

## Flight Deck By-Law 4 Wording and Application Form

**Special By-Law 4 – Major and Minor Works Programme (AI274505J) is AMENDED (AI637417K) to read as follows:**

### PART 1

#### PART 1.1 – Preamble

1.1.1 The intended effect and purpose of this bylaw is to provide a programme, including procedures, with which owners must comply when installing or carrying out works either affecting or not affecting common property and to regulate proper repair and maintenance of those works.

1.1.2 This by-law is subject to the provisions of Special By-Law 2 with respect to any work carried out by an owner prior to the making of this by-law.

#### PART 1.2 – Grant of Power

In addition to the powers, authorities, duties and functions conferred by or imposed on the owners corporation pursuant to the Act, the owners corporation shall have the additional powers, authorities, duties and functions to regulate the undertaking of works at the strata scheme on the conditions in Part 3 of this by-law.

#### PART 1.3 – This By-Law to Prevail

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

### PART 2 – DEFINITIONS & INTERPRETATION

#### 2.1 Definitions

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

- (a) **Act** means the *Strata Schemes Management Act, 1996* (NSW).
- (b) **Approved Form** means the form attached at **Annexure "A"** or as the executive committee may otherwise approve from time to time.
- (c) **Authority** means any government, semi-government, statutory, public, private or other authority having jurisdiction over the lot or the building including the Council.
- (d) **Bond** means the bond being a bank cheque in the amount of \$5,000.00 or as reasonably determined by the owners corporation made payable to the owners corporation. To clarify, the bond is only applicable to Major Works (not Minor Works).
- (e) **Building** means the building situated at 1114-1118 Pittwater Road, Collaroy, NSW and known as "Flight Deck".
- (f) **Council** means Warringah Council.
- (g) **Essential Works** means any essential maintenance, repair, replacement, upgrading or emergency works that the owners corporation is required to do under section 65 (1) of the Act or any other law to any part of common property structure or services including within a lot.
- (h) **Insurance** means:
  - (i) contractors all risk insurance (including public liability insurance) in the sum of \$20,000,000;
  - (ii) insurance required under the *Home Building Act 1989*, or any other act (if any); and
  - (iii) workers' compensation insurance.
- (i) **Lot** means any lot in strata plan number 1977.
- (j) **Major Works** means works that require penetration to or removal of common property floors (including the removal of tiles and waterproof membranes), walls and ceilings including works of a structural nature, the installation of air-conditioning units requiring alteration to common property, installation of hot water systems requiring alteration to common property, kitchen cupboard, security/alarm systems, security grilles, shutters and any additions to the common property, for example, pergolas and vergolas, whirly birds, solar panels, skylights and satellite dishes, television cables and antennae (and which are not Minor Works) and any wet area renovations.
- (k) **Minor Works** means works that do not penetrate any common property walls, ceilings, floor slabs (with exception of screwing internal partitions to the walls, ceilings, floors and minor attachments to common property) including for example internal painting, replacing carpet.
- (l) **Owner** means the owner of the lot from time to time and includes "owner-builder" as defined in the *Home Building Act 1989*.
- (m) **Owners Corporation** means the owners corporation constituted by the registration of strata plan 1977.
- (n) **Works** means the Minor Works and the Major Works.

## 2.2 Interpretation

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

- (a) the singular includes the plural and vice versa;
- (b) any gender includes the other genders;
- (c) any terms in the by-law will have the same meaning as those defined in the Act;
- (d) references to legislation include references to amending and replacing legislation;
- (e) reference to the owner in this by-law includes any of the owner's executors, administrators, successors, permitted assigns or transferees; and
- (f) references to any works under this by-law, where relevant, the condenser, coils, pipes, conduits, wires, flanges, valves, ductwork, caps, pump, tank, tray, insulation and all other ancillary equipment, appurtenance and fittings whatsoever and any obligation under this by-law applies to all such ancillary equipment, appurtenance and fitting.

