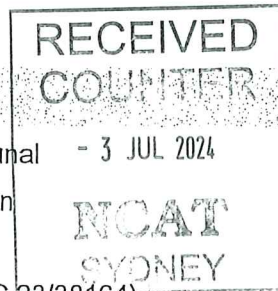


Short Minutes of Orders



COURT DETAILS

| | |
|-------------|---|
| Court | NSW Civil and Administrative Tribunal |
| List | Consumer and Commercial Division |
| Registry | Sydney |
| Case number | 2023/00379434 (old file number SC 23/38164) |

TITLE OF PROCEEDINGS

| | |
|------------|-----------------------------------|
| Applicant | Andrew Smith |
| Respondent | The Owners – Strata Plan No. 5290 |

FILING DETAILS


| | |
|--------------------------------|--------------------------------------|
| Filed for | The Owners – Strata Plan No. 5290 |
| Legal representative | Kerin Benson Lawyers |
| Legal representative reference | 006860 |
| Contact name and telephone | Gemma Lumley, solicitor, 028706 7060 |
| Contact email | gemma@kerinbensonlawyers.com.au |

By consent, the Tribunal orders as follows:

1. The Respondent is to pay to the Applicant the sum of \$96,620.00 within two months of the date of these orders.
2. The Respondent is to engage appropriately licensed and qualified tradespeople and building construction engineers, to carry out the Remedial Works as defined in the Work Order attached to these Orders at Annexure A.
3. That any sums payable by the Respondent to the Applicant must be paid from contributions levied according to unit entitlement and only in relation to lots other than Lot 5 in Strata Plan No. 5290.
4. The Respondent will consent to a development application or application for a building information certificate being made which seeks approval for the part of Lot 5 referred to as a garage on the strata plan to be used as a habitable area, and will direct the Respondent's strata managing agent to provide a covering letter consenting to such an application and to apply the Respondent's common seal to the application.
5. The Respondent pay the Applicants costs in the amount of \$31,033.63 within 60 days of the orders.
6. The proceedings are otherwise dismissed.


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Applicant's solicitor


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Respondent's solicitor

Date: 2-07-2024
.....

Annexure A – Work Order

1 The Tribunal orders that:

- (a) The Respondent must take all necessary steps to perform the remedial works as specified in paragraph 2 of this Work Order (**Remedial Works**) in accordance with terms and conditions as set out in paragraph 3 below (**Terms and Conditions**).
- (b) The Remedial Works must be completed within three (3) months after the date this Order is made.

2 Remedial Works

The Remedial Works comprise the engagement of all appropriately licensed and qualified tradespeople and building construction engineers, including MaxBuild, required to prepare scope and specification documents for tender, and the subsequent engagement of appropriately licensed and qualified tradespeople and building construction engineers to perform and supervise the building work comprising all necessary works to re-instate the common property of and pertaining to Lot 5 including all flooring, all internal doors, all windows, all external access doors and all affected lot property fixtures and fittings including kitchen cabinetry, tapware, plumbing, stove and white ware such that Lot 5 is habitable and fit for occupation, which work the strata scheme commenced in about August of 2021. This is to include the proper repair, painting and cleaning of all walls, doors, floors and surfaces to rectify all damage and splatter/staining caused by the remedial works and to remove all building residue and dust.

3 Terms and Conditions

- (a) The Remedial Works must comply with all relevant laws, regulations and the National Construction Code of Australia and Australian Standards.
- (b) The Remedial Works must be performed within the time ordered by the Tribunal, with a reasonable extension of time to be granted by the Applicant in the event of delay in performance of the Remedial Works where the cause of the delay is beyond the reasonable control of the Respondent, with any request for extension to be made in writing to the Applicant within 10 business days of the delay becoming apparent.
- (c) The Respondent must notify the Applicant when the Remedial Works are complete and must attend an inspection with the Applicant and his nominated building consultant to confirm that the Remedial Works have been satisfactorily completed.
- (d) The Applicant must provide reasonable access to Lot 5 for the purpose of the Respondent carrying out the Remedial Works upon 2 days' notice for access being provided in writing to the Applicant.

