### **By-Law 20** **Change in use of lot to be notified**

20.1 An Owner or Occupier must notify the Owners Corporation if the Owner or Occupier changes the existing use of the Lot in a way that may affect the insurance premiums for the Scheme (for example, if the change of use results in a hazardous activity being carried out on the Lot, or results in the Lot being used for commercial or industrial purposes rather than residential purposes).

20.2 Despite by-law 20.1, the Owner or Occupier is only permitted to use the Lot for a purpose permitted by law.

### **By-Law 21** **Curtains & window coverings**

1. An Owner or Occupier shall not hang any curtain, blind or any other window dressing in any window or door which faces public or common areas other than a blind or curtain approved by the Original Owner or Owners Corporation.
2. For Lots located in that part of the scheme marked on the plan as the "Tower Building" any curtain or blind in a window or door which faces public or common areas must have a backing that is coloured White, Silver or Light Brown.
3. For Lots located in that part of the scheme marked on the plan as the "Court Building" any curtain or blind in a window or door which faces public or common areas must have a backing that is coloured either White or Pale Silver.

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### By-Law 22

#### Air conditioning in the Building

22.1 For the purpose of this by law, the following terms have the following meanings;

**Condenser System** means the Building's condenser water and distribution system including any air conditioning water cooling plant, pipes, wires, cables, ducts, cooling towers, pumps and fans, located in and forming part of the Common Property.

**Airconditioning Unit** means the airconditioning unit or units, as the case may be, that exclusively service an individual Lot, including any air conditioning plant, pipes, wires, cables, ducts, pumps and fans, located in and forming part of the Common Property.

22.2 The Owners Corporation must operate, maintain, repair and replace when necessary, the Condenser System located on Common Property (including any part of the Condenser System which is for the exclusive use of a Lot).

22.3 The Owner must give the Owners Corporation reasonable access to its Lot to maintain, repair or replace the Condenser System.

22.4 The Owners Corporation may enter into maintenance agreements with third party maintenance providers for the maintenance and repair of the Condenser System.

22.5 The Owner of each Lot is the owner of the Airconditioning Unit, if any, that exclusively services its individual Lot and has the exclusive right to use the area of the Common Property, if any, where the Airconditioning Unit is located including any ceiling void or roof area, together with the right to pass and repass over such areas of the Common Property necessary to gain access to the Airconditioning Unit.

22.6 The Owner of each Lot has the right to connect the Airconditioning Unit to the Condenser System solely at the Owner's cost, however the Owners Corporation shall have the right to raise an additional proportional levy towards the cost of maintaining the Condenser System against the Lot Owners, if any, that may elect to connect to the Condenser System following registration of the Strata Plan as such right has not been included in the determination of the Unit Entitlements for the Building.

22.7 Should an Owner wish to connect an Airconditioning Unit to the Condenser System following registration of the Strata Plan, the Owner shall under take such works promptly and continuously and in such a manner as to cause as little noise and inconvenience to other lot Owners and Occupiers and shall reinstate any Common Property damaged by the undertaking of such works.

22.8 The Owner is responsible for the ongoing repair and maintenance of the Airconditioning Unit and shall ensure that it is maintained to avoid damage to the Common Property and any other Lot should the Unit fail.

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### **By-Law 23** **Hot water system**

23.1 The Owner of each Lot has a right to use the Common Property hot water system.

23.2 Each Owner or Occupier must give the Owners Corporation reasonable access to his or her Lot to maintain, repair or replace the connections to the hot water system.

23.3 The Owners Corporation must operate, maintain, repair and replace the hot water system.

23.4 The Owners Corporation may enter into agreements with third party providers in relation to the operation, maintenance, repair and replacement of any hot water system.

### **By-Law 24** **Structural support in the building**

An Owner or Occupier other than the Original Owner, when it has ownership, must not carry out any alteration to any part of the Building, which renders structural support to any other part of the Building without first submitting copies of all relevant plans, and approvals to the Owners Corporation and obtaining the prior written approval of the Owners Corporation to the proposed alteration. The consent of all Authorities required by law must also be obtained for the alteration and any works approved by the Owners Corporation must be carried out in accordance with the conditions imposed by all Authorities and the Owners Corporation.

### **By-Law 25** **Access to inspect or read meters**

Where any meter is located within a Lot, the Owner or Occupier of that Lot must, on reasonable notice, give access to authorised persons to allow the reading or servicing of that meter. An Owner or Occupier is entitled to require the presence of the Strata Manager, Building Manager or other authorised employee or representative of the Owners Corporation before granting access to allow inspection or reading of any meter that is located within a Lot.

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### By-Law 26

#### Recreation Facilities & recreation area

26.1 An Owner or Occupier must (and must ensure that any Authorised User does):

- a. not use the Recreational Facilities between the hours of 10.00pm and 6.00am;
- b. ensure that his or her Authorised Users do not use Recreational Facilities unless that Owner or Occupier or another Owner or Occupier accompanies them;
- c. ensure that children do not use Recreational Facilities unless accompanied by an adult Owner or Occupier exercising effective control over them;
- d. ensure that glass containers or receptacles of any type are not taken to or allowed to remain in the Recreational Facilities, Reception Area or other areas of the Common Property;
- e. exercise caution at all times and not run or splash or behave in any manner that is likely to interfere with the safe use of the pool and other Recreational Facilities by other persons;
- f. not, without proper authority, operate, adjust or interfere with the operation of any equipment associated with the Recreational Facilities or add any chemical or other substance to any water in the pool;
- g. at all times be adequately clothed so as not to be likely to offend other persons using the Recreational Facilities;
- h. be adequately clothed (including adequate footwear) and dry when leaving or entering the Recreational Facilities, Reception Area and other areas of the Building;
- i. not smoke, eat, drink or consume alcohol in the Recreational Facilities, Reception Area or its surrounds;
- j. not use balls, boogie boards or large inflated objects in the pool; and
- k. comply with any Rules that the Executive Committee may add or vary with respect to the use of the Recreational Facilities and Reception Area from time to time.

26.2 An Owner, Occupier or Authorised User shall not conduct any function, party, meeting or gathering in the Reception Area without first obtaining the approval of the Owners Corporation whose approval may be withheld in its absolute discretion.

### By-Law 27

#### Security

27.1 The Owners Corporation must take reasonable steps to:

- a. prevent fires and other hazards within the Building and the Common Property; and
- b. operate, maintain and monitor the Security System.

27.2 In addition to its powers under the Act, the Owners Corporation may install and operate in Common Property a Security System in the Building.

27.3 An Owner or Occupier or any Authorised User must not:

- a. interfere with the Security System; or
- b. do anything that might prejudice the security or safety of the Building.

27.4 An Owner or Occupier or any Authorised User must take reasonable care to ensure that security doors in the Building are locked or secured in conformity with fire regulations when they are not being used.

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### **By-Law 28** **Gas service**

28.1 The Owner of each Lot has a right to use the Gas Service.

28.2 Each Owner or Occupier must give the Owners Corporation reasonable access to his or her Lot to maintain, repair or replace the connections to the Gas Service.

28.3 The Owners Corporation must operate, maintain, repair and replace the Gas Service at the cost of the Owners Corporation except any damage caused by the negligent acts or omissions of any Lot Owners, Occupiers or Authorised Users, which such cost shall be borne by the contributing Lot Owner.

28.4 The Owners Corporation may enter into agreements with third party providers in relation to the operation, maintenance, repair and replacement of any Gas Service.

### **By-Law 29** **Restricting access to common property**

29.1 In addition to its powers under the Act, the Owners Corporation has the power to:

- a. close off or restrict by security key access to parts of Common Property that do not give access to a Lot;
- b. restrict by security key an Owner or Occupier access to levels in the Building where an Owner or Occupier does not own or occupy a Lot or have rights to use any part of the Common Property according to any by-law; and
- c. allow the Strata Manager, Building Manager and security personnel to use part of Common Property to operate or monitor security of the Building. The Owners Corporation may exclude any Owner or Occupier from using those parts of Common Property.

29.2 The Owners Corporation or Strata Manager may close off or restrict access to Common Property facilities if such closure or restriction is necessary or desirable to control and administer those facilities.

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### By-Law 30

#### Security keys and cards

30.1 If the Owners Corporation or Strata Manager restricts access to Common Property under by-law 29, the Owners Corporation may give an Owner or Occupier a security key or card. The Owners Corporation may charge an Owner or Occupier a fee or bond if an Owner or Occupier requests extra or replacement security keys/cards.

30.2 Security keys/cards remain the property of the Owners Corporation.

30.3 In addition to its powers under the Act, the Owners Corporation has the power to:

- a. re-code security keys/cards; and
- b. require an Owner or Occupier to promptly return his or her security keys/cards to the Owners Corporation to be re-coded.

30.4 In addition to its powers under the Act, the Owners Corporation has the power to make agreements with an other person (including the Building Manager, the Strata Manager or any security personnel) to exercise its functions under this by-law 30 and, in particular, to manage the security key system and provide security keys/cards to Owners and Occupiers. The agreement may have provisions requiring Owners and Occupiers to pay an administration fee for the provision of security keys/cards.

30.5 An Owner or Occupier must:

- a. take all reasonable steps not to lose security keys/cards;
- b. return security keys/cards to the Owners Corporation if an Owner or Occupier does not need them or if an Owner or Occupier is no longer an Owner or Occupier in the Building; and
- c. notify the Owners Corporation immediately if an Owner or Occupier loses a security key/card.

30.6 If an Owner or Occupier leases or licences a Lot an Owner or Occupier must include a requirement in the lease or licence that the Occupier return security keys/cards to the Owners Corporation when they vacate the Building.

30.7 An Owner or Occupier must not:

- a. copy a security key/card: or
- b. give a security key/card to a minor or someone who is not an Owner or Occupier.

30.8 An Owner or Occupier must comply with reasonable instructions of the Owners Corporation about security keys/cards and, in particular, instructions about recoding and returning security keys/cards.



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### By-Law 31

#### Agreement with the building manager

31.1 In addition to its powers under the Act, the Owners Corporation has the power to appoint and enter into agreements with the Building Manager to provide management and operational services.

31.2 The duties of the Building Manager under an agreement between it and the Owners Corporation may include, without limitation:

- a. care taking, supervising and servicing Common Property;
- b. supervising the cleaning, repair, maintenance, renewal or replacement of Common Property;
- c. arranging for the inspection and certification of plant and equipment as required by laws;
- d. providing services to the Owners Corporation, Owners and Occupiers including, without limitation, the services of a handyperson and cleaning services;
- e. supervising employees and contractors of the Owners Corporation;
- f. doing anything else that the Owners Corporation or Strata Manager agrees is necessary for the operation and management of the Building.

31.3 The Owners Corporation must accept the provisions of any Building Management Agreement entered into by the Original Owner and cannot terminate that Building Management Agreement, except in accordance with its terms or the Act.

31.4 If there is no existing Building Management Agreement as contemplated by by-law 31.3, or at the expiration of the term of the Building Management Agreement referred to in by law 31.3, the Owners Corporation may enter into a Building Management agreement with a Building Manager. Any such Building Management agreement must include:

- a. the remuneration of the Building Manager for the term; and
- b. the duties of the Building Manager may be those listed in by-law 31.2.

and otherwise be on terms and conditions reasonably determined by the Owners Corporation. The Owners Corporation is not obliged to appoint the same Building Manager originally appointed by the Original Owner (if any).

### By-Law 32

#### Building management and an owner or occupier of a lot

An Owner or Occupier or any Authorised User must not:

- a. interfere with or stop the Building Manager or the Strata Manager performing their obligations or exercising their rights under their agreements with the Owners Corporation; or
- b. interfere with or stop the Building Manager or the Strata Manager using such parts of the Common Property as the Owners Corporation permits them to use from time to time.

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### **By-Law 33**

#### **Failure to comply with by-laws**

33.1 The Owners Corporation may do any act, as an Owner or Occupier of a Lot, that an Owner or Occupier should have done under the Act or these by-laws, but which an Owner or Occupier has not done or, in the reasonable opinion of the Owners Corporation, has not done properly.

33.2 The Owners Corporation must give an Owner or Occupier written notice specifying when it will enter an Owner's or Occupier's Lot to do any work required to be done in exercise of the rights conferred on the Owners Corporation under these by-laws. An Owner or Occupier must:

- a. give the Owners Corporation (or persons authorised by it) access to an Owner's or Occupier's Lot as required by the notice; and
- b. pay the Owners Corporation its costs for doing the work.

33.3 The Owners Corporation may recover money an Owner or Occupier owes it under these by-laws as a debt payable upon demand.

33.4 The rights of the Owners Corporation under this by-law 33 are in addition to those that it has under the Act.

### **By-Law 34**

#### **Cleaning of lot and rangehoods**

The Owner or Occupier shall maintain the Lot in a clean and tidy condition and free of vermin and shall clean the filters of any rangehood installed in the Lot every six (6) months.

### **By-Law 35**

#### **Products used in scheme**

The Owners and Occupiers acknowledge that natural products have been specified in the design of the Building and that these natural products have characteristics that may lead to uneven wear, minor distortion, staining and discolouration. An Owner and Occupier cannot make any objection in relation to these matters. The Owners Corporation must treat and maintain those materials regularly and in accordance with the suppliers recommendations.

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### By-Law 36

#### Use of balconies

1. An Owner or Occupier or any Authorised User must not, without the written consent of the Owners Corporation, use any balcony as a place to store furniture, goods, or any other item.
2. Provided that any item is stable enough to resist high wind, an Owner or Occupier or any Authorised User may keep the following on a balcony:
  - a. White, Cream or Grey Outdoor Furniture.
  - b. One pot plant in a container.
  - c. Portable barbeques (that must be taken inside when not in use).
3. An Owner or Occupier or any Authorised User of ground or first floor terraces in the court building (Lots 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81 and 82):
  - a. Are exempt from items 1 and 2 in this by-law.
  - b. May keep the following items on their balcony or terrace:
    - i. White, Cream or Grey Outdoor Furniture.
    - ii. Pot plants
    - iii. A barbeque (which need not be taken inside when not in use).
4. Notwithstanding items 1, 2 and 3, an Owner or Occupier or an Authorised User of any lot must not store or affix furniture, goods or any other item on their balcony or terrace which is not consistent with the overall appearance of the building.

### By-Law 37

#### Escape of smoke and noxious smells

An Owner or Occupier or any Authorised User shall ensure that no smoke, including smoke from a BBQ located on a Balcony, or other noxious smells escape from their Lot that may unreasonably affect the use and enjoyment of another Owner or Occupier or any Authorised User of another Lot and shall ensure that items stored on the Lot are cleaned regularly, including any BBQ located on the Balcony, to ensure compliance with this by-law.

### By-Law 38

#### Storage areas

The Owner or Occupier or any Authorised User or any Storage Area shall:

- a. not, except with the prior written approval of the Owners Corporation, use or store on the Storage Area any inflammable chemical, liquid or gas, any explosive, corrosive agent or compound or toxic substance or other inflammable material.
- b. be responsible for the repair of any damage caused to the Storage Area and common property as the result of the use of the Storage Area.
- c. ensure such area is kept clean and all free of rubbish and vermin.

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### By-Law 39 Smoking, alcohol etc.

39.1

- a. An Owner, Occupier or Authorised User must not smoke any cigarette, cigar or other product on the Common Property including within the Recreational Facilities and Reception Area.
- b. Smoke from smoking by an Owner, Occupier or Authorised User within a lot must not be allowed to escape from that lot to interfere with the enjoyment of any person lawfully using common property.
- c. Escape of smoke from a lot must not be allowed to cause a nuisance or health hazard that would interfere with the enjoyment of the owner or occupier of another lot.
- d. For the avoidance of doubt, a lot includes balconies, terraces or courtyards of either lot.

39.2 An Owner, Occupier or Authorised User must not consume alcohol or use any illegal substance on the Common Property including within the Recreational Facilities or Reception Area unless such consumption is approved by the Owners Corporation in accordance with by-law 26.2.

### By-Law 40 Use of lots

An Owner or Occupier of a Lot shall not use its Lot or permit its Lot to be used:

- a. except for a use permitted by a Development Consent granted by Council or any other relevant consent authority;
- b. for any illegal use;
- c. for any use that degrades the reputation of the Owners Corporation or other Owners in the Building;
- d. in any manner that interferes with the reasonable enjoyment of the Owner or Occupier of any other Lot.

