

For commercial strata plan

sh. 1 of 15

BY-LAWS - STRATA PLAN NO.

ⓔ SP61679

DEFINITIONS

1. Definitions and Interpretation

- (a) "Act" means Strata Schemes Management Act 1996 or such other legislation as may be enacted in its place.
- (b) "Building" means the building constructed within the parcel.
- (c) "Government Agency" or "Government Agencies" means a government or any governmental, semi-governmental, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.
- (d) "Lifts" means all the lifts in this strata plan or any other strata plan covered by the Strata Management Statement (as defined in by-law 49).
- (e) Unless repugnant to the context from the terms defined in the Act have the same meaning in these by-laws.

GENERAL USE OF LOTS AND COMMON PROPERTY

2. Noise

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

3. Vehicles

An owner or occupier of a lot must not park or stand any motor or other vehicle upon any part of the common property except with the approval in writing of the owners corporation.

4. Obstruction of Common Property

An owner or occupier of a lot must not obstruct, impede or restrict the lawful use of common property by any person.

5. Damage to Lawns and Plants on Common Property

An owner or occupier of a lot must not damage or interfere with any lawn, garden, tree, shrub, plant, flower or any landscaped area, whether internal or external of the Building.

SP 61679

- 2/15

6. **Damage to Common Property**

An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property without the approval in writing of the owners corporation, but this by-law does not prevent an owner or person authorised by the owner from installing any locking or other safety device for protection of the owner's lot against intruders. Any such locking or safety device 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. An approval given under this by-law cannot authorise any additions to the common property.

7. **Behaviour of Owners and Occupiers**

An owner or occupier of a lot when upon common property or when upon any part of a lot so as to be visible from another lot or from 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. **Shopfronts**

An owner or occupier of a lot must maintain and keep in a good condition, and replace when reasonably necessary the shopfront in the lot, including any glass in the shopfront.

9. **Depositing Rubbish or Other Material on Common Property**

An owner or occupier of a lot must not deposit or throw upon the common property any rubbish, dirt, dust or other material or any appliance, chattel or other article or thing, except in any receptacle or any areas specifically provided therefor.

10. **Drying of Laundry Items**

An owner or occupier of a lot must not hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the Building.

SP 61679

- 3/15

11. Cleaning Windows and Doors

An owner or occupier of a lot must keep clean all glass in windows, doors and balustrading (if any) on the boundary of the lot, including so much thereof as is common property and must immediately report any breakages to the owners corporation.

12. Storage of Inflammable Liquids and Other Substances

An owner or occupier of a lot must not use or store upon the owner's lot or upon the common property any inflammable chemical, liquid or gas or other inflammable material, other than chemicals, liquids, gases or other materials used or intended to be used for the purposes for which the particular lot is being used, and must not do, permit or omit to be done any act, matter or thing which may invalidate or suspend any insurance cover effected by the owners corporation or cause the premium to be increased.

13. Moving Furniture and Other Objects on or Through Common Property

An owner or occupier of a lot must not transport any equipment, furniture or large object through or upon common property within the Building unless the owner has first given to the executive committee notice of intention to do so sufficient in the circumstances to enable the executive committee to arrange for its nominee to be present at the time when the owner does so. The owner or occupier must observe the directions of such nominee as to the time of and manner in which such transport takes place, the parking of delivery vehicles and the use of the Lifts.

14. Behaviour of Invitees

An owner or occupier of a lot must not in the conduct of his or her business bring invitees or customers upon any part of the common property in such a way as to cause a nuisance or inconvenience to any other owner or occupier or so as to unreasonably interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using common property.

15. Permitted Use

An owner or occupier of a lot must not use that lot or permit the same to be used otherwise than as permitted by any development consent granted by the relevant local Council for that particular lot nor for any purpose that may cause a nuisance or hazard or for any illegal or immoral purpose or for any other purpose that may endanger the good reputation of the strata scheme.

SP 61679

- 4/15

16. Use of Lifts

An owner or occupier of a lot must not misuse or permit to be misused any Lifts or other equipment or thing whatsoever within the Building and must not obstruct or damage the same or otherwise interfere with or impede its normal operation.

