



Risk Assessment Report

for

[name withheld]

of

[address withheld]

on

7 May 2020

Pink Inspection Services

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We are not practising lawyers

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Buyers requiring legal advice should speak to their lawyers.

Questions about this report

Should you have any questions concerning this report, please telephone the inspection manager, Michael Poynder, on 0401 371 077.

Risk assessment report

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Background

Our report

We have been instructed to provide a risk assessment report on the records of the strata scheme for this lot at this address.

Our report includes an assessment of issues of material significance we have identified during our inspection of the records. In determining materiality, we have taken into account those issues which are likely to be of concern generally to the majority of potential buyers. We have not undertaken a risk assessment of other issues relevant to a buyer personally, unless this report identifies such an assessment has been requested.

The executive summary in Section 1 contains our conclusions concerning the information described in Section 2.

Where appropriate, we include in Section 3 relevant articles of interest we have prepared relating to issues/features which arise in this complex which may affect a decision to buy. For instance, where the complex is a factory conversion, we include in Section 3 an article on the issues buyers need to understand when buying into factory converted strata complexes.

This report is prepared and submitted subject to the qualifications in Section 4.

Definitions and interpretation

Definitions

'Act' means the *Strata Schemes Management Act 2015*.

'*aggregate unit entitlement*' of lots the subject of the scheme, means the sum of the unit entitlements of those lots.

'AGM' means annual general meeting.

'*building management committee*' or '*BMC*' (if one exists for the scheme) means the building management committee established under the strata management statement for the scheme.

'*Contract for Sale*' means, unless otherwise stated, the edition current as at the date of this report of the Law Society of NSW and Real Estate Institute of NSW standard form of contract for the sale of land in NSW.

'*council*' means the council of the area under the *Local Government Act 1993* in which the scheme is situated.

'ECM' means executive committee meeting.

'*initial period*' means the period commencing on the day on which the owners corporation is constituted and ending on the day on which there are owners of lots the subject of the scheme (other than the original owner) the sum of whose unit entitlements is at least one-third of the aggregate unit entitlement.

'*Part*' or '*part*' as the case may be, means a part of this report bearing the number following the word.

'*subject lot*' means the lot or lots, the subject of this report.

'*scheme*' means the strata plan, the subject of this report.

'SCM' means strata committee meeting.

'*Tribunal*' or '*CTTT*' or '*NCAT*' means the NSW Civil and Administrative Tribunal or where appropriate, any of its predecessors.

Interpretation

In general terms, although this report may have been prepared for a lawyer or conveyancer, unless otherwise stated, the wording of the report assumes it has been prepared for the buyer alone.

In this report, unless otherwise stated:

- words in the report that appear in the singular, also apply to the plural

- a reference to a gender, applies to all genders
- words referring to a 'person' or 'persons', include references to legal persons, such as a company, unincorporated association, rather than just natural persons
- references to statutes and other laws are taken to refer to amendments of those statutes or laws from time to time
- headings are for ease of reference only and do not affect its interpretation
- where there is an inconsistency between information provided in this report and information in an attachment to the report, the information in the attachment will prevail, unless otherwise stated.

Changes to terminology effective 30 November 2016

References in this report to '*capital works fund*' or '*capital works fund report*' is the new description used to replace '*sinking fund*'. It came into operation as a result of the introduction of the new Act on 30 November 2016. Another change is the change of name of an '*executive committee*' to now be called a '*strata committee*.'

Report

Our inspection of the records of this strata plan reveals the complex consists of 134 lots. The strata plan was registered in 2006.

The percentage of unit entitlements attributed to this lot when compared with all unit entitlements in the complex is 0.58 %. This should be kept in mind, particularly in relation to voting rights and should a special levy be struck.

Current quarterly levies to 31 July 2020 for the subject lot are:

- (a) Administrative fund: \$682.95
- (b) Capital works fund: \$397.30

In Part 2.11 we refer to rectification of an unidentified damaged window in the subject lot in 2017.

1. Executive summary

1.1 Report conclusions

Based on the records inspected by us, we make the following conclusions:

Major concerns*

We have no major concerns.

Concerns*

Our concerns which we identify in this report are as follows:

Exterior painting project – This is more of an observation than a concern. In Part 11 we provide evidence that the owners corporation has been following the recommendations in the attached extract from the capital works fund plan in relation to interior re-painting and carpeting. It now proposes to undertake exterior re-painting also recommended in the plan.

You can expect disruption whilst this occurs. We are not concerned about funding. Because the owners corporation has been following the recommendations in the plan, funding for the project should be available without increasing levies significantly or striking special levies.

