

Wynyard Place Building Management Statement

Dated

King & Wood Mallesons

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Governor Phillip Tower
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Australia
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Note: This building management statement has effect as an agreement under seal binding:

- (a) each owner for the time being of any part of Wynyard Place; and
- (b) any mortgagee in possession or lessee of any part of Wynyard Place.

DRAFT

Wynyard Place Building Management Statement

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Wynyard Place Building Management Statement

Details

Parties	<input type="checkbox"/> Owner, <input type="checkbox"/> Owner, <input type="checkbox"/> Owner,	
<input type="checkbox"/> Owner	Name	<input type="checkbox"/>
	ACN	<input type="checkbox"/>
	Address	<input type="checkbox"/>
	Telephone	<input type="checkbox"/>
	Fax	<input type="checkbox"/>
	Attention	<input type="checkbox"/>
<input type="checkbox"/> Owner	Name	<input type="checkbox"/>
	ACN	<input type="checkbox"/>
	Address	<input type="checkbox"/>
	Telephone	<input type="checkbox"/>
	Fax	<input type="checkbox"/>
	Attention	<input type="checkbox"/>

Governing law New South Wales

Date of deed See Signing page

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Wynyard Place Building Management Statement

General terms

Part 1

Wynyard Place and the building management statement

1 Wynyard Place

- (a) Wynyard Place is uniquely positioned adjacent to and surrounding Wynyard Station.
- (b) Wynyard Place consists of 5 components and includes the Transit Hall. The Transit Hall provides Transit Hall Users with access to Wynyard Station and the Retail Lot.

2 What is a building management statement?

2.1 Management of the building

A building management statement is a set of rules that regulate the management and operation of a building where part of the building is subdivided by a plan of subdivision that contains one or more stratum lots. A stratum lot is a lot which is limited in height or depth (or both). Wynyard Place consists of a building or single structure that is subdivided by a plan of subdivision that contains stratum lots.

2.2 Rights and obligations

A building management statement confers rights and imposes obligations on owners and occupiers of lots in a building in which there is more than one stratum lot. It contains provisions about a wide range of issues including meetings, financial management and the maintenance of shared facilities.

It also sets out the obligations of the Retail Lot Owner to carry out the repair and maintenance of the Transit Hall.

2.3 Definitions

In this management statement, capitalised words are defined in clause 86 ("Definitions").

3 About Wynyard Place

3.1 What are the different components in Wynyard Place?

Wynyard Place has five components. They are:

Component	Description	Member
Shell House Lot	A [stratum] lot comprising retail, hotel accommodation and office areas [to be updated to reflect approved use]	Shell House Lot Owner

Component	Description	Member
285 George Street Lot	A [stratum] lot comprising retail and office areas	285 George Street Lot Owner
Retail Lot	A stratum lot comprising a retail centre	Retail Lot Owner
Office Lot	A stratum lot comprising an office tower and a car parking area	Office Lot Owner
Transit Hall Lot	A stratum lot comprising a transit hall for access to Wynyard Station	Transit Hall Lot Owner

3.2 Development in stages

Wynyard Place may be developed and subdivided in stages.

3.3 Replacement management statements

As the development of Wynyard Place proceeds, it may be necessary to replace this management statement with a new management statement. Members agree to replace this management statement with a new management statement according to part 8 ("Development Works, subdivisions and replacement management statements"), and may be required to do this more than once.

3.4 Rights to construct and subdivide

The Developer's rights to carry out Development Works and to subdivide parts of Wynyard Place by Subdivision Plans are generally set out in part 8 ("Development Works, subdivisions and replacement management statements").

4 Wynyard Place management and operation

4.1 Part building

Under the Subdivision Legislation, a building management committee manages a building with a building management statement or a strata management statement. The members of a building management committee are the owners corporations of strata schemes in the building (if any) and owners of stratum lots (ie lots which have not been subdivided by strata plan) in the building. In this management statement, the building management committee is called the Committee.

4.2 Management structure

The Committee is responsible for operating and managing Wynyard Place on behalf of the Members. Each Member who is not an individual appoints a Representative to attend and vote for them at Meetings and Emergency Meetings of the Committee. See clause 22 ("Appointing a Representative and a Substitute Representative") for more information.

4.3 Who assists the Committee?

The Committee may appoint various persons to assist it to perform its functions. For example, the Committee may appoint a Manager to assist in the management of Wynyard Place and to perform secretarial and financial functions. The Committee may also:

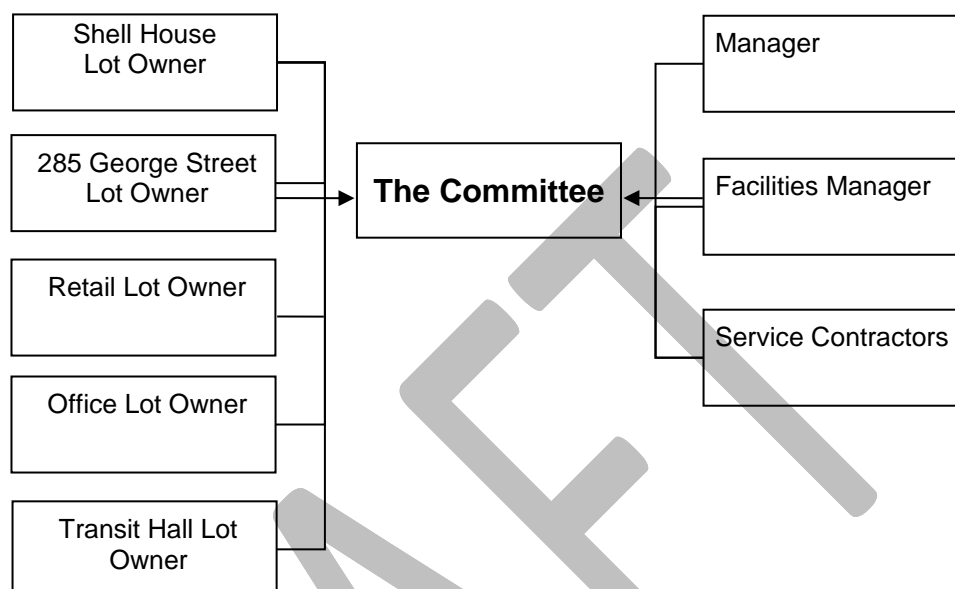
- (a) appoint a Facilities Manager to assist in the operation and maintenance of Shared Facilities; and

- (b) enter into contracts with Service Contractors for the operation, maintenance, repair and replacement of Shared Facilities.

The Committee's rights and obligations are explained in more detail in part 2 ("The Committee's rights and obligations").

4.4 Summary of management structure

In summary, the management structure for Wynyard Place looks like this:



These parties are Members of the Committee. They each appoint a Representative (individually or jointly) to attend and vote for them at Meetings and Emergency Meetings.

The Committee must appoint a Manager. The Committee may appoint a Facilities Manager and other parties to assist in the operation and management.

5 How does this management statement work?

5.1 How is this management statement set out?

There are nine parts in this management statement:

Part 1
Wynyard Place and
the building
management
statement

Part 1 explains the management structure of Wynyard Place and who must comply with this management statement.

Part 2
Rights and obligations
of the Committee

Part 2 explains the rights and obligations of the Committee. It contains information about the Committee and about appointing a Manager, Facilities Manager and Service Contractors to assist the Committee to perform its functions.

Part 3 Rights and obligations of Members, Owners and Occupiers	Part 3 explains the rights and obligations of Members, Owners and Occupiers. It includes provisions about insurance and access rights.
Part 4 Meeting procedures and resolutions	Part 4 explains the procedures for convening and holding Meetings and Emergency Meetings, quorum requirements and the types of resolutions required for decisions of the Committee.
Part 5 Financial management	Part 5 explains the procedures for preparing budgets, financial statements and levying processes for contributions to meet costs under this management statement.
Part 6 Shared Facilities	Part 6 explains how Shared Facilities work and are paid for by Members. It contains important information about the operation of, and obligations in connection with, Shared Facilities.
Part 7 Transit Hall Rights and Obligations	Part 7 explains the rights of the Transit Hall Lot Owner and the obligations of the Retail Lot Owner and the Office Lot Owner to carry out repair, maintenance and refurbishment of the Transit Hall.
Part 8 Development Works, subdivisions and replacement management statements	Part 8 explains the rights of the Developer to carry out Development Works and the Developer's rights to subdivide Wynyard Place. It also explains the requirements for approving Subdivision Plans and, if necessary, registering replacement management statements with Subdivision Plans.
Part 8A Retail Protocol	Part 8A will prescribe rules relating to the leasing and use of the retail components within Wynyard Place and require Members to set up a sub committee aimed to deliver a seamless retail offering.
Part 9 Miscellaneous	Part 9 explains the procedures for resolving Disputes and how to serve notices.
Part 10 Dictionary	Part 10 contains a dictionary and explains how to interpret this management statement.

5.2 What is the effect of this management statement?

This management statement has effect as an agreement under seal.

5.3 How to amend this management statement

Subject to part 8 ("Development Works, subdivisions and replacement management statements"), and part 7 ("Transit Hall Rights and Obligations") the Committee may amend, add to or repeal all or parts of this management statement only by Unanimous Resolution.

6 Who must comply with this management statement?

6.1 General obligations

Persons who must comply with this management statement are the Members, Owners and Occupiers.

6.2 Obligations for Occupiers

If you are an Owner, you must:

- (a) include in any lease or other arrangement for the occupation of your Lot provisions requiring the Occupier to refrain from breaching this management statement; and
- (b) use your reasonable endeavours to ensure that the Occupier and their invitees refrain from breaching this management statement; and
- (c) take all action reasonably available to you, including action under the lease or other arrangement, to make the Occupier refrain from breaching this management statement.

6.3 Occupiers may exercise rights

If you are an Owner, you may allow the Occupier of your Lot to exercise your rights under this management statement. However, you remain responsible to the Committee to comply with your obligations under the management statement.

6.4 Obligations for others

You must not:

- (a) do anything to prevent another person from complying with this management statement; or
- (b) allow another person to do anything which you cannot do under this management statement.

6.5 Obligations for visitors

You must:

- (a) take all reasonable actions to ensure that your visitors refrain from breaching this management statement; and
- (b) make your visitors leave Wynyard Place if they do not refrain from breaching this management statement.

6.6 By-laws for Strata Schemes

If this management statement is a strata management statement, the by-laws for each Strata Scheme contain obligations with which Owners and Occupiers of Lots in that Strata Scheme must comply (in addition to this management statement).

Wynyard Place Building Management Statement

Part 2

The Committee's rights and obligations

7 The Committee

7.1 Establishing the Committee

The Committee is deemed to have been established on registration of this management statement. The Members must always have a Committee.

7.2 Members of the Committee

Each Member is a member of the Committee.

7.3 New Members

New members of the Committee are created when a Stratum Lot is subdivided by a Subdivision Plan. The new member:

- (a) for a Stratum Lot created by a Subdivision Plan, is the Owner of the new Stratum Lot; and
- (b) for a Strata Scheme created by a Strata Plan, is the Owners Corporation for the Strata Scheme.

7.4 Members of the Committee upon registration of this Management Statement

The Members of the Committee upon registration of this management statement are the:

- (a) Shell House Lot Owner;
- (b) 285 George Street Owner;
- (c) Retail Lot Owner;
- (d) Office Lot Owner; and
- (e) Transit Hall Lot Owner.