17. Alteration to Interior

An owner or occupier of a lot must not effect any alteration or addition to the internal walls or structural features of a lot without the prior approval in writing of the owners corporation PROVIDED that such approval must not be unreasonably withheld.

18. Use of Water Closets

An owner or occupier of a lot must not use any water closets or other water apparatus in the Building for any purpose other than for which they were constructed and must not deposit or throw any sweepings, rubbish, rags, napkins or any other article into the same.

19. No External Aerial or Satellite Dish etc

An owner or occupier of a lot must not attach to or hang from the exterior of the Building any radio or television aerial, satellite dish or any receiving or transmitting device, security device or wires therefor.

20. No Radio Interference etc

An owner or occupier of a lot must not operate or permit to be operated upon the parcel any radio, two way radio, transmitter, receiver, telecommunications device or electronic equipment so as to interfere with any appliance or apparatus (including a computer or a radio or television receiver) lawfully in use upon the common property or in any other lot.

21. Cleaning of Lot and Pest Control

An owner or occupier of a lot must ensure that the lot always has a neat and tidy appearance and must keep the same in a good state of preservation and cleanliness and must take all necessary steps to control and exterminate therein all vermin, insects or other pests.

22. Maintenance of Fixtures etc

Any alteration made to common property or any fixture or fitting attached to common property by any owner or occupier of a lot, whether made or attached with or without the approval of the owners corporation, must, unless otherwise provided by resolution of a general meeting or of a meeting of the executive committee, be repaired and maintained by the owner or occupier for the time

SP 61679

- 5 - / 15

being of the lot of which the aforesaid owner or occupier was such owner or occupier at the time of such alteration or attachment.

23. No Interference with Airconditioning

An owner or occupier of a lot must not modify, adjust, add to or otherwise interfere with any existing air conditioning system, ventilator or ducting associated therewith without the approval in writing of the owners corporation as to the type, location and manner of installation thereof, such approval not to be unreasonably withheld. The owner must indemnify and keep indemnified the owners corporation against any cost or expense arising out of any modification. This by-law does not prevent an owner or occupier from operating the control switches and devices for the air conditioning system located upon the control panel accessible from with the lot.

24. No Animals

An owner or occupier of a lot not keep any animal upon the lot or the common property, unless permitted to do so by a current development consent in relation to the lot.

25. Methods of Heating

An owner or occupier of a lot must not use any method of heating the lot other than a method involving the use of electric power or gas (excluding gas bottles).

26. Carparking

An owner or occupier of a lot must not park or stand any motor vehicle or other vehicle upon the common property (other than areas specifically designated for such use) which has a gross laden weight of 3 tonnes or more without the prior written consent of the owners corporation.

27. Release in Respect of Use of Motor Vehicle

An owner or occupier of a lot and all persons authorised by them must use the lot and the common property at their own risk and hereby release the owners corporation from all claims and demands of whatever kind and all liability which may arise in respect of damage to persons, property or motor vehicles including any theft of or from any motor vehicle while on the common property or theft of any personal property on the lot or the common property, any theft or parts or equipment or contents of any motor vehicle howsoever occurring. An owner or occupier of a lot must not clean, grease, oil, repair or wash motor vehicles in the common property.

28. Rules

An owner or occupier of a lot and all persons authorised by them must comply with the rules (if any) from time to time promulgated by the owners corporation

SP 61679

-6/15

for the orderly management or security of the common property provided that any such rule does not derogate from any rights hereby granted.

29. **Compliance with Laws**

An owner or occupier of a lot must comply on time with all laws including the requirements of any Government Agency.

AGREEMENTS WITH CONTRACTORS

30. **Appointment of Airconditioning Contractor**

In addition to the powers, authorities, duties and functions conferred or imposed upon the owners corporation by the Act or the by-laws and for the better control, management, administration, use and enjoyment of the lots and the common property the subject of the strata scheme the owners corporation has the power to appoint a suitably qualified contractor for the purposes of maintaining all of the air conditioning plant and equipment located upon the parcel and such contractor (during the period of any agreement between the owners corporation and the contractor), subject to these by-laws, is responsible for the maintenance of all of the air conditioning plant and equipment located upon the parcel to the exclusion of any other contractor, tradesman or other person.