Install, repair, maintain and replace air conditioning unit – The Contract for Sale discloses there is an air conditioning unit in your lot. By-law 26 imposes

these obligations on you. Your lawyer can explain the terms of the by-law to you in greater detail.

We recommend you arrange for an inspection of the unit to be undertaken to determine if it was installed in accordance with the by-law and to ascertain its state of repair.

Assessment of financial circumstances

In Part 1.2 we comment that it is likely the administrative fund is tracking close to budget. We also state that the capital works fund is around recommended levels.

Assessment of capacity to meet future materially significant* expenditure

In Part 1.3 we comment that the owners corporation has the capacity to meet these expenses.

Assessment of risks arising from missing documents.

In Part 1.4 we state we did not sight a work health and safety report. We comment on the significance of this in this part.

Assessment of issues relating to breaches of by-laws

In Part 1.5 we identify harmony related issues that may be relevant to life in the subject lot.

Building inspection recommended

In Part 1.6, we recommend a building inspection be conducted by a qualified inspector experienced with strata complexes for the reasons explained.

1.2 Assessment of financial circumstances

The records reveal that the administrative fund holds \$46,322.39 and the capital works fund holds \$347,313.75, both as of 6 May 2020.

Administrative Fund

The administrative fund is used to pay for the day to day expenses of the owner's corporation. Examples include common area lighting and cleaning costs, gardening costs, insurance premiums and the fees of the strata manager.

The records disclose that the annual insurance premium does not fall due again until October 2020. The premium is one of the major expenses in the financial year of the owners corporation and last year exceeded \$46,000. Given the current balance in this

* For important comments on these terms see Part 4.5. [\[Materiality\]](#)

fund, and the fact that further levy payments will be made before the premium falls due again, it is likely this fund is currently tracking close to budget.

Capital Works Fund

The attached capital works fund forecast recommends that as of 31 July 2020 there should be \$316,813.51 in the capital works fund account. There is in fact currently \$347,313.75 in the account.

A capital works fund report identifies items of programmed repair and maintenance work that must be conducted on buildings at the complex over the coming years. Examples of such work include re-painting interior and exterior surfaces and re-carpeting of common areas.

The report also includes a calculation of how much money must be paid progressively into the capital works fund and held each year to enable the owner's corporation to build up a fund to pay for such works as and when they are needed, without the need to strike special levies or take out loans. The attached extracts from the report refer to past and upcoming recommended expenses.

The attached summary indicates that the fund is around recommended levels and that there are sufficient funds to meet expenses of this kind.

1.3 Assessment of capacity to meet future proposed/possible materially significant* expenditure

Consideration needs to be given as to whether there are sufficient funds held by the owners corporation to meet these expenses after capital works fund related expenses are taken into account. If there are insufficient funds, options open to the owner's corporation include one or a combination of the following:

- Some or all of the items of expense may be deferred or cancelled
- A special levy could be struck, administrative fund and capital works fund levies could be increased, or a loan taken out to pay/help pay for the expenditure
- The annual capital works fund levies could be increased.

Apart from cancellation, if any of these other events occur, the percentage of unit entitlements relating to the subject lot as referred to in Part 1.1 above should be considered.

In Part 2.12 below we disclose proposed and possible materially significant* expenditure sighted over the time period of the minutes we inspected as:

'Pressure wash and external painting of building – At an SCM in December 2019, quotes were sought. We did not sight any quotes for this work.

* For important comment on the meaning of 'materially significant' see Part 4.5. [\[Materiality\]](#)

Install concrete to damaged areas of Hill Road – At the above SCM, quotes were sought.

Given the owners corporation has been following the recommendations in the capital works fund and given that the fund is slightly above recommended levels, it is likely the owners corporation can afford these expenses.

1.4 Assessment of risks arising from missing documents

In Part 2.9 we state we did not sight the document listed below. We assess the importance of this to a buyer as follows:

Work health and safety report

Under WH&S legislation, owners of buildings are required to obtain and keep current WH&S reports relating to their buildings. This requirement is particularly designed to protect workers such as cleaners who may be working at the complex. Examples of the type of risks identified in such reports include trip hazards and poorly lit stairs.

WH&S legislation provides for exemptions from the obligation of owners corporations to obtain WH&S reports if they are solely residential. That exemption does not apply if a strata complex is mixed residential/commercial and/or the owners corporation employs workers.

Often this is difficult to determine. A good example is if an owner conducts a business by renting their apartment through Airbnb.

We were unable to determine if the exemption applies to this complex.