### By-Law 41 Use of commercial lot

41.1 For the purpose of this by-law, the following terms have the following meanings;

**Commercial Lot** means Lot 62.

**Approved Hours of Operation** means the between the hours of 7.00am to 12.00pm or any lesser time period that the Owner may be permitted to trade as approved by Council or any other regulatory authority.

**Approved Signage** means Signage that is approved by the Original Owner during the initial period or Owners Corporation thereafter, being Signage that is in keeping with the appearance, aesthetics and architectural integrity of the Building and is not affixed to any window or door forming part of the Common Property or Commercial Lot nor have any light emission that may cause disruption to an other Owner, Occupier or Authorised User of any other Lot.

**Awning** means an awning erected over the outside seating area, or part thereof, within the courtyard of the Commercial Lot.

**Permissible Use** means the use of the Lot as a restaurant or other use as permitted by the Original Owner during the initial period, subject always to the Commercial Lot Owner first obtaining consent for such use from Council or any other regulatory authority.

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**Signage** means any signage located in the Lot that may be visible by the public from outside the Lot or visible from any other Lot.

**Trees** means the trees located within the Commercial Lot.

41.2 The Owner or Occupier of the Commercial Lot may only use such Lot for the Permissible Use.

41.3 The Owner or Occupier of the Commercial Lot may only operate its restaurant business during the Approved Hours of Operation.

41.4 The Owner or Occupier of the Commercial Lot may only erect Approved Signage within the Commercial Lot or upon the Common Property with the consent of the Original Owner during the initial period or the Owners' Corporation thereafter.

41.5 The Owner or Occupier of the Commercial Lot may erect an Awning, solely at the Owner's or Occupier's expense, within the courtyard of the Commercial Lot either freestanding or attaching to the Common Property with the consent of the Original Owner during the initial period or the Owners' Corporation thereafter.

41.6 Should the Owner or Occupier of the Commercial Lot wish erect an Awning within the courtyard of the Commercial Lot either freestanding or attaching to the Common Property, the Owner or Occupier shall first submit details, plans and specifications to the Original Owner during the initial period or the Owners' Corporation thereafter for approval which approval may not be unreasonably withheld PROVIDED ALWAYS that the proposed Awning is in keeping with the appearance, aesthetics and architectural integrity of the Building.

41.7 The Owner or Occupier of the Commercial Lot shall not commence construction of the Awning unless it has first obtained approval from Council or any other regulatory authority for the erection of the Awning in accordance with the details, plans and specifications approved by the Original Owner or the Owners' Corporation, as the case may be.

41.8 Should the Original Owner or the Owners' Corporation, as the case may be, consent to the erection of the Awning, the Owner or Occupier of the Commercial Lot shall have the right to the exclusive use and enjoyment of such part of the Common Property that the Awning attaches to, if any.

41.9 Should an Owner or Occupier of the Commercial Lot erect the Awning, the Owner or Occupier is responsible for the ongoing repair and maintenance of the Awning and shall ensure that such Awning is kept clean and well maintained at all times.

41.10 In the event that the Owner or Occupier or person authorised by an Owner fails to maintain the Awning in accordance with this By-law, the Original Owner during the initial period or the Owners Corporation following the expiration of the initial period, or any person authorised by it, may either remove the Awning or undertake any works necessary to maintain the Awning to be in keeping with this By-law. The costs of the Original Owner or Owners Corporation, as the case may be, undertaking such removal or maintenance works shall be a debt payable by the Owner to the Original Owner or Owners Corporation, as the case may be, on demand.

41.11 Should the Owner or Occupier remove the Awning at any time (or the Original Owner or Owners Corporation remove the Awning in accordance with by-law 41.10), the Owner or Occupier shall repair any damage caused to the Common Property and restore the Common Property to a standard equivalent to the condition of the remainder of the Building.

41.12 The Owner or Occupier of the Commercial Lot must maintain the Trees located within the Commercial Lot to ensure the trees' structural integrity and appearance is maintained to a reasonable standard at all

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times.

41.13 In the event that the Owner or Occupier or person authorised by an Owner fails to maintain the Trees in accordance with this By-law, the Original Owner during the initial period or the Owners Corporation following the expiration of the initial period, or any person authorised by it, may undertake any works necessary to maintain the Trees to be in keeping with this By-law. The costs of the Original Owner or Owners Corporation, as the case may be, undertaking such maintenance works shall be a debt payable by the Owner to the Original Owner or Owners Corporation, as the case may be, on demand.

41.14 The Owner or Occupier of the Commercial Lot shall at all times ensure that the Commercial Lot is kept clean and free of vermin and the rangehood, kitchen exhaust and ducting is cleaned regularly to ensure that there is no build up of grease that may attract vermin or create a fire risk and ensure that at all times the business operates in compliance with current regulatory requirements at all times.

41.15 The Owner or Occupier of the Commercial Lot shall allow reasonable access to the Owners Corporation (and its nominated trades persons) over the Commercial Lot to enable the repair, maintenance and replacement of the vent located within the Common Property situated in the courtyard of the Commercial Lot.

41.16 The Owner or Occupier of the Commercial Lot may not alter or modify the Commercial Lot or Common Property, including the any doors, windows, paving or landscaping without the consent of the Original Owner during the initial period or the Owners' Corporation thereafter.

41.17 Should the Owner or Occupier of the Commercial Lot wish alter or modify the Commercial Lot or Common Property the Owner or Occupier shall first submit details, plans and specifications to the Original Owner during the initial period or the Owners' Corporation thereafter for approval which approval may not be unreasonably withheld PROVIDED ALWAYS that the proposed alterations or modifications are in keeping with the appearance, aesthetics and architectural integrity of the Building.

41.18 The Owner or Occupier of the Commercial Lot shall not commence construction of any variations or alterations unless it has first obtained approval from Council or any other regulatory authority for such variations or alterations in accordance with the details, plans and specifications approved by the Original Owner or the Owners' Corporation, as the case may be.

41.19 Should an Owner or Occupier of the Commercial Lot undertake variations or alterations, the Owner or Occupier is responsible for the ongoing repair and maintenance of the altered or varied parts of the Common Property and Commercial Lot and shall ensure that such altered or varied Common Property is kept clean and well maintained at all times.

41.20 In the event that the Owner or Occupier or person authorised by an Owner fails to maintain the altered or varied parts of the Common Property and Commercial Lot in accordance with this By-law, the Original Owner during the initial period or the Owners Corporation following the expiration of the initial period or any person authorised by it, may undertake any works necessary to maintain the altered or varied parts of the Common Property and Commercial Lot to be in keeping with this By-law. The costs of the Original Owner or Owners Corporation, as the case may be, undertaking such removal or maintenance works shall be a debt payable by the Owner to the Original Owner or Owners Corporation, as the case may be, on demand.

41.21 In the event that the Commercial Lot is no longer being used to operate a business as permitted under this by-law 41, the Owner of the Commercial Lot shall, unless otherwise agreed by the Owners Corporation, reinstate the altered or varied parts of the Common Property and Commercial Lot to its original state as at the time of registration of the Strata Plan.

41.22 The Owner of the Commercial Lot shall be responsible to pay to the Owners Corporation, by way of



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separate levy raised against the Commercial Lot each quarter, a sum equivalent to the additional insurance premiums, cost, fees and excesses, if any, that may be payable by the Owners Corporation with respect to its insurance policies as required under the Act, as a result of the Commercial Lot being used for commercial or business purposes as opposed to residential purposes.

### **By-Law 42**

#### **Maintenance of garden areas within lots**

42.1 An Owner or Occupier of a Lot which includes a Garden Area must maintain the Garden Area in a neat and tidy manner and to a standard at least equivalent to the standard that the garden areas located on the Common Property are maintained to from time to time.

42.2 In the event that an Owner or Occupier fail to adequately maintain a Garden Area within its Lot, the Owners' Corporation may undertake such maintenance and recover the cost of doing so from the respective Owner in accordance with By-law 33.

### **By-Law 43**

#### **General exclusive use rights**

43.1 The Owner of each Lot has the right to the exclusive use and enjoyment of any service that exclusively services its individual Lot that is located in and forms part of the Common Property ("Exclusive Services").

43.2 The Owner is responsible for the ongoing repair and maintenance of the Exclusive Services.

43.3 In the event that the Owner or Occupier or person authorised by an Owner fails to maintain the Exclusive Services in accordance with this By-law, the Original Owner during the initial period or the Owners Corporation following the expiration of the initial period, or any person authorised by it, may undertake any works necessary to maintain the Exclusive Services to be in keeping with this By-law. The costs of the Original Owner or Owners Corporation, as the case may be, undertaking such works shall be a debt payable by the Owner to the Original Owner or Owners Corporation, as the case may be, on demand.

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## Special By-Law 1

### Exclusive use - Lot 60

That pursuant to Section 52 of the Strata Schemes Management Act 1996 ("the Act"), the registered proprietor(s) from time to time of lot 60 of Strata Plan 73943 as a special privilege have the exclusive use, occupation and enjoyment of that part of the common property as described by the hatched area on the plan attached hereto and marked with the letter "B" ("the common property") on the following conditions:

- i. The registered proprietor from time to time of lot 60 shall at all times maintain the common property in a state of good condition and repair, and shall keep the common property in a clean and tidy condition and free from vermin;
- ii. The registered proprietor from time to time of lot 60 shall not construct, or permit to be constructed, any structure of any nature on the common property;
- iii. The registered proprietor from time to time of lot 60 shall and hereby indemnifies the Owners Corporation against any and all liability or expense arising from the special privilege granted to the said registered proprietor under this by-law;
- iv. Without limiting any powers granted to the Owners Corporation pursuant to s65(s) of the Act, the registered proprietor from time to time of lot 60 shall at all times provide such reasonable access as is required by the Owners Corporation or its agents, employees or contractors, to enter on any part of the common property for the purpose of carrying out the following work:
  - a. Work required to be carried out by the Owners Corporation in accordance with Act,
  - b. Work required to be carried out by the Owners Corporation by a notice served on it by a public authority,
  - c. Work required to be carried out by the Owners Corporation by order under the Act.
  - d. For the purpose of determining whether any work is required to be carried out by the Owners Corporation in accordance with the Act.

Annexure below

## Special By-Law 2

### Works - Lot 62

#### Part 1: Preamble-Introduction

1. This is a by-law made under the provisions of Division 4 of Part 5 of Chapter 2 of the Strata Schemes Management Act 1996. The effect of the by-law is to grant the Owner of Lot 62 a special privilege in respect of the common property to perform work to construct a garbage storage area near the south-eastern boundary of the parcel and adjacent to Strata Plan No 15519 and Elizabeth Bay Road, subject to the conditions specified in the by-law.

#### Part 2: Definitions & Interpretation

In this by-law:

1. "approval of Council" means the approval the Owner must obtain for the Works from all relevant statutory bodies, including Council.
2. "Council" means the state or local government body or planning authority with authority to determine applications under the Environmental Planning & Assessment Act 1979.
3. "drawings" means the drawing of Cooper Consulting & Construction Services (Aust) Pty Ltd copies of which form part of this by-law.

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4. "Owner" means the Owner from time to time of Lot 62.
5. "Works" means the works to construct a garbage storage area being the relocation of the existing vent pipe and floor waste, laying a concrete slab, saw cutting the wall near the footpath, rendering, installing a fence to the top of the wall adjacent to Strata Plan No 15519, installing a gate, painting and finishing.
6. Words importing the singular include the plural and vice versa; words importing a gender include any gender and words defined in the Strata Schemes Management Act 1996 have the meaning given to them in that Act.
7. All parts of this by-law, including the Introduction, are to be considered in the interpretation of the by-law.

### **Part 3: Grant of Special Privilege in Respect of the Common Property**

On the conditions set out in this by-law, the Owner shall have a special privilege in respect of the common property to carry out and thereafter to maintain the Works and to use the area the subject of the Works as a garbage storage area.

### **Part 4: Conditions Required Before the Works Commence**

1. Before commencing the Works, the Owner must provide the Owners Corporation with:
  - a. A copy of any requisite approval of Council, including all drawings, specifications, conditions and notes.
  - b. A copy of any necessary consent from the Owners Strata Plan No 15519.
  - c. A Certificate of Currency for the duration of, and for a period of no less than 12 months following completion of the Works, of Contractors' All Risks insurance cover taken out with a reputable insurer (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), to which the Owner is named as an insured party.

### **Part 5: Performance of the Works**

1. In carrying out the Works, the Owner undertakes that the Owner will, and the Owner must ensure that the Contractor also undertakes to the Owners Corporation that it will:
  - a. Comply with all conditions and requirements of any requisite approval of Council.
  - b. Comply with the terms of approval given by the Owners Corporation under this by-law.
  - c. Comply with the Building Code of Australia and relevant Australian Standards.
2. Subject to any extension necessitated by reasons beyond his control (such as bad weather), the Owner must complete the Works within 4 weeks of commencement.
3. The owner may not vary the Works except in accordance with the written approval of the Owners Corporation and if applicable, Council.
4. In performing the Works, the Owner must comply with all directions, orders and requirements of all relevant statutory authorities and must ensure and be responsible for compliance with such directions, orders and requirements by the Owner's servants, agents and contractors.
5. The Owner must ensure the Works are undertaken in such a way as to cause minimum disturbance or inconvenience to the lots or their occupiers and owners.
6. The Owner shall ensure that none of the Works encroaches onto an adjoining property.
7. The Owner must maintain all areas of common property adjacent to the Works, or used for or in relation to the Works, in a clean and tidy state while the Works are being carried out.
8. The Owner must repair promptly any damage caused or contributed to by the Works, including damage to the property of the Owners Corporation and the property of the owner or occupier of another lot in the strata scheme.

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9. The owner must not perform the Works or allow them to be carried out except between the hours of 8am and 5pm Monday to Friday inclusive and 8am and 5pm Saturday (excluding public holidays) or during such other times as may be approved by the Owners Corporation.

## **Part 6: Requirements Following Completion of the Works**

After completion of the Works, the Owner must provide the Owners Corporation with a copy of any requisite compliance certificate for the Works under Part 4A of the Environmental Planning & Assessment Act 1979.

## **Part 7: Maintenance of the Common Property**

1. Subject to the terms of this by-law, any subsequent by-law, any special resolution of the Owners Corporation under Section 62(3) of the Strata Schemes Management Act 1996 not to maintain a particular item of property, the Owners Corporation shall continue to be responsible for the proper maintenance and keeping in a state of good and serviceable repair of the common property.
2. The Owner must maintain the Works and all associated additions and alterations, ancillary fittings and fixtures in a state of good and serviceable repair. The Owner must also maintain those parts of the common property that represent a point of contact between the Works and the balance of the common property.
3. The Owner must renew or replace the Works and all associated additions and alterations, ancillary fittings and fixtures whenever necessary and must repair promptly any damage caused or contributed to by such work including damage to the property of the Owners Corporation and the property of the owner or occupier of another lot in the strata scheme.

## **Part 8: Indemnity & Costs**

1. The Owner must indemnify the Owners Corporation against any liability or expense arising out of the Works for damage to any part of the common property because of performance of the Works or the renewal, repair or replacement of the Works.
2. The Owner must indemnify the Owners Corporation against any legal liability, loss, claim or proceedings in respect of any injury, loss or damage whatsoever to the common property, or other property, or person insofar as such injury, loss or damage arises out of, or in the course of, or by reason of the performance of the Works or the renewal, repair or replacement of the Works.
3. The Owner must indemnify the Owners Corporation against any legal liability, loss, claim or proceedings brought by the Owners Strata Plan No 15519 or any other adjacent property owner arising out of the Works.
4. Should the Owners Corporation be required to carry out work as specified in Section 65 of the Strata Schemes Management Act 1996 the Owner must indemnify the Owners Corporation against any liability or expense for damage to the improvements installed in the course of the Works.
5. The Owner must meet all reasonable expenses of the Owners Corporation incurred in the preparation, making and registration of this by-law, including reasonable legal costs.