31. **Terms of Appointment of Airconditioning Contractor**

Any agreement entered into between the owners corporation and the contractor referred to in by-law 30 is to contain such terms and conditions as the owners corporation from time to time may determine but may provide for:-

- (a) periodic inspection and servicing of air conditioning plant and equipment (including any component thereof which is situated within, or accessible from, any lot);
- (b) the provision of a 24 hour emergency service to prevent or rectify any malfunction of equipment;
- (c) the designation of rates and charges to be made by the contractor (its employees, servants or agents) to perform the obligations imposed under the agreement.

MAINTENANCE AND REPAIRS

32. **Notification of Malfunction in Airconditioning**

Upon detecting any malfunction of the air conditioning equipment an owner or occupier of a lot must forthwith notify the owners corporation or its managing agent or other person nominated by the owners corporation for that purpose of such malfunction.

SP 61679

-7/15

33. Owner's Liability for Costs

An owner or occupier of a lot is liable to reimburse the owners corporation for:-

- (a) the cost of materials and labour for repairs carried out to air conditioning plant or equipment located within any lot and any pipes, wires, cables or ducts servicing such lot outside the boundary of such lot;
- (b) any costs or damages incurred by the owners corporation resulting from any act or omission by an owner or occupier or any invitee thereof in breach of the Act or these by-laws;
- (c) any other costs incurred pursuant to these by-laws.

34. Notification of Defects

An Owner or occupier of a lot must as soon as practicable after becoming aware of any defect in the common property or any personal property vested in the owners corporation, or of any accident associated therewith, give notice to the managing agent of the owners corporation, or in the absence of the managing agent, to the owners corporation.

SECURITY AND SAFETY

35. Rights of Owners Corporation to Ensure Security and Safety

The executive committee of the owners corporation may take all reasonable steps to ensure the security of the parcel and the Building from intruders or to preserve its safety from fire or other hazard and without limiting the generality of the foregoing may:-

- (a) close off any part of the common property not required for ingress or egress to a lot or car parking space on either a temporary or permanent basis or otherwise restrict the access to or use by owners or occupiers of any such part of the common property; and
- (b) permit any designated part of the common property to be used by any security person, firm or company (to the exclusion of owners and occupiers generally) as a means of monitoring the security and general safety of the building, either solely or in conjunction with any other building.

36. Owner's Obligations

An owner or occupier of a lot must not do or omit or suffer to be done or omitted any act, matter or thing which may interfere with or impede the security or fire or other safety of the parcel or any part and without limiting the generality of the foregoing an owner or occupier of a lot must ensure that all fire and security doors and windows (including apparatus or appliances attached

SP 61679

- 8 / 15

thereto) are kept locked or secure or in an operational state, as the case may be, when not in immediate use.

37. No Interference with Fire Safety Equipment

An owner or occupier of a lot must not use or interfere with any fire hydrant or other fire fighting or fire safety equipment except in the case of an emergency and must not obstruct any fire stairs or fire escape.

38. Security Keys

If the executive committee of the owners corporation in the exercise of any of its powers under these by-laws restricts the access of owners or occupiers to any part of the common property by means of any lock or similar security device it may make such number of keys or operating systems as it determines available to owners who are entitled to access to that part of the common property free of charge and thereafter may at its discretion make additional numbers thereof available to owners upon payment of such reasonable charge therefor as may be determined from time to time by the executive committee.

39. Owner's Obligation with Respect to Security Devices

An owner of a lot to whom any key or any operating system is given pursuant to these by-laws must exercise a high degree of caution and responsibility in making the same available for use by any occupier of a lot and must take reasonable precautions (including an appropriate covenant in any lease or licence of a lot to any such occupier) to ensure return thereof to the owner or the owners corporation upon the occupier ceasing to be an occupier.

40. No Duplication of Keys of Other Security Devices

An owner or occupier of a lot into whose possession any key or operating system referred to in these by-laws has come must not duplicate the same or cause or permit the same to be duplicated and must take all reasonable precautions to ensure that the same is not lost or handed to any person other than another owner or occupier and is not disposed of otherwise than by returning it to the owners corporation.

