
MINUTES OF BUSINESS DEALT WITH AT THE EXTRAORDINARY GENERAL MEETING OF THE OWNERS STRATA PLAN NO. 61139 HELD ON WEDNESDAY 1ST JUNE, 2022 AT ST MATTHEWS CHURCH, THE CORSO, MANLY AT 6.30PM.

PRESENT:

Mr J Chester, Mrs S Parker (company nominee for Narumu Pty Ltd), Mr V Parker, Mr D Mockler, Mr O Isaacs, Mr R Davison, Mr D Richards, Mrs J Robertson, Mr N Owen, Mr D Glading, Mr F Martinez de Morentin, Mrs Z Dybac, Mr A & Mrs V Longfellow, Mr A Kloczko, Mrs R Kloczko, Ms A Nicholson, Mr R Stone, Mr P Keen (left at 7.34pm), Mr M Chrysiliou and Mr G Brown.

PROXIES:

Mr J Stanley (Lot 8) in favour of Mr R Stone.
Ms A Saya (Lot 20) in favour of Mr O Isaacs.
Mr S Mermez (Lot 51) in favour of Mr A Longfellow.
Mr A & Mrs D Westacott (Lots 55, 78 & 120) in favour of Mr R Stone.
Ms J Gunn (Lot 56) in favour of Mr R Stone.
Ms L Wareham (Lot 61) in favour of Mr R Stone.
Mr R Horne (Lot 92) in favour of Mr D Glading.
Mr G & Mrs S Stow (Lot 93) in favour of Mrs Z Dybac.
Mr I Kaye (Lots 94 & 104) in favour of Mr D Glading.
Mr G Moore (Lot 98) in favour of Mr A Longfellow.
Mr E & Mrs P Martinez de Morentin (Lot 111) in favour of Mr F Martinez de Morentin.
A C W Chui & C M Chui (Lot 113) in favour of Mr R Stone.
Ms M McDonald (Lot 114) in favour of Mr D Glading.
Mrs S Filewood (Lot 117) in favour of Mr D Glading.
Mr G & Mrs J Grant (Lot 121) in favour of Mr G Brown.
Mr A & Mrs P Teruzzi (Lot 123) in favour of Mr D Mockler.

IN ATTENDANCE:

Mr T Strati (Building Manager) and Ms N Hopkins (Lamb & Walters).

CHAIRPERSON:

Ms N Hopkins was invited to occupy the Chair.

1. Confirmation of Minutes

Resolved that the Minutes of the Annual General Meeting (AGM) held on 16/11/21 and the Extraordinary General Meeting held on 26/4/22 be confirmed as a true and accurate record of those Meetings with the following amendment, moved by

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Ms Nicholson and seconded by Mr Brown, to the AGM Minutes being the inclusion of the following in General Business:

Building Manager

"I asked if there was any regulation in regard to the Building Manager having any conflict of interest or pecuniary interest in the carrying out of his duties including awarding tenders and contracts and taking commissions.

You, as acting Chair, referred the question to Mr Tony Strati, the Building Manager.

Mr Strati refuted any conflicts, pecuniary interests or commissions.

Mr Greg Brown, Chairman, then stood to say Mr Strati's private company had been retained to perform several significant jobs, including waterproofing, painting and replacing the polystyrene cladding."

NB: Having referred back to what had actually been said at the AGM Mr. Brown wants it recorded that his comments were to the effect that Mr. Strati's private company had not been involved in any significant projects including the low rise waterproofing, painting of the building and replacing the polystyrene cladding. Further clarification was provided in Strata Committee Meeting Minutes 9/12/21, point 9.

