

## MOTION 8

### Legal fees | Building Defects Proceedings - Stage 2 Fees

**THAT** THE OWNERS – STRATA PLAN NO. 97315 **RESOLVE**, pursuant to Section 103 of the *Strata Schemes Management Act 2015 (NSW)* to accept the continuation of legal representation and legal services from Project Lawyers Pty Ltd to continue progressing the Owners Corporation's building defects claim commenced against Icon and SOPA in accordance with the Stage 2 estimate and on the terms of the costs agreement of Project Lawyers dated 13 July 2020 (attached at Appendix "D").

*Explanatory Note:* Section 103(1) of the *Strata Schemes Management Act 2015 (NSW)* provides that an Owners Corporation or strata committee of an Owners Corporation must not obtain legal services for which any payment may be required, unless a resolution approving the obtaining of those services is passed at a general meeting of the Owners Corporation.

## MOTION 9

### Defects | Delegation of functions to strata committee for Building Defect Proceedings

**THAT** THE OWNERS – STRATA PLAN NO. 97315 **RESOLVE** to authorise and direct the Strata Committee, acting for and on behalf of the Owners Corporation to:

- a. Make decisions in relation to all aspects of preparing and conducting, and/or taking any other step in or in relation to the Building Defect Proceedings referred to in Motion 8, including providing instructions to the Owners Corporation's legal representative(s) and experts and consultants, the retaining of any legal representatives, experts and consultants and, also, if recommended by legal advice, the joining of further parties to the Building Defects Proceedings;
- b. Negotiating and agreeing to any access arrangement, defect rectification and any agreements to settle or partially settle any or all building defects issues or aspect of the Building Defects Proceedings and providing authority to affix the seal to any document(s) to give effect to the above resolution;
- c. Do anything reasonably necessary, in the opinion of the strata committee, to give effect to the above resolutions; and
- d. Authorise the strata managing agent and/or the strata committee's chairperson to provide any instruction of the strata committee allowed by this motion to the Owners Corporation's legal representatives after confirming that at least a majority of the strata committee members agree with the instruction.

*Explanatory Note:* It is not practical and would cause substantial delay and extra expense if each decision of the Owners Corporation in relation to progressing and/or negotiating with the building defects issues has to be approved by a formal general meeting or strata committee meeting. Passing this motion will allow decisions in relation to the Building Defects Proceedings to be made quickly and cheaply and without interference by lot owners who may have liabilities for the defects due to their role in the construction of the building. Passing this motion will prevent parties liable for defects from being able to avoid their liabilities for defects by arguing that any particular step/s that the Owners Corporation takes in the Building Defects Proceedings have not been properly authorised as the step/s have not been approved at a formal meeting.