

Special By-Law No. 32 — Renovations, including changes to Common Property

DEFINITIONS

Apartment means so much of a lot in Strata Plan No. 38936, including any subdivision of that lot, that is designed as, or capable of being occupied as, a dwelling and is included in the Register annexed to this by-law (**Register**) or in an updated copy of the Register maintained by the owners corporation.

Consent Form means the form attached to this by-law used to express a particular owner's consent to this by-law and all the conditions contained in it.

Renovations means the alterations and additions to an Apartment and so much of the common property as is necessary to renovate the Apartment in accordance with:

- (a) the approved Scope of Works;
- (b) all other by-laws (insofar as they apply); and
- (c) this by-law,

but does not include any alterations or additions to common property designed to facilitate the amalgamation of two or more lots.

Scope of Works means an owner's detailed and accurate plans, drawings, diagrams and description of all the proposed alterations and additions to the owner's Apartment.

Any term used in this by-law that appears in *the Strata Schemes Management Act 2015* (NSW) (**Act**) will have the same meaning as in the Act.

The singular includes the plural and vice versa.

Any use of the verb 'includes', or of words such as 'for example' or 'such as', do not limit anything else that is included in general speech.

A reference to one gender includes a reference to all genders.

Headings are included for convenience only and do not affect the meaning of the clauses to which they relate.

RIGHTS

1. Owners are granted a special privilege to carry out Renovations and a licence to use the common property immediately affected by their Renovations on the conditions of this by-law.

CONDITIONS

2. Notwithstanding any other condition in this by-law, the special privileges and licences granted by this by-law are not effective until the relevant owner executes a Consent Form and delivers it to the owners corporation.

3. Before undertaking any Renovations, the relevant owner must
 - (a) submit a Scope of Works to the strata committee;
 - (b) obtain the strata committee's approval to the Scope of Works; such approval being given
 - (i) in its discretion acting reasonably;
 - (ii) with or without requiring modification to the Scope of Works; and
 - (iii) subject to additional conditions (including payment of a suitable bond).
4. At least 14 days before any Renovations commence, the relevant owner must at the owner's cost provide to the strata committee:
 - (a) evidence of local council and all other relevant statutory authorities' approval for the Scope of Works, if applicable;
 - (b) specifications of an engineer approved by the strata committee (if the strata committee considers this necessary) and any other relevant documentation in relation to the Scope of Works; and
 - (c) evidence of contractors' all works insurance, workers compensation insurance and public liability insurance in an amount of not less than \$20 million effective throughout the period Renovations will be carried out.
5. When carrying out Renovations, the relevant owner must:
 - (a) continuously comply with
 - (i) any conditions imposed by the authorities referred to in paragraph 4(a) above in relation to the Renovations;
 - (ii) the reasonable directions of the strata committee or the building manager as to permissible hours of work, movement of building materials on the parcel and the disposal of debris;
 - (b) ensure the Renovations are carried out in a proper and workmanlike manner by suitably licensed and reputable tradespersons;
 - (c) on completion of the work comprising the Renovations and on request from the strata committee, produce written certification from a qualified engineer approved by the strata committee that the Renovations:
 - (i) meet relevant Australian engineering, building and acoustic standards for such works (where applicable); and
 - (ii) do not compromise the structural integrity or operation of the building.
6. At all times the relevant owner must:
 - (a) at the owner's cost, properly maintain and keep the Renovations in a state of good and serviceable repair and replace the Renovations or any part of them as the strata committee may reasonably require from time to time;
 - (b) accept liability for any damage caused to the common property or any lot as a result of the exercise of the rights under this by-law and/or the installation, maintenance or repair of the Renovations, and make good that damage as soon as reasonably practicable after it has occurred;

- (c) indemnify the owners corporation against any loss or damage the owners corporation reasonably suffers (including reasonable legal costs) as a result of the owner's breach of this by-law. In respect of losses comprising legal costs and disbursements, if a sum cannot be agreed, the owner and the owners corporation must refer the question for expert determination by a person who is a costs assessor on the current statutory list maintained under the *Legal Profession Uniform Law Application Regulation 2015 reg 44(2)* (or replacement regulation) and the expert is also to determine by whom and in what amount the costs of the expert determination are to be paid; and
- (d) comply with any special conditions specified in the Register.

GENERAL

- 7. Insofar as it may be necessary, the owners corporation specially resolves:
 - (a) pursuant to section 106(3) of the Act that:
 - (i) it is inappropriate to maintain, renew, replace or repair the common property immediately affected by Renovations;
 - (ii) its decision will not affect the safety of any building, structure or common property in the strata scheme or detract from the appearance of any property in the strata scheme;
 - (b) pursuant to section 108 of the Act that:
 - (i) owners may add to or alter the common property necessarily affected by their respective Renovations for the purpose of improving or enhancing the common property; and
 - (ii) the relevant owner will be responsible for the ongoing maintenance of such common property.
- 8. The owners corporation specially resolves to delegate to the strata committee the owners corporation's functions under section 110 of the Act in relation to minor renovations by owners.

REMEDY

- 9. If an owner fails to comply with any obligation of this by-law, the owners corporation may:
 - (a) carry out all work necessary to perform the owner's obligation under this by-law;
 - (b) with the consent of the Owner, which must not be unreasonably withheld, and upon reasonable written notice, enter onto any part of the Owner's lot to carry out that work;
 - (c) recover the costs of carrying out that work from the relevant owner as a contribution recoverable under section 86(2A) of the Act; and
 - (d) include reference to that debt on levy notices and any other levy report or information.

STRATA PLAN No. 38936

REGISTER

APPROVAL OF RENOVATIONS ACCORDING TO SPECIAL BY-LAW No. 32

Lot	Apartment	Approval Date strata committee / Owners Corp	Summary of Renovations	Special Conditions (if any)
XXX	XXX	DD/MM/YY	XXXXXXXX	

Consent Form – Strata Plan No. 38936

Owners Consent to special privilege by-law and special privilege and licence to use, add to or alter the common property as set out in Special By-law 32.

To: The Secretary
The Owners Corporation Strata Plan No. 38936

And: NSW Land Registry Services
Level 30, 175 Liverpool Street
SYDNEY NSW 2000

I, [Owner's Name], being the registered owner of Lot XXX in Strata Plan No.38936 hereby consent to this special by-law granting me rights or special privilege and a licence to use, add to or alter the immediately affected common property, such by-law having been passed by special resolution of the owners corporation on 12 November 2020

Dated this day of MMM YYYY

..... [Owner's Name]

IF SPECIAL BYLAW WAS ALREADY HELD USE THIS PHRASE:

I, [Owner's Name], being the registered owners of Lot XXX in Strata Plan No.38936 hereby consent to this special by-law amending special by-law 32 and granting me rights or special privilege and a licence to use, add to or alter the immediately affected common property, such by-law having been passed by special resolution of the owners corporation on 12 November 2020

Dated this ... day of MMM YYYY

..... [Owner's Name]