2. By-law 70 Amendments

Specially resolved, without dissent, to amend By-law 70, option 2 as follows:

POST INSTALL COMPLAINT REMEDY VERSION

70. Special By-law- Hard Floors Residential Lots

PART 1: DEFINITIONS & INTERPRETATION

1.1 In this by-law:

- (a) "Act" means the Strata Schemes Management Act 2015 as amended from time to time;
- (b) "Acoustic Expert" means, in the opinion of the Strata Committee, an appropriately qualified acoustic consultant who is also a member of the Association of Australian Acoustic Consultants or equivalent organisation;
- (c) "Application" means a written application by an Owner to the Owners Corporation (via the Strata Committee) to undertake Works to a Lot, including the following details:
 - (i) the type of Non-Carpet Floor Coverings to be installed at the Lot as part of the Works, including the brand and quality;
 - (ii) the supplier, manufacturer, installer, make, model and specifications;
 - (iii) a plan detailing the proposed location of the Non-Carpet Floor Coverings;
 - (iv) Evidence from the Contractor that the minimum standard for the specified acoustic underlay is 40LnTw or less. The Strata Committee may vary this requirement if the installation is to be on level 2, not above any residential or commercial property and will not adversely affect neighbouring lots if installed correctly.

- (v) Evidence from the Contractor confirming that the installation and use of the Non-Carpet Floor Coverings will not interfere with the quiet and peaceful enjoyment of residents in the Building;
- (vi) Evidence from a structural engineer (reasonably acceptable to the Strata Committee) that the installation and use of the Non-Carpet Floor Coverings will not affect the structural integrity of the Building;
- (vii) details of the contractors engaged to carry out the Works, including confirmation that the contractors have effected all necessary policies of insurance, including any policy of insurance specifically requested by the Owners Corporation;
- (viii) (if applicable) evidence that the installation of the underfloor heating system will be carried out by a Contractor qualified and experienced in the installation of underfloor heating systems;
- (ix) approvals from the relevant statutory/regulatory authority; and
- (x) any other document reasonably required by the Owners Corporation;
- (d) “Approval” means written approval from the Owners Corporation (via the Strata Committee) to the Owner for the Works, which may include a requirement to pay a Bond;
- (e) “Bond” means an amount to be determined by the Strata Committee from time to time;
- (f) “Building” means the building and improvements on the land located at 9-15 Central Avenue Manly NSW 2095;
- (g) “Commencement Date” means the date this by-law is registered by the Registrar-General;
- (h) “Common Property” means the common property in the Strata Plan;
- (i) “Contractor” means the contractor engaged by the Owner to carry out the Works;
- (j) “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, including the costs of engaging an Acoustic Expert and obtaining a Noise Report;
- (k) “Direction” means a written direction from the Owners Corporation to an Owner requiring the:
 - (i) carrying out of Remedial Works; and/or
 - (ii) carrying out of any works set out in a Noise Report obtained with regard to a Lot;
- (l) “Evidence” means documentation in the form of a signed certificate, report or letter;
- (m) “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:
 - (i) all actions, proceedings, claims, demands, costs, damages and expenses which may be incurred by, brought or made against the Owners Corporation;
 - (ii) any sum payable by way of increased premiums; and
 - (iii) any costs or damages incurred by or for which the Owners Corporation is or becomes liable;
- (n) “Lot” means a lot in the Strata Plan;

- (o) "Noise Complaint" means a complaint made by an Owner to the Owners Corporation with regard to the level of noise emanating from a Lot as a result of the use of Non-Carpet Floor Coverings;
- (p) "Noise Report" means a report prepared by an Acoustic Expert noting, amongst other things, whether or not the Weighted Standardised Impact Sound Pressure Level (LnTw) for the noise transmitted as a result of the Non-Carpet Floor Coverings used at the Lot is not greater than 40 when carried out and calculated according to the requirements of the relevant Australian Standards. If the noise transmitted is greater than 40, the report should also include recommendations to remedy the level of noise transmitted, which may include removal of the Non-Carpet Floor Coverings;
- (q) 'Non-Carpet Floor Covering' means a floor covering on the floor boundary of a residential lot (other than a kitchen, laundry, lavatory or bathroom) and other than carpet, including, but not limited to, timber, parquetry, tiles, cork and marble on levels of Strata Plan 61139
- (r) "Notice" means a notice from the Owners Corporation to the Owner detailing Noise Complaints made with regard to their Lot and directing the Owner to engage the services of an Acoustic Expert to prepare a Noise Report;
- (s) "Owner" means the registered proprietor of a Lot from time to time;
- (t) "Owners Corporation" means The Owners- Strata Plan No. 61139;
- (u) "Remedial Works" means repair, maintenance, replacement and/or removal of items relating to the Works, and/or Common Property affected by the Works;
- (v) "Strata Committee" means the strata committee elected by the Owners Corporation from time to time;
- (w) "Strata Plan" means registered Strata Plan No. 61139;
- (x) "Works" means the installation of Non-Carpet Floor Coverings at a Lot other than in the kitchen, laundry, lavatory, or bathroom.