INVITEES AND TENANTS

41. Owner's Liability for Acts of Invitees

The owner of a lot is liable to compensate the owners corporation in respect of all damage to the common property or personal property vested in it caused by such owner or the occupiers of the lot or their respective tenants or invitees or persons obtaining access by use of a key or operating system supplied to that owner or his tenant or invitee.

SP 61679

-9/15

42. Owner's Responsibility for Tenants and Licensees

An owner of a lot which is the subject of a lease or licence agreement must take all reasonable steps, including any action available under any such lease or licence agreement, to ensure that any lessee or licensee or other occupier of the lot or their invitees comply with the provisions of the by-laws and that any breach of these by-laws is a breach of the lease or licence.

43. Owner's Responsibility for Invitees

An owner or occupier of a lot must take all reasonable steps to ensure that invitees comply with the provisions of the by-laws, and in the event of inability for any reason to ensure such compliance by any invitee such owner or occupier must thereupon ensure that such invitee leaves the parcel.

44. Behaviour of Invitees

An owner or occupier of a lot must take all reasonable steps to ensure that invitees do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using the common property.

OWNERS CORPORATION

45. Joint Service Contracts

The owners corporation in addition to the powers and authorities conferred upon it by or under the Act and elsewhere has the power and authority to enter into any contractual or other arrangement with the registered owner for the time being of any parcel of land adjoining the parcel the subject of the strata scheme for the purpose of contributing to the cost of providing or maintaining any service or repairing and maintaining any equipment or facility to be used jointly in respect of the two parcels by the owners corporation and such adjoining registered owner.

46. Consent of Owners Corporation

Any consent or approval given by the owners corporation pursuant to these by-laws must, if practicable, be revocable and may be given subject to conditions, including but without limiting the generality of the foregoing, a condition evidenced by a minute of a resolution that the owner or occupier for the time being of the lot to which the consent or approval relates is to be responsible for compliance with terms of such consent or approval. The owner must indemnify and keep indemnified the owners corporation against any cost or expense arising out of any non-compliance with the terms of such consent or approval.

SP 61679

- 10/15

47. Notice in Writing

All complaints or applications to the owners corporation or its executive committee must be addressed in writing to the owners corporation, or the managing agent of the owners corporation.

48. Service of Notices

An owner whose address for service of notice as recorded on the strata roll is a lot within the strata scheme may be served with any notice or other document required or authorised by the Act or these by-laws to be served by the Commissioner, the Board, the owners corporation, its executive committee or the secretary or treasurer of its executive committee, by depositing any such notice or document in the receptacle provided for the receipt of mail in respect of such lot.

49. Strata Management Statement

The owners corporation must comply on time with obligations imposed on it by the strata management statement to which it is a party ("the Strata Management Statement").

50. Election of Owners Corporation Representative

The owners corporation must elect one of its members to be the owners corporation's representative in accordance with the Strata Management Statement.

51. Fire Safety

The owners corporation and the owners and occupiers of any lot must in respect of the parcel and in respect of the Lots as appropriate:

- (a) consult with any relevant Government Agency as to the appropriate fire alarm and equipment for the parcel and the lots;
- (b) ensure the provision of all adequate fire protection equipment in the parcel and the lots to the satisfaction of all relevant Government Agencies; and
- (c) take all reasonable steps to ensure compliance with the fire laws in respect of the parcel and the lots.

RETAIL USE

52. Development Consent

The occupation and use of each lot is subject to development approval from the relevant local Council in respect of the use of the lot from time to time to be obtained at the cost of the owner or occupier of the relevant lot.