## **Part 9: Breach of a Term of the By-law**

1. If the Owner fails to carry out his obligations under this by-law, the Owners Corporation may in writing request the Owner to comply with the terms of it.
2. If after being requested in writing to do so, the Owner fails to comply with the relevant term or terms the Owners Corporation, without prejudice to any other rights, will be entitled in accordance with the provisions of the Strata Schemes Management Act 1996, to enter upon the Lot, have the necessary work performed and recover the cost of such from the Owner, or any subsequent owner of the Lot.
3. Such costs if not paid at the end of one month after becoming due and payable bear until paid simple interest at an annual rate of 10%.

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4. The Owners Corporation may recover as a debt any costs not paid at the end of one month after it becomes due and payable together with any interest payable and the expenses of the Owners Corporation incurred in recovering those amounts.

Annexure below

## **Special By-Law 3 Works - Lot 65**

### **Part 1: Preamble-Introduction**

This is a by-law made under the provisions of Division 4 of Part 5 of Chapter 2 of the Strata Schemes Management Act 1996. The effect of the by-law is to grant the Owner of Lot 65 special privileges in respect of the common property to perform work to alter the courtyard of the lot by constructing a sandstone wall and installing a water feature, subject to the conditions specified in the by-law.

### **Part 2: Definitions & Interpretation**

In this by-law

1. "approval of Council" means the approval the Owner must obtain for the Works from all relevant statutory bodies, including Council.
2. "Council" means the state or local government body or planning authority with authority to determine applications under the Environmental Planning & Assessment Act 1979.
3. "Owner" means the Owner from time to time of Lot 65.
4. "Works" means the works to construct a 5m long 1.75m high sandstone wall in the south-western corner of the courtyard, timber decking and a water feature incorporating a water proof membrane, pump system and reflecting pool.
5. Words importing the singular include the plural and vice versa; words importing a gender include any gender and words defined in the Strata Schemes Management Act 1996 have the meaning given to them in that Act.
6. All parts of this by-law, including the introduction, are to be considered in the interpretation of the by-law.

### **Part 3: Grant of Special Privilege in Respect of the Common Property**

On the conditions set out in this by-law, the Owner shall have a special privilege in respect of the common property to carry out and thereafter to maintain the Works.

### **Part 4: Conditions Required Before the Works Commence**

1. Before commencing the Works, the Owner must provide the Owners Corporation with:
  - a. A copy of any requisite approval of Council, including all drawings, specifications, conditions and notes.
  - b. A Certificate of Currency for the duration of, and for a period of no less than 12 months following completion of the Works, of Contractors' All Risks insurance cover taken out with a reputable insurer (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), to which the Owner is named as an insured party.

### **Part 5: Performance of the Works**



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1. In carrying out the Works, the Owner undertakes that the Owner will, and the Owner must ensure that the Contractor also undertakes to the Owners Corporation that it will:
  - a. Comply with all conditions and requirements of any requisite approval of Council.
  - b. Comply with the terms of approval given by the Owners Corporation under this by-law.
  - c. Comply with the Building Code of Australia and relevant Australian Standards.
2. Subject to any extension necessitated by reasons beyond his control (such as bad weather), the Owner must complete the Works within 4 weeks of commencement.
3. The Owner may not vary the Works except in accordance with the written approval of the Owners Corporation and if applicable, the Council.
4. In performing the Works, the Owner must comply with all directions, orders and requirements of all relevant statutory authorities and must ensure and be responsible for compliance with such directions, orders and requirements by the Owner's servants, agents and contractors.
5. The Owner must ensure the Works are undertaken in such a way as to cause minimum disturbance or inconvenience to the lots or their occupiers and owners.
6. The Owner shall ensure that none of the Works encroaches onto an adjoining property.
7. The Owner must maintain all areas of common property adjacent to the Works, or used for or in relation to the Works, in a clean and tidy state while the Works are being carried out.
8. The Owner must repair promptly any damage caused or contributed to by the Works, including damage to the property of the Owners Corporation and the property of the owner or occupier of another lot in the strata scheme.
9. The Owner must not perform the Works or allow them to be carried out except between the hours of 8am and 5pm Monday to Friday inclusive and 8am and 5pm Saturday (excluding public holidays) or during such other times as may be approved by the Owners Corporation.

### **Part 6: Requirements following Completion of the Works**

After completion of the Works, the Owner must provide the Owners Corporation with a copy of any requisite compliance certificate for the Works under Part 4A of the Environmental Planning & Assessment Act 1979.

### **Part 7: Maintenance of the Common Property**

1. Subject to the terms of this by-law, any subsequent by-law, any special resolution of the Owners Corporation under Section 62(3) of the Strata Schemes Management Act 1996 not to maintain a particular item of property, the Owners Corporation shall continue to be responsible for the proper maintenance and keeping in a state of good and serviceable repair of the common property.
2. The Owner must maintain the Works and all associated additions and alterations, ancillary fittings and fixtures in a state of good and serviceable repair. The Owner must also maintain those parts of the common property that represent a point of contact between the Works and the balance of the common property.
3. The Owner must renew or replace the Works and all associated additions and alterations, ancillary fittings and fixtures whenever necessary and must repair promptly any damage caused or contributed to by such work including damage to the property of the Owners Corporation and the property of the owner or occupier of another lot in the strata scheme.

### **Part 8: Indemnity & Costs**

1. The Owner must indemnify the Owners Corporation against any liability or expense arising out of the Works for damage to any part of the common property because of performance of the Works or the renewal, repair or replacement of the Works.
2. The Owner must indemnify the Owners Corporation against any legal liability, loss, claim or proceedings in respect of any injury, loss or damage whatsoever to the common property, or other



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property, or person insofar as such injury, loss or damage arises out of, or in the course of, or by reason of the performance of the Works or the renewal, repair or replacement of the Works.

3. Should the Owners Corporation be required to carry out work as specified in Section 65 of the Strata Schemes Management Act 1996 the Owner must indemnify the Owners Corporation against any liability or expense for damage to the improvements installed in the course of the Works.
4. The Owner must meet all reasonable expenses of the Owners Corporation incurred in the preparation, making and registration of this by-law.

### Special By-Law 4

#### Car space storage units

##### A. Definitions

In this by-law:

- i. "approved type" means a galvanised steel storage unit such as the "Space Commander" 'Over The Bonnet', 'Tall Boy Closet', 'Double Decker' or similar type of storage unit approved by the Executive Committee from time to time or following a specific request for approval.
- ii. "car space" means any car space comprised in a lot or forming part of a lot.
- iii. "installed & installation" mean the installation of storage unit.
- iv. "storage unit" means a storage unit of an approved type.

##### B. Interpretation

In this by-law words importing the singular include the plural and vice versa; words importing a gender include any gender and words defined in the Strata Schemes Management Act 1996 have the meaning given to them in that Act.

##### C. Terms

An owner or occupier of a lot must not install or permit the installation of a storage unit except in compliance with the following conditions and stipulations:

##### D. Conditions & Stipulations

1. A storage unit must be of an approved type. If a proposed storage unit is not of the approved type the applicant must obtain written approval from the Executive Committee to the type and style of the storage unit.
2. An occupier of a lot must have written approval from the owner of the lot to the installation of a storage unit (and produce such approval if required by the Executive Committee).
3. A storage unit may not be installed in a way that impedes the functioning of any fire safety equipment or blocks necessary access to any common service such as plumbing, wiring or the like.
4. No storage unit shall encroach upon another lot.
5. A storage unit is to sit on the surface of the slab forming part of the common property. Penetration of the slab by bolts, screws and the like is not permitted.
6. The terms and conditions contained in this by-law, the terms of registered by laws 18 (Appearance of Lot) & 38 (Storage Areas) and the terms of any further approval given by the Executive Committee are all to apply to the installation or keeping of any storage unit.
7. The owner or occupier must maintain the storage unit in a state of good and serviceable repair and appearance and must renew or replace it whenever necessary.
8. The owner or occupier at his own cost must repair any damage to the common property or the

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property of the owner or occupier of another lot, occurring in the installation, maintenance, replacement, repair or renewal of the storage unit.

9. Any storage unit shall be and remain the property of the owner or occupier of the lot served.
10. If the Owners Corporation requires access to any area of common property adjacent to where a storage unit is located to perform its statutory duties then the owner or occupier of the lot must if requested, remove and replace the storage unit at his cost to enable the Owners Corporation to carry out such work.
11. The owner or occupier must indemnify the Owners Corporation and the owners and occupiers of other lots against any liability or expense that would not have been incurred if a storage unit had not been installed.

### Special By-Law 5 Awnings

#### A. Definitions

In this by-law:

- i. "approved type" means a white or cream coloured awning such as the 'Kingsford System 8000 Alfa Retractable Awning F/N 17034 4100 x 3100 T-6M B-6M 180 STR Valance' or similar type of awning approved by the Executive Committee from time to time or following a specific request for approval.
- ii. "awning" means an awning of an approved type.
- iii. "installed & installation" mean the installation of an awning.
- iv. "owner or occupier" means an owner or occupier of one of Lots 65, 66, 67, 68,69, 78, 79, 80, 81 or 82.

#### B. Terms

An owner or occupier must not install or permit the installation of an awning except in compliance with the following conditions and stipulations:

#### C. Conditions & Stipulations

1. An awning must be of an approved type. If the proposed awning is not of an approved type the applicant must obtain written approval from the Executive Committee to the type, colour and style of the awning.
2. An occupier of a lot must have written approval from the owner of the lot to the installation of an awning (and produce such approval if required by the Executive Committee).
3. The terms and conditions contained in this by-law, the terms of registered by-law 18 (Appearance of Lot) and the terms of any further approval given by the Executive Committee are to apply to the installation or keeping of any awning.
4. The owner or occupier must maintain the awning in a state of good and serviceable repair and appearance, and must renew or replace it whenever necessary
5. The owner or occupier at his own cost must repair any damage to the common property occurring in the installation, maintenance, replacement, repair or renewal of the awning.
6. An awning may be removed but must be done so at the cost of the owner or occupier. After removal of an awning the relevant parts of the common property must be made good.
7. Any awning shall be and remain the property of the owner or occupier of the served.
8. The owner or occupier must indemnify the Owners Corporation and the owners and occupiers of other lots against any liability or expense that would not have been incurred if an awning had not been installed.

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### Special By-Law 6 Sprinkler heads

#### A. Definitions

In this by-law "sprinkler head" means a sprinkler head that is part of the fire safety system installed to serve the strata parcel.

#### B. Interpretation

In this by-law words importing the singular include the plural and vice versa; words importing a gender include any gender and words defined in the Strata Schemes Management Act 1996 have the meaning given to them in that Act.

#### C. Terms

An owner must not change a sprinkler head except in compliance with the following conditions and stipulations:

#### D. Conditions & Stipulation

1. The owner must obtain written approval from the Executive Committee to the type and style of the replacement sprinkler head and the method of installation and connection to the common fire safety system.
2. Any replacement sprinkler head must be fitted by an appropriately licensed and qualified person and in accordance with all statutory and regulatory requirements.
3. If it is ascertained during any inspection that a replacement sprinkler head has been incorrectly installed or is in any way deficient it must be immediately replaced at the owner's expense.
4. The owner must maintain any replacement sprinkler head in a state of good and serviceable repair and appearance and must renew or replace it whenever necessary.
5. The owner at his own cost must repair any damage to the common property occurring in the installation, maintenance, replacement, repair or renewal of a sprinkler head.
6. The owner must indemnify the Owners Corporation against any liability or expense that would not have been incurred if a replacement sprinkler head had not been installed.

### Special By-Law 7 Amendment to by law 21

By-law 21 is amended to read as follows:

#### Curtains & Window Coverings

1. An Owner or Occupier shall not hand any curtain, blind or any other window dressing in any window or door which faces public or common areas other than a blind or curtain approved by the Original Owner or Owners Corporation.
2. For Lots located in that part of the scheme marked on the plan as the "Tower Building" any curtain or blind in a window or door which faces public or common areas must have a backing that is coloured White, Silver or Light Brown.
3. For Lots located in that part of the scheme marked on the plan as the "Court Building" any curtain or blind in a window or door which faces public or common areas must have a backing that is coloured either White or Pale Silver.

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### Special By-Law 8 Amendment to by law 36

By-law 36 of the by-laws registered with the Strata Plan is amended to read as follows:

1. An Owner or Occupier or any Authorised User must not, without the written consent of the Owners Corporation, use any balcony as a place to store furniture, goods, or any other item.
2. Provided that any item is stable enough to resist high wind, an Owner or Occupier or any Authorised User may keep the following on a balcony:
  - a. White, Cream or Grey Outdoor Furniture.
  - b. One pot plant in a container.
  - c. Portable barbeques (that must be taken inside when not in use).
3. An Owner or Occupier or any Authorised User of ground or first floor terraces in the court building (Lots 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81 and 82):
  1. White, Cream or Grey Outdoor Furniture.
  2. Pot plants
  3. A barbeque (which need not be taken inside when not in use).
4. Notwithstanding items 1, 2 and 3, an Owner or Occupier or an Authorised User of any lot must not store or affix furniture, goods or any other item on their balcony or terrace which is not consistent with the overall appearance of the building.

### Special By-Law 9 Works - Lot 80

1. That the proprietor for the time being of Lot 80 shall have the right to construct a timber framed gyprock wall in the room designated study to enclose a new toilet and sink and connect the toilet and sink to the existing water service and sewerage line.
2. This right is conditional upon.
  - a. The said toilet and sink being installed and connected to a proper and workmanlike manner at the cost to the proprietor;
  - b. The proprietor indemnifying the Owners Corporation against loss or damage which may be occasioned at any time as a direct consequence of the installation of the said toilet.
  - c. The proprietor obtaining any necessary consent from the Council of the City of Sydney or Sydney Water for the installation of the said toilet.

### Special By-Law 10 Works

The Owners - Strata Plan No. 73943 pursuant to section 52 of the *Strata Schemes Management Act, 1996* make a by-law for the carrying out of the Works on the following terms:

#### PART 1.1

#### GRANT OF RIGHT

The Owner has the special privilege to carry out the Works at its own cost subject to Part 3 of this by-law.

#### PART 1.2

#### THIS BY-LAW TO PREVAIL

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Notwithstanding anything contained in the by-laws applicable to the scheme, the Owner has the right to carry out the Works (at the Owner's cost and to remain the Owner's fixture) subject to the provisions of Part 3 of this by-law. If there is any inconsistency between this by-law and 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 In this by-law, unless the context otherwise requires or permits:

- a. **Act** means the *Strata Schemes Management Act, 1996*.
- b. **Authority** means any government, semi government, statutory, public or other authority having any jurisdiction over the Lots or the Building including the Council.
- c. **Building** means the building situated at 2a Elizabeth Bay Road, Elizabeth Bay NSW 2011.
- d. **Council** means Council of the City of Sydney.
- e. **Development Consent** means Council's consent to development application no D/2008/1521 for the Works operative from 16th.October 2008.
- f. **Insurance** means:
  - i. contractors all risk insurance (including public liability insurance) in the sum of \$10,000,000;
  - ii. insurance required under the *Home Building Act, 1989*, to the value of the Works, in joint names of the Owner and the Owners Corporation (if necessary); and
  - iii. workers' compensation insurance.
- g. **Lots** means lots 156 and 157 in strata plan 73943 (also known as lots 156 and 157 in strata plan registration number 75363).
- h. **Owner** means the owner of the Lots.
- i. **Owners Corporation** means the owners corporation created by the registration of strata plan registration no. 73943.
- j. **Plans** means the plans prepared by Valmont Interiors entitled "Meredith Residence Apts 9.07 & 9.08, 2a Elizabeth Bay Road, Elizabeth Bay, Development Application" dated 29th July 2008 (a copy of which was tabled at the meeting at which this by-law was passed and are attached to this by-law as **Annexure "A"**).
- k. **Works** means the works to the Lots, the Building and the common property to be carried out in connection with the conversion of the Lots into one lot and ancillary renovation works including the:
  - i. structural, demolition, carpentry and joinery and floor works;
  - ii. plumbing and air-conditioning alterations, and
  - iii. restoration of lot and common property damaged by the works referred to in sub-paragraphs (i) and (ii) above,

all of which is to be conducted strictly in accordance with the Plans, the Development Consent and the provisions of this by-law.

2.2 In this by-law, unless the context otherwise requires, a word which denotes:

- 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; and
- d. references to legislation include references to amending and replacing legislation.