8 Rights and obligations

8.1 What are they?

In addition to its rights and obligations elsewhere in this management statement, the Committee is to:

- (a) exercise its rights according to, and comply with its obligations under, the Subdivision Legislation, this management statement, the Easements and the Development Consent; and
- (b) monitor Members' compliance with their obligations under the Easements and any obligations to make payments, prepare budgets or determine and levy contributions under the Easements; and
- (c) comply with any requirements under development consents which apply to Wynyard Place including but not limited to the Development Consent

and any other development consent conditions which impose ongoing obligations to administer and maintain management plans or policies; and

- (d) make decisions about the matters in this management statement; and
- (e) convene and hold Meetings and Emergency Meetings; and
- (f) determine and levy Administrative Fund contributions and Sinking Fund contributions to meet the Committee's costs; and
- (g) operate, maintain, renew and replace Shared Facilities; and
- (h) deal with and make decisions about Shared Facilities including changing, adding to or adjusting Shared Facilities; and
- (i) effect insurances according to the Subdivision Legislation and this management statement; and
- (j) monitor the compliance by Members, Owners and Occupiers with their obligations under the Subdivision Legislation and this management statement; and
- (k) appoint and monitor the performance of the Manager; and
- (l) appoint and monitor the performance of the Facilities Manager; and
- (m) appoint and monitor the performance of Service Contractors; and
- (n) prepare an Evacuation Management Plan; and
- (o) do everything else necessary to exercise its rights and comply with its obligations.

8.2 Obligations under the Development Consent

The Development Consent imposes (amongst others) obligations on the Committee to:

[tbd]

8.3 How to make decisions

The Committee may make decisions only according to this management statement and at a properly convened Meeting or Emergency Meeting by Resolution, Unanimous Resolution or Shared Facility Resolution (as applicable in accordance with this management statement).

8.4 Power to contract and make appointments

The Committee may:

- (a) enter into contracts or other arrangements with Service Contractors, Manager, Facility Manager or other persons to assist the Committee to exercise its rights and comply with its obligations; and
- (b) appoint consultants and experts to advise and assist the Committee to exercise its rights and to comply with its obligations; and
- (c) appoint agents (for example, a Member, the Manager or the Facilities Manager) to enter into contracts or other arrangements on its behalf and on behalf of Members; and

- (d) terminate a contract or arrangement or the appointment of consultants, experts and other persons.

8.5 Making Rules

The Committee may make Rules to facilitate the management, operation, maintenance and control of Wynyard Place. However:

- (a) when the Committee makes a Rule it must take into account the mixed use nature of Wynyard Place and the various components in Wynyard Place; and
- (b) Rules must not conflict with this management statement; and
- (c) Rules must be reasonable and must not interfere with the reasonable enjoyment and use of a Lot by Owners and Occupiers.

8.6 Effect of Rules

A Rule made by the Committee applies as though it is set out in full in this management statement.

8.7 Complying with Rules

Members, Owners and Occupiers must comply with Rules. Members and Owners must use reasonable endeavours to ensure that Occupiers of their Lots (or parts of their Lots) must comply with Rules.

8.8 Inconsistencies

This management statement prevails to the extent of any inconsistency between it and the Rules.

9 Officers of the Committee

9.1 What Officers must the Committee appoint?

The Committee must appoint as Officers a Secretary, a Treasurer and a Chairperson.

9.2 Eligibility for election

To be eligible for election as an Officer, you must be a Representative or a Substitute Representative.

9.3 Appointment of Officers

The Committee must appoint its Officers within one month after this management statement is registered. The Committee:

- (a) may appoint you (if you are eligible for appointment) to hold the position of one or more Officers; and
- (b) may appoint new Officers at any time; and
- (c) must immediately appoint a replacement Officer if an existing Officer vacates their position.

9.4 Vacating the position of an Officer

You vacate your position as an Officer if:

- (a) you cease to be a Representative or Substitute Representative; or
- (b) the Committee dismisses you from your position; or
- (c) the Committee appoints a replacement Officer to fill your position; or
- (d) you resign in writing from your position. You must notify the Committee of your resignation and the date from which it will become effective.

10 Functions of Officers

10.1 Exercising functions

An Officer must perform their functions according to this management statement, the Subdivision Legislation, and the directions of the Committee.

10.2 The Secretary

In addition to the functions set out elsewhere in this management statement, the functions of the Secretary are to:

- (a) convene Meetings and Emergency Meetings; and
- (b) prepare and distribute notices, agendas and minutes for Meetings and Emergency Meetings; and
- (c) serve notices for the Committee; and
- (d) answer communications sent to the Committee; and
- (e) perform administrative and secretarial functions for the Committee; and
- (f) keep records (other than records which the Treasurer must keep) for the Committee according to this management statement and the Subdivision Legislation; and
- (g) make the records of the Committee available for inspection according to clause 15 ("Inspecting the Committee's records").

10.3 The Treasurer

In addition to the functions set out elsewhere in this management statement, the Treasurer is to:

- (a) prepare budgets; and
- (b) prepare Outstanding Levy Certificates; and
- (c) prepare financial statements; and
- (d) prepare (or arrange for the preparation of) audit reports; and
- (e) send notices of Administrative Fund and Sinking Fund contributions to Members; and
- (f) collect and bank contributions from Members; and
- (g) receive, acknowledge, bank and account for contributions and other money paid to the Committee; and
- (h) pay accounts; and

- (i) keep accounting records for the Committee.

10.4 The Chairperson

The Chairperson is to preside at each Meeting and Emergency Meeting at which the Chairperson is present. If the Chairperson does not attend a Meeting or an Emergency Meeting, the persons present at the meeting may appoint another Representative, Substitute Representative or the Manager to preside at that meeting only.

11 Appointing a Manager

11.1 Purpose of the appointment

The Committee may appoint, and enter into agreements with, a Manager (who may be a related party of the Developer) to assist the Committee perform its functions and, in particular, the functions of the Secretary and Treasurer.

11.2 Qualifications of the Manager

The Manager must have the licences required by law to be a strata managing agent.

11.3 What must the Committee consider?

When considering which Manager to appoint, the Committee must consider the benefit of having the same person appointed for each building management committee in Wynyard Place.

11.4 Delegation of functions

Subject to clause 11.5 ("What functions may not be delegated?"), the Committee may delegate to the Manager some or all of the functions of the Committee and the Officers.

11.5 What functions may not be delegated?

The Committee may not delegate to the Manager:

- (a) this power of delegation; or
- (b) the right to determine Administrative Fund and Sinking Fund contributions; or
- (c) the right to determine matters which require a Unanimous Resolution; or
- (d) any right or obligation which the Committee decides may be exercised or complied with only by the Committee.

11.6 Form of agreement

An agreement between the Committee and the Manager must:

- (a) be in writing and be signed by each Member (or a person appointed by the Committee under clause 8.4(c) ("Power to contract and make appointments") and the Manager; and
- (b) allow the Committee and the Officers to continue to exercise the rights and comply with the obligations which the Committee has delegated to the Manager; and
- (c) contain provisions which entitle the Committee and the Manager to terminate the agreement early if a party does not comply with their obligations under the agreement.

11.7 Term of the appointment

The term of the initial agreement between the Committee and the Manager may be for a period determined by the Committee (acting reasonably), but in any event, should not exceed any maximum period allowed by law.

11.8 Remuneration

Subject to this clause 11, the remuneration and appointment of the Manager are to be on terms agreed by the Committee (acting reasonably).

11.9 Duties of the Manager

Subject to this clause 11, the duties of the Manager under an agreement may include, without limitation so long as permitted by law:

- (a) performing the functions of the secretary;
- (b) performing the functions of the treasurer;
- (c) performing the functions of the chairperson; and
- (d) doing anything else that the Committee agrees is necessary for the operation and management of Wynyard Place.

12 Appointing a Facilities Manager

12.1 Purpose of the appointment

The Committee may appoint, and enter into agreements with, a Facilities Manager (who may carry out other functions) to provide operational and management services including to assist the Committee perform its functions in relation to Shared Facilities, and any obligations imposed on the Committee under the Development Consent.

12.2 Form of agreement

An agreement between the Committee and a Facilities Manager must:

- (a) be in writing and be signed by each Member (or a person appointed by the Committee under clause 8.4(c) ("Power to contract and make appointments") and the Facilities Manager; and
- (b) contain provisions which entitle the Committee and Facilities Manager to terminate the agreement early if a party does not comply with or perform their obligations under the agreement.

12.3 Term of the appointment

The term of the initial agreement between the Committee and a Facilities Manager may be for a period determined by the Committee (acting reasonably), but should not exceed the maximum period allowed by law.

12.4 Remuneration

The remuneration and appointment of the Facilities Manager are to be on terms agreed by the Committee (acting reasonably).

12.5 Facilities Management Areas

The Facilities Management Areas are Shared Facilities. Under an agreement with a Facilities Manager, the Committee may grant the Facilities Manager exclusive use and possession of the Facilities Management Areas for use in

conjunction with the duties of the Facilities Manager under the agreement. If this happens, you are not entitled to use the Facilities Management Areas.

12.6 Duties of the Facilities Manager

Subject to this clause 12, the duties of the Facilities Manager under an agreement may include, without limitation:

- (a) managing the maintenance, repair and replacement of Shared Facilities;
- (b) preparing and keeping current a short and long term maintenance, repair and replacement program for Shared Facilities;
- (c) preparing and keeping current an asset management plan for Shared Facilities;
- (d) performing an annual audit of Shared Facilities (which are readily accessible to the Facilities Manager);
- (e) supervising contracts entered into by the Committee or by the Facilities Manager on behalf of the Committee; and
- (f) doing anything else which the Committee considers is necessary for the operation and management of Shared Facilities and Wynyard Place.

12.7 Act as agent

Under an agreement with the Facilities Manager, the Members may authorise the Facilities Manager to act as their agent and:

- (a) negotiate contracts with Service Contractors, including contracts for the operation, use, maintenance, repair and renewal of Shared Facilities; and
- (b) enter into contracts with Service Contractors on behalf of Members.

13 Insurance requirements

13.1 Statutory insurance

The Committee must effect and maintain:

- (a) building insurance for Wynyard Place that is:
 - (i) a damage policy according to Schedule 8A of the Act and in accordance with this clause 13;
 - (ii) a reputable and solvent insurer having a financial security rating of "A" or better with Standard & Poor or the equivalent with another agency, which insurer is (where applicable) permitted to issue policies in accordance with the Act;
- (b) machinery breakdown insurance for Shared Facilities plant and equipment; and
- (c) enough insurance cover to pay for increased costs during the period of insurance.

13.2 Other Required Insurance

The Committee must effect and maintain any other insurance required by Law, including (where relevant) workers compensation insurance and any other insurance referred to in Schedule 8A of the Act.

13.3 Notation of interested parties

The Committee must include the interest of any person with a long term leasehold interest in a Stratum Lot forming part of Wynyard Place in the cover provided by a damage policy effected under this clause 13.

13.4 Optional insurances

The Committee may effect other types of insurance including office bearers liability insurance for its Officers.

13.5 Proceeds of building insurance claims

- (a) If Wynyard Place is damaged or destroyed at any time after the registration of this management statement, then all insurance proceeds in respect of that damage or destruction must be placed in an account in the joint names of the Members (subject to clause 13.5(b)) and applied to the repair or reinstatement of Wynyard Place and activities associated with that repair and reinstatement, unless otherwise agreed by all Members in writing.
- (b) If the Transit Hall Lot Owner self-insures against risk pursuant to this clause 13, then the Transit Hall Lot Owner will be required to place its insurance proceeds in a joint account with the other Members as contemplated under clause 13.5(a).

13.6 Review of Insurances

Each year the Committee must:

- (a) review its current insurance policies;
- (b) decide whether it needs new policies and, if so, effect those policies;
- (c) decide whether it needs to adjust current policies and, if so, adjust those policies; and
- (d) include a motion on the agenda for a meeting of the Committee to determine the matters in this clause 13.

13.7 Adjustment to insurances

The Committee must promptly effect new insurance or adjust existing insurances if there is an increase in risk or a new risk to the Committee or Wynyard Place.

13.8 Damage Policy

A damage policy for a building means a contract for insurance providing, in the event of Wynyard Place being destroyed or damaged by fire, lightning or explosion, or any other occurrence specified in the policy:

- (a) for the rebuilding of Wynyard Place, or the replacement of Wynyard Place by a similar building, in the event of its destruction so that the rebuilt or replacement building is no less extensive than the original and is in a condition no worse than the original was in when new;
- (b) for the repair or damage to, or the restoration of the damaged part of, Wynyard Place in the event of it being damaged but not destroyed, so

that the repaired or restored part is no less extensive than the original part and is in a condition no worse than the original part was in when new;

- (c) for the payment of expenses incurred in the demolition of all or part of Wynyard Place and/or the removal of debris; and
- (d) for the remuneration of architects and other persons whose services are necessary as an incident to the rebuilding, replacement, repair or restoration.