2.2.2 Despite anything contained in this by-law, if any provision or part of a provision in this by-law whether held or found to be void, or otherwise unenforceable, it shall be deemed to be severed from this by-law (or that provision) to the extent that it is void or invalid or unenforceable but the remainder of this by-law and the relevant provision shall remain in full force and effect.

## **PART 3 – CONDITIONS**

### **PART 3.1 – Before Commencement**

3.1

(a) An owner has the right to carry out Minor Works without the consent of the owners corporation provided at least seven (7) days notice on the Approved Form has been provided to the owners corporation, such notice to specify in detail the works to be undertaken and the duration of any impact on the common property or disruption to common property services or access. In the case of emergency repairs, not notice is required.

(b) Upon receipt of any notice provided under Clause 3.1(a), should the owners corporation reasonably determine or form the opinion or be advised that the works contemplated are Major Works, then the owner shall not commence those works without the requisite consent of the owners corporation for Major Works under this by-law.

(c) Before commencement of any Major Works, the owner must submit written notice on the Approved Form and:

(i) In the event that an owner intends to carry out any work which requires a by-law under section 52 of the Act, or a special resolution under Section 65A of the Act, that owner shall not carry out such work unless and until such by-law or special resolution has been approved by the owners corporation in accordance with the requirements of the Act, with prior written consent of the owner, and that by-law or special resolution shall require the owner to repair and maintain those works and renew and replace them when necessary.

(ii) Provide a complete proposal concerning the Major Works including but not limited to:

- (I) plans and specifications of the proposed works;
  - (II) specifications for any sound or energy rating, type, size together with the manufacturer's or suppliers brochure regarding same;
  - (III) a diagram depicting the location of or proposed installation points of all parts of the works;
  - (IV) engineering plans and certifications if requested by the owners corporation;
  - (V) any necessary approvals/consents/permits from any Authority;
  - (VI) a report(s) from an engineer nominated by the owners corporation concerning the impact of the works on the structural integrity of the building and lot and common property; and
  - (VII) in relation to an application for the installation of hard surface flooring, a report of an appropriately qualified acoustic engineer (approved by the owners corporation) that the works will, when installed, comply with the provisions of Clause 3.2(f) hereof.
- (iii) permit the owners corporation, by its agent, employees or contractors, to enter the lot for the purpose of carrying out an inspection to ascertain the presence of concrete spalling and, if necessary, to effect the requisite repairs of that spalling prior to the commencement of the Major Works;
- (iv) effect and maintain insurance and provide copy to the owners corporation;
- (v) pay all costs relating to the registration fees for the by-law contemplated in Clause 3.1(c)(i)(I);
- (vi) pay a bond (as reasonably determined by the owners corporation). Such bond to be refunded within sixty (60) days from completion of any Major Works less any costs incurred by the owners corporation for or in connection with the carrying out of the works or breach of this by-law; and

(vii) obtain written consent to the date for the commencement of the works from the owners corporation upon satisfaction of its obligations in paragraphs (c)(i) – (v) above. For clarity, no Major Works may be commenced unless and until the by-law referred to in Clause 3.1(c)(i)(I) is passed by special resolution at a duly convened general meeting of the owners corporation;

(d) Upon receipt of a by-law under Clause 3.1(c)(i)(I) the owners corporation will review the proposal and stipulate any relevant conditions to be contained in the exclusive use or special privileges by-law such conditions to include (but not be limited to) those set out in Clauses 3.2, 3.3, 3.4, 3.5 and 3.6.