## PART 3

### CONDITIONS

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## PART 3.1

### Before commencement

3.1 Before commencement of the Works the Owner must:

- a. obtain all necessary approvals from any Authority and provide a copy to the Owners Corporation;
- b. provide the Owners Corporation's nominated representative(s) access to inspect the Lots within 48 hours of any request from the Owners Corporation;
- c. effect and maintain Insurance and provide a copy to the Owners Corporation; and
- d. pay the Owners Corporation's reasonable costs in preparing, making and registering this by-law (including legal and strata management costs).

## PART 3.2

### During construction

3.2 Whilst the Works are in progress the Owner of the Lots at the relevant time must:

- a. use duly licensed employees, contractors or agents to conduct the Works;
- b. ensure the Works are conducted in accordance with any approvals and conditions given or imposed by any Authority;
- c. ensure that the Works are conducted in a proper and workmanlike manner and comply with the current Australian Building Codes and Standards;
- d. ensure the Works are carried out expeditiously and with a minimum of disruption;
- e. carry out the Works between the hours of 8:30am and 5:30pm Mondays - Fridays or between 8:30am and 12 midday on Saturday or at such other times reasonably approved by the Owners Corporation;
- f. perform the Works within a period of three (3) months from their commencement or such other period as reasonably approved by the Owners Corporation;
- g. transport all construction materials, equipment and debris in the manner described in this by-law and as otherwise reasonably directed by the Owners Corporation;
- h. protect all affected areas of the Building outside the Lots from damage relating to the Works or the transportation of construction materials, equipment and debris;
- i. ensure that the Works do not interfere with or damage the common property or the property of any other lot owner other than as approved in this by-law and if this happens the Owner must rectify that interference or damage within a reasonable period of time;
- j. provide the Owners Corporation's nominated representative(s) access to inspect the Lots within 24 hours of any request from the Owners Corporation (for clarity more than one inspection may be required); and
- k. not vary the Works without first obtaining the consent in writing from the Owners Corporation.

## PART 3.3

### After construction

3.3.1 After the Works have been completed the Owner must without unreasonable delay:

- a. notify the Owners Corporation that the Works have been completed;
- b. notify the Owners Corporation that all damage, if any, to lot and common property caused by the Works and not permitted by this by-law has been rectified;
- c. provide the Owners Corporation with a copy of any certificate or certification required by an Authority to approve the Works;



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- d. provide the Owners Corporation with certification from a suitably qualified engineer(s) approved by the Owners Corporation that the Works or works required to rectify any damage to lot or common property have been completed in accordance with the terms of this by-law; and
- e. provide the Owners Corporation's nominated representative(s) access to inspect the Lots within 48 hours of any request from the Owners Corporation to check compliance with this by-law or any consents provided under this by-law.

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

### PART 3.4

#### Enduring rights and obligations

3.4 The Owner:

- a. must maintain and upkeep the Works;
- b. must maintain and upkeep those parts of the common property in contact with the Works;
- c. remains liable for any damage to any lot or common property arising out of the Works; and
- d. indemnifies and shall keep indemnified the Owners Corporation against any costs or losses arising out of or in connection with the Works.

### PART 3.5

#### Default by the Owner

3.5 If the Owner 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 Lot to carry out that work; and
- c. recover the costs of carrying out that work from the defaulting Owner.

## Special By-Law 11 Works - Lot 53

### 1. Grant of Special Privilege and Exclusive Use Right

On the conditions set out in this by-law the Owners for the time being of Lot 53 (referred to in this by-law as the **Lot 53 Owner**) shall have a special privilege in respect of the Common Property to carry out building works to renovate Lot 53 and a right of exclusive use and enjoyment of that part of the Common Property affected by the building and renovation works incorporating the:

- a. removal of the cupboards in the entry;
- b. removal of part of the column between the entrance and hall;
- c. construction of an opening between the entrance and hall;
- d. removal of parts of columns and three exposed piers in the hall;
- e. installation of new cupboards in the kitchen and hall;
- f. installation of a kitchen island bench in the kitchen;
- g. replacement of the wall and floor tiles in the main bathroom and laundry;
- h. replacement of the existing hinged doors for the main bathroom and laundry with sliding doors;
- i. removal of the wall separating the main bedroom and the ensuite and robe of the main bedroom;

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- j. reconstruction of the wall separating the main bedroom from the ensuite;
- k. installation of the new robe in the main bedroom;
- l. construction of an opening between the main bedroom and the second bedroom to convert the second bedroom into a study;
- m. installation of a door between the main bedroom and the study;
- n. removal of walls in the study;
- o. installation of a new robe in the study;
- p. replacement of the wall and floor tiles in the ensuite;
- q. replacement of the toilet, vanity, shower screen and fixtures and fittings in the ensuite; and
- r. replacement of the flooring from the entry to the study with new hard flooring and acoustic insulation,

all as depicted in the Plans.

### 2. Definitions

For the purpose of this by-law:

**"Act"** means the *Strata Schemes Management Act 1996* and the regulations thereunder each as amended or replaced from time to time;

**"Council"** means the Council of the City of Sydney;

**"Plans"** means the plans and drawings of the Works prepared by Philip Diment Architect dated July 2013, attached to and forming part of this by-law;

**"Utility Services"** means any service associated with plumbing, electrical, gas or telecommunications services (including cable television) which are reasonably required to effectively use any of the areas affected by the Works as reconfigured following the passage of this by-law or which utilise any part of the Common Property affected by the Works to provide services to any other Owner, Occupier or the Owners Corporation;

**"Works"** means and includes all of the building works described in clause 1.

Where any word or phrase has a defined meaning in or for the purposes of the Act, that word or phrase has the same meaning in this by-law.

### 3. Conditions

#### a. Prior to Undertaking Works

Prior to undertaking the Works the Lot 53 Owner must obtain and provide to the Owners Corporation:

- i. any required approval of the Council for the performance of the Works;
- ii. any certificate of currency of the insurance policy or policies of the contractor(s) carrying out the Works which is effected with a reputable insurance company reasonably satisfactory to the Owners Corporation for:
  - A. Contractor's all risk insurance incorporating public liability insurance in an amount of not less than \$5,000,000;
  - B. any insurance required in respect of the Works under Section 92 of the *Home Building Act 1989*; and
  - C. workers' compensation in accordance with applicable legislation;

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- iii. the opinion of a structural engineer (reasonably acceptable to the Owners Corporation) to the effect that if the Works are carried out in a good and workmanlike manner substantially in accordance with the Plans, the Works will not adversely affect the structural integrity of the Building or any part thereof;
- iv. if required by the Executive Committee, a report of the results of a dilapidation survey (**Dilapidation Report**) conducted by a qualified expert (reasonably acceptable to the Executive Committee) in respect of the Common Property and each Lot affected or likely to be affected by the Works;
- v. the details of the hard flooring proposed to be installed pursuant to clause (1)(r) of the by-law including:
  - A. the type of hard flooring;
  - B. the type of acoustic insulation proposed to be used;
  - C. the acoustic properties of the hard flooring; and
  - D. how the hard flooring will be installed so that it will not interfere with any waterproofing membrane, wall or skirting in Lot 53, and a report of a qualified acoustic engineer who is a member of the Association of Australian Acoustical Consultants (**AAAC**) and who is reasonably satisfactory to the executive committee (in this by-law referred to as an "**approved acoustic engineer**"), that analyses the proposed hard flooring, method of installation and the effect on sound transmission including impact noise following installation, which report attests to the measured or estimated weighted standardized sound pressure level  $L_{nT,w}$  of the hard flooring as installed being not more than 45dBA (that is to say equal to a 5 Star Rating in accordance with the Acoustical Star Rating System for Apartments and Townhouses published by the AAAC) and must state that the proposed floor finish is not likely to transmit noise that might unreasonably disturb another Owner or Occupier; and
- vi. if required by the Executive Committee, the opinion of a fire services engineer (reasonably acceptable to the Owners Corporation) to the effect that if the Works are carried out in a good and workmanlike manner substantially in accordance with the Plans, the Works will not adversely affect the efficacy of the fire safety measures installed in the Building or any part thereof.

### b. Performance of Works

In carrying out the Works, the Lot 53 Owner (including any contractor involved in the performance of the Works on behalf of the Lot 53 Owner and that contractor's employees, contractors, servants or agents) must:

- i. ensure that the Works are carried out in a good and workmanlike manner by licensed contractors in compliance with the Building Code of Australia and relevant Australian standards and in such a way as to minimise disruption or inconvenience to any Owner or Occupier of any other Lot in the Strata Scheme;
- ii. carry out the Works substantially in accordance with the Plans and as approved by the Council;
- iii. ensure that the existing waterproofing membrane or other waterproofing product installed in the main bathroom, laundry, ensuite and kitchen is not compromised by the Works and if:
  - A. the waterproofing membrane or other waterproofing product installed in the main bathroom, laundry, ensuite or kitchen area is compromised by the Works; and/or
  - B. the waterproofing membrane or other waterproofing product installed in the main

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bathroom, laundry, ensuite or kitchen area requires replacement, the Lot 53 Owner must remove the part of the waterproofing membrane or other waterproofing product which has been compromised or requires replacement and install appropriate waterproofing membranes or other waterproofing products warranted for not less than 10 years to render the flooring and other relevant surfaces of the main bathroom, laundry, ensuite and kitchen completely waterproof following the completion of the Works;

- iv. ensure that all of the Works involving the installation of waterproofing membrane or other waterproofing product are carried out by a contractor licensed to install that waterproofing membrane or other waterproofing product;
- v. not materially amend or vary the Plans without the approval in writing of the Owners Corporation and, if required, the Council;
- vi. take reasonable precautions to protect all areas of the Building outside Lot 53 from damage by the Works;
- vii. transport all construction materials, equipment, debris and other material associated with the Works over Common Property in the manner reasonably directed by the Owners Corporation;
- viii. ensure that no doors or access ways are blocked or hindered in any way by the Lot 53 Owner or the Lot 53 Owner's contractor, their employees, contractors, servants or agents or by construction materials, equipment, debris and other material associated with the Works;
- ix. keep all areas of the Building outside Lot 53 clean and tidy throughout the performance of the Works, ensure that, so far as is reasonably practicable, the Works are performed wholly within Lot 53 and remove all debris from the Building resulting from the Works as soon as practicable;
- x. ensure that no construction materials, equipment, debris and other material associated with the Works is deposited on the Common Property at all or on the pavement or driveway outside the Building for longer than 24 hours unless prior arrangements have been made by the Lot 53 Owner or the Lot 53 Owner's contractor with the Owners Corporation for the use and siting of a rubbish skip or dump bin;
- xi. ensure that no security doors to the Building are propped open by the Lot 53 Owner or the Lot 53 Owner's contractor, their employees, contractors, servants or agents;
- xii. ensure that neither the Lot 53 Owner nor the Lot 53 Owner's contractor, their employees, servants or agents uses any of the Owners Corporation's garbage bins to store or cart debris, building materials, tools or equipment;
- xiii. only perform the Works at the times approved by the Owners Corporation (acting reasonably);
- xiv. comply with all of the conditions, requirements and obligations imposed by the Council concerning the performance of the Works including without limitation any development or building approval given by the Council;
- xv. ensure that the Works do not interfere with or damage the Common Property, the property of any other Owner or Occupier or any Utility Service otherwise than as approved in this by-law;
- xvi. if the Works interfere with any Utility Services, ensure that the Occupiers of the Lots whose services will be interfered with by the Works are provided with a written notice at least 48 hours before the services are interfered with which indicates when and how the services to their Lot will be interfered with;
- xvii. make good any damage caused by the Lot 53 Owner or the Lot 53 Owner's contractor, their employees, servants or agents in the performance of the Works within a reasonable period after that damage occurs; and

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- xviii. subject to any extension of time required by reason of any supervening event or circumstance beyond the reasonable control of the Lot 53 Owner, complete the Works within three months of their commencement.

### c. Completion of Works

- i. On completion of the Works the Lot 53 Owner must provide to the Owners Corporation the certificate of the Council that the Works have been inspected by the Council which has approved the Works and that the Works comply with the conditions of any approval given by the Council, if that approval were necessary to carry out the Works.
- ii. On completion of the Works the Lot 53 Owner must inform the Owners Corporation when the Works have been completed and if required by the Executive Committee, the Lot 53 Owner must give the Executive Committee or a representative nominated by the Executive Committee access to the part or parts of the Building required to inspect the Works within 48 hours of any request from the Executive Committee.
- iii. Within one month after the installation of hard flooring in Lot 53, the Lot 53 Owner must obtain and provide to the Executive Committee a report from an approved acoustic engineer:
  - A. certifying that the approved acoustic engineer has conducted field impact isolation testing of the installed hard flooring *in situ*; and
  - B. specifying the results of that acoustic testing; and
  - C. certifying that the hard flooring has been installed in accordance with the manufacturer's specifications and that the installation otherwise complies with the requirements of this by-law concerning hard flooring including those in the report required under clause (3)(a)(v) in this by-law.
- iv. If the certificate of the approved acoustic engineer provided under clause (3)(c)(iii) of this by-law discloses that the installed hard flooring does not comply with the requirements of this by-law concerning hard flooring, in particular but without limitation the parameters set out in clause (3)(a)(v) of this by-law, the Lot 53 Owner must take such steps as are necessary to rectify the deficiencies in the installation so that the installed flooring complies with the requirements of this by-law in default of which the Lot 53 Owner must replace or cover the hard flooring with carpet laid over heavy duty underlay.
- v. If the certificate of the approved acoustic engineer discloses an LnT,w value that is within 10% of that specified in clause (3)(a)(v) of this by law, the Executive Committee may, but is not bound to, accept that value as complying in the circumstances with this by-law.
- vi. If a report complying with clause (3)(c)(iii) of this by-law is not provided to the Executive Committee within three months after installation of the hard flooring, the Owners Corporation, by resolution of the Executive Committee, has the right, by notice in writing to the Lot 53 Owner, to require the installed hard flooring to be replaced or covered with carpet laid over heavy duty underlay at the cost of the Lot 53 Owner.
- vii. The Owners Corporation is not entitled to require the installed hard flooring to be replaced with carpet laid over heavy duty underlay if the failure of the Lot 53 Owner to supply the acoustic engineer's certificate is due in whole or in part to the inability of the acoustic engineer (acting reasonably) to gain access to the Lot or Lots below or, as applicable, adjacent to, Lot 53 for the purpose of conducting acoustic testing.
- viii. If the Lot 53 Owner is served with a notice from the Owners Corporation requiring the Lot 53 Owner to cover the floor of Lot 53 with carpet laid over heavy duty underlay, the Lot 53 Owner must comply with that notice within three months of service of that notice on the Lot 53 Owner by the Owners Corporation.



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### 4. Liability and Indemnity

- a. The Lot 53 Owner is liable for any damage caused to any part of the Common Property or any property of any other Owner or Occupier, not included in clause 1 of this by-law, as a result of the performance of the Works and must take all such steps as are necessary to make good that damage within a reasonable time after it has occurred.
- b. The Lot 53 Owner must indemnify the Owners Corporation and any Owner or Occupier against any loss or damage, cost, charge or expense incurred or sustained by the Owners Corporation or that Owner or Occupier as a result of or arising out of the Works or the performance thereof, including without limitation any liability under section 65(6) of the Act in respect of any property owned by the Lot 53 Owner.
- c. To facilitate the preparation of the Dilapidation Report referred to in clause 3(a)(iv) of this by-law and assist in assessing claims made pursuant to this by-law, each Owner and Occupier of each other Lot in the Scheme affected or likely to be affected by the Works must, on not less than three business days' notice, allow access to their Lot, and the Owners Corporation must allow access to the Common Property, to facilitate the conduct of the survey of the Lots and Common Property for the preparation of the Dilapidation Report.
- d. The Dilapidation Report will form the basis for the ascertainment and determination of claims for rectification of alleged damage and payment or reimbursement of costs, charges or expenses in respect of alleged loss or damage as a result of or arising out of the Works or the performance thereof.