13.9 Limit to Amount of Damage Policy

As an alternative to carrying out any works or receiving any payments on the occurrence of any damage or destruction specified above, damage policy may, instead provide that the liability of the insurer is limited to an amount specified in the policy that is not less than the total of the following amounts:

- (a) the estimated cost of the rebuilding or replacement of Wynyard Place in accordance with clause 13.8 ("Damage Policy");
- (b) the estimated costs of removing debris from the site of Wynyard Place in the event of Wynyard Place being destroyed by an occurrence specified in the policy;
- (c) the estimated fees payable to architects and other professional persons employed in the course of the rebuilding or replacement referred to in clause 13.8(d) ("Damage Policy"); and
- (d) the estimated amount by which expenditure referred to in the preceding paragraphs may increase during the period of 18 months following the date of commencement of the damage policy.

13.10 Insured Sum

The Committee must insure Wynyard Place for an amount or higher amount determined below:

- (a) the amount determined in a valuation carried out under this clause 13; and
- (b) until construction of all parts of Wynyard Place has been completed, each time a part of Wynyard Place reaches practical completion under the building contract for that part, the Committee must obtain a valuation for insurance purposes (of the parts of Wynyard Place that have reached practical completion), review the replacement values of each part of Wynyard Place and review the damage policy taken out under this clause 13 to take account of any change in the replacement value of Wynyard Place.

13.11 Valuation

The Committee must obtain by the first day of every Valuation Period a valuation by a qualified valuer who has:

- (a) a minimum of five years' experience; and
- (b) experience in valuing for insurance purposes buildings like those comprising Wynyard Place; and
- (c) the Members must give the Committee copies of the "as built" plans for their parts of Wynyard Place and any other information reasonably

required (if reasonably available) by the Committee for the purposes of obtaining the valuation.

13.12 Acts not to void insurance

A Member must not do anything by way of an act or omission to void the insurance under this clause 13 or any part of that insurance or increase the premium for Wynyard Place insurance. If a Member with consent of the other Members, does anything which increases the premium for that insurance, then that Member must pay any resulting additional insurance premium.

13.13 Insurance during construction

If a Member is constructing part of a building in Wynyard Place, that Member must, before commencing construction, take out building insurance:

- (a) for the part of Wynyard Place under construction for an amount that is reasonably required by the Committee; and
- (b) the Member must ensure that the building insurance notes the interests of the Members and any mortgagee of a lot in Wynyard Place under this management statement.

13.14 Payment of premium

A Member must pay their respective share of the insurance premiums of insurance effected under this clause 13 in the proportions determined by the Committee taking into account the activities conducted by the Members in their respective Lots or above another Member's lot and the risks associated with those activities:

- (a) whether any construction works are being conducted within a Member's Lots; and
- (b) whether members of the public have access to the Lots; and
- (c) any other criteria which the Committee considers to be relevant, acting reasonably.

13.15 Rail Risk

In the event that an insurance policy taken out under this clause 13 includes in its premium Rail Risk Premium Cost, then:

- (a) the Transit Hall Lot Owner is responsible for payment of the Rail Risk Premium Cost and must pay to the Committee the amount of the Rail Risk Premium Cost; and
- (b) the Committee must allocate the funds received by it under clause 13.15(a) above to the insurer for the relevant insurance policy.

13.16 Dispute regarding Rail Risk

- (a) If there is a dispute in relation to the Rail Risk Premium Cost, then the provisions of clause 13.16(b) apply.
- (b) In determining the resolution of a dispute under paragraph (a), the parties must:
 - (i) consider the following solutions:
 - (A) the Transit Hall Lot Owner indemnifying the damage policy insurer for the rail risk; or

- (B) the Transit Hall Lot Owner indemnifying the other Members for the rail risk; or
- (C) the Transit Hall Lot Owner arranging for an insurer to underwrite the rail risk covered in the damage policy; and
- (ii) resolve the dispute using the provisions of clause 80 ("How to resolve Disputes") should consideration of the options in clause 13.16(b)(i) fail to resolve the dispute.

13.17 Self Insurance by Government Agency

- (a) The Transit Hall Lot Owner may self-insure against any risks required to be insured under this clause 13 with the prior consent of the Committee (acting reasonably). The Committee may not withhold its consent if:
 - (i) such self-insurance is permitted under the Subdivision Legislation; and
 - (ii) Wynyard Place will remain adequately insured as contemplated by this clause 13 after the self-insurance is procured by the Transit Hall Lot Owner in respect of the Transit Hall Lot; and
 - (iii) a Member's contribution to its share of premium for insurances taken out under this clause 13 is not increased as a result of the self insurance procured by the Transit Hall Lot Owner.
- (b) If the Committee is able to lawfully comply with its obligations under this clause 13 and under Schedule 8A of the Act by:
 - (i) permitting the Transit Hall Lot Owner to separately effect insurances in relation to the Transit Hall Lot which otherwise fulfil the requirements of Schedule 8A of the Act; and
 - (ii) effecting insurances in relation to the balance of Wynyard Place as required by clause 13.1 ("Statutory Insurance"),

and a Member's contribution to its share of premium for insurances taken out under clause 13.1 ("Statutory Insurance") is not increased as a result of self insurance under this clause 13.17("Self Insurance by Government Agency"), then the Committee must:

 - (iii) not insure the whole of Wynyard Place (including the Transit Hall Lot) in accordance with clause 13.1 ("Statutory Insurance");
 - (iv) permit the Transit Hall Lot Owner to effect the insurances referred to in clause 13.17(b)(i); and
 - (v) effect the insurances referred to in clause 13.17(b)(ii),

provided that the insurances referred to in clause 13.17(b)(iv) and 13.17(b)(v) note the interests of all Members.
- (c) If the Transit Hall Lot Owner self-insures against risk pursuant to clause 13.17(a) or effects separate insurance pursuant to clause 13.17(b), then the specified percentages for items in schedule 1 ("Indicative list of Shared Facilities") to this management statement is adjusted as follows:
 - (i) specified percentage if no Self Insurance: [#]

- (ii) specified percentage if Self Insurance: [#]

13.18 Insurance records

The Committee must provide a certificate of currency to each Member after it renews an existing policy, alters an existing policy or effects a new policy.

14 Keeping records

14.1 Obligations of the Committee

The Committee must keep records according to this clause 14 relating to the exercise of its functions.

14.2 Which records must the Committee keep?

Records which the Committee must keep include:

- (a) an up-to-date copy of this management statement; and
- (b) its agreements with the Manager, Facilities Manager and Service Contractors; and
- (c) an up to date roll containing the names, addresses and other contact details for each Member, Representative and Substitute Representative; and
- (d) Appointment Forms and Membership Forms; and
- (e) notices and minutes of Meetings and Emergency Meetings; and
- (f) voting papers and Proxy Forms for Meetings and Emergency Meetings; and
- (g) financial statements; and
- (h) copies of Outstanding Levy Certificates; and
- (i) audit reports; and
- (j) budgets; and
- (k) notices served on the Committee; and
- (l) correspondence sent to and by the Committee; and
- (m) insurance records including duplicate or certified copies of insurance policies, renewal certificates and endorsement slips for insurances; and
- (n) the Shared Facilities Register; and
- (o) all other records relating to the administration and operation of Wynyard Place by the Committee.

14.3 How long are records kept?

The Committee must keep copies of its records for at least seven years from the date of the record, or for such longer period as required by law.

15 Inspecting the Committee's records

15.1 Who is entitled to inspect the records?

You may inspect the Committee's records if you are a Member or an Owner (or a person authorised in writing by them).

15.2 What is the procedure?

The procedure for inspecting the records of the Committee is:

- (a) the applicant must apply in writing to the Secretary; and
- (b) the applicant must pay the Committee an inspection fee being an amount determined by the Committee (acting reasonably) charged on an hourly basis (or any other amount the Strata Schemes Management Act specifies for the inspection of the records of an owners corporation).

15.3 Time for the inspection

The Secretary must allow an applicant to inspect the Committee's records within 10 Business Days after the applicant makes a written application and pays the inspection fee.

15.4 Taking copies of records

The applicant may take extracts from or copy the records (at their cost). The applicant cannot remove the records unless the Secretary agrees.

16 Providing Outstanding Levy Certificates

16.1 Who may apply for a certificate?

You may apply to the Committee for an Outstanding Levy Certificate in respect of a Member if you are a Member or an Owner (or a person authorised in writing by them).

16.2 Procedure to obtain a certificate

The procedure for obtaining an Outstanding Levy Certificate is:

- (a) the applicant must apply in writing to the Treasurer; and
- (b) the applicant must pay the Committee a fee determined from time to time by the Committee (or any other amount the Strata Schemes Management Act specifies for a certificate under section 109 of the Strata Schemes Management Act).

16.3 Information to be included in a certificate

The Treasurer must include in an Outstanding Levy Certificate the following information in relation to the Member specified in the application:

- (a) the amount of the regular periodic Administrative Fund contributions and the periods for which the contributions are; and
- (b) the amount of the regular periodic Sinking Fund contributions and the period for which the contributions are; and
- (c) the amount of any unpaid Administrative Fund contributions or Sinking Fund contributions; and

- (d) any amount recoverable for work carried out by the Committee according to clause 18 ("Committee's power to do work in an emergency"); and
- (e) any amount and rate of interest payable to the Committee under this management statement; and
- (f) any other information the Committee instructs the Treasurer to include in the Outstanding Levy Certificate.

16.4 When must the certificate be given?

The Treasurer must provide an Outstanding Levy Certificate within 10 Business Days after receiving an application.

16.5 Certificate is evidence of matters in it

An Outstanding Levy Certificate is conclusive evidence, as at the date of the certificate, of the matters stated in it in favour of a person (whether or not the applicant for the certificate is the person referred to in the certificate) taking an interest in Wynyard Place for valuable consideration.

17 Committee's power to gain access to Shared Facilities

17.1 General requirement

When the Committee exercises its rights to access parts of Wynyard Place, it must not interfere unreasonably with your lawful use of that area or the quiet enjoyment of the Occupiers.

17.2 What are the powers of the Committee?

Subject to this clause 17, the Committee has the power to gain access to your part of Wynyard Place in order to:

- (a) operate, test, use, maintain, repair or replace Shared Facilities (for example, the integrated fire system for Wynyard Place or Fire Safety Devices); and
- (b) exercise its rights and comply with its obligations under this management statement.

17.3 Access requirements

To enable the Committee to exercise its rights under this clause 17 and subject to clause 17.4 ("Notice requirements") and clause 65.9 ("Gaining access to the Transit Hall Lot"):

- (a) if you are an Owners Corporation, you must give the Committee access to your Common Property; and
- (b) if you are an Owner or Occupier, you must give the Committee access to your Lot,

by the most direct route or by the route nominated by the Committee (acting reasonably) and subject to the requirements in clause 29.2 ("General requirement").

17.4 Notice requirements

The Committee must give you reasonable notice before it requires access to your part of Wynyard Place. However, in an emergency the Committee is not required to give you notice.

17.5 Paying costs

The Committee must pay the costs it incurs when it gains access to parts of Wynyard Place under this clause 17.

17.6 Rectifying damage

When it exercises its rights or complies with its obligations under this clause 17, the Committee must promptly rectify any damage it causes to your part of Wynyard Place and leave your part of Wynyard Place clean and tidy.

17.7 Sole user

If you are the sole user of a Shared Facility, you may exercise the rights, and are bound by the obligations, of the Committee under this clause 17.

17.8 References to the Committee

In this clause 17, references to the Committee include persons authorised by the Committee and Service Contractors appointed by the Committee.

18 Committee's power to do work in an emergency

18.1 Committee may do anything

In an emergency, the Committee may do anything in Wynyard Place which you should have done under this management statement but which, in the Committee's reasonable opinion, you have not done or have not done properly. If practicable, the Committee must give you notice before it exercises its rights under this clause 18.