### **PART 3.2 – Compliant Works**

3.2 To be compliant under this by-law, the works:

(a) must be in keeping with the appearance and amenity of the building in the opinion of the owners corporation;

(b) must be manufactured and designed to specifications for domestic use;

(c) for fire detectors, any alterations, connections or disconnection to the fire detectors are to be details. If approved, the changes shall be certified by the fire certification controller appointed by the owners corporations;

(d) not allow tradespersons and contractors carrying out Major Works at any time to park on common property without the written consent of the owners corporation;

(e) for air-conditioning, must have a new condenser unit (external) that:

(i) is mounted on vibration pads in a location so to minimise noise and vibration;

(ii) is installed unobtrusively in a location as approved by the owners corporation;

(iii) has an acceptable (in the absolute discretion of the owners corporation) sound rating as specified by the owners corporation in writing; and

(iv) has all external piping and electrical work covered with the same style downpipe used for the existing facade of the building;

(f) for hard surface flooring, must be insulated with soundproofing underlay as specified by the owners corporation from time to time and shall not have a weighted standardized impact sound pressure level  $L'_{nT,w}$ , exceeding 50 when measured in situ in accordance with Australian Standard AS ISO 140-7 "AS ISO 140.7-2006 Field measurements of impact sound insulation of floors" and rated to AS ISO 717.2-2004 "Acoustics – Rating of sound insulation in buildings and of building elements. Part 2: Impact Sound Insulation".

(g) For tiling of balconies and terraces, no tiles are permitted to be laid above existing tiles.

### **PART 3.3 – During Construction**

3.3 Whilst the works are in progress the owner of the lot at the relevant time must:

(a) use duly licensed employees, contractors or agents to conduct the works where required by law;

(b) ensure the works are conducted in a proper and workmanlike manner and comply with the current Australian Building Codes and Standards;

(c) ensure the works are carried out expeditiously and with a minimum of disruption;

(d) carry out the Works between the hours permitted by Council. No works are to be carried out on a Sunday or public holiday unless they are silent works (e.g. painting) and Council permits;

(e) transport all construction materials, equipment and debris in the manner described in this by-law and as otherwise reasonably directed by the owners corporation. For the avoidance of doubt, no building items may be disposed of or left anywhere on or about the common property;

(f) not allow waste bins or skips to be placed on or near the common property without the prior written consent of the owners corporation;

(g) not cause or permit storage, mixing, preparation, cutting or any other work in connection with the works to be conducted on the common property except on the balconies of the lot affected;

(h) protect all affected areas of the building outside the lot from damage relating to the works or the transportation of construction materials, equipment and debris;

- (i) keep the lot's front entrance door closed at all times (where possible);
- (j) provide to the executive committee at least forty eight (48) hours (Monday to Friday) prior written notice of any noisy works (e.g. jackhammering, the use of any pneumatic, rotary or power-actuated tools;
- (k) comply with Council regulations about noise;
- (l) 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 occurs the owner must rectify that interference or damage within a reasonable period of time;
- (m) provide the owners corporation's nominated representative(s) access to inspect the lot within forty-eight (48) hours of any request from the owners corporation (for clarity more than one inspection may be required);
- (n) observe all the other by-laws applicable to the scheme;
- (o) not vary the works or their scope without first obtaining the consent in writing from the owners corporation;
- (p) ensure all trades persons and contractors access the building through the basement level car park (not through the main foyer);
- (q) ensure the use of the lift protection screens and carpet, and the use of trades carpet protection mats to residential level foyers; and
- (r) notify the owners corporation and permit it or its nominee to inspect and test the flooring in the lot for concrete spalling prior to any change of floor covering.

#### **PART 3.4 – After Construction**

3.4.1 After the works have been completed the owner must without unreasonably 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;
- (d) provide the owners corporation with certification from a suitably qualified engineer(s) approved by the owners corporation that the Major 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;
- (e) provide the owners corporation, in respect of the installation of any hard surface flooring installation, with a report from an appropriately qualified acoustics engineer (approved by the owners corporation) that the installation complies with the provisions of Clause 3.2(f) hereof;
- (f) provide the owners corporation's nominated representative(s) access to inspect the lot within forty-eight (48) hours of any request from the owners corporation to check compliance with this by-law or any consents provided under this by-law.