### 5. Other Rights and Obligations

- a. The Lot 53 Owner must, at the cost of the Lot 53 Owner, maintain the alterations and additions installed in the course of the Works (including but not limited to the fixtures and fittings installed as part of the Works) and any Common Property affected by the Works in a state of good and serviceable repair and must renew or replace them whenever necessary.
- b. If the approval of the Council is required to carry out the Works, the Owners Corporation must, within a reasonable time (and in any event not later than seven days), after a request is made therefor by the Owner, affix the common seal of the Owners Corporation to any application for development consent and any other relevant approval to be lodged with the Council by the Lot 53 Owner in respect of the Works approved under this by-law and deliver the same to or at the direction of the Lot 53 Owner, as applicable.
- c. The Lot 53 Owner must as and when reasonably required provide access to Lot 53 to the Owners Corporation, its servants and agents, and to any third party provider of a Utility Service having a right of access (and their respective servants and agents) in order to effect maintenance, repairs or replacement to or of the Utility Service within or affected by the Works.
- d. For the avoidance of doubt:
  - i. the adoption of this by-law by the Owners Corporation constitutes consent of the Owners Corporation which is required by the Lot 53 Owner:
    - A. under by-law 15 to install hard flooring in Lot 53; and
    - B. under by-law 24 to perform works which may affect the structural support to any other part of the Building; and
  - ii. clauses (3)(a)(v) and (3)(c)(iii) to (3)(c)(viii) of this by-law relate only to hard flooring installed in Lot 53 pursuant to this by-law.

### 6. Costs

- d. The Works must be undertaken at the cost of the Lot 53 Owner.
- e. The Lot 53 Owner must pay the reasonable costs of the Owners Corporation in preparing, making, registering, implementing and enforcing this by-law.

### 7. Right to Remedy Default

- a. If the Lot 53 Owner fails to comply with any obligation under this by law, then the Owners Corporation may:

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- i. carry out all work necessary to perform that obligation;
- ii. enter upon any part of Lot 53 to carry out that work;
- iii. recover the costs of carrying out that work from the Lot 53 Owner,

and the Lot 53 Owner shall indemnify the Owners Corporation against any legal action or liability flowing from the action of the Owners Corporation pursuant to this clause.

- b. If the debt for the rectification works or enforcement of the by-law referred to in clause 7(a) of this by-law is not paid within one month after the date on which it is due:
  - i. the debt, or so much of it as is unpaid, will bear simple interest at the same rate as applies to contributions unpaid under the Act or if the regulations under the Act prescribe some other rate, then at that other rate; and
  - ii. the Owners Corporation may include reference to that debt and interest thereon on notices under section 109 of the Act in respect of Lot 53.

### Special By-Law 12 Works - Lot 133

#### 1. Grant of Special Privilege and Exclusive Use Right

On the conditions set out in this by-law the Owner for the time being of Lot 133 (referred to in this by-law as the **Lot 133 Owner**) shall have a special privilege in respect of the Common Property to carry out building works to renovate Lot 133 and a right of exclusive use and enjoyment of that part of the Common Property affected by the building and renovation works incorporating the:

- a. removal of part of the wall separating the stairwell from the second bedroom; and
- b. re-routing of the fire sprinkler pipe located in the part of the wall separating the stairwell from the second bedroom to be removed under clause 1(a) of this by-law;

all as depicted in the Plans.

#### 2. Definitions

For the purposes of this by-law:

**"Act"** means the *Strata Schemes Management Act 1996* and the regulations thereunder each as amended or replaced from time to time;

**"Council"** means the Council of the City of Sydney;

**"Plans"** means the plans and drawings of the Works attached to and forming part of this by-law;

**"Utility Services"** means any service associated with the plumbing, electrical, gas or telecommunications services (including the fire safety system and cable television) which are reasonably required to effectively use any of the areas affected by the Works as reconfigured following the passage of this by law and which utilise any part of the Common Property affected by the Works to provide services to any other Owner, Occupier or the Owners Corporation;

**"Works"** means and includes all of the building works described in clause 1.

Where any word or phrase has a defined meaning in or for the purposes of the Act, that word or phrase has the same meaning in this by-law.



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### 3. Conditions

#### a. Prior to undertaking Works

Prior to undertaking the Works the Lot 133 Owner must obtain and provide to the Owners Corporation:

- i. any required approval of the Council (as required in accordance with applicable law) for the performance of the Works;
- ii. any certificate of currency of the insurance policy or policies of the contractor(s) carrying out the Works which is effected with a reputable insurance company reasonably satisfactory to the Owners Corporation for:
  - A. contractor's all risk insurance incorporating public liability insurance in an amount of not less than \$5,000,000;
  - B. any insurance required in respect of the Works under Section 92 of the *Home Building Act 1989*; and
  - C. workers' compensation in accordance with applicable legislation;
- iii. if required by the Executive Committee, the opinion of a structural engineer (reasonably acceptable to the Owners Corporation) to the effect that if the Works are carried out in a good and workmanlike manner substantially in accordance with the Plans, the Works will not adversely affect the structural integrity of the Building or any part thereof;
- iv. if reasonably required by the Executive Committee, a report of the results of a dilapidation survey (**Dilapidation Report**) conducted by a qualified expert (reasonably acceptable to the Executive Committee) in respect of the Common Property and each Lot affected or likely to be affected by the Works;
- v. if required by the Executive Committee, the opinion of a fire services engineer (reasonably acceptable to the Owners Corporation) to the effect that if the Works are carried out in a good and workmanlike manner substantially in accordance with the Plans, the Works will not adversely affect the efficacy of the fire safety system installed in the Building or any part thereof and the Owner will arrange with the Owners Corporation to re-route the fire sprinkler pipe as set out in clause 1(b) of this by-law.

#### b. Performance of Works

In carrying out the Works, the Lot 133 Owner (including any contractor involved in the performance of the Works on behalf of the Lot 133 Owner and that contractor's employees, contractors, servants or agents) must:

- i. ensure that the Works are carried out in a good and workmanlike manner by licensed contractors in compliance with the Building Code of Australia and relevant Australian standards and in such a way as to minimise disruption or inconvenience to any Owner or Occupier of any other Lot in the Strata Scheme;
- ii. ensure a fire services engineer (reasonably acceptable to the Owners Corporation) carries out the work to re-route the fire sprinkler pipe as set out in clause 1(b) of this by-law;
- iii. carry out the Works substantially in accordance with the Plans and, if required, as approved by the Council
- iv. not materially amend or vary the Plans without the approval in writing of the Owners Corporation and, if required, the Council;
- v. take reasonable precautions to protect all areas of the Building outside Lot 133 from damage by the Works;
- vi. transport all construction materials, equipment, debris and other material associated with

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the Works over Common Property in the manner reasonably directed by the Owners Corporation;

- vii. ensure that no doors or access ways of the Building are blocked or hindered in any way by the Lot 133 Owner or the Lot 133 Owner's contractor, their employees, contractors, servants or agents or by construction materials, equipment, debris and other material associated with the Works;
- viii. in the performance of the Works keep all areas of the Building outside Lot 133 clean and tidy and ensure that, so far as is reasonably practicable, the Works are performed wholly within Lot 133 and remove all debris from the Building resulting from the Works as soon as practicable;
- ix. ensure that no construction materials, equipment, debris and other material associated with the Works is deposited on the Common Property at all or on the pavement or driveway outside the Building for longer than 24 hours unless prior arrangements have been made by the Lot 133 Owner or the Lot 133 Owner's contractor with the Owners Corporation for the use and siting of a rubbish skip or dump bin;
- x. ensure that no security doors to the Building are propped open by the Lot 133 Owner or the Lot 133 Owner's contractor, their employees, contractors, servants or agents;
- xi. ensure that neither the Lot 133 Owner nor the Lot 133 Owner's contractor, their employees, servants or agents uses any of the Owners Corporation's garbage bins to store or cart debris, building materials. tools or equipment;
- xii. only perform the Works at the times approved by the Owners Corporation (acting reasonably);
- xiii. if applicable, comply with all of the conditions, requirements and obligations imposed by the Council concerning the performance of the Works including without limitation any development or building approval given by the Council;
- xiv. ensure that the Works do not interfere with or damage the Common Property, the property of any other Owner or Occupier or any Utility Services otherwise than as approved in this by-law;
- xv. if the Works interfere with any Utility Services, ensure that the Occupiers of the Lots whose services will be interfered with by the Works are provided with a written notice at least 48 hours before their services are interfered with which indicates when and how the services to their Lot will be interfered with;
- xvi. make good any damage caused by the Lot 133 Owner or the Lot 133 Owner's contractor, their employees, servants or agents in the performance of the Works in accordance with clause 4(a) of this by-law within a reasonable period after that damage occurs; and
- xvii. subject to any extension of time required by reason of any supervening event or circumstance beyond the reasonable control of the Lot 133 Owner, complete the Works within three months of their commencement.

### c. Completion of Works

- i. On completion of the Works the Lot 133 Owner must provide to the Owners Corporation the certificate of the Council that the Works have been inspected by the Council which has approved the Works and that the Works comply with the conditions of any approval given by the Council, if that approval were necessary to carry out the Works.
- ii. On completion of the Works the Lot 133 Owner must inform the Owners Corporation when the Works have been completed and if required by the Executive Committee, the Lot 133 Owner must give the Executive Committee or a representative nominated by the Executive Committee access to the part or parts of the Building required to inspect the Works within 3 days of any request from the Executive Committee.

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### 4. Liability and Indemnity

- a. The Lot 133 Owner is liable for any damage caused to any part of the Common Property or any other property of any other Owner or Occupier, not included in clause 1 of this by-law, as a result of the performance of the Works and must take all such steps as are necessary to make good that damage within a reasonable time after it has occurred.
- b. The Lot 133 Owner must indemnify the Owners Corporation and any other Owner or Occupier against any loss or damage, cost, charge or expense incurred or sustained by the Owners Corporation or that other Owner or Occupier as a result of or arising out of the Works or the performance thereof, including without limitation any liability under section 65(6) of the Act in respect of any property of the Lot 133 Owner.
- c. If necessary to facilitate the preparation of the Dilapidation Report referred to in clause 3(a)(iv) of this by-law and assist in assessing claims made pursuant to this by-law, each Owner of each other Lot in the Scheme affected or likely to be affected by the Works must, on not less than three business days' notice, allow access to their Lot, and the Owners Corporation must allow access to the Common Property, to facilitate the conduct of the survey of the Lots and Common Property for the preparation of the Dilapidation Report.
- d. Where a Dilapidation Report has been obtained in accordance with clause 3(a)(iv) of this by-law, it will form the basis for the ascertainment and determination of claims for rectification of alleged damage and payment or reimbursement of costs, charges or expenses in respect of alleged loss or damage as a result of or arising out of the Works or the performance thereof.

### 5. Other Rights and Obligations

- a. The Lot 133 Owner must, at the cost of the Lot 133 Owner, maintain the alterations and additions installed in the course of the Works (including but not limited to the fixtures and fittings installed as part of the Works) and any Common Property directly affected by the Works (but excluding the fire sprinkler pipe re-routed in accordance with clause 1(b) of this by-law) in a state of good and serviceable repair and must renew or replace them whenever necessary.
- b. If the approval of the Council is required to carry out the Works, the Owners Corporation must, within a reasonable time (and in any event not later than seven days), after a request is made therefor by the Lot 133 Owner, affix the common seal of the Owners Corporation to any application for development consent and any other relevant approval to be lodged with the Council by the Lot 133 Owner in respect of the Works approved under this by-law and deliver the same to or at the direction of the Lot 133 Owner, as applicable.
- c. The Lot 133 Owner must as and when reasonably required and on not less than 3 days prior written notice (except in the case of an emergency) provide access to Lot 133 to the Owners Corporation, its servants and agents, and to any third party provider of a Utility Service having a right of access (and their respective servants and agents) in order to effect necessary maintenance, repairs or replacement to or of the Utility Service within or affected by the Works.
- d. For the avoidance of doubt, any approval and/or direction of the Owners Corporation (including, but not limited to, the approvals and/or directions required to be given under clauses 3(a)(ii), 3(a)(iii), 3(a)(v), 3(b)(v) and 3(b)(xi) of this by-law) maybe given by the Executive Committee.
- e. For the avoidance of doubt, the adoption of this by-law by the Owners Corporation constitutes consent of the Owners Corporation which is required by the Lot 133 Owner under by-law 24 to perform works which may affect the structural support to any other part of the Building.

### 6. Costs

- a. The Works must be undertaken at the cost of the Lot 133 Owner.
- b. The Lot 133 Owner must pay the reasonable costs of the Owners Corporation in preparing, making, registering, implementing and enforcing any breach of this by-law.

### 7. Right to Remedy Default

- a. If the Lot 133 Owner fails to comply with any obligation under this by law within 21 days of notice from the Owners Corporation requesting the Lot 133 Owner to comply with such

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obligation or otherwise requesting the Lot 133 Owner to rectify any default of compliance with this by-law, then the Owners Corporation may:

- i. carry out all work necessary to perform that obligation;
- ii. enter upon any part of Lot 133 as reasonably required to carry out that work;
- iii. recover the reasonable costs of carrying out that work from the Lot 133 Owner,

and the Lot 133 Owner shall indemnify the Owners Corporation against any legal action or liability flowing from the action of the Owners Corporation pursuant to this clause other than to the extent resulting from the wrongful act or omission or negligence by the Owners Corporation and/or the Owners Corporation's contractor's employees, servants or agents.

- b. The Owners Corporation will provide notice to the Lot 133 Owner of any debt incurred for the rectification works or enforcement of the by law referred to in clause 7(a) of this by-law as soon as reasonably practicable with a request for payment within a reasonable time period, being not less than 14 days following receipt of such notice, and if such debt is not paid within one month after the date on which it is due:
  - i. the debt, or so much of it as is unpaid, will bear simple interest at the same rate as applies to contributions unpaid under the Act or if the regulations under the Act prescribe some other rate, then at that other rate; and
  - ii. the Owners Corporation may include reference to that debt and interest thereon on notices under section 109 of the Act in respect of Lot 133.

### Special By-Law 13 Priority use of lift 3

1. In this by-law, the following words and phrases have the following meaning:

**Lift** means lift 3 in the Tower Building being the lift that is accessible to Level 18;

**Lot** means Lot 61 in Strata Plan No 73943 and includes any lot into which the Lot is subdivided or consolidated at any time;

**Priority Key** means the key used to control the operation of the Lift by inserting into the switch on the panel outside the Lift marked "Priority Switch" compelling the lift control system to immediately dispatch the Lift to the floor on which the Priority Key is used.