18.2 Entering parts of Wynyard Place

To exercise its rights under clause 18.1 ("Committee may do anything"), the Committee may enter your part of Wynyard Place and stay there for as long as necessary and do what is required to deal with the emergency.

18.3 What are your obligations?

If the Committee carries out work under clause 18.1 ("Committee may do anything"), you must pay it its reasonable costs for carrying out the work you should have carried out. The Committee must give you the information you reasonably require about the costs it has incurred.

18.4 Damages

The Committee is not liable for damage arising out of exercising rights under clause 18.1 ("Committee may do anything") except for damage it causes maliciously or negligently.

18.5 Sole user

If you are the sole user of a Shared Facility you may exercise the rights, and are bound by the obligations of, the Committee under this clause 18.

18.6 References to the Committee

In this clause 18, references to the Committee include persons authorised by the Committee and Service Contractors appointed by the Committee.

19 Committee's power to act on behalf of the Members

19.1 Acting as agent

Each Member (other than the Transit Hall Lot Owner) agrees that the Committee (or a person appointed by the Committee) may act as agent for all the Members and take legal proceedings if:

- (a) a Member does not pay Administrative Fund or Sinking Fund contributions; or Member does not comply with its obligations under this management statement; or
- (b) an Owner or an Occupier does not comply with their obligations under this management statement.

19.2 Appointment as agent and attorney

Each Member appoints the Committee as its agent and attorney to enable the Committee or a person appointed by the Committee to take any action authorised by Resolution, Unanimous Resolution or Shared Facility Resolution (as applicable in accordance with this management).

19.3 Legal proceedings by a Member

This clause 19 does not prevent a Member from taking legal proceedings in its own name.

20 Consents by the Committee

20.1 How may consent be given?

The Committee may give consents under this management statement only at a Meeting or an Emergency Meeting.

20.2 Conditional consent

The Committee may impose conditions if it gives you consent under this management statement.

20.3 Revoking consent

The Committee may revoke its consent if you do not comply with:

- (a) any conditions imposed under the Committee's consent; and/or
- (b) the clause of this management statement under which the Committee granted the consent.

Wynyard Place Building Management Statement

Part 3

Rights and obligations of Members, Owners and Occupiers

21 What are the rights and obligations of Members?

21.1 General obligations

In addition to your obligations in the Subdivision Legislation and elsewhere in this management statement, if you are a Member you must:

- (a) act reasonably and in good faith in your dealings with the Committee, other Members, Owners and Occupiers; and
- (b) promptly comply with your obligations under this management statement and the Subdivision Legislation; and
- (c) ensure, as far as is reasonable, that Wynyard Place is efficiently managed to a standard appropriate to its permitted uses; and
- (d) promptly pay your Administrative Fund contributions, Sinking Fund contributions and other amounts you owe the Committee under this management statement; and
- (e) effect and maintain the insurances required by the Subdivision Legislation and this management statement; and
- (f) ensure the Committee is properly constituted; and
- (g) comply with decisions of the Committee; and
- (h) comply with the Signage Code before you erect signage within or on Wynyard Place; and
- (i) comply with Easements; and
- (j) make any payments you are required to make under the Easements; and
- (k) comply with any Site Incident Management Plan which applies to Wynyard Place (for so long as the Transit Hall Lot Owner is a Government Agency); and
- (l) comply with Rules.

21.2 Voting rights

If you are a Member Entitled to Vote, you have the right to vote at Meetings and Emergency Meetings according to part 4 ("Meeting procedures and resolutions").

21.3 Maintenance requirements

Except for Shared Facilities and subject to this management statement, if you are a Member you must at your own cost:

- (a) maintain and keep in good repair the part of Wynyard Place; and

- (b) maintain and keep in good repair the façade and other external finishes, fixtures or fittings in the part of Wynyard Place over which you have a freehold interest; and
- (c) maintain, inspect and operate plant and equipment:
 - (i) owned by you; or
 - (ii) over which you have a leasehold interest; or
 - (iii) of which you are the sole user,to a standard recommended by a manufacturer or the applicable Australian Standard.

21.4 Nature of obligations

You must act in good faith in your dealings with Members, Owners and Occupiers under this management statement and the Easements.

21.5 Upgrading and redevelopment

If you are a Member, you acknowledge that, throughout the life of Wynyard Place, upgrading and redevelopment works may take place to Stratum Lots and Shared Facilities (subject to obtaining consents from Government Agencies). You agree to act reasonably and not unreasonably withhold your consent if a proposal is made to upgrade or redevelop parts of Wynyard Place.

21.6 Damages

If you are a Member you are liable for damage or loss you cause to any other Member or to an Owner or an Occupier if you do not comply with this management statement. However, your liability does not include damage or loss caused or contributed to by the other Member or the Owner or Occupier suffering the damage or loss.

22 Appointing a Representative and a Substitute Representative

22.1 Appointments generally

Subject to this clause 22, if you are a Member:

- (a) you must appoint a Representative to represent and vote for you at Meetings and Emergency Meetings; and
- (b) you may appoint a Substitute Representative to represent and vote for you at Meetings and Emergency Meetings if your Representative cannot attend; and
- (c) you may appoint new Representatives and Substitute Representatives at any time.

22.2 Eligibility for appointment

Representatives and Substitute Representatives must be natural persons.

22.3 Appointment Form

You must complete and serve on the Committee an Appointment Form if:

- (a) you appoint a Representative or a new Representative; or

- (b) you appoint a Substitute Representative or a new Substitute Representative; or
- (c) the contact details for your Representative or Substitute Representative change.

22.4 When does an appointment become effective?

Your appointment of a Representative or Substitute Representative (or a new Representative or Substitute Representative) takes effect when the Committee receives a duly completed Appointment Form from you.

22.5 Proxies

You may authorise your Representative or Substitute Representative to appoint a proxy to represent and vote for you at Meetings and Emergency Meetings. In your Appointment Form, you must advise the Committee whether your Representative or Substitute Representative may appoint a proxy.

22.6 Acts by Representatives and Substitute Representatives

Anything done for you or on your behalf by your Representative or Substitute Representative has the same effect as if you did it.

23 Procedures when you become a Member or change your contact details

23.1 New Stratum Lots

If you are the Owner of a Stratum Lot created by registration of a Subdivision Plan, you must complete a Membership Form and serve it on the Committee within five Business Days after registration of the Subdivision Plan. You become a Member from the date of registration of the Subdivision Plan.

23.2 Purchasing a Stratum Lot

If you purchase the freehold interest in a Stratum Lot, you must complete a Membership Form and serve it on the Committee within five Business Days after you become a Member. You become a Member on the date of the transfer to you of the freehold interest in the Stratum Lot.

23.3 Leasing a Stratum Lot

If you lease or licence your Stratum Lot (or part of it), you must complete the part of the Membership Form dealing with new tenancies and serve it on the Committee within five Business Days after the lease or licence commences.

23.4 New Owners Corporations

If you are an Owners Corporation created by registration of a Subdivision Plan, you must complete a Membership Form and serve it on the Committee within five Business Days after registration of the Subdivision Plan. You become a Member from the date of registration of the Strata Plan for your Strata Scheme.

23.5 Changing parties to Service Contracts

Subject to clause 23.6 ("Obligations of Members"), to ensure that each current Member is a party to Service Contracts entered into by the Committee, before you:

- (a) transfer the freehold interest in your Stratum Lot, you must procure the new Member for your Lot to become a party to all current Service Contracts from the date of the transfer; or

- (b) subdivide your Stratum Lot (or part of it) to create two or more Stratum Lots, you must procure the Owners of the new Lots to become parties to all current Service Contracts from the date of registration of the Subdivision Plan; or
- (c) subdivide your Stratum Lot (or part of it) by a Strata Plan, you must procure the new Owners Corporation to become a party to all current Service Contracts within seven days after registration of the Strata Plan.

When you comply with your obligations under this clause 23.5, the Members release you from your obligations under the relevant Service Contract from the date the new Member becomes a party to the Service Contract (other than for liabilities which arose before that date). If you fail to comply with your obligations under this clause 23.5, you are responsible for any liability, loss, claim or damages sustained by the other Members as a result of your non-compliance.

23.6 Obligations of Members

You must consent to the inclusion of a transferee's limitation of liability provision in a Service Contract substantially in the form of the relevant limitation of liability provisions in clauses 84 ("Trustee limitation of liability") and 85 ("Custodian limitation of liability") where a Member:

- (a) transfers its interest in a Stratum Lot to a transferee who acquires the interest in the Stratum Lot in its capacity as a trustee or custodian for a trust; or
- (b) subdivides a Stratum Lot and an Owner of a new Lot created upon that subdivision is a person acting in its capacity as a trustee or custodian for a trust.

23.7 Changing your contact details

If you are a Member, you must complete and serve a Membership Form on the Committee within five Business Days if:

- (a) you change your name, address, telephone or fax number; and
- (b) if the Occupier of your Stratum Lot (or part of it) changes their name, address, telephone number or fax number.

24 What are the obligations of Owners and Occupiers?

24.1 The Obligations of Owners and Occupiers

In addition to your obligations elsewhere in this management statement, if you are an Owner or an Occupier you must at your cost:

- (a) promptly comply with your obligations under this management statement and the Subdivision Legislation; and
 - (i) comply with all laws relating to your Lot and the use of your Lot; and
 - (ii) comply with decisions of the Committee; and
 - (iii) comply with the Signage Code; and
 - (iv) comply with Easements; and
 - (v) comply with Rules; and

- (vi) permit the Retail Lot Owner and the Office Lot Owner to carry out its obligations under part 7 ("Transit Hall Rights and Obligations").

24.2 Limit of liability

- (a) The parties agree that to the maximum extent permitted by law, this management statement operates to the exclusion of all provisions contained in Part 4 of the *Civil Liability Act (NSW) 2002*.
- (b) To the extent permissible at law, each party's individual aggregate liability under, arising out of or in connection with this management statement, whether in contract (for breach, indemnity or otherwise), in restitution, in equity, under statute or in tort (for negligence or otherwise) is limited to the a proportion of the total aggregate liability as set out in schedule 2 ("Formula for Contribution to Shared Facilities").

25 Obligations of Owners relating to maintenance, repair and structural adequacy

25.1 Owner responsible for own Stratum Lot

Each Owner except for the Transit Hall Lot Owner whilst part 7 ("Transit Hall Rights and Obligations") applies must:

- (a) properly maintain and keep in a state of good and serviceable repair that part of Wynyard Place within that Owner's Stratum Lot;
- (b) except for the Shared Facilities which are the responsibility of the Committee under this management statement, maintain the structures, conduits, machinery, equipment and any other thing or service integral to the proper operation and the support of any part of Wynyard Place (to the extent those structures, conduits, machinery, equipment and other things or services are located within the Owner's Stratum Lot) at all times by, amongst other things, ensuring that those structures, conduits, machinery, equipment and any other thing or service are regularly inspected, maintained, repaired and kept in a sound structural and fully operational and working condition;
- (c) properly operate and repair, and whenever reasonably necessary renew or replace any fixtures or fittings which may if not properly operated, repaired, renewed or replaced, have an adverse impact on the proper functioning of the Shared Facilities; and
- (d) allow the other Owners at reasonable times on reasonable notice to enter an Owner's Stratum Lot so as to access items within their own Stratum Lot where alternative access is not reasonably available or is likely to be substantially more costly, or to access that Stratum Lot or another Stratum Lot pursuant to any Easement in order to carry out maintenance, repairs, inspections, tests, renewals and renovations.