SP 61679

- 11 / 15

53. No Odours, Dust or other Nuisance

- (a) The use of a lot must not give rise to gases, vapours, odours, dust or other emissions causing a disturbance to occupiers of other lots.
- (b) An owner of a lot to be used as a restaurant or take-away food outlet must obtain the consent of the owners corporation for the installation of any exhaust fan which must meet the specifications of any regulations made by the owners corporation from time to time.
- (c) The owners corporation may make regulations for the specifications for exhaust fans referred to in by-law 53(b). The owners corporation will consider any requirements contained in relevant development approvals granted by the relevant local council for any exhaust fan required pursuant to by-law 53(b). The cost of obtaining any development approval relating to any exhaust fan and the installation of such exhaust fan will be paid for by the owner of the lot for which the exhaust fan is to be installed.

54. Garbage Collection

- (a) For so long as the owners corporation has the use of the "Shared Garbage Room" (as defined in clause 20.1 of the Strata Management Statement) under Part 20 of the Strata Management Statement, and unless the owners corporation resolves otherwise, each owner and occupier of a lot must use the Shared Garbage Room as the repository and collection point for garbage and in this regard must comply with the requirements of Part 20 of the Strata Management Statement.
- (b) Each owner and occupier of a lot must comply with the directions of the owners corporation or its executive committee from time to time relating to the disposal of garbage and, without limitation, if directed by the owners corporation or the executive committee, each owner or occupier of a lot must employ the services of private garbage collectors to remove all garbage from their lots. The cost of such services is to be borne by the owner or occupier of each respective lot.

55. Signs, Advertisements etc

An owner or occupier of a lot must not erect or display any sign symbol or advertisement on or in the lot or the Building without the written consent of the owners corporation and all government or other competent authorities and must erect any such permitted sign in accordance with any signage policy from time to time of the owners corporation, in a proper manner and keep the same in good repair.

56. Increased Risk - Insurance

An owner of a lot is responsible for any increase in insurance premiums by the owners corporation as a result of an owner's or occupier's particular use of a lot.

SP 61679

- 12/15

Such excess insurance premium must be paid by the owner within fourteen (14) days of receiving written notice of the amount of such excess insurance premium from the owners corporation.

57. Retail Fitout

The owners for the time being of the lots and persons authorised by them are (subject to the approval of Governmental Agencies) entitled to use those lots for retail purposes and incidental to that use are entitled to fitout the lots for retail purposes and make minor alterations to the common property walls, floors and ceiling enclosing the lots as may be reasonably necessary on the following conditions:

- (i) each owner remains responsible for the maintenance and keeping in a state of good and serviceable repair any common property affected by the rights of that owner conferred by this special by-law;
- (ii) any works or connections permitted by this by-law must be carried out in such a way as to minimise disruption to any owner or occupier of another lot and not cause disruption of any service to an owner or occupier of another lot;
- (iii) each owner must obtain the consent of any relevant Governmental Agency to use of a lot or any works proposed to be carried out in the owner's lot or on common property and must comply with the requirements of the owners corporation;
- (iv) each owner must comply with this Act, the by-laws and the terms and conditions of any easement or restriction on use benefiting or burdening the lot or the common property;
- (v) each owner indemnifies the owners corporation from and against claims, demands and liabilities of any kind which may arise in respect of damage to any property or death of or injury to any person arising out of the exercise of the rights conferred by this special by-law or exercise of the special privileges conferred by it.

58. Deliveries

An owner or occupier of a lot must not, in the receipt of deliveries of stock and equipment or any other goods, allow any vehicles of any nature to use the common property.

59. Exclusive Right to Remove Common Wall Between Lots 3 and 4

- (a) If lots 3 and 4 have a common owner that owner may request the owners corporation to consent to the owner removing the dividing wall (or part) between lots 3 and 4 so as to permit the two lots to be used in common ("the removal of the common wall") and the owners corporation will not

SP 61679

- 13 /15

unreasonably withhold its consent to the the removal of the common wall if:

- (i) the owner first provides the owners corporation with detailed drawings and specifications for the the removal of the common wall which are first approved by an architect appointed by the owners corporation and such other professional consultant as the owners corporation may require;
 - (ii) the owner first provides a certificate from a registered and competent structural engineer with a professional indemnity policy covering claims not less than \$10,000,000 (or such other amount as the owners corporation may reasonable require) approved by the owners corporation (whose approval is not to be unreasonably withheld) addressed to the owners corporation confirming that the the removal of the common wall will not in any way adversely affect or jeopardise the structural integrity or standing of the remaining common property;
 - (iii) the owner first obtains the consent of Manly Council and any other necessary consent from any other Government Agency to the removal of the common wall and to this end if the requirements of paragraphs (i) and (ii) are satisfied the owners corporation must lend its name to any application for consent but by so doing it is not to be taken to have consented to the removal of the common wall for the purpose of this by-law;
 - (iv) the owners corporations' insurance for the common property will be not adversely affected and the owner pays any additional insurance premium arising out of or in connection with the removal of the common wall; and
 - (v) The owner first provides security in support of the owner's obligations under this by-law, (including, without limitation, the obligation to pay costs) to the satisfaction of the owners corporation (which security may be in the form of a cash deposit or an unconditional bank guarantee or otherwise as the owners corporation may stipulate).
- (b) The owner must comply with (and future owners of lots 3 and 4 are bound by) any conditions which the owners corporation may place on its consent to the removal of the common wall. Without limiting the rights of the owners corporation to impose other conditions on any consent the owners corporation may give to the removal of the common wall, it is a condition of any consent by the owners corporation to the removal of the common wall that:
- (i) the removal of the common wall must be carried out by a competent and solvent builder of good standing with demonstrated experience in carrying out work of a similar nature, and under a

SP 61679

- 14 / 15

- contract, both of which are first approved by the owners corporation (whose approval is not to be unreasonably withheld);
- (ii) the owners corporation does not have to reinstate the common wall; and
 - (iii) the owner must comply with section 14 of the Strata Schemes (Freehold Development) Act 1993 and lodge any necessary building alteration plan with the Registrar - General.
- (c) The owner must pay the costs of the owners corporation of and in connection with the removal of the common wall and any request for consent under this by-law (irrespective of whether or not consent is given or the removal of the common wall is carried out) including, without limitation, all architects, surveyors, solicitors and other consultants fees.
- (d) The owner or owners for the time being of lots 3 and 4 (and if there are different owners for each lot then each of them jointly and severally) must indemnify the owners corporation, its agents, employees and contractors and keep the owners corporation, its agents, employees and contractors indemnified against:
- (i) all actions, proceedings, claims, demands, costs, damages and expenses which may be incurred by or brought or made against the owners corporation, its agents, employees or contractors and arising out of or in connection with the removal of the common wall or the use of lots 3 and 4 in common;
 - (ii) without limiting paragraph (d)(i), all costs, damages and expenses arising out of or in connection with any damage to the common property caused by or resulting from the carrying out of the removal of the common wall or any changes to the common property in connection therewith by or on behalf of the owner; and
 - (iii) any liability on the part of the owners corporation for any damage or changes to the common property caused by or arising out of the carrying out by the owners corporation by its agents, employees or contractors of any work referred to in paragraph (e) or section 63 of the Strata Schemes Management Act 1996 or the exercise of the power of entry conferred by that section or section 65 of the Act in connection with the the removal of the common wall.
- (e) If the owner or owners for the time being of lots 3 and 4 (and if there are different owners for each lot then each of them jointly and severally) fail or neglect to carry out any work or discharge any obligation which they are required to do under this by-law the owners corporation by its agents, employees or contractors may carry out the work or perform the obligation following notice in writing to the owner or owners and may recover the costs of doing the work or discharging the obligation as a debt from the owner or owners.

SP 61679

- 15/15

- (f) The onus of proving that any requirement of, or condition under, this by-law 59 (whether a precondition to the owners corporations' consent or a condition of that consent or otherwise) is met, rests entirely with the owner of lots 3 and 4.

EXECUTION


SIGNED by JAMES TING LIANG KUO as Attorney for Pan Asia International Group Pty Limited pursuant to Power of Attorney Book 4166 No. 390 in the presence of:

) 
James Ting Liang Kuo


Witness

SHANE MARTINS
Print Name

SIGNED for and on behalf of WESTPAC BANKING CORPORATION pursuant to Power of Attorney Book 4059 No. 831 in the presence of:

) 
Attorney

LOUIS KEFERT
Print Name


Witness

Sally Randall.
Print Name