Because of the undesirability of a complex being unsafe, and because of the difficulty owners corporations have in making a correct determination of whether the exemption applies, most owners corporations take a conservative view and assume that WH&S reports must be obtained.

Because we did not sight a current WH&S report, we were unable to determine if the buildings are compliant from a work health and safety perspective.

If an injury results to an employee because of a problem that could be identified in such a report, legal proceedings could be taken against the owners corporation. In addition, an insurer could reject liability if the risk was not disclosed to the employee or remedied by the owners corporation because a WH&S report had not been obtained.

You should discuss these issues with your lawyer. If you become an owner, we recommend you or your lawyer write to the strata manager asking for this report to be obtained for the reasons described.

1.5 Assessment of issues relating to breaches of by-laws

In Part 2.16 we refer to the following harmony related issues:

'Trolleys and bicycles stored on common property, trees not trimmed in individual courtyards, residents parking in visitor spaces.'

The owners corporation can deal with these breaches by enforcing its by-laws. You should check the trees in your courtyard to determine if they require trimming.

1.6 Building inspection recommended

Because of the age of the complex and our comment below, we recommend a building inspection be conducted.

The inspector should be licensed and have experience with strata complexes. A copy of this report and the attachments should be provided to the inspector as a guide.

Comment

Sometimes owners corporations do not disclose in the records made available for our inspection information of concern to buyers. They do this to prevent buyers from finding out issues that may mean they decide not to proceed with a purchase.

Although this practice is likely to be considered illegal and may leave owners corporations and their management open to proceedings including for misleading and deceptive conduct, the practice persists. This is particularly so with poorly advised owners corporations, including those which are self-managed.

A building inspection by a qualified inspector familiar with strata complexes may reveal hidden issues, particularly those relating to structural problems.

2. Particulars of the scheme

2.1 Address of the subject lot(s)

[address withheld]

2.2 Lot number(s) and strata plan number

Lot 7 in strata plan *[withheld]*

2.3 Date of inspection

10 June 2020

2.4 Date range of minutes inspected

5 December 2019 (Strata Committee Meeting) to 7 June 2016 (Executive Committee Meeting)

2.5 Management

Managing agent: *[withheld]*

Address: *[withheld]*

Phone number: *[withheld]*

Date of appointment: Unable to determine

Appointed by Tribunal: No

Assigned manager: *[withheld]*

Caretaker/building manager: *[withheld]*

Strata committee: See motions 22 and 23 in attached minutes of September 2019 AGM

Auditor: Appointed

2.6 Strata roll

Owner *[withheld]*

Address *[withheld]*

2.7 Levies

(a) Scheme

Annual administrative fund levy	\$ 462,000
Annual capital works fund levy	\$ 259,000
Payable quarterly from	1 August 2019
Total current levy arrears	\$ 50,191.74

(b) Lot 7

Administrative fund levy	\$ 682.95 per quarter
Capital works fund levy	\$ 397.30 per quarter
Special levy	\$ NA
Other	\$ NA
Paid to	Unable to determine
Arrears	\$ 1,080.25

(c) Details of special levies struck during the period we inspected records

None sighted

(d) Proposals for future special levels

None sighted

2.8 Bank account balances as of 6 May 2020 (brackets indicate deficit)

Administrative fund	\$ 46,322.39
Capital works fund	\$ 347,313.75

2.9 Important documents

Unless otherwise stated, only current documents will be regarded as sighted.

(a) Insurance

(i) Certificate of currency of insurance

A certificate of currency of insurance is attached. Headline insurance details are referred to in Part 2.18 below.

- (ii) Building valuation not more than five years old.

Sighted, dated 26 October 2017 recording a replacement value of \$50,610,000.

- (b) *Capital works fund report*

Sighted, extracts attached

- (c) *Annual fire safety statement*

Sighted, dated 13 March 2020

- (d) *Work health and safety report*

Not sighted

- (e) *Lift registration certificate*

Sighted, expires 9 March 2021

2.10 Materially significant* notices, orders or proceedings

- (a) *In the Tribunal*

None sighted

- (c) *In courts*

None sighted

- (d) *Local council*

None sighted

- (e) *Building defect claim*

None sighted

* For important comment on the meaning of 'materially significant' see Part 4.5. [\[Materiality\]](#)

2.11 Materially significant* expenditure

Repairs (building complex)

Year	Work	Cost
2019/20	Install new carpet	\$21,160
2019/20	Consulting/engineering fees	\$20,350
2019/20	General repair and maintenance expense	\$26,536
2018/19	Pump repair and maintenance	\$20,424
2018/19	General repair and maintenance expense	\$27,225
2018/19	Internal painting	\$111,980
2018/19	Waterproof roof	\$166,859
2017/18	Legal fees	Circa \$20,000
2016/17	General repair and maintenance	\$77,849

Repairs (subject lot)

Year	Work	Cost
2017	Rectify damaged window	Unable to determine

Recurring Repairs (building complex)

Year	Work	Cost
	None sighted	

2.12 Materially significant* information

(a) Proposed/possible materially significant* expenditure

Pressure wash and external painting of building – At an SCM in December 2019, quotes were sought. We did not sight any quotes for this work.