25.2 Failure of Owner to carry out its obligations

- (a) If an Owner does not carry out its obligations under clause 25.1 ("Owner responsible for own Stratum Lot") then the Committee may do anything reasonably necessary for the purpose of exercising the requirements of clause 25.1 ("Owner responsible for own Stratum Lot"), including:
 - (i) carrying out work on the Owner's Stratum Lot to do anything the Owner has failed to do under clause 25.1 ("Owner responsible for own Stratum Lot"); and

- (ii) enter the Owner's Stratum Lot with or without tools and equipment and remain there for the period of time for that purpose.
- (b) In exercising its rights under this clause, the Committee must:
 - (i) ensure that all work is done properly;
 - (ii) comply with the terms of access set out in this management statement;
 - (iii) cause as little interference as practical to any Occupier;
 - (iv) cause as little damage as possible to the Owner's Stratum Lot and any improvements on it; and
 - (v) if damage (being damage arising because the Owner's Stratum Lot has not complied with clause 25.1 ("Owner responsible for own Stratum Lot")) is caused, restore the Owner's Stratum Lot as nearly as practicable to the condition it was in before the damage occurred.
- (c) Except where urgent work is required, the Committee must:
 - (i) before exercising its rights under clause 25.2(a), by written notice, give the Owner a reasonable period of time, having regard to the nature of the obligation not performed, to carry out the obligation;
 - (ii) give the Owner reasonable notice of intention to enter the Owner's Stratum Lot.

26 Obligations relating to upgrading and redevelopment

26.1 Members' acknowledgment

- (a) The Members agree and acknowledge that in addition to and in compliance with the requirements of this management statement, Wynyard Place will require upgrading from time to time, and the site or any part of it may need to be redeveloped.
- (b) The Members agree not to unreasonably withhold consent or object to (if consent is required by a Government Authority or to make changes to this management statement) to any application to a Government Authority by a Member to carry out any upgrading or redevelopment work, so long as the proposed upgrading or redevelopment works are in accordance with the requirements of the Council, any other Government Agency, this management statement, and the Easements.

26.2 Members' rights

- (a) Each Member may, in its absolute discretion and at its sole cost, upgrade or redevelop the Stratum Lot that it owns, subject to any requirements of the Council, any other Government Agency, this management statement, and the Easements.

27 Additional obligations for Owners Corporations

27.1 When does this clause apply?

This clause 27 applies if this management statement is a strata management statement.

27.2 Notices of meetings

Each Member which is an Owners Corporation must give the other Members notices of its general meetings and meetings of its executive committee if the business of the meeting involves this management statement or the other Members. The Member must give the notice at least 72 hours before the meeting is scheduled to commence.

27.3 Attendance at meetings

Each Member which is an Owners Corporation must allow the Representatives or Substitute Representatives of the other Members to:

- (a) attend its general meetings and meetings of its executive committee if the business of the meeting involves this management statement or another Member; and
- (b) address general meetings and meetings of its executive committee in regard to matters affecting this management statement or the other Members.

27.4 By-laws

A Member which is an Owners Corporation must not make by-laws that are inconsistent with this management statement. If there is an inconsistency between the by-laws and this management statement, the Member must amend the inconsistent by-law to make it consistent with this management statement.

28 Carrying out works

28.1 Effect of this clause

This clause 28 does not affect the rights of the Developer under part 8 ("Development Works, subdivisions and replacement management statements").

28.2 What are your rights?

You may carry out works in your Stratum Lot without consent from the Committee if the works do not affect Shared Facilities and you obtain all necessary consents (including consents from Government Agencies) and provide copies of the consents to the Committee before you commence the works.

28.3 Works affecting Shared Facilities

- (a) You must obtain consent from the Committee before you carry out any works which affect (or may affect) Shared Facilities (including the installation of signage on Shared Facilities, for example, the Carpark Accessway). The Committee must consent to work which are approved under a Development Consent.
- (b) You acknowledge that use of a Shared Facility may be suspended during a redevelopment of a Lot in Wynyard Place and your rights under any Easement are also suspended. If you carry out works within your Lot that require the suspension of a Shared Facility, you must:
 - (i) ensure that you minimise any disruption relating to the use of the Shared Facility by other Members; and
 - (ii) compensate Members for any reasonable actual loss suffered as a result of the suspension.

- (c) Clause 56 ("Changing and adding to Shared Facilities") applies to changes to Shared Facilities to enable a redevelopment or the carrying out of the works to a Lot.

28.4 Signage

- (a) You must comply with the Signage Code before you erect signage within Wynyard Place.
- (b) The Signage Code contains provisions in relation to the repair and maintenance of signage within Wynyard Place which you must comply with.

28.5 Developer's rights

The Developer's rights to carry out Development Works are explained in part 8 ("Development works, subdivision and replacement management statements").

29 Rights of access

29.1 Effects of this clause

This clause 29 does not affect the rights of the Developer to carry out Development Works according to part 8 ("Development Works, subdivisions and replacement management statements").

29.2 General requirement

When a Member, Owner and Occupier exercise their rights to access parts of Wynyard Place, they must not interfere unreasonably with your lawful use of that area.

29.3 Access in an emergency

In an emergency you must give Members, Owners and Occupiers access to fire stairs, passages and all other egress routes in your part of Wynyard Place necessary to exit Wynyard Place.

29.4 Access to Shared Facilities by the Committee

You must give the Committee access to operate, test, use, maintain, repair and replace Shared Facilities located in your part of Wynyard Place by the most direct route or by the route nominated by the Committee (acting reasonably). Clauses 18 ("Committee's power to gain access to Shared Facilities") and 19 ("Committee's power to do work in an emergency") apply.

29.5 Access to Shared Facilities by Members, Owners and Occupiers

You must give Members, Owners and Occupiers access to use Shared Facilities located in your part of Wynyard Place:

- (a) by the most direct route or by the route nominated by the Committee acting reasonably; and
- (b) during the hours specified by this management statement or, if no time is specified, at all times.

29.6 Paying costs

You must pay all of your costs associated with gaining access to parts of Wynyard Place (unless the Committee is required to pay those costs under this management statement).

29.7 Rectifying damage

You must promptly rectify any damage you cause and leave the affected area of Wynyard Place clean and tidy when you exercise your rights of access.

29.8 Developer's rights

The Developer's rights to gain access to your part of Wynyard Place to carry out Development Works are explained in part 8 ("Development works, subdivision and replacement management statements").

30 Obligations for insurance

30.1 Actions that may increase premiums

You must not do anything which might void or prejudice insurances effected by the Committee or increase an insurance premium payable by the Committee, unless you first obtain consent from the Committee.

30.2 Paying for additional premiums

If you do anything which results in an increase in any insurance premium payable by the Committee, you must pay or reimburse the Committee the amount by which the premium is increased. If you are a Member, the Committee may add the amount to your Administrative Fund contribution.

30.3 Proceeds of building insurance claims

If you are a Member, you must:

- (a) for property damage apply any payments you receive under a building insurance policy effected by the Committee under clause 13 ("Insurance requirements") to rebuild or reinstate the damaged areas of your part of Wynyard Place; and
- (b) rebuild or reinstate your part of Wynyard Place within a reasonable time.

31 Fire safety and protection

31.1 What are your obligations?

You must:

- (a) immediately notify the Committee of any defect in or damage to a Fire Safety Device which comes to your attention; and
- (b) comply with laws about fire control; and
- (c) notify the Committee if you change the lock on the entry door to your Lot.

31.2 Keeping flammable materials

You may keep flammable materials in your Lot (other than in a carspace or a storage space forming part of your Lot) only if you use them in connection with the lawful use of your Lot and keep them in reasonable quantities according to the guidelines of Government Agencies.

31.3 Restrictions about fire safety

You must not:

- (a) interfere with, obstruct or damage Fire Safety Devices; or

- (b) do anything that will activate a Fire Safety Device unless there is a fire or other emergency in Wynyard Place; or
- (c) keep flammable materials on a Shared Facility or, if you are an Owners Corporation, on Common Property, unless that material is necessary for the operation of the Common Property or Shared Facility.

32 Step In Rights

32.1 Step In Rights

If a Member has the reasonable expectation that it will suffer material financial loss (for example a rent abatement provision under a sub lease or lease), or in the case of the Transit Hall Lot Owner, there is a material threat to:

- (a) the use of the Transit Hall Lot for railway purposes of the operation of the Transit Hall Lot, or Wynyard Station or the railway;
- (b) the safe operation of the Transit Hal Lot, or Wynyard Station or the railway; or
- (c) the safety of the Transit Hall Users, Wynyard Station or patrons,

directly arising from the Committee being in breach of its obligations under this management statement to repair and maintain a Shared Facility, then that Member (or its authorised representatives) may step in and repair or maintain the Shared Facility on behalf of the Committee, provided the Member has given the Committee 2 Business Days' notice of its intention to do so and the Committee has failed within that period to then take reasonable steps to remedy its breach.

32.2 Cost recovery

A Member can recover from the Committee the reasonable costs it incurs in repairing or maintaining the Shared Facility under clause 32.1 ("Step In rights").

32.3 Access rights

- (a) A Member (or its authorised representatives) who exercises the rights granted under clause 32.1 ("Step In rights") has the right to access the Shared Facility and carry out repair and maintenance as required on the terms of clause 17 ("Committee's power to gain access to Shared Facilities") as if references to the "Committee" are references to "the Member".
- (b) In exercising its rights under this clause 32, the Member must:
 - (i) ensure that all work is done properly;
 - (ii) cause as little interference as is reasonably practicable to any Occupier; and
 - (iii) cause as little damage as is reasonably possible to the relevant Owner's Lot and any improvements on it.

Wynyard Place Building Management Statement

Part 4

Meeting procedures and resolutions

33 Meetings of the Committee

33.1 Types of meetings

The two types of meetings of the Committee are Meetings and Emergency Meetings.

33.2 Meetings

The Committee must convene a Meeting at least every six months (starting from the date which is six months after the first meeting of the Committee) or earlier if:

- (a) the Committee resolves to hold the Meeting; or
- (b) the Manager decides it is necessary to have a Meeting (if the Committee has delegated that function to the Manager); or
- (c) a Member who is a Member Entitled To Vote makes a written request to the Committee to convene a Meeting; or
- (d) it is necessary to appoint a replacement Officer.

At a Meeting, the Committee may deal with matters which require a Resolution, Shared Facilities Resolution or Unanimous Resolution.

33.3 Emergency Meetings

The Committee may convene an Emergency Meeting:

- (a) if there is an emergency or other urgent matter that must be determined by the Committee; and
- (b) if, in the reasonable opinion of the person convening the Emergency Meeting, it is impractical to wait the required notice period for a Meeting.

At an Emergency Meeting, the Committee may deal only with matters which require a Resolution.

33.4 Who convenes meetings?

A Meeting or an Emergency Meeting may be convened by:

- (a) the Secretary or another Officer if the Secretary is absent or unable to convene the meeting; or
- (b) the Manager (if the Committee has delegated that function to the Manager).

34 Notices and agendas for meetings

34.1 Information to be included in the notice

Each Member must be notified of any Meeting and, to the extent practicable, any Emergency Meeting. The notice must include the time, date and venue of the meeting and an agenda for the meeting.

34.2 Agenda for a Meeting

The agenda for a Meeting must:

- (a) include the terms of motions for Resolutions, Unanimous Resolutions or Shared Facility Resolution for the matters to be dealt with at the Meeting; and
- (b) identify which motions require Resolutions, Unanimous Resolutions and Shared Facility Resolution; and
- (c) include motions that any Member or Owner has requested the Committee in writing to include on the agenda for the next Meeting; and
- (d) be accompanied by a copy of the minutes of the last Meeting and Emergency Meeting; and
- (e) include a motion to adopt the minutes of the last Meeting and Emergency Meeting.

34.3 No voting on matters not on the agenda

The Committee cannot vote on matters that are not on the agenda for a Meeting.

34.4 Agenda for an Emergency Meeting

The agenda for an Emergency Meeting must include:

- (a) details of the emergency and the actions proposed to be taken to deal with it; and
- (b) include the terms of the motions for Resolutions to take those actions.

34.5 Information to be included in the notice of a Meeting to consider levy contributions

If you convene a Meeting to determine Administrative Fund contributions or Sinking Fund contributions, you must include with the notice of the Meeting:

- (a) the budget prepared by the Committee; and
- (b) the current audit report prepared by the Committee according to clause 49 ("Preparing financial statements"); and
- (c) the current audited financial statement prepared by the Committee according to clause 49 ("Preparing financial statements").