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

#### **PART 3.5 – Enduring Rights and Obligations**

3.5 An owner shall:

- (a) protect all affected areas of the building outside the lot from damage relating to the installation, repair, replacement or removal of the works;
- (b) use reasonable endeavours to ensure no nuisance is caused as a result of the use of the works including where relevant the prevention of water escape or noise;

(c) properly maintain, replace and keep in good and serviceable repair any works installed by them or the occupier of their lot;

(d) maintain and upkeep those parts of the common property in contact with the works;

(e) remain liable for any damage to any lot or common property arising out of or in connection with the installation, repair, replacement or removal of the works;

(f) repair and/or reinstate the common property or personal property of the owners corporation to its original condition if the works are removed or relocated;

(g) comply with all directions, orders and requirements of any Authority relating to the works (including their use);

(h) remove any works which contravene the requirements of this by-law or any Authority and reinstate the common property, as and when directed by the owners corporation;

(i) ensure that the works within the lot are not likely to disturb the peaceful enjoyment of the owner or occupier of another lot;

(j) ensure that the works (where applicable) do not cause water escape or water penetration to lot or common property (including the lot);

(k) ensure that any electricity or other services required to operate the works (where applicable) are installed so they are connected to the lot's electricity or appropriate supply;

(l) indemnify and keep indemnified the owners corporation against any costs or losses arising out of the installation, use, repair, replacement or removal of any works including any liability in respect of the property of the owner;

(m) without derogating from the generality of paragraph (l) above, indemnifies and shall keep indemnified the owners corporation against any loss, damage to or destruction of the works caused howsoever by the owners corporation, its officers, employees, contractors or agents carrying out any essential works including, but not limited to, where the owner or occupier is in breach of Clause 3.7; and

(n) not carry out any Major Works from 16 November to 14 February each year.

#### **PART 3.6 – Recovery of Costs**

If an owner fails to comply with any obligation under this by-law within twenty eight days from receipt of notice, 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;

(c) apply the bond towards the costs incurred by the owners corporation to carry out that work;

(d) recover from the owner the amount of any fine or fee which may be charged to the owners corporation for the cost of any inspection, certification or order; and

(e) recover any costs from the owner as a debt due.

#### **PART 3.7 – Applicability**

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

3.8.2 For the avoidance of doubt, Clause 3.8.1 applies to all works installed prior to and after this by-law being made.

#### **PART 3.9 – Waiver**

Notwithstanding any obligation or requirement imposed upon an owner by this by-law, the owners corporation may, in its absolute discretion, dispense with any such obligation or requirement.

**ANNEXURE TO CHANGE OF BY-LAWS  
THE OWNERS – STRATA PLAN NO. 1977**

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**Annexure "B"**

**MOTION < >**

Subject to the by-law in the next succeeding motion being approved, The Owners – Strata Plan No.1977 SPECIALLY RESOLVE pursuant to section 65A of the *Strata Schemes Management Act, 1996* (NSW) for the purpose of improving or enhancing the common property to specifically authorise the Works carried out by the owner of lot \_\_\_\_\_ common property on the terms and in the manner as set out in the by-law.

**MOTION < >**

Subject to the preceding motion being approved, The Owners – Strata Plan No.1977 SPECIALLY RESOLVE pursuant to section 52 of the *Strata Schemes Management Act 1996* to make a by-law in the following terms:

**SPECIAL BY-LAW NO < >**

**Works**

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The provisions of Parts 1, 2, and 3 of Special By-law No. 4 are adopted for the purposes of this by-law with the exception of the insertion of the definition of "Plans" and the amendment of the definition of "Major Works" and "Lot" as follows:

- (a) "**Major Works**" means the works to the Lot and the common property to be carried out in connection with the \_\_\_\_\_ works for the Lot including:
- (i) \_\_\_\_\_, and
  - (ii) the restoration of lot and common property (including the Lot) damaged by the works referred to above,  
all of which is to be conducted strictly in accordance with the Plans and the provisions of this by-law.
- (b) "**Lot**" means \_\_\_\_\_.
- (c) "**Plans**" means the plans/drawings prepared by \_\_\_\_\_ and dated \_\_\_\_\_ a copy of which were tabled at the meeting at which this by-law was passed and which may be attached to this by-law.