* For important comment on the meaning of 'materially significant' see Part 4.5. [\[Materiality\]](#)

Install concrete to damaged areas of Hill Road – At the above SCM, quotes were sought.

(b) *Other*

None sighted

2.13 Strata plan

(a) *Date of registration*

29 June 2006

(b) *Original owner*

[withheld]

(c) *Is the scheme in the initial period?*

No

2.14 Certificate of title

(a) *Sighted*

Yes, search copy dated 5 March 2020 of edition 10 dated 18 October 2019

(b) *Number of lots*

134

(c) *Aggregate unit entitlement*

10,000

(d) *Unit entitlement of subject lot*

58

(e) *Percentage of unit entitlements compared to aggregate unit entitlement*

0.58%

(f) *Subdivision of scheme or lots*

The scheme incorporates SP80189.

2.15 By-laws passed/registered since the scheme was registered

(a) *Subject matter*

Consolidation of Registered By-laws – AP618565

(b) *Registration numbers of by-laws*

See above

(c) *Unregistered bylaws*

None sighted

2.16 Materially significant* breaches of by-laws

We sighted breaches of by-laws and complaints, as follows:

Trolleys and bicycles stored on common property, trees not trimmed in individual courtyards, residents parking in visitor spaces.

2.17 Keeping of animals

See by-law 16 in the consolidated by-laws with the Contract for Sale.

2.18 Insurances

Attached is a copy of a certificate of currency containing details of the insurance policy held by the owner's corporation relating to building and general insurance.

Headline information:

Insurer:	Chubb Insurance Australia Ltd
Broker and contact details:	BAC Insurance Brokers Pty Ltd phone 9360 2244
Policy expiry date:	31 October 2020
Policy current premium:	\$ 46,376.95
Excess on building related claims:	\$ 2,500 on all burst pipe/water damage claims and \$1,000 on all other building related claims.

Comment

Your lender will require a copy of a certificate of currency of insurance before making funds available to you to settle. Strata managers are not required under their management agreements or by law to obtain a certificate of currency. Sometimes, as a courtesy they often obtain these certificates, and we then make a copy available to buyers.

* For important comment on the meaning of 'materially significant' see Part 4.5. [\[Materiality\]](#)

If the certificate is not attached to this report, or if the current policy expires before settlement, an updated certificate of currency can be obtained by contacting the broker through the contact details identified above. Most brokers will refer buyers to their website where the certificate can be downloaded for a fee.

If the insurer and/or broker have changed, contact details for the broker can be obtained by contacting the strata manager whose details are provided in Part 2.5 of this report.

3. Relevant articles

None applicable

4. Qualifications

4.1 Records inspected

The information provided in this report and the conclusions reached, are based on the records made available to us by the strata management business at the time of our inspection.

Other than in obvious cases, we have no means of independently verifying that all records have been made available to us.

If relevant records have not been made available, the information in this report may be misleading or incorrect.

4.2 Copies

For the purposes of this report, we have assumed that copies of documents we have sighted, whether hard copies or electronic, are true copies of the original documents.

4.3 No warranty

This report is a record of relevant information in documents provided to us by the strata manager during our inspection. It does not amount to a warranty that any of those documents are valid, enforceable or correct.

4.4 Time constraints

Strata managers generally limit our inspection times to between 60 and 90 minutes. Apart from time of day considerations, this is because of a variety of reasons including:

- there are a large number of strata inspectors wishing to inspect records and often the offices of the strata manager can only accommodate one or two inspectors at a time;
- most strata managers have their records stored on computer and there are often insufficient terminals for a number of strata inspections to be conducted at one time; and
- with popular properties, there may be other inspectors lined up wanting to inspect the same records.

The problem is compounded because we as inspectors rarely know the volume of records we will be required to inspect until we actually arrive for the inspection. That often means we will be unable to conduct lengthy searches even if we are permitted to do so by the strata manager, because we have other search appointments on that day we must keep.