35 How to give notice of a meeting

35.1 How much notice is required for a Meeting?

If you convene a Meeting, you must give each Member at least five Business Days' notice of the Meeting.

35.2 How to serve notice of a Meeting

A notice for a Meeting must be served by:

- (a) delivering it personally to the Member; or
- (b) sending it to the Current Address of the Member (including by post or electronically); or

- (c) sending it to the Current Fax Number of the Member; or
- (d) a combination of the above methods.

35.3 Giving notice of an Emergency Meeting

If you convene an Emergency Meeting, you may:

- (a) give each Member notice of the Emergency Meeting by the best method reasonably determined by you in the circumstances (for example, by telephone); and
- (b) give the amount of notice of the Emergency Meeting reasonably determined by you in the circumstances.

35.4 How to service notice of an Emergency Meeting

A notice for an Emergency Meeting must be served by:

- (a) delivering it personally to the Member; or
- (b) contacting the Representative or Substitute Representative of the Member by telephone and reading them the notice for the Emergency Meeting; or
- (c) a combination of the above methods.

36 Procedures for holding meetings

36.1 Conducting a Meeting or Emergency Meeting

Subject to this management statement, the Committee may meet to conduct its business, adjourn and otherwise regulate Meetings and Emergency Meetings as it thinks fit.

36.2 Quorum for a meeting

A quorum must be present at a Meeting or Emergency Meeting before the Committee may vote on any motions. A quorum for a Meeting or an Emergency Meeting is the Representatives or Substitute Representatives of at least two Members.

36.3 Failure to obtain a quorum

If a quorum is not present within 30 minutes after a Meeting or Emergency Meeting is due to commence, the Committee must adjourn the Meeting or Emergency Meeting to a time and place determined by the Chairperson at the Meeting or Emergency Meeting.

36.4 Notice of adjourned meetings

If a Meeting or Emergency Meeting is adjourned, the person who convened the Meeting or Emergency Meeting must give notice of the adjournment to each Member at least two Business Days before the adjourned Meeting or Emergency Meeting is due to be held.

36.5 Quorums at adjourned meetings

A quorum at an adjourned Meeting or Emergency Meeting is either:

- (a) the Representatives or Substitute Representatives of at least two Members; or

- (b) the Representatives or Substitute Representatives present at the Meeting or Emergency Meeting within 15 minutes after the meeting is due to commence.

36.6 Determining a quorum

In determining whether there is a quorum under this clause 36, a person who is present at the Meeting or Emergency Meeting and entitled to vote as a Representative, Substitute Representative or a proxy must be counted.

36.7 Attendance at a Meeting

An Owner may attend a Meeting. However, they may address the Meeting only with the consent of the Committee.

36.8 Special provisions for Meetings held in writing

The Committee may hold a Meeting in writing and Representatives and Substitute Representatives for Members Entitled to Vote may vote in writing if the person who convenes the Meeting:

- (a) serves notice of the Meeting according to this management statement; and
- (b) gives each Member a voting paper with the notice for the Meeting; and
- (c) receives the completed voting papers signed by the required Members or number of Members before the Meeting is due to commence.

36.9 How to cast a vote at an Emergency Meeting

A Member, or Representative or Substitute Representative (as applicable) may cast a vote at an Emergency Meeting to the person who convened the meeting:

- (a) by telephone; or
- (b) personally; or
- (c) by post or fax to the Current Address of the person.

36.10 Minutes of meetings

If you convene a Meeting or an Emergency Meeting, you must distribute minutes of the meeting to both Members within ten Business Days after it is held.

37 Voting rights of Members

37.1 Voting rights of Members

You are entitled to vote at Meetings and Emergency Meetings only if you are a Member Entitled to Vote. Your Representative or Substitute Representative or their proxy may cast your vote.

37.2 How many votes does each Member have?

Subject to this clause 37, each Member Entitled to Vote has one vote at a Meeting or an Emergency Meeting. [**KWM NOTE: Value of voting rights to be considered further**]

37.3 Restrictions on voting

The following restrictions apply to voting at Meetings and Emergency Meetings:

- (a) the Chairperson does not have a casting vote; and

- (b) the Manager does not have a vote unless it is a Representative or a Substitute Representative (or their duly appointed proxy); and
- (c) the Facilities Manager does not have a vote unless they are a Representative or a Substitute Representative (in their duly appointed proxy).

37.4 Instructions by a Member

A Representative or Substitute Representative (or proxy) for a Member Entitled to Vote must vote at a Meeting or an Emergency Meeting according to any instructions given by the Member which appointed them (or by the executive committee of that Member).

37.5 Instructions by an Owners Corporations

- (a) An Owners Corporation may appoint a Representative or Substitute Representative by proxy and the provisions of the Strata Schemes Management Act apply to the proxy instrument.
- (b) If, following receipt of a notice of Meeting or Emergency Meeting:
 - (i) a Member which is an Owners Corporation does not convene a meeting of the Owners Corporation or a meeting of the executive committee to determine how to Vote on a Resolution; and
 - (ii) as a result of a meeting referred to in clause 37.5(b)(i) not being convened, the Member is not able to Vote on a relevant Resolution,

then that Member will be deemed not to be a Member Entitled to Vote on the relevant Resolution.

38 Appointing a proxy

38.1 Who may appoint a proxy?

You may appoint a proxy if you are:

- (a) a Member; or
- (b) a Representative or Substitute Representative if the Member which appointed you has authorised you to appoint a proxy according to clause 22.5 ("Proxies").

38.2 Who may be a proxy?

A proxy must be a natural person.

38.3 How to appoint

Subject to this clause 38, you may appoint a proxy at any time provided that:

- (a) you make the appointment on a Proxy Form; and
- (b) you and the proxy sign the Proxy Form; and
- (c) you deliver the signed Proxy Form to the Manager prior to the commencement of the first Meeting or Emergency Meeting at which the proxy may vote.

38.4 Instructions about voting

You may include in the Proxy Form instructions to your proxy about how to vote. A vote by your proxy in contravention of your instructions is invalid.

38.5 Restrictions on voting

Your proxy cannot vote at a Meeting or an Emergency Meeting if you (or your Representative or Substitute Representative) cast a vote.

39 Resolutions at Meetings and Emergency Meetings

39.1 What is a Resolution?

Resolutions relate to a number of administrative and other matters which do not affect Shared Facilities.

39.2 Who may vote on a Resolution?

You are entitled to vote on a Resolution if you are a Member Entitled to Vote.

39.3 When is a Resolution passed?

A Resolution is decided according to the majority of votes for or against the motion.

39.4 Matters requiring Resolutions

The matters which the Committee may determine by Resolution are:

- (a) appointing or terminating the appointment of a Manager, Facilities Manager or Service Contractor (or an agent of the Committee); and
- (b) effecting insurances; and
- (c) establishing the Administrative Fund and determining contributions for that fund; and
- (d) establishing the Sinking Fund and determining contributions for that fund.

40 Special Resolutions at Meetings

40.1 Who may vote on a Special Resolution?

You are entitled to vote on a Special Resolution if you are a Member Entitled to Vote. See the definition of Member Entitled to Vote in clause 86 ("Definitions").

40.2 When is a Special Resolution passed?

A motion which requires a Special Resolution is passed if not more than one quarter in value of votes is cast against the motion by Members Entitled to Vote.

40.3 Matters requiring Special Resolutions

Subject to the obligations of Members under part 8 ("Development Works, subdivisions and replacement management statements"), the Committee may make rules by Special Resolution (see clause 8.5 ("Making Rules")).

40.4 Special Resolutions not to contravene any law

Any decision of the Committee made by Special Resolution is deemed void and of no effect to the extent it is in contravention of any applicable law (including the Subdivision Legislation).

41 Unanimous Resolutions at Meetings

41.1 Who may vote on a Unanimous Resolution?

You are entitled to vote on a Unanimous Resolution if you are a Member Entitled to Vote.

41.2 When is a Unanimous Resolution passed?

A motion which requires a Unanimous Resolution is passed if no Member Entitled to Vote votes against the motion.

41.3 Matters requiring Unanimous Resolutions

Subject to the obligations of Members under part 8 ("Development Works, subdivisions and replacement management statements"), the matters which the Committee may determine only by Unanimous Resolution are:

- (a) amending, adding to or repealing all or part of this management statement; and
- (b) repaying surplus Administrative Funds or Sinking Funds according to clause 53 ("Dealing with surplus funds"); and
- (c) amending, adding to or repealing clause 50 ("Paying contributions"); and
- (d) any other matters which, according to this management statement, the Committee must decide by Unanimous Resolution.

42 Ordinary Shared Facility Resolutions at Meetings

42.1 Who may vote on an Ordinary Shared Facility Resolution?

You are entitled to vote on an Ordinary Shared Facility Resolution if you are a Member Entitled to Vote. See the definition of Member Entitled to Vote in clause 86 ("Definitions").

42.2 When is an Ordinary Shared Facility Resolution passed?

An Ordinary Shared Facility Resolution is decided according to the majority of votes for or against the motion.

42.3 Matters decided by Ordinary Shared Facility Resolution

Subject to the obligations of Members under part 8 ("Development Works, subdivisions and replacement management statements"), the matters which the Committee may determine by Ordinary Shared Facility Resolution are those matters set out in clause 56.5 ("Decisions regarding Shared Facilities – Ordinary Shared Facility Resolution").

42.4 Ordinary Shared Facility Resolutions not to contravene any law

Any decision of the Committee made by Ordinary Shared Facility Resolution is deemed void and of no effect to the extent it is in contravention of any applicable law (including the Subdivision Legislation).

43 Special Shared Facility Resolutions at Meetings

43.1 Who may vote on a Special Shared Facility Resolution?

You are entitled to vote on a Special Shared Facility Resolution if you are a Member Entitled to Vote. See the definition of Member Entitled to Vote in clause 86 ("Definitions").

43.2 When is a Special Shared Facility Resolution passed?

A motion in relation to a Shared Facility which requires a Special Shared Facility Resolution is passed at a Meeting if not more than one quarter value of votes is cast against the motion by Members Entitled to Vote.

43.3 Matters decided by Special Shared Facility Resolution

Subject to the obligations of Members under part 8 ("Development Works, subdivisions and replacement management statements"), the matters which the Committee may determine by Special Shared Facility Resolution are those matters set out in clause 56.4 ("Decisions regarding Shared Facilities – Special Shared Facility Resolution").

43.4 Special Shared Facility Resolutions not to contravene any law

Any decision of the Committee made by Special Shared Facility Resolution is deemed void and of no effect to the extent it is in contravention of any applicable law (including the Subdivision Legislation).

44 Unanimous Shared Facility Resolutions at Meetings

44.1 Who may vote on a Unanimous Shared Facility Resolution?

You are entitled to vote on a Unanimous Shared Facility Resolution if you are a Member Entitled to Vote. See the definition of Member Entitled to Vote in clause 86 ("Definitions").

44.2 When is a Unanimous Shared Facility Resolution passed?

A motion in relation to a Shared Facility which requires a Unanimous Shared Facility Resolution is passed at a Meeting if no Member Entitled to Vote votes against the motion.

44.3 Matters decided by Unanimous Shared Facility Resolution

Subject to the obligations of Members under part 8 ("Development Works, subdivisions and replacement management statements"), the matters which the Committee may determine by Unanimous Shared Facility Resolution are those matters set out in clause 56.3 ("Decisions regarding Shared Facilities – Unanimous Shared Facility Resolution").

44.4 Unanimous Shared Facility Resolutions not to contravene any law

Any decision of the Committee made by Unanimous Shared Facility Resolution is deemed void and of no effect to the extent it is in contravention of any applicable law (including the Subdivision Legislation).

Wynyard Place Building Management Statement

Part 5 Financial management

45 What funds must the Committee establish?

45.1 Administrative Fund

The Committee must establish and maintain an Administrative Fund within one month after this management statement is registered. The Committee must use the Administrative Fund to pay the day-to-day expenses of operating and maintaining Shared Facilities, insurance costs, administrative costs, the [Transit Hall Levy] and other costs which are not Sinking Fund costs.