**Priority Use Payment** means the payment of \$300,000 payable by the owner of the Lot to the Owners Corporation within seven (7) days of the date after which this by-law is adopted in general meeting, as consideration for the priority use benefit granted in respect of the Lot under this by-law;

**Tower Building** means the 18 Level Building identified as the Tower Building in Strata Plan 73943.

2. On the conditions set out in this by-law the owner of the Lot from time to time shall have a special privilege in respect of the common property of a right of priority use of part of the common property being the Lift on the terms and conditions set out in this by-law.
3. The Owners Corporation must ensure that the lift control system for the Lift and lifts 1 and 2 in the Tower Building is programmed to operate as follows:
  - a. all lifts in the Tower Building are to be made available for dispatch to all accessible levels in the Tower Building, other than when the lift is locked to use in accordance with clauses 5 and 6 of this by law;
  - b. when any of the lifts in the Tower Building are called from Levels B4 to 17 without the use of the Priority Key, all lifts are to answer in sequence first by lifts 1 and 2, and then the Lift only

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- when lifts 1 and 2 are otherwise in use;
- c. the Lift, when not in use, is to remain parked at Ground Level of the Tower Building.
4. The owner or occupier of the Lot is entitled to the use of a Priority Key for the Lift on the following conditions:
- up to seven priority keys may be issued to the owner or occupier of the Lot at any one time;
  - if a Priority Key is lost or misplaced, the Owners Corporation will replace the Priority Key at the cost of the owner or occupier of the Lot; and,
  - the owner or occupier of the Lot may use the Priority Key in order to dispatch the Lift to the Ground Floor or Lower Ground Floor, as appropriate, unless the Lift is otherwise in use.
5. When an owner or occupier or intending owner or occupier of a lot in the Tower Building applies to make a booking for use of the Lift to transport goods, in particular for the purpose of moving in or out of a lot, the Owners Corporation, through the Building Manager or Concierge employed or contracted by the Owners Corporation, must notify the owner or occupier of the Lot in writing of the date and time of the proposed use of the Lift.
6. The notice under clause 5 of this by-law must be given by the Building Manager or Concierge to the owner or occupier of the Lot as soon as practicable after a booking is made for the use of the Lift to transport goods and in any event not later than 48 hours before the time on which the Lift is to be used for the transport of goods.
7. The owner and occupier of the Lot must provide the Owners Corporation with, and maintain the currency of, up-to-date contact details for the purpose of enabling the Building Manager and the Concierge to comply with their obligations under clause 5.
8. The Owners Corporation must ensure that the owner or occupier of the Lot is provided with up-to-date contact details for the Building Manager and Concierge.
9. If the Lift is locked for use for the transport of goods and the owner or occupier of the Lot requires use of the Lift for access to or egress from the Lot, the owner or occupier may notify the Building Manager or Concierge on duty at that time, by a telephone call or in person, in order to arrange for the Lift to be made available.
10. If and when the Building Manager or Concierge is notified by the owner or occupier of the Lot under clause 9, the Building Manager or Concierge must make the Lift available to the owner or occupier of the Lot within a reasonable time not exceeding 30 minutes after that notice is received by the Building Manager or Concierge.
11. The owner of the Lot is to be provided with up to seven fire door access keys for Level 15 in the Tower Building in order to ensure that access to the lift foyer nearest to Level 18 from which lifts 1 and 2 can be accessed is rendered more practically available to the owner and occupier of the Lot. If a fire door access key for Level 15 is lost or misplaced by the owner or occupier of the Lot, the Owners Corporation will replace that fire door access key at the cost of the owner or occupier of the Lot.
12. The Owners Corporation is responsible for the repair, maintenance, renewal and replacement of the Lift and associated services.
13. The owner of the Lot must pay to the Owners Corporation the Priority Use Payment within seven (7) days after the date at which this by-law is adopted in general meeting.
14. If the Priority Use Payment is not paid within the time period specified in clause 13, it will bear simple interest at the same rate as applicable to contributions unpaid under section 79(2) of the Act (or if the regulations under the Act prescribe some other rate, then at that other rate) from the due date until paid in full and the Owners Corporation may include reference to that debt (including interest thereon), on notices under section 109 of the Act in respect of the Lot
15. Without limiting clause 14, if the Priority Use Payment remains unpaid for a period of fourteen (14) days after the date specified in clause 13, the Owners Corporation may at its absolute discretion:
- rescind the resolution adopting this by-law; and/or
  - refrain from registering this by-law.
16. If the owner of the Lot from time to time shall require more than seven Priority Keys or more than



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seven fire door access keys for Level 15 in the Tower Building, then the owner of the Lot will submit a request in writing to the Executive Committee of the Owners Corporation for its consideration (including providing reasons for the request) for such additional Priority Key or Keys or fire door access key or keys (or both). The Executive Committee shall not be entitled to unreasonably withhold consent to a request under this clause for any additional Priority Key or Keys or fire door access key or keys and must notify its decision in writing to the owner of the Lot within seven (7) business days. The cost of any additional Priority Key(s) or fire door access key(s) supplied by the Owners Corporation must be paid for by the owner or occupier of the Lot.

### Special By-Law 14

#### Lot 166 renovation works

##### A Definitions and interpretation

1. For the purposes of this by-law:

1.1 **"Act"** means the *Strata Schemes Management Act 1996* as amended from time to time;

1.2 **"Building"** means the building and improvements on the land located at 2 Elizabeth Bay Road, Elizabeth Bay;

1.3 **"Common Property"** means the common property in the Strata Plan;

1.4 **"Costs"** means all professional and trade costs, fees, reasonable expenses as agreed by the parties prior to accrual, and disbursements incurred as a result of or associated with, this by-law, the Works and Remedial Works;

1.5 **"Future Owner"** means the registered proprietor of the Lot from time to time, succeeding the Owner;

1.6A **"Indemnify"** means the Owner indemnifying the Owners Corporation and the owner of a lot in respect of the Works and/or Remedial Works or anything arising from the Works and/or Remedial Works, including, but not limited to the following: 1.6A "Indemnify" also means the Owner indemnifying the owner of a lot in respect of any costs or damages arising from the Works and/or Remedial Works.

1.6.1 all actions, proceedings, claims, demands, costs, damages, and expenses which may be incurred by, brought, or made against the Owners Corporation;

1.6.2 any sum payable by way of increased premiums; and

1.6.3 any costs or damages incurred by the Owners Corporation or for which the Owners Corporation is or becomes liable;

1.7 **"Lot"** means lot 166 in the Strata Plan;

1.8 **"Owner"** means the registered proprietor of the Lot as at the date this by-law is registered, and with respect to clauses 7 to 16 inclusive, includes the Future Owner;

1.9 **"Owners Corporation"** means the owners corporation known as The Owners- Strata Plan No. 73943;

1.10 **"Remedial Works"** means the repair, maintenance, replacement and/or removal of items relating to the Works and/or Common Property affected by the Works;



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1.11 **"Strata Manager"** means a strata managing agent engaged by the Owners Corporation from time to time;

1.12 **"Strata Plan"** means Strata Plan No. 73943;

1.13 **"Works"** means the works to be carried out at the Lot, so far as those works affect the adjacent common property, in accordance with the plans prepared by Blainey North attached to this by-law and marked with the letter 'A' and the structural design certificate and plans from Taylor Thomson Whitting dated 13 May 2016 attached to this by-law and marked with the letter 'B'.

2. Where any terms in this by-law are not defined, they will have the same meaning those words are attributed under the Act.
3. If this by-law empowers the Owners Corporation to take action, it may or may not take such action in its reasonable discretion.
4. Subject to the provisions of this by-law, the Owners Corporation grants the Owner the right to carry out the Works.
5. Before commencing the Works, the Owner must provide to the Owners Corporation (via the Strata Manager) a dilapidation report prepared by a qualified engineer in respect of Common Property and/or lots on levels 15 and 17 of the Building potentially affected by the Works.
6. After the Works have been completed, the Owner must provide to the Owners Corporation (via the Strata Manager) a dilapidation report prepared by a qualified engineer in respect of Common Property and/or lots on levels 15 and 17 of the Building affected by the Works.
7. The Owner is responsible for and must carry out Remedial Works when and where necessary.
8. The Works and Remedial Works must be carried out and completed:

8.1 in a proper and workmanlike manner by licensed and/or accredited contractors using proper materials;

8.2 with due skill and care;

8.3 in compliance with all reasonable requirements of the Owners Corporation;

8.4 in compliance with the Building Code of Australia and any other Australian Standards as applicable;

8.5 in compliance with all local council consents and requirements;

8.6 in keeping with the appearance of the Building in its style, colour, materials, and overall design;

8.7 so as to not unreasonably interfere with Common Property or access to lots in the Building by other persons;

8.8 in a way which minimises disturbance to other residents including but not limited to minimising vibration, noise, dust, and dirt;

8.9 ensuring that the security of the Building is maintained throughout the performance of the Works and/or Remedial Works;

8.10 promptly and completely removing all rubbish from the Building resulting from the Works and/or Remedial Works;

8.11 keeping all areas of the Building as clean and tidy as possible;

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- 8.12 promptly repairing any damage to any part of the Building caused by the Works and/or Remedial Works;
- 8.13 in a way that does not interfere with the structural integrity of the Building and in compliance with the structural design certificate of Taylor Thomson Whitting dated 13 May 2016 attached to this by-law and marked with the letter 'B'; and
- 8.14 in a way that will protect all areas of the Building outside the Lot from any damage caused by the Works and/or Remedial Works, for example by the transportation of construction materials, equipment and debris.
9. The Owner is responsible for, and will bear all Costs (including the reasonable costs in preparing and registering this by-law).
10. In the event lots or Common Property are damaged because of the Works or Remedial Works, the Owner will pay the Costs of rectifying the damage.

### Breach of by-law

11. The Owners Corporation reserves the right to replace the Works or remediate any loss or damage to the Common Property caused by the Owner's breach of the requirements of this by-law, if that breach is not rectified within a reasonable time after a request is made by the Owners Corporation to rectify the breach.

### General

12. The Owner will sign all documents and do all things necessary to facilitate the matters the subject of this by-law, including providing a bond of \$10,000 as required by the Owners Corporation.
13. The Owner will not claim upon the Owners Corporation's insurance in respect of anything arising out of Works or Remedial Works.
14. The Owner will Indemnify and will keep Indemnified the Owners Corporation.
15. Where the Owners Corporation has incurred Costs on behalf of the Owner, the Owners Corporation may recover those Costs from the Owner, including charging those Costs to the Owner's lot account as if they were a contribution under the Act, with all the same rights of recovery to apply.
16. To the extent that section 62(3) of the Act is applicable, the Owners Corporation determines it is inappropriate for the Owners Corporation to maintain, renew, replace or repair the Common Property affected by the Works.
17. Owners to provide the Owners Corporation with the Professional Indemnity insurance for Taylor Thomson Whitting (Engineer) and the chosen Builder undertaking the work.

### Special By-Law 15 Lot 166 tiling works

#### A Definitions and interpretation

1. For the purposes of this by-law:
- 1.1 "**Act**" means the *Strata Schemes Management Act 1996* as amended from time to time;
- 1.2 "**Building**" means the building and improvements on the land located at 2 Elizabeth Bay Road, Elizabeth Bay;
- 1.3 "**Common Property**" means the common property in the Strata Plan;

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- 1.4 **"Costs"** means all professional and trade costs, fees, and disbursements incurred as a result of, or associated with, this by-law, the Works and Remedial Works;
- 1.5 **"Future Owner"** means the registered proprietor of the Lot from time to time, succeeding the Owner;
- 1.6 **"Indemnify"** means the Owner indemnifying the Owners Corporation in respect of the Works and/or Remedial Works or anything arising from the Works and/or Remedial Works, including, but not limited to the following:
- 1.6.1 all actions, proceedings, claims, demands, costs, damages, and expenses which may be incurred by, brought, or made against the Owners Corporation;
  - 1.6.2 any sum payable by way of increased premiums; and
  - 1.6.3 any costs or damages incurred by the Owners Corporation or for which the Owners Corporation is or becomes liable;
- 1.7 **"Lot"** means lot 166 in the Strata Plan;
- 1.8 **"Owner"** means the registered proprietor of the Lot as at the date this by-law is registered, and with respect to clauses 7 to 16 inclusive, includes the Future Owner;
- 1.9 **"Owners Corporation"** means the owners corporation known as The Owners - Strata Plan No. 73943;
- 1.10 **Remedial Works"** means the repair, maintenance, replacement and/or removal of items relating to the Works and/or Common Property affected by the Works;
- 1.11 **"Strata Manager"** means a strata managing agent engaged by the Owners Corporation from time to time;
- 1.12 **"Strata Plan"** means Strata Plan No. 73943;
- 1.13 **"Works"** means:
- 1.13.1 the replacement of the existing tiles on the floor of the 12 balconies surrounding the perimeter of the Lot and the outdoor terrace with mesh mounted glazed mosaic tiles with dimensions 25mmx25mm, as shown on the plan attached to this by-law and marked with the letter 'A'; and
  - 1.13.2 the installation and/or repair of the waterproof membrane system on the floor of the 12 balconies surrounding the perimeter of the Lot and the outdoor terrace.
2. Where any terms in this by-law are not defined, they will have the same meaning those words are attributed under the Act.
  3. If this by-law empowers the Owners Corporation to take action, it may or may not take such action in its reasonable discretion.
  4. Subject to the provisions of this by-law, the Owners Corporation grants the Owner the right to carry out the Works.
  5. Before commencing the Works, the Owner must provide to the Owners Corporation (via the Strata Manager) a dilapidation report prepared by a qualified engineer in respect of Common Property and/or lots on levels 15 and 17 of the Building potentially affected by the Works.

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6. After the Works have been completed, the Owner must provide to the Owners Corporation (via the Strata Manager) a dilapidation report prepared by a qualified engineer in respect of Common Property and/or lots on levels 15 and 17 of the Building affected by the Works.
7. The Owner is responsible for and must carry out Remedial Works when and where necessary.
8. **The Works and Remedial Works must be carried out and completed:**
  - 8.1 in a proper and workmanlike manner by licensed and/or accredited contractors using proper materials;
  - 8.2 with due skill and care;**
  - 8.3 in compliance with all reasonable requirements of the Owners Corporation;
  - 8.4 in compliance with the Building Code of Australia and any other Australian Standards as applicable;
  - 8.5 in compliance with all local council consents and requirements;
  - 8.6 in keeping with the appearance of the Building in its style, colour, materials, and overall design;
  - 8.7 so as to not unreasonably interfere with Common Property or access to lots in the Building by other persons;
  - 8.8 in a way which minimises disturbance to other residents including but not limited to minimising vibration, noise, dust, and dirt;
  - 8.9 ensuring that the security of the Building is maintained throughout the performance of the Works and/or Remedial Works;
  - 8.10 promptly and completely removing all rubbish from the Building resulting from the Works and/or Remedial Works;
  - 8.11 keeping all areas of the Building as clean and tidy as possible;
  - 8.12 promptly repairing any damage to any part of the Building caused by the Works and/or Remedial Works;
  - 8.13 in a way that does not interfere with the structural integrity of the Building; and
  - 8.14 in a way that will protect all areas of the Building outside the Lot from any damage caused by the Works and/or Remedial Works, for example by the transportation of construction materials, equipment and debris.
9. The Owner is responsible for, and will bear all Costs (including the reasonable costs in preparing and registering this by-law).
10. In the event lots or Common Property are damaged because of the Works or Remedial Works, the Owner will pay the Costs of rectifying the damage.

### Breach of bylaw

11. The Owners Corporation reserves the right to replace the Works or remediate any loss or damage to the Common Property caused by the Owner's breach of the requirements of this by-law, if that breach is not rectified within a reasonable time after a request is made by the Owners Corporation to rectify the breach.

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## General

12. The Owner will sign all documents and do all things necessary to facilitate the matters the subject of this by-law.
13. The Owner will not claim upon the Owners Corporation's insurance in respect of anything arising out of Works or Remedial Works.
14. The Owner will Indemnify and will keep Indemnified the Owners Corporation.
15. Where the Owners Corporation has incurred Costs on behalf of the Owner, the Owners Corporation may recover those Costs from the Owner, including charging those Costs to the Owner's lot account as if they were a contribution under the Act, with all the same rights of recovery to apply.
16. To the extent that section 62(3) of the Act is applicable, the Owners Corporation determines it is inappropriate for the Owners Corporation to maintain, renew, replace or repair the Common Property affected by the Works.

## Special By-Law 16 Electronic notices

A document may be served on the owner of a lot by electronic means if the person has given the owners corporation an e-mail address for the service of notices and the document is sent to that address.

## Special By-Law 17 Use and occupancy of lots

1. In this by-law, unless the context otherwise requires, words and phrases defined in or for the purposes of the Developer By-laws or the Act have the meaning there ascribed and, in addition, the following words and phrases have the following meanings:

**Act** means collectively the *Schemes Management Act 1996* (the **1996 Act**) and with effect from 30 November 2016, the *Schemes Management Act 2015* (the **2015 Act**) and any Act amending or replacing the same and includes the regulations made thereunder;

**Administration Fee** means an amount determined from time to time by the executive committee not exceeding \$300 per day to meet the administrative costs, charges and expenses of providing the services of, without limitation, any of the concierge, Building Manager, cleaning and maintenance personnel and Strata Manager in relation to the use of any Residential Lot for any purpose approved by the City of Sydney Council which falls within the definition of prohibited use in this by-law;

**approved tenancy** means a residential tenancy agreement made under the Residential Tenancies Act 2010 and/or the Regulations thereunder (or any Act or Regulation amending or replacing the same) for an initial period of not less than three (3) months;

**Commercial Lot** means any of Lots 62 and 168;

**commercial use or commercial purposes** includes, without limitation, any letting of a Residential Lot on a short-term basis for any period of less than three months duration;

**Developer By-laws** means the by-laws filed with Strata Plan 73943 on registration;

**Occupier** means, in respect of a Residential Lot, a person in lawful occupation of a Residential Lot but only while that person is:

- a. the Owner;

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- b. the lessee under an approved tenancy; or
- c. in occupation of the Lot with another person who is the Owner or the lessee of the Lot under an approved tenancy;

and where an Owner, lessee or sub-lessee is a corporation, any person who would otherwise be in lawful occupation of the Lot is deemed for the purpose of this definition to be an Owner or a lessee as the case may be if that person is the company nominee of, or a shareholder in, or a director of the corporation or, in the case of a corporation that is a trustee, a beneficiary of the trust of which the corporation is the trustee;

**prohibited use** means the use of a Lot for any of the following purposes:

- a. brothel, hotel, motel, serviced apartment, bed & breakfast accommodation, hostel, guest house, lodging house, rooming house, short-term letting, holiday rental, dormitory or other place of temporary accommodation, multi-purpose youth centre including drop in centre or drop in coffee lounge, an injecting room or needle exchange; and/or
- b. in the case of Residential Lots only, meeting room or other multi purpose hall for use or hire and public convenience; and/or
- c. for any purpose that is prohibited by law or by this by-law or by any of the other by-laws in force in respect of the Scheme from time to time;

**Residential lot** means any Lot in the Scheme other than Lots 62 and 168;

**Security Key** means any electronic or other access key, card or device used to access the enclosed Common Property areas in the Scheme.