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

**ANNEXURE TO CHANGE OF BY-LAWS  
THE OWNERS – STRATA PLAN NO. 1977**

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**Annexure "C"**

**CONSENT UNDER SECTION 52 & 65 A (4) (a)  
STRATA SCHEMES MANAGEMENT ACT, 1996 (NSW)**

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

I/We, \_\_\_\_\_, CONSENT to the making of a by-law conferring rights over the common property for the installation of \_\_\_\_\_ to be carried out by the owner/s of lot \_\_\_\_\_ in our scheme and conferring on them the responsibility to repair and maintain such works.

The by-law is to be made by the Owners Corporation at a general meeting on \_\_\_\_\_, or any adjournment of that meeting.

Dated: .....

.....  
Signature of \_\_\_\_\_  
Owner of Lot \_\_\_\_\_

**ANNEXURE TO CHANGE OF BY-LAWS  
THE OWNERS – STRATA PLAN NO. 1977**

**Annexure "A"**

STRATA PLAN NO. 1977

**BUILDING WORKS APPLICATION FORM**

Use this form if you wish to undertake building works or renovations within your apartment. This form is to be construed according to the conditions outlined in the SPECIAL BY-LAW NO. < > FOR WORKS. Please ensure you have read and understood the document before completing this form. No work may commence until your application is approved by the Executive Committee, or in the case of building works affecting common property, an appropriate by-law has been made and registered.

**OWNERS NAME** \_\_\_\_\_ **UNIT/LOT NUMBER** \_\_\_\_\_

**CONTACT TELEPHONE** (list all).....

**EMAIL** .....

**LOCATION:**  KITCHEN     BATHROOM     TOILET     HALLWAY  
 LIVING ROOM     BEDROOM     OTHER.....

**WORK**

**INVOLVES:**  PAINTING     TILING     FLOOR SURFACES     ELECTRICAL  
 CEILING     AIRDUCTS     FIRE SPRINKLERS  
 PLUMBING     MASONRY     WALL REMOVAL/PENETRATION  
 COMMON PROPERTY ALTERATION     OTHER .....

**PREFERRED DATE OF WORKS**    STARTING...../...../.....    ENDING...../...../.....

**PLEASE ATTACH**     BRIEF DESCRIPTION OF INTENDED WORKS

**AND EITHER:**  PLAN BY ARCHITECT (if available) OR:  ROUGH PLAN / DIAGRAM (provided by owner)

SECURITY DEPOSIT: BANK CHEQUE to be made out to "The Owners - Strata Plan No. 1977 "

DEVELOPMENT APPLICATION

I the undersigned hereby warrant that I have read the Special By-Law No. < > for Works and agree to comply with all of the conditions and limitations imposed thereby.

**OWNERS SIGNATURE:** ..... **DATE**.....

**COMPLETED APPLICATION TO BE SUBMITTED TO STRATA MANAGER**

**ADDITIONAL WARRANTIES (IF APPLICABLE)**

**STRUCTURAL ALTERATIONS:**

As the work applied for entails the removal and/or penetration of masonry within the apartment, I hereby warrant that I accept full responsibility for the upkeep and preservation of the altered masonry

**OWNERS SIGNATURE:** ..... **DATE**.....

**HARD FLOORING IN DESIGNATED AREAS:**

As the work applied for entails the installation of hard flooring surfaces other than in a kitchen, bathroom or toilet, I hereby warrant that, after the new floor is installed, I shall pay for any acoustic testing required by the Owners Corporation and will remove the hard floor and re-install carpet if it is found to provide inadequate acoustic installation.

**OWNERS SIGNATURE:** ..... **DATE**.....

The common seal of The Owners – Strata Plan No. 1977 was affixed or ..... in the presence of:

Signature(s): .....

Name(s): .....

being the person(s) authorised under section 238 of the *Strata Schemes Management Act 1996* to attest the affixing of the seal.