45.2 Sinking Fund

The Committee must establish and maintain a Sinking Fund within one month after the Management Statement is registered. The Committee must use the Sinking Fund to pay for the renewal and replacement of Shared Facilities.

45.3 What money is paid into the Administrative Fund?

The Committee must pay into the Administrative Fund:

- (a) Administrative Fund contributions; and
- (b) payments the Committee receives for inspections of its records under clause 15 ("Inspecting the Committee's records"); and
- (c) payments the Committee receives for providing Outstanding Levy Certificates; and
- (d) amounts paid to the Committee by way of discharge of claims for insurances effected by the Committee; and
- (e) any payments the Committee receives under the Easements.

45.4 What money is paid into the Sinking Fund?

If the Committee establishes a Sinking Fund, the Committee must pay into the Sinking Fund:

- (a) Sinking Fund contributions; and
- (b) other money received by the Committee which it does not have to pay into its Administrative Fund according to clause 45.3 ("What money is paid into the Administrative Fund?").

46 Financial Years

46.1 First Financial Year

The first Financial Year of the Committee commences on the date of registration of this management statement and ends on the date resolved by the Committee (which must not be more than 18 months after the date of registration of this management statement).

46.2 Subsequent Financial Years

Subsequent Financial Years commence at the expiration of the previous Financial Year and end on the date resolved by the Committee (which must not be more than 18 months after the expiration of the last Financial Year).

47 Preparing budgets

47.1 When to prepare budgets

The Committee must prepare a budget for each Financial Year in respect of the Administrative Fund and the Sinking Fund.

47.2 What information must be included in a budget?

A budget must show:

- (a) how much money the Committee estimates it will need during the Financial Year for the Administrative Fund and where applicable, the Sinking Fund; and
- (b) income the Committee estimates it will receive in the Financial Year for the Administrative Fund and Sinking Fund; and
- (c) the proportion (and the amount) which each Member must contribute to each Shared Facility for the Financial Year; and
- (d) where contributions are calculated according to metered readings, the amount which the Committee estimates each Member will have to pay according to the metered reading.

47.3 How much to budget

The Committee must budget enough money and must be based on an estimate of the costs and expenditures to comply with its obligations under this management statement, the Subdivision Legislation and the Easements.

48 Determining contributions

48.1 Levying Members

The Committee must levy Members the contributions it will need for its Administrative Fund and where applicable, the Sinking Fund for each Financial Year. The Committee may decide to levy contributions for a shorter or longer period provided that it prepares a budget for that period according to clauses 47.2 ("What information must be included in a budget") and 47.3 ("How much to budget").

48.2 What proportion of costs you must pay

If you are a Member, the proportion of Administrative Fund and Sinking Fund contributions you must pay is calculated by reference to the formula contained in schedule 2 ("Formula for contribution to Shared Facilities"). The formula in schedule 2 is a dynamic formula and gives a different result over the duration of the Development Period as each stage of Wynyard Place is completed. [KWM

NOTE: This clause may change depending on the form of schedule 2]

48.3 Broken periods

Where there are changes in facts and circumstances that result in the formula in schedule 2 ("Formula for contribution to Shared Facilities") giving a different result (for example, as Development Works for a stage are completed), the changed contributions resulting from the application of the formula in schedule 2 ("Formula for contribution to Shared Facilities") to the changed facts and

circumstances will apply to the next succeeding periodic contributions payable by Members and do not change the contributions applicable to the period during which the changes in facts and circumstances arise.

48.4 Procedures for determining contributions

When the Committee determines Administrative Fund and where applicable, the Sinking Fund contributions, it must determine whether you must pay the contributions in a lump sum or by instalments and the dates on which you must pay your contributions.

48.5 Determining the amount of contributions

The amount of contributions determined by the Committee:

- (a) for the Administrative Fund, must be the amount determined by the Committee in the budget for the Administrative Fund; and
- (b) for the Sinking Fund, must be the amount determined by the Committee in the budget for the Sinking Fund.

48.6 Committee to keep schedule reflecting allocation of costs under schedule 2 ("Formula for contribution to Shared Facilities")

To reflect the fact that the formula in schedule 2 ("Formula for contribution to Shared Facilities") is a dynamic formula and gives a different result over the duration of the Development Period. As each stage of Wynyard Place is completed, the Committee must maintain a schedule identifying each Member's proportional contribution to each category of Shared Facilities listed in schedule 2 ("Formula for contribution to Shared Facilities"), and must update that schedule each time a Member's proportion changes.

48.7 Insufficient funds

Subject to clause 48.9 ("Determining contributions at an Emergency Meeting"), the Committee must determine:

- (a) additional contributions to the Administrative Fund if it cannot (or will not be able to) pay its Administrative Fund debts during the Financial Year; and
- (b) additional contributions to the Sinking Fund (if a Sinking Fund is established) if it cannot (or will not be able to) pay its Sinking Fund debts during the Financial Year.

48.8 Budget where there are insufficient funds

Subject to clause 48.9 ("Determining contributions at an Emergency Meeting"), before the Committee determines an additional contribution it must prepare and adopt a budget for the period covered by the additional contribution.

48.9 Determining contributions at an Emergency Meeting

If the Committee proposes to raise an Administrative Fund or Sinking Fund contribution at an Emergency Meeting, the Committee need not prepare a budget for the contribution.

49 Preparing financial statements

49.1 Obligations of the Committee

Within two months after the end of each Financial Year, the Committee must:

- (a) have its accounts for that Financial Year audited by a qualified auditor; and
- (b) prepare a financial statement for each of its accounts for that Financial Year; and
- (c) as soon as practical provide each Member with a copy of the financial statements.

49.2 Information to be included in a financial statement

A financial statement must show for each of the Administrative Fund and the Sinking Fund:

- (a) a statement of income and expenditure during the Financial Year; and
- (b) the balance carried forward from the Financial Year; and
- (c) particulars and amounts of each item of income during the Financial Year; and
- (d) particulars and amounts of each item of expenditure during the Financial Year; and
- (e) the cash in the fund at the end of the Financial Year; and
- (f) the balance of the fund at the end of the Financial Year; and
- (g) contribution arrears for each Member at the end of the Financial Year; and
- (h) the amount of credit or debit in the fund at the end of the Financial Year; and
- (i) any other relevant information.

50 Paying contributions

50.1 Notices of contributions

If you are a Member, the Committee must give you at least 20 Business Days' notice before your Administrative Fund or Sinking Fund contribution is due. The notice must show for each of the Administrative Fund and Sinking Fund:

- (a) the total contribution to be raised; and
- (b) the portion of the contribution which you must pay in accordance with clause 48; and
- (c) the date by which you must make the payment.

50.2 Raising funds in an emergency

If the Committee has to raise funds in an emergency, it may give you less than 20 Business Days' notice of the contribution.

51 Banking money and interest on accounts

51.1 Establishing a bank account

The Committee must:

- (a) establish and maintain a bank or building society account or accounts in the names of the Members; and
- (b) deposit all contributions and other money paid to the Committee into its bank or building society accounts.

51.2 Withdrawing money

The Committee may only withdraw money from its accounts to comply with this management statement.

51.3 Trust account

Subject to clause 51.4 ("Interest bearing accounts"), the Committee may require any Manager to deposit and hold its funds in a trust account established under the Property Stock and Business Agents Act 1941 (NSW).

51.4 Interest bearing accounts

The Committee may place money in an interest bearing deposit account at a bank or building society. If the account earns interest, the Committee may:

- (a) credit it to one of the accounts of the Committee; or
- (b) pay it to the Members according to clause 53 ("Dealing with surplus funds").

52 Late payments

52.1 Interest

If you are a Member, you must:

- (a) pay the Committee interest on any amount you owe the Committee under this management statement but do not pay on time; and
- (b) pay interest from (and including) the date on which the payment was due until the date it is paid.

52.2 Calculating interest

The Committee must calculate interest on daily balances at the rate equal to 2% per annum above the overdraft rate quoted by the bank or building society of the Committee.

52.3 Certificates about interest rates

A certificate about interest rates given to you by the Committee's bank or building society is conclusive evidence of the interest rate in clause 52.2 ("Calculating interest").

52.4 Recovering unpaid contributions

The Committee may recover unpaid contributions and other money owed to it under this management statement as a debt payable on demand.

53 Dealing with surplus funds

53.1 Distributing surplus funds

If there is surplus money in the Administrative Fund or Sinking Fund at the end of a Financial Year, the Committee may by Unanimous Resolution distribute it between the Members in shares decided by the Committee according to this clause 53.

53.2 Considerations

When deciding the shares for the distribution of surplus money according to this clause 53, the Committee must have proper regard to the proportions in which each Member contributed to the surplus funds.

54 Paying contributions when there is a Dispute

54.1 What are your obligations?

You are not excused from paying your Administrative Fund contributions, Sinking Fund contributions or other amounts you owe the Committee under this management statement because you have a Dispute or a disagreement with the Committee (for example, a Dispute about the amount of a payment).

54.2 Continuing payments

If you have a Dispute with the Committee about the amount of your Administrative Fund or Sinking Fund contributions, you must continue to pay your contributions at the rate determined according to this management statement. After the Dispute is resolved, you and the Committee must pay each other any necessary adjustments.

54.3 Your rights are not affected

Your rights against the Committee are not affected if you continue to pay Administrative Fund and Sinking Fund contributions according to clause 54.2 ("Continuing payments").

Wynyard Place Building Management Statement

Part 6 Shared Facilities

55 Overview of Shared Facilities

55.1 What are they?

There are a number of facilities and services in Wynyard Place that are used by two or more Members or located on the land of a Member but used by another Member or Members. These facilities and services are called Shared Facilities.

55.2 What do Shared Facilities include?

Subject to clause 55.5 ("Availability of Shared Facilities"), Shared Facilities and costs for Shared Facilities include:

- (a) the Shared Facilities in schedule 1 ("Indicative list of Shared Facilities") that service or benefit more than one Member; and
- (b) any part of Wynyard Place which gives access to a Shared Facility by the most direct route; and
- (c) plant and equipment which constitute a Shared Facility; and
- (d) pipes, wires, cables and ducts which are connected to or form part of a Shared Facility, but excluding any of those things which exclusively service a Member's part of Wynyard Place; and
- (e) any rooms or areas in which Shared Facilities are located; and
- (f) the maintenance, repair, operation, cleaning and replacement of Shared Facilities; and
- (g) new, replaced or upgraded Shared Facilities; and
- (h) parts or consumables used in the maintenance, repair, operation, cleaning and replacement of Shared Facilities; and
- (i) labour used in the maintenance, repair, operation, cleaning and replacement of Shared Facilities; and
- (j) the inspection of Shared Facilities (if applicable) by a Government Agency; and
- (k) the certification of Shared Facilities for the purposes of any law.

55.3 How do I know if a facility or service is a Shared Facility?

Shared Facilities are defined flexibly, reflecting that they may vary from time to time as Wynyard Place is developed.

To enable Members and Owners and Occupiers to know what is and what is not a Shared Facility, the Committee must maintain as a part of the Committee's official records and keep updated:

- (a) a Shared Facilities Register;

- (b) a Shared Facilities Plan; and
- (c) the proportional contribution that each Member must make from time to time under schedule 2 ("Formula for contribution to Shared Facilities") towards the costs of each Shared Facility including details of each variable used in the application of the formula in schedule 2 ("Formula for contribution to Shared Facilities").

55.4 Developer to provide Shared Facilities information to the Committee

Whilst the Developer is carrying out Development Works, the Developer must give to the Committee from time to time:

- (a) advice as to when any facility or service erected or installed by the Developer as part of the Development Works is commissioned and becomes shared by or benefits more than one Member; and
- (b) any information required to calculate contributions so that the Committee can keep the Shared Facilities Register up to date from time to time.