### Restrictions on Use

2. The Residential Lots constitute a solely residential area within the Scheme and, accordingly, in order to ensure the safety, particularly fire safety, and security of all Owners and Occupiers of Lots and the preservation of the amenity and quiet enjoyment of the Lots and Common Property associated therewith, every Owner and every Occupier must ensure that the Lot of which they are the Owner and/or Occupier is not used for commercial purposes or for any prohibited use.
3. Every Owner and every Occupier of a Commercial Lot must ensure that the Commercial Lot of which they are the Owner and/or Occupier is not used for a prohibited use.
4. Clause (2) in this by-law does not prohibit the use of part of a Residential Lot by an Owner or Occupier as a study or the conduct within the Residential Lot of the personal business of an Owner or Occupier provided that that business does not involve the operation within the Residential Lot of an office employing persons in the Residential Lot who are not otherwise an Owner or Occupier of the Residential Lot.
5. The Owner or Occupier of a Residential Lot must not carry on any business in the Residential Lot which would, or would be likely to, result in more than two visitors visiting the Residential Lot in any 12-hour period.
6. An Owner or Occupier of a Residential Lot must not grant a lease, sub-lease, licence or sub-licence of a Lot, or any part thereof, for any period of less than three months' duration and for which any payment is to be made or received and, for the avoidance of doubt:
  - a. no person will be permitted to occupy the Residential Lot otherwise than as the Owner or Occupier of that Residential Lot or pursuant to an approved tenancy;
  - b. if the Residential Lot is leased, the lessee of the Residential Lot must reside in that Residential Lot.
7. It is a breach of this by-law for any Owner or Occupier of a Residential Lot to advertise any Residential



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Lot or any part of a Residential Lot on any platform facilitating the provision of short term accommodation, including an online platform such as, but not limited to, websites such as Stayz Holiday Accommodation, Airbnb, VRBO, HomeAway or any other similar website or forum.

### Change of Use

8. Any change of use of a Residential Lot that involves the Residential Lot being used for any purpose falling within the definition of prohibited use in this by-law will adversely affect the Common Property, the security of the Building and the Gazebo complex and the amenity of Owners and Occupiers in their quiet enjoyment of their Residential Lots.
9. Without limiting By-law 20 in the Developer By-laws, no application may be made to the City of Sydney Council or any other consent authority within the meaning of the *Environmental Planning & Assessment Act 1979* for a development application or an application for a complying development certificate, or any other like approval, to change the use of a Residential Lot to permit the Residential Lot or any part thereof to be used for any purpose falling within the definition of prohibited use in this by-law, and thereby adversely affecting the Common Property, unless the application has first been approved by resolution of Owners in general meeting.
10. If Owners approve by resolution in general meeting the making of an application described in clause (9), the Owners Corporation must affix the common seal of the Owners Corporation to the application.
11. If the City of Sydney Council or other relevant consent authority approves the use of a Residential Lot or any part thereof for any purpose falling within the definition of prohibited use, the Owners Corporation shall be entitled to charge the Owner of the Residential Lot the Administration Fee for each day on which the Residential Lot is so used.
12. The Administration Fee shall be charged to, and payable by, the Residential Lot Owner at the same time as normal contributions to the administrative and sinking funds are levied and paid.
13. If the Administration Fee is not paid within one month after the due date, it will bear until paid simple interest at the same rate as specified in the Act in respect of the recovery of unpaid contributions, or if the Regulation provides for some other rate, then at that other rate
14. The Administration Fees (including interest thereon and the costs of recovery) shall be recoverable by the Owners Corporation as a debt due and payable in the same way as contributions are recovered under the Act.
15. If the Administration Fee is not paid by the Owner of the relevant Residential Lot, in addition to the other rights the Owners Corporation has under this by law, the Owners Corporation may withhold the provision of any of the administration services to that Owner or any Occupier of the Residential Lot or invitee of any such Owner or Occupier including, without limitation, the provision of Security Keys.

### Maximum No. of Occupants in Lots

16. Every Owner and Occupier of a Residential Lot must ensure that the Residential Lot of which they are the Owner and/or Occupier is not occupied by more persons than are allowed by any planning or other law to occupy the Residential Lot.
17. For the avoidance of doubt, every Owner and Occupier of a Residential Lot must in respect of the Residential Lot of which they are the Owner and/or Occupier, subject to any town planning instrument in force in respect of the Scheme, ensure that:
  - a. not more than the maximum number of two (2) adult persons per bedroom occupy the Residential Lot;
  - b. the layout of the bedrooms is not modified or beds arranged in such a way so as to attempt to exceed the maximum permissible occupancy set out in clause (17)(a);
  - c. unless prior approval of the Owners Corporation is first given by the adoption of a special privilege or common property rights by-law under the Act, no wall or structure within the Residential Lot is erected for the purpose of, or having the effect of, creating additional rooms

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within the Residential Lot.

18. For the purposes of this by-law:
- a. a bedroom does not include a lounge room, dining room, family room, bathroom, kitchen, laundry, balcony, courtyard or terrace area (whether or not enclosed);
  - b. if, after the adoption of this by-law, an Owner or Occupier of a Residential Lot erects a wall or other structure within the Residential Lot in default of clause (17)(c), or encloses any part or all of a courtyard, terrace or balcony, in either case without the sanction of a by-law adopted by the Owners Corporation authorising those works, the executive committee may resolve to serve a notice on the Owner of that Residential Lot requiring the wall, structure or enclosure to be removed;
  - c. if the executive committee serves a written notice on an Owner under clause (18)(b), the Owner must remove the wall, structure or enclosure within 21 days of service of the notice on that Owner.

### Enforcement of By-Law

19. For the purposes of ensuring compliance with this by-law and in order to ensure the safety and security of all persons lawfully residing within the Scheme, the executive committee, the Building Manager or the Strata Manager may require any person in apparent occupation of any Residential Lot to produce to the executive committee, the Building Manager or the Strata Manager, as applicable, written proof of lawful occupation of that Residential Lot which may include but is not limited to:
- a. an approved tenancy agreement specifying that person as the lessee under that agreement;
  - b. a driver's licence nominating the Residential Lot as the place of residence of that person;
  - c. a statement, invoice or account from a utility supplier of electricity or gas specifying the address of the Residential Lot as the address of that person;
  - d. a statement, invoice or other written document from a bank or other financial institution specifying the address of the Residential Lot as the address of that person;
  - e. any other document or evidence that establishes to the reasonable satisfaction of the executive committee or the Strata Manager, as applicable, that that person is in fact in lawful occupation of the Residential Lot or has otherwise been authorised to reside in the Residential Lot in accordance with this by-law,

in default of which the Owners Corporation is entitled to assume that the Residential Lot is being occupied for a prohibited use and/or contrary to the provisions of this by-law and thereafter the executive committee, Building Manager or Strata Manager, as applicable, may without further notice to the Owner or Occupier:

- f. confiscate and/or deactivate any Security Key giving access to the Building in the possession of that person; and/or
  - g. take such action against the Owner of that Residential Lot as the executive committee considers appropriate for the enforcement of this by-law.
20. a. This by-law is a fundamental term in any lease or licence granting rights of occupation to a Lot, whether or not the lease or licence contains a clause having the same effect as this by-law.
- b. Every Owner must include in any lease or licence granting rights of occupation to the Lot of which they are the Owner:
    - i. in respect of a Residential Lot, the maximum number of persons who are to occupy the Residential Lot; and
    - ii. in respect of any Lot, a clause providing that any breach of this by-law is an event of default on the part of the lessee, licensee or other Occupier entitling the Owner to give to

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the lessee or licensee a termination notice of the lease or licence.

- c. If a lessee, licensee or other Occupier of a Residential Lot commits a material breach of this by-law, upon that breach being drawn by notice in writing to the attention of the Owner, that Owner must take immediate steps in accordance with the *Residential Tenancies Act 2010* or any Act replacing the same to terminate the lease or licence and the occupation of the Residential Lot thereunder, including without limitation making and maintaining such application or applications as may be necessary to the NSW Civil & Administrative Tribunal for the vacation of the Residential Lot under Part 5 of the *Residential Tenancies Act 2010* and the Regulations thereunder.
  - d. If a lessee, licensee or other Occupier of a Commercial Lot commits a material breach of this by-law, upon that breach being drawn by notice in writing to the attention of the Owner, that Owner must take immediate steps to terminate the lease, or licence and the occupation of the Commercial Lot thereunder.
21. If an Owner of any Lot is given notice in writing of any breach of this by-law in respect of the occupation of that Lot and that Owner defaults in complying with that notice, the Owners Corporation may:
- a. demand that the defaulting Owner do certain acts or things to remedy that default;
  - b. take such action as the executive committee considers is reasonable and appropriate in the circumstances to enforce the provisions of this by-law;
  - c. recover the costs of any action taken by the executive committee to enforce this by-law (including the costs of recovery) from the defaulting Owner as a debt due and payable;
  - d. if that debt is not paid or not paid in full within one month after the date on which it is due, impose on the outstanding amount of that debt simple interest at the same rate as applicable to contributions unpaid under section 79(2) of the 1996 Act or section 85 of the 2015 Act, or if the regulations under the Act prescribe some other rate, then at that other rate; and/or
  - e. include reference to any such debt (including interest thereon) on notices under section 109 of the 1996 Act or section 184 of the 2015 Act in respect of that Lot.

### Exceptions

22.
  - a. The restrictions in clause (6) do not apply in circumstances where the executive committee has otherwise approved the lessee not residing in the Residential Lot, or the occupation of the Residential Lot otherwise than pursuant to an approved tenancy, which approval must not be unreasonably withheld.
  - b. The approval of the executive committee pursuant to clause (22)(a) must not be given more than twice in any six-month period.

### General

23. This by-law operates in addition to and not in derogation of any rights, duties or obligations arising under any provision of, or instrument issued under, any of:
  - a. the *Environmental Planning & Assessment Act 1979* and Regulations thereunder or any Act or Regulation replacing the same;
  - b. any conditions of any consent given by any Government Agency in connection with the development approval for the development of the site now the subject of Altair;
  - c. the Act, the *Strata Schemes (Freehold Development) Act 1973*, the *Strata Schemes Development Act 2015*, the *Residential Tenancies Act 2010*, the *Retail Leases Act 1994* or the Regulations under any of them or any Act or Regulations replacing the same; and
  - d. generally at law.

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24. If there is any inconsistency between this by-law and the Developer By-laws or any other by-law registered in respect of the Scheme, the provisions of this by-law prevail to the extent of that inconsistency.

### Special By-Law 18

#### Parking on common property

1. In this by-law, unless the context otherwise requires, words and phrases defined in or for the purposes of the Developer By-laws lodged on registration of Strata Plan 73943 or the Act have the meaning there ascribed and additional words and phrases are defined in clauses of this by-law for the purposes of this by-law.
2. An Owner or Occupier must not park or stand (for any period other than to load and unload passengers) any motor or other vehicle (**vehicle**) on Common Property including, without limitation, any car spaces set aside as visitor parking.
3. Without limiting clause (2) of this by-law, an Owner or Occupier must not, and must not allow any invitee of that Owner or Occupier to, park or stand any vehicle in any place that may obstruct access to the driveway at any time.
4. An Owner or Occupier must not park or stand a vehicle in any car space that is designated as a car wash bay for longer than one hour and must use the car wash bay solely for the purpose of washing or cleaning that vehicle.
5. An Owner or Occupier must not permit any visitor to their Lot to park or stand any vehicle on Common Property other than in an area marked as visitor parking or that Owner or Occupier's car space.
6. An Owner or Occupier may only permit a visitor to their Lot to park or stand any vehicle on Common Property disabled spaces if that visitor has a valid mobility parking permit displayed in a prominent position on the front of that vehicle.

#### Enforcement of By-Law

7. Every Owner and every Occupier must comply, and ensure that visitors to their Lots comply, in all respects with this by-law.
8. The Owners Corporation may by resolution of its executive committee and for the purpose of the control, management, administration, use and/or enjoyment of the Common Property including, without limitation, any areas set aside as visitor parking, car wash bays and disabled parking, and to preserve the security of the building:
  - a. install signage on the Common Property regulating the ingress and egress of vehicles to and from the Building and grounds of the Scheme;
  - b. establish and maintain a register of all vehicles owned or used by Owners and Occupiers of Lots in the Scheme including:
    - i. the make and registration number of the vehicle;
    - ii. the name of the Owner or Occupier who owns or uses the vehicle;
    - iii. the Lot number and contact details of the Owner or Occupier; and
    - iv. if the Owner or Occupier does not own the vehicle, the name and contact details of the Owner of the vehicle;
  - c. notwithstanding the foregoing and in particular but without limiting clauses (2) and (3), approve in writing the parking or standing of any vehicle on the Common Property in particular circumstances and for specified periods of time; and
  - d. take such further action consistent with this by-law as is reasonable and necessary in order to regulate or restrict the parking or standing of vehicles on Common Property and/or preserve the security of the Building.
9. If the Owners Corporation erects signage regulating the parking or standing of vehicles on the

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Common Property and/or the ingress or egress of vehicles to and from the Building or grounds of the Scheme in accordance with clause (8), the Owners and Occupiers must abide by those signs and must procure that visitors to their respective Lots must abide by those signs, in default of which the defaulting Lot Owner or Occupier shall be liable to pay the costs of the Owners Corporation in enforcing this by-law.

### Notice of Breach of By-Law

10. If an Owner or Occupier of a Lot parks or stands any vehicle owned by that person on Common Property in breach of this by-law
  - a. the Building Manager or security personnel appointed from time to time by the Owners Corporation (each of whom are included in the term **Building Manager**), may, without reference to the executive committee, give a notice; and/or
  - b. if the Building Manager is not on site, a member of the executive committee (acting reasonably) may give a notice,

to that Owner or Occupier requiring that the Owner or Occupier comply with this by law, in default of which the Owners Corporation may take action in respect of the vehicle as provided in this by-law (**Notice of Breach**).

11. The Notice of breach given under clause (10) must:
  - a. be in writing;
  - b. be displayed prominently on the vehicle in such a way as to come to the attention of the driver of the vehicle but so as to ensure no damage is done to the vehicle;
  - c. if the vehicle is registered, specify the registration number of the vehicle that has been or is parked or standing on Common Property in breach of this by law;
  - d. advise that if the Owner or Occupier fails to remove the vehicle parked or standing on Common Property in breach of this by-law or parks or stands that vehicle on Common Property repeatedly or persistently in breach of this by law, the Owners Corporation may either have the vehicle towed away or immobilise the vehicle by means of affixing a wheel-clamp to the vehicle; and
  - e. advise that an administration fee not exceeding \$1,000 may be charged by the Owners Corporation for towing of the car or releasing the wheel-clamp.
12. If an Owner or Occupier is given a Notice of Breach under this by-law, the Owner or Occupier must forthwith comply with that Notice of Breach and remove the vehicle the subject of the Notice of Breach parked on Common Property in breach of this by law.