1.2 Where any terms used in this by-law are defined in the Act, they will have the same meaning those words are attributed under the Act.

1.3 "Include", "including", and similar expressions are not words of limitation.

1.4 The singular includes the plural and vice versa.

1.5 If this by-law empowers the Owners Corporation to take action, it may or may not take such action in its reasonable discretion.

PART 2: APPLICATION OF BY-LAW

This by-law applies to all Non-Carpet Floor Coverings, whether installed or laid before or after the Commencement Date.

PART 3: PROHIBITION

- 3.1 After the Commencement Date, an Owner must not install or lay a Non-Carpet Floor Covering in the Owner's lot unless the Owner complies with the conditions specified in PART 5.

- 3.2 An Owner must not retain a Non-Carpet Floor Covering in the Owner's lot that was installed or laid before the Commencement Date unless the Owner complies with the conditions specified in PART 6.

PART 4: RIGHTS

Subject to the conditions in PART's 5 and 6, Owners are granted a special privilege to lay and maintain Non-Carpet Floor Coverings on the floor boundaries of their lots.

PART 5: CONDITIONS FOR NEW NON-CARPET FLOOR COVERINGS

After the Commencement Date, an Owner may install or lay a Non-Carpet Floor Covering in that Owner's lot on condition that the Owner:

- 5.1 Provide a written statement from the installation Contractor that the proposed installation will comply with the technical provisions contained in PART's 5, 6 and 9.
- 5.2 obtains the written permission of the Strata Committee before any work is carried out in connection with the Non-Carpet Floor Covering;
- 5.3 pays a Bond of an amount to be determined by the Strata Committee from time to time and agrees that all interest accruing on the bond is to the benefit of the Owner's Corporation;
- Works
- 5.4 when carrying out work in connection with the Non-Carpet Flooring Covering:
- 5.3.1 protects all areas of the common property from damage;
- 5.3.2 does not disturb the peaceful enjoyment of the owner or occupier of another lot;
- 5.3.3 promptly removes all debris resulting from work;
- Maintenance
- 5.5 properly maintains and keeps the Non-Carpet Floor Covering in a state of good and serviceable repair and replaces it as required from time to time;
- Cost
- 5.6 pays all costs of the installation, the maintenance of and the repair of the Non-Carpet Floor Covering: and
- 5.7 effects and continues to keep insurance cover for the Non Carpet Floor Covering.

PART 6: CONDITIONS FOR EXISTING NON-CARPET FLOOR COVERINGS

- 6.1 An Owner may retain a Non-Carpet Floor Covering in that Owner's lot that was installed before the Commencement Date on condition that the Owner:
- 6.1.1 has fully complied with the requirements of this Special By-Law or
- 6.1.2 had installed the Non-Carpet Floor Covering before the Commencement Date and had previously obtained the permission of the Owners Corporation to install the Non-Carpet Floor Covering and had complied with all conditions specified in that approval; or
- 6.1.3 notifies the Strata Committee in writing that a Non-Carpet Floor Covering has been installed in the Owner's lot; and within 28 days after a receiving written notice from the Strata Committee requiring the Owner to do so, provides at the Owners expense a certified test report by a qualified engineer showing that the measured L'nT,w when carried out and calculated according to the requirements of AS/NZS ISO 140.7:2006 and AS ISO 717.2-2004 is 40 or less;

- Maintenance
- 6.2 properly maintains and keeps the Non-Carpet Floor Covering in a state of good and serviceable repair and replaces it as required from time to time.
- Cost
- 6.3 pays all costs of the installation of, maintenance of and repair of the Non-Carpet Floor Covering.
- 6.4 effects and continues to keep insurance cover for the Non Carpet Floor Covering.