Where we state in our report that we were unable to inspect certain records because of time constraints, we are able to make another appointment with the strata manager to inspect the balance of the records. In that event, further fees and charges will usually apply.

4.5 Materiality

- (a) In determining whether an issue is of 'major concern' or of 'concern', we have applied objective considerations. That means:
- in the case of an issue of major concern, we have taken the view that most potential buyers would regard the issue as of such significance that it could determine whether they would proceed with a purchase of the subject lot; and
 - in the case of an issue of concern, we have taken the view that most potential buyers would regard the issue simply as of concern, and as something they should take into account or seek further information about when considering whether to proceed with a purchase of the subject lot.

Buyers who are reading this report should keep in mind issues of personal importance to them. That may mean an issue expressed in this report as simply of concern may be of major concern to them.

For example, a possible expense of \$1,000 which may be imposed on them as buyers, is not in our view an issue of major concern to most buyers and will not be disclosed as such in our report. However, for a first home buyer with limited savings, it could be of major concern to them.

Buyers should also keep in mind that an issue described as being of concern may become of major concern when all information about the issue is known. For example, a by-law which requires the owner of the subject lot to install and maintain an air conditioning unit in a particular way may become a major concern if investigations disclose the air conditioner was not installed or maintained in accordance with the by-law.

- (b) The terms 'material' and 'materially significant' mean:
- we have taken into account those issues which are likely to be of concern to most potential buyers of this lot in the complex. We have not undertaken a risk assessment of other issues relevant to a buyer personally, unless this report identifies such an assessment has been requested; and
 - thresholds/levels of importance have been applied in selecting the information disclosed. They are based on the financial capacity and size of the scheme, and the significance of the information to most potential buyers of this lot in the complex. That means if information does not reach the level of importance we apply based on these factors, it will not be included in the report.

In ordering this report, buyers have been invited to specify issues of personal significance to them. For example, if a buyer is a smoker, a by-law banning smoking in the complex may be of material significance and should be disclosed to us when ordering the report. We take the view that such a by-law would not be of concern to most buyers and therefore would not be described as such in our report.

If you as a buyer have failed to provide such information that is personally important to you when ordering this report, you should contact us immediately.

4.6 Compliance

Except to the extent materially relevant to a purchaser of a lot in this scheme, this report does not include any comment on whether the strata manager, the owners corporation or any other organisation, committee or individual involved with the scheme is complying with practice or accounting obligations imposed on them by law.

4.7 Benefit of this report

This report has been prepared for the benefit of the client and that person's advisors. The report may not be relied on, used or reproduced by any other person without the written permission of Pink Inspection Services.

Pink Inspection Services reserves the right to on sell this report and attachments to other persons including prospective buyers of this unit or other units in the complex.

4.8 Communication with strata managers

On most occasions, no contact is made by us with strata managers to discuss matters relevant to our report. This is because:

- generally, strata managers will not talk with us because they say:
 - (i) their professional indemnity insurance does not cover any information they disclose to us; and
 - (ii) their clients are the lot owners making up the owners corporation, and there is a conflict of interest in providing information to us as a third party that may materially impact on a sale; and
- if the strata manager at a later stage denies or disputes what was said in a conversation with us, it is often difficult to prove what was said.

This means, it is preferable that if questions need to be asked of the strata manager, they be asked by the client or their representative, in writing through the vendor or the vendor's representative such as the agent having the conduct of the sale. If we disclose the contents of a conversation we have had with a strata manager in this report, this should be kept in mind.

4.9 Status of relevant articles in Part 3

Where relevant articles prepared by us have been included in Part 3, they are included to provide general information only. It is possible that none of the issues/features referred to in the article as being of concern or interest to a buyer may be present in the complex, the subject of this report.

5. Missing documents

It is our experience that strata managers almost always have separate files to the files made available to us for our inspection. In some instances, it becomes obvious to us that documents or information are missing from the records made available to us. A common example is where the records of the strata manager refer to a building defect report which was not in the records made available to us.

Where that occurs and the strata manager is unavailable to assist us, we will point this out in our report and recommend that you follow up the strata manager to seek the missing documents or information.

It is our experience that many strata managers respond to such a request by claiming that the missing documents or information were always with the records made available to us, even if that is not the case. In other words, they will claim our inspector missed seeing the relevant documents or information.

We have sought explanations from strata managers on a number of occasions about why they so often make such incorrect claims. They have informed us informally, that their insurers have instructed them to respond in this way. They claim that to admit that documents or information were not initially made available for our inspection, is an admission of liability which may lead to a successful claim of damages against the strata manager.

Attachments