### Towing of Vehicle or Affixing Wheel-clamp

13. If a Notice of Breach is given under this by-law to an Owner or Occupier and the Owner or Occupier does not comply with the Notice of Breach or commits a further breach of this by-law, the executive committee may resolve at a duly constituted executive committee meeting to have the vehicle towed away or wheel-clamped.
14. The signage installed by the Owners Corporation under clause (8) warning that vehicles parked in breach of this by-law may be towed away or wheel-clamped must set out a telephone number or other contact details of a person who has details of where the car is to be towed or who is authorised to release the wheel-clamp.
15. Every Owner and Occupier consents to the towing or immobilising by means of a wheel-clamp of a vehicle owned or controlled by them and parked or left on common property in breach of this by-law.

### Liability and Indemnity



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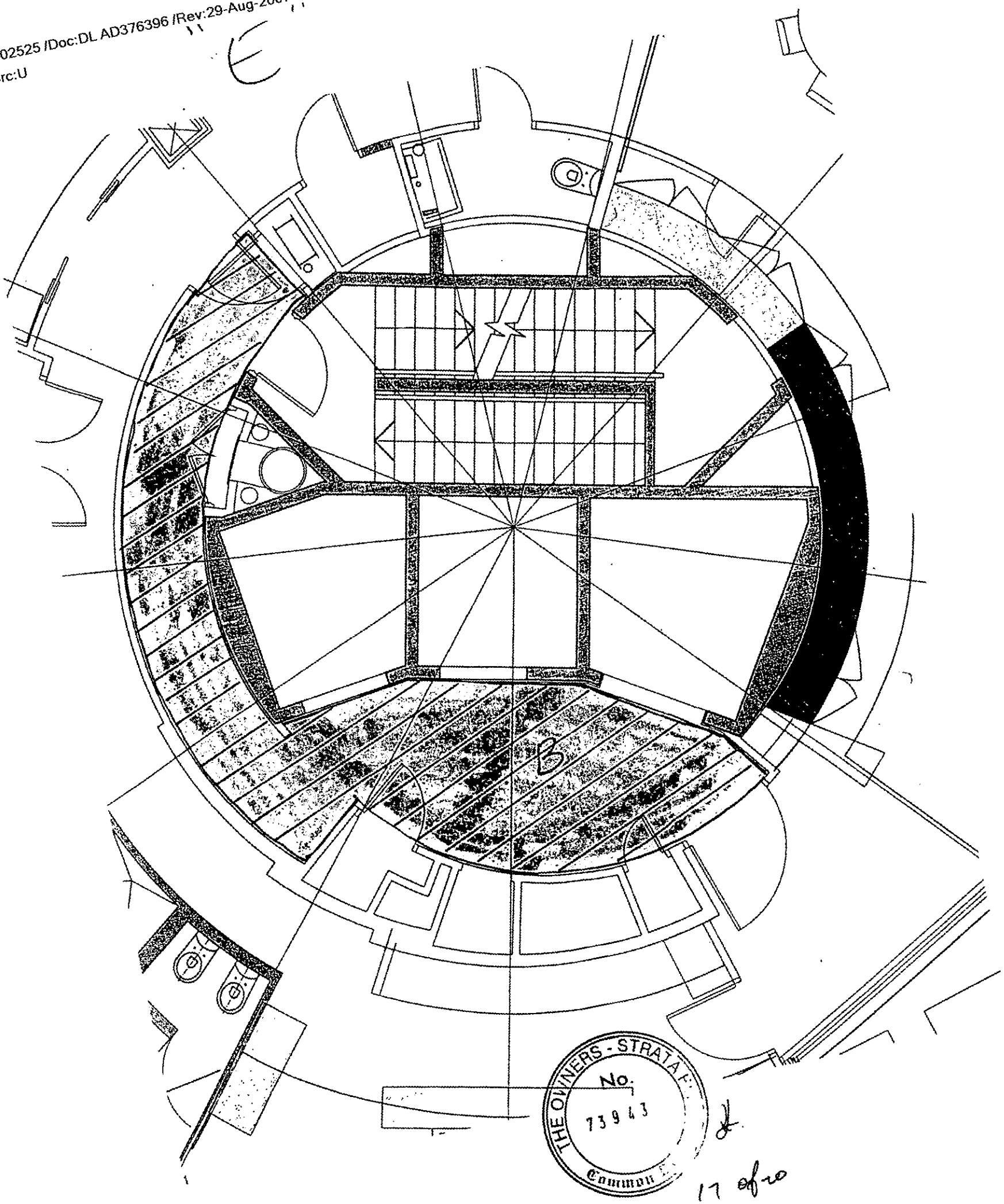
16. None of the executive committee, any member thereof, the strata managing agent, any Building Manager and any person acting under the instructions of the executive committee in accordance with this by-law shall be liable for any loss or damage sustained by an Owner or Occupier to whom a Notice of Breach is given and who fails to remove a vehicle parked or standing on Common Property or repeatedly or persistently parks or stands a vehicle on Common Property in breach of this by-law after a Notice of Breach is given.
17. Each member of the executive committee, the strata managing agent, any Building Manager and every person acting under the instruction of the executive committee in accordance with this by-law is hereby indemnified by the Owners Corporation against any loss or damage suffered by any of them arising out of any action taken by any of them in accordance with this by-law.
18. For the avoidance of doubt, the Building Manager and/or the executive committee must not give a Notice of Breach, affix a wheel clamp or tow away any vehicle on grounds which are, in the circumstances, frivolous or vexatious.
19. Nothing in this by-law operates to restrict or prevent the Owners Corporation from making application to the Local Court for an order authorising the Owners Corporation to dispose of any vehicle left on Common Property and subsequently disposing of that vehicle in accordance with the *Uncollected Goods Act 1995* or any Act amending or replacing that Act.

### **Special By-Law 19** **Child window safety devices**

*This by-law is to be registered with Land and Property Information*



# Special By-Law 1 Annexure



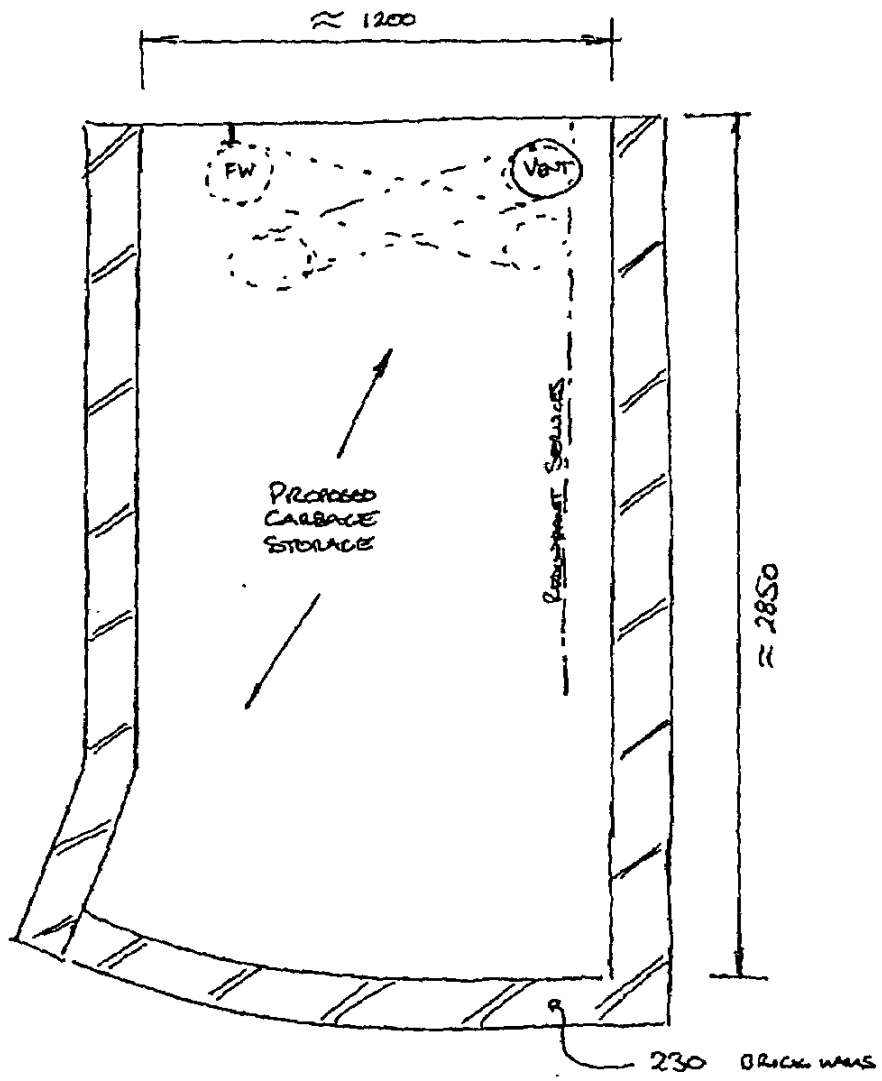
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# Special By-Law 2 Annexure

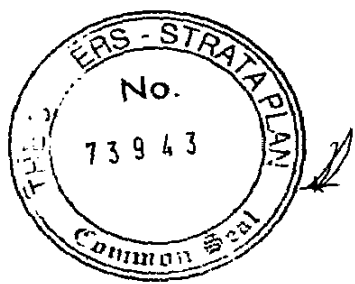
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**COOPER CONSULTING & CONSTRUCTION SERVICES** (Aust)  
pty Ltd



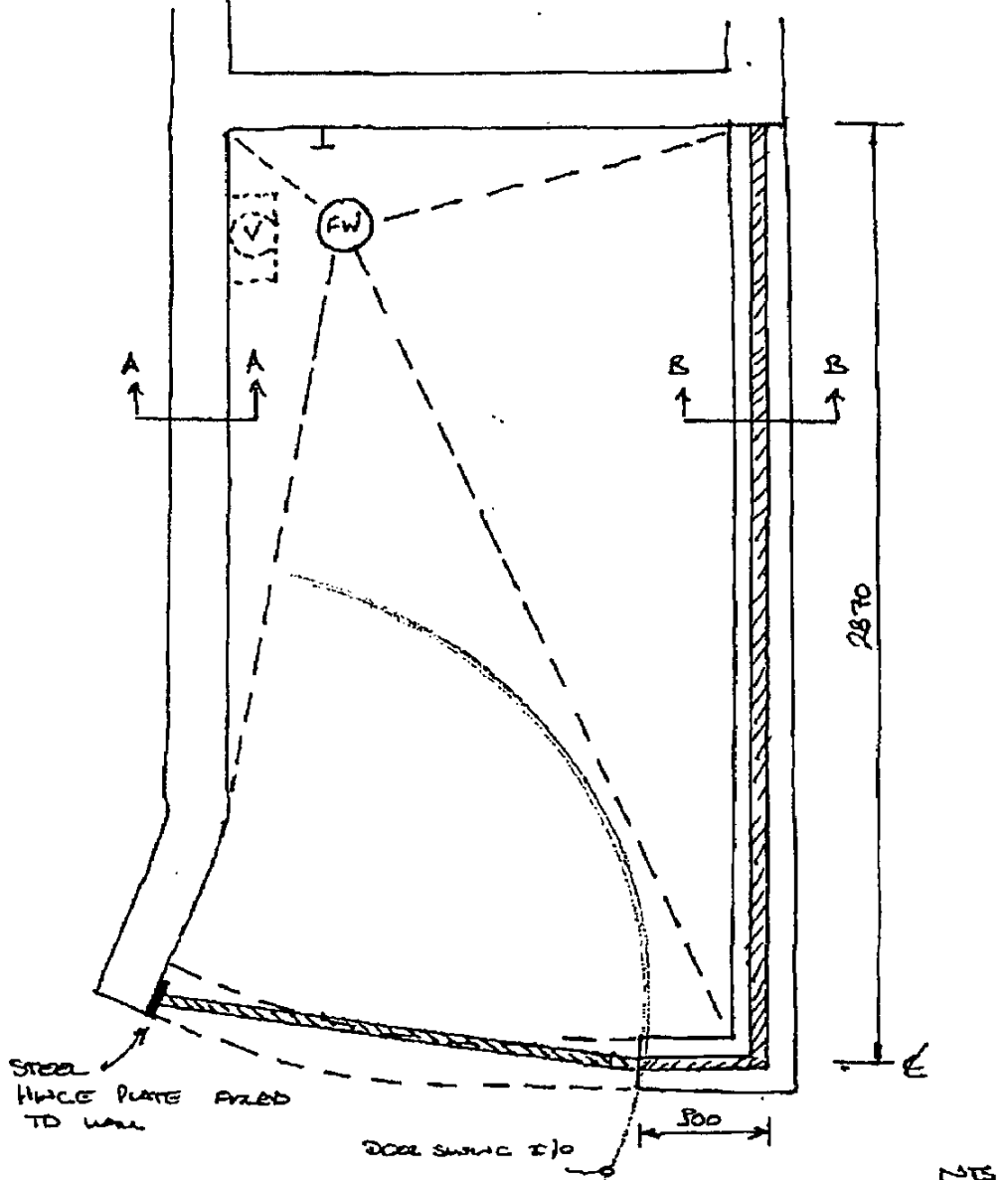
EXISTING PLAN - NTS

Project Management Construction	Unit A4, 13-15 Farrester St Kingsgrove NSW 2208	P (02) 9502 2586 F (02) 9502 2686
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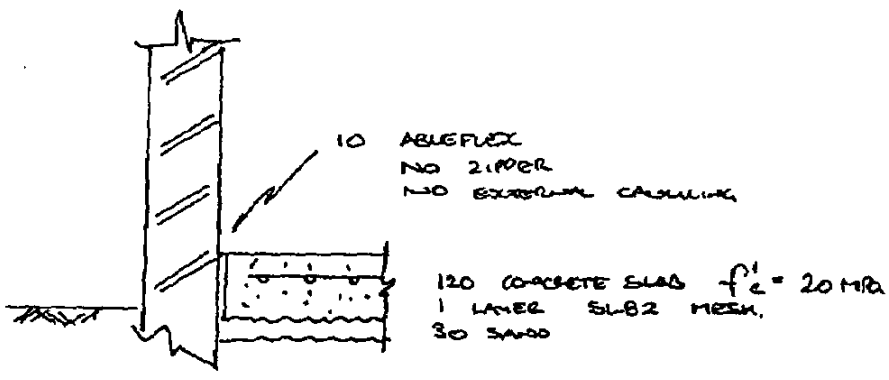
# COOPER CONSULTING & CONSTRUCTION SERVICES (Aus) Pty Ltd



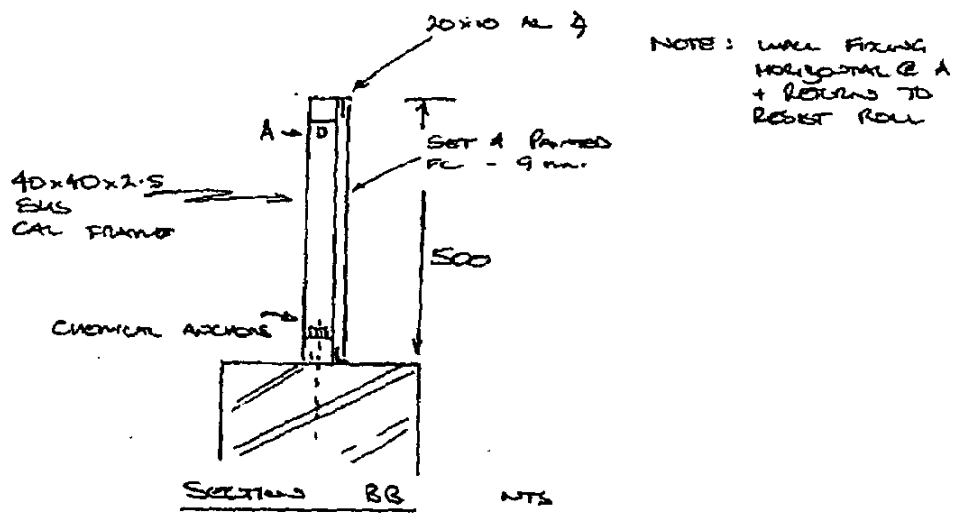
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**COOPER CONSULTING & CONSTRUCTION SERVICES** (Aust)  
 Pty Ltd



SECTION AA NTS



SECTION BB NTS

Project Management Construction	Unit A4, 13-15 Forrester St Kingsgrove NSW 2208	P (02) 9502 2586 F (02) 9502 2688
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