PART 7: CONDITIONS APPLYING TO ALL WORKS

- 7.1 The Owner is responsible for and will bear all costs.
- 7.2 Where the Owners Corporation incurs Costs on behalf of an 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.
- 7.3 In the event Lots or Common Property are damaged because of the Works or Remedial Works, the Owner will pay the Costs of rectifying that damage.
- 7.4 Owners will Indemnify and will keep Indemnified the Owners Corporation.
- 7.5 Owners will not claim upon the Owners Corporation's insurance in respect of anything arising out of Works or Remedial Works.
- 7.6 Owners will not claim upon the Owners Corporation's insurance in respect of anything arising out of Works or Remedial Works.
- 7.7 Owners will sign all documents and do all things necessary to facilitate the matters the subject of this by-law.
- 7.8 Works and Remedial Works must be carried out and completed:
- 7.1.1 in a proper and workmanlike manner and by licensed and/or accredited contractors;
- 7.1.2 with due skill and care and using materials suitable for the purpose for which they are used;
- 7.1.3 in compliance with the Building Code of Australia and any other Australian Standards, as applicable;
- 7.1.4 in a way so as to not unreasonably interfere with the enjoyment of other Common Property areas or access to Lots in the strata scheme by other persons;
- 7.1.5 in a way which minimises the disturbance of other owners including but not limited to vibration, noise, dust, dirt and complies with commencement and finishing times determined by the strata Committee or its delegatee;
- 7.1.6 ensuring that the security of the Building is maintained throughout the performance of the Works, Replacement Works or Remedial Works;
- 7.1.7 promptly and completely removing all rubbish from the Building resulting from the Works and/or Remedial Works;
- 7.1.8 keeping all areas of the Building as clean and tidy as possible;
- 7.1.9 promptly repairing any damage to any part of the Building caused by the Works, and/or Remedial Works;

7.1.10 in compliance with all reasonable requirements of the Owners Corporation including any requirements relating to access and egress of tradespersons, building materials, tools and debris;

7.1.11 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; and

7.1.12 only in respect of the Works, during the installation of Non-Carpet Floor Coverings the Works must be inspected and confirmed in writing by the Building Manager that the Works (in particular the underlay) complies with the requirements of this by-law.

PART 8: NOTIFICATION AND APPROVAL PROCEDURE

8.1 After receiving a request under PART 5. or a notification in relation to a Lot, the Strata Committee must notify the owners of all adjoining lots (both horizontally and vertically) that it has received such a request or notification.

8.2 The Strata Committee must not grant an Owner permission to install or lay a Non-Carpet Floor Covering until at least 14 days after notifying the owners of adjoining lots in accordance with paragraph 8.1. (both horizontally and vertically) that it has received the Application.

8.3 Strata Committee must not grant an Owner Approval to carry out the Works until:

8.3.1 at least 14 days have passed after notifying the Owners of adjoining Lots in accordance with clause 7.1 of this by-law; and

8.3.2 the Owners Corporation has considered the reasonable objections, if any, of the Owners of adjoining Lots.

PART 9: NOISE COMPLAINTS

9.1 Noise Complaint having been received within 12 months from the date of the completed installation the Owner will provide to the Strata Committee at the Owner's expense within 28 days after having been advised of the complaint by the Strata Committee in respect of the installed Non-Carpet Flooring Covering and access has been granted by the complainant for the purposes of testing by the owner of the lot or lots adjoining both horizontally and vertically, a certified test report by an Acoustic Expert, approved by the Strata Committee, showing that the measured L'nT,w when carried out and calculated according to the requirements of AS/NZS ISO 140.7:2006 (which requires noise transmission readings to be taken in the lot below) and AS ISO 717.2-2004 is 40 or less;

9.2 The Owner will do all things and sign all necessary documents in order to enable the Acoustic Expert to carry out an inspection and any testing necessary.

9.4 The Owner is responsible for and will bear all Costs associated with engaging the Acoustic Expert and following the recommendations set out in the Noise Report in the event that the test determines non compliance with any of the technical requirements contained in PART 5

9.5 If within 14 days of the date of the Notice, the Owner does not engage an Acoustic Expert and provide the Owners Corporation with that person's details, the Owners

Corporation may engage its own Acoustic Expert to undertake the inspection and Noise Report.

9.6 The complainant accepts responsibility for and will reimburse to the Owner the cost of the Acoustic Expert report in the event that the test report confirms compliance with all technical requirements contained in PART 5 and provide a Bond for this contingency.

PART 10: REFUND OF BOND

10.1 The Bond will be retained by the Owners until either 12 months after installation completion or in the event of a complaint until formal resolution of the complaint. Thereafter, the Strata Committee must refund the bond, less any costs the Owners Corporation has incurred as a result of non-compliance by the Owner with the conditions of this by-law.

10.2 If an Owner does not provide a report in accordance with paragraph 5.5 the Strata Committee may arrange for independent testing of the floor and any rectification required to be paid for out of the Bond. The Strata Committee must refund the Bond, less any costs it has incurred as a result of non-compliance by the Owner with the conditions of this by-law.

PART 11: REMEDY

11.1 If an Owner fails to comply with any obligation of this by-law, then in addition to its rights under PART 9 of this by-law, the Owners Corporation may:

11.1.1 enter any part of the building or buildings to carry out the necessary work to perform that Owner's obligation; and

11.1.2 recover the costs of carrying out that work from the Owner as a debt, due and payable at the Owners Corporation's direction and as a contribution according to section 86 of the Act and which, if unpaid within 1 month of being due, will bear interest at the rate of 10 percent per annum until paid or if the regulations provide for another rate, that other rate and the interest will form part of that debt.

NB: Mrs Dybac said carpet is not a permanent solution.

3. Special Levy

Mr Brown read to the Meeting the below statement tabled herewith:

"I as Chairman, the Treasurer and members of the Strata Committee believe that we have an obligation to put on record that we believe that there is the real possibility that there could be insufficient funds to meet all the demands of capital works maintenance/ repairs and allow for a reasonable funding buffer to cater for any unforeseen expenditure of a significant nature in the short to medium term. Currently available cash in the capital fund stands at \$380740 including insurance premium payment. This low level of capital reserve places us at risk for a building of our asset value.

To remedy this situation a special levy motion has been included in the agenda for this meeting which if passed by vote will provide comfort as to the ability to fund capital works maintenance/repairs in a timely manner."

Mr Stone responded and said there were so many flaws in the way it has been prepared. He said it was premature to raise the special levy.

Mr Longfellow, the Treasurer gave an overview of the history and advised that most of the monies proposed in the special levy have already been expended.

Proposed amendment: Moved by Ms Nicholson and seconded by Mr Brown that the special levy be raised over eight (8) quarters commencing 1/8/22. Amendment failed.

NB: Mr Brown made the point twice that should the Owners Corporation agree to raise the special levy over eight (8) quarters instead of four (4) quarters then the Strata Committee would have to reprioritize repair works to match the extended period of receipt of funds.

Proposed amendment: Moved by Mr Owen and seconded by Mr Brown that the special levy be raised over four (4) quarters commencing 1/8/22. Amendment failed.

Resolved that a special levy in the amount of \$352,287.00 + GST be approved. The levy is to be raised on unit entitlement and due and payable over the next four (4) quarters commencing 1/7/22, 1/10/22, 1/1/23 and 1/4/23.

As the above motion passed the Meeting unanimously agreed to the following amendment so that the special levy be raised in line with the normal levy cycle:

Proposed amendment: Moved by Mr Brown and seconded by Mr Glading that the special levy be raised over four (4) quarters commencing 1/8/22. Amendment passed.

Mr Stone opined that the resolution should have been subject to special resolution vote.

CLOSE: There being no further business the Meeting closed at 8.03pm.