55.5 Availability of Shared Facilities

As part of the Development Works for Wynyard Place, the Developer may add to and augment Shared Facilities during the development and subdivision of Wynyard Place without complying with clause 56 ("Changing and adding to Shared Facilities"). This means that not all of the Shared Facilities identified in schedule 1 ("Indicative list of Shared Facilities") and this clause 55 will be available for use when this management statement is registered. If you are entitled to use a Shared Facility, you may do so only after the Developer notifies the Committee, according to clause 77.7 ("Notice when Shared Facilities complete"), that Development Works for the Shared Facility are complete.

See part 8 ("Development Works, subdivisions and replacement management statements") for more information.

55.6 Rights and obligations of the Committee

Subject to this management statement, the Committee must operate, manage, control, maintain, repair and replace Shared Facilities. The Committee may appoint and contract with parties to perform its functions in relation to Shared Facilities. See clause 8.4 ("Power to contract and make appointments") for more information.

55.7 Shared Facilities and Stratum Lots

Some items in Stratum Lots are designated in this management statement as Shared Facilities. If you are the Owner of a Stratum Lot, you authorise the Committee to perform its functions and exercise its rights under this management statement in respect of those items.

55.8 Who may use Shared Facilities?

The column titled "Member Benefited" in schedule 1 ("Indicative list of Shared Facilities") specifies which Members are entitled to use each Shared Facility. If a Member entitled to use a Shared Facility is:

- (a) an Owners Corporation, the Owners and Occupiers of Strata Lots in the Strata Scheme for the Owners Corporation are entitled to use the Shared Facility; and
- (b) the Owner of a Stratum Lot, the Occupiers of the Stratum Lot are entitled to use the Shared Facility.

Your entitlement to use Shared Facilities is subject to clause 55.5 ("Availability of Shared Facilities").

55.9 When can you use Shared Facilities?

- (a) If you are entitled to use a Shared Facility, you may do so at all times unless this management statement specifies otherwise.
- (b) You may use Shared Facilities you are entitled to use as designated under clause 55.8 ("Who may use Shared Facilities?") in accordance with the following arrangements:
 - (i) your use is in common with other Members who are entitled to use that Shared Facility and is not exclusive use; and
 - (ii) your use may not unreasonably exclude any other Members who are entitled to use that Shared Facility; and
 - (iii) you may only use the Shared Facility for the use for which it is designed and installed and subject to the design and operational tolerances, methods and recommendations; and
 - (iv) your use must not endanger the health or safety of any Owner, or safety of any Owner, Occupier or visitor to Wynyard Place; and
 - (v) you must comply with the Rules and the reasonable requirements from time to time of the Committee.

55.10 Easements

Several Shared Facilities are the subject of Easements. The Committee and each Member agrees in favour of each Grantor to perform their functions and exercise the right of the Grantor according to the Easement affecting Shared Facilities. Each Grantor agrees that the Committee may exercise their rights and perform the functions of the Grantor under the relevant Easement.

56 Changing and adding to Shared Facilities

56.1 Interpreting this clause

This clause 56 is subject to the Developer's rights to carry out Development Works and to clause 55.5 ("Availability of Shared Facilities").

56.2 Motions in respect of Shared Facilities

All motions proposed in respect of new or extended Shared Facilities must:

- (a) indicate whether the relevant Shared Facility is classified (or, in the case of new or additional Shared Facilities, is to be classified) as an Optional Shared Facility or an Essential Shared Facility; and **[KWM NOTE: Only to be included if the concept of Optional/Essential Shared Facility is adopted]**
- (b) be accompanied by an expert's report, obtained by and at the cost of the Member or Members proposing the motion, that sets out:
 - (i) the estimated level of usage of the Shared Facility by each Member Benefitted;
 - (ii) the proposed cost apportionment for the Shared Facility; and

- (iii) the estimated costs of operating and maintaining the Shared Facility.

56.3 Decisions regarding Shared Facilities – Unanimous Shared Facility Resolution

- (a) The Committee may, by Unanimous Shared Facility Resolution:
 - (i) create new Shared Facilities; and
 - (ii) change the Members Benefited by Essential Shared Facilities.
- (b) If a Unanimous Shared Facility Resolution is not passed to create a new Shared Facility under clause 56.3(a)(i), Members who vote in favour of adding a new shared facility can install the new shared facility on the basis of clause 56.10 ("Member Upgrades to Shared Facilities") except that references to "Upgrade" will be a reference to "installing a new Shared Facility" and clause 56.10(a)(iii) will not apply.

56.4 Decisions regarding Shared Facilities – Special Shared Facility Resolution

The Committee may by Special Shared Facility Resolution:

- (a) add Shared Facilities to the Shared Facilities Table if it identifies existing Shared Facilities that have not already been included in the Shared Facilities Table;
- (b) change or extend existing Shared Facilities (including by way of Upgrade or Substitution) with the consent of the Member in whose Strata Scheme or Stratum Lot the Shared Facility is located; and
- (c) remove redundant Shared Facilities.

56.5 Decisions regarding Shared Facilities – Ordinary Shared Facility Resolution

The Committee may, by Ordinary Shared Facility Resolution:

- (a) pass any motion regarding a matter that does not require a Unanimous Shared Facility Resolution or a Special Shared Facility Resolution; and
- (b) determine to change the apportionment of costs for a Shared Facility in accordance with clause 56.6 ("Changing the apportionment of costs for Shared Facilities").

56.6 Changing the apportionment of costs for Shared Facilities

- (a) The apportionment of costs for a Shared Facility may only be changed in accordance with this clause 56.6.
- (b) Subject to paragraph (a), if:
 - (i) the Committee passes an Ordinary Shared Facility Resolution to conduct a review of the apportionment of costs for a Shared Facility; or
 - (ii) a Member Benefitted provides a written request to the Committee to review the apportionment of costs for that Shared Facility,

the Committee must obtain a Cost Review Report in respect of the relevant Shared Facility.

(c) The Cost Review Report must describe:

- (i) the estimated level of usage of the Shared Facility by each Member Benefitted or if there is accurate information available as to the usage of the Shared Facility over the immediately preceding 3 years, then describing this information and otherwise must describe the apportionment method applicable to the Shared Facility as set out in the Shared Facilities Table; and
- (ii) the proposed cost apportionment for the Shared Facility, based on the level of usage of the Shared Facility or other apportionment method as described in accordance with clause 56.6(c)(i); and
- (iii) the estimated costs of operating and maintaining the Shared Facility; and
- (iv) the time cost of the money amounts under consideration; and
- (v) the review of the quantum of costs and proportion of costs; and
- (vi) the proposed method of implementation of the review findings.

(d) Subject to clauses 56.6(e) and 56.6(f), each Member Benefitted by the Shared Facility must contribute to the cost of the Cost Review Report in the same proportion as those Members are liable to contribute to the costs of that Shared Facility prior to the review and included in the next levy notice.

(e) Subject to clause 56.6(f), where, following application of the findings of:

- (i) a Cost Review Report; or
- (ii) where applicable, the dispute resolution process under clause 80 ("How to resolve Disputes"),

there is no change to the apportionment of the costs in relation to a Shared Facility, the Member Benefitted who requested the review must pay all of the costs of the Cost Review Report.

(f) If a Member requests a Cost Review Report in respect of a Shared Facility and that Member has, within the 12 month period prior to that request, on one or more occasions requested a Cost Review Report for the same Shared Facility, then where, following application of the findings of:

- (i) the Cost Review Report; or
- (ii) where applicable, the dispute resolution process under clause 80 ("How to resolve Disputes"),

the Member Benefitted's proportion of the costs in relation to a Shared Facility is not less than 95% of the proportion that was payable by that Member following the last Cost Review Report it requested in respect of that Shared Facility, the Member Benefitted who requested the review must pay all of the costs of the Cost Review Report.

- (g) Within 10 Business Days after receiving the Cost Review Report, the Committee must provide all Members Benefitted by that Shared Facility with a copy of the Cost Review Report.
- (h) If a Member Benefitted by a Shared Facility which is the subject of a Cost Review Report disputes the findings of the Cost Review Report, that Member may within 25 Business Days after receiving a copy of the Cost Review Report serve on the Committee:
 - (i) a report prepared by an expert consultant (which that Member must obtain at its own cost); and
 - (ii) a Dispute notice under clause 80 ("How to resolve Disputes"),
 in which case the dispute resolution provisions in clause 80 ("How to resolve Disputes") will apply to determine the apportionment of costs with respect to the relevant Shared Facility.
- (i) Subject to clause 56.6(j), the Committee must 25 Business Days after the date it complies with clause 56.6(g), amend the cost apportionment (if required) in the Shared Facilities Register and this management statement to reflect the recommendations of the Expert in the Cost Review Report for that Shared Facility.
- (j) If a Member Benefitted does give a Dispute notice in relation to the Cost Review Report in accordance with clause 56.6(h), the Committee must (if required) amend the cost apportionment in respect of the relevant Shared Facility in the Shared Facilities Register and this management statement to reflect the outcome of the dispute resolution procedures under clause 80 ("How to resolve Disputes").

56.7 Metering

The Committee must:

- (a) ensure that the Shared Facilities whose costs are apportioned on a metered or measured usage basis under Shared Facilities Table are separately metered or measured to the extent reasonably practicable (having regard to the cost of implementing any such metering or measurement systems) in order to determine the relative usage by each Member of the relevant Shared Facility; and
- (b) resolve to change the apportionment of costs for a Shared Facility if a metering or measurement system is able to be adopted in accordance with clause 56.7(a) which enables the costs of the Shared Facility to be separately measured and charged to each Member Benefitted.

56.8 Obligations of Members

- (a) If you are a Member, you must agree to amend schedule 1 ("Indicative list of Shared Facilities") to reflect anything the Committee resolves to do under this clause 56.
- (b) If you are a Member, you must permit the Retail Lot Owner to do anything it is required to do under part 7 ("Transit Hall Rights and Obligations").

56.9 Replacements or additions to Shared Facilities

- (a) If a:

- (i) Special Shared Facility Resolution is passed to Upgrade, Substitute or replace a Shared Facility; or
- (ii) Unanimous Shared Facility Resolution is passed to add a Shared Facility, then

the cost of Upgrading, Substituting, replacing or adding the Shared Facility are to be paid by the Members Entitled to Vote on the resolution in accordance with:

- (iii) the proportion of cost contributions that each Member Entitled to Vote pays in respect of that Shared Facility (as set out in the Shared Facilities Table); or
 - (iv) if the relevant Resolution provides for the costs to be apportioned in a manner other than in accordance with clause 56.9(a)(iii), in the manner set out in the Resolution.
- (b) Clause 17 ("Committee's power to gain access to Shared Facilities") applies to the Upgrading, Substitution, replacement or adding of a Shared Facility and the Committee must comply with the reasonable directions of the Member in whose Lot or Common Property, the Shared Facility is located or will be located as the case may be.

56.10 Member Upgrades to Shared Facilities

- (a) If a Member or Members wish to Upgrade an existing Shared Facility, and the required Resolution is not passed, the Member or Members may Upgrade the Shared Facility on the following conditions:
- (i) the Member in whose Lot or Common Property the Shared Facility is located consents to the Upgrade (acting reasonably), such consent only to be required if the Upgrade would:
 - (A) require the allocation of additional space from the Member's Lot or Common Property to enable the Upgrade to the Shared Facility; or
 - (B) have an adverse material impact on the usual operation of that Member's Lot or Common Property once the Upgrade has occurred;
 - (ii) the cost of Upgrading the Shared Facility is the responsibility of the Member or Members who elect to make the installation under this clause;
 - (iii) the Member or Members who elect to make the installation will be responsible for the increase in contributions to the Administrative Fund and Sinking Fund as a consequence of the Upgrade;
 - (iv) when accessing a Lot or Common Property to Upgrade a Shared Facility, the Member or Members must not unreasonably interfere with the use and enjoyment of another Member's or Occupier's use of a Lot and must comply with the reasonable directions of the Member in whose Lot or Common Property the Shared Facility is located;
 - (v) the Member or Members Upgrading the Shared Facility:

- (A) indemnifies the Owner of each Lot or Owners Corporation in respect of Common Property in which the Shared Facility is located and each Lot or Common Property which must be accessed from all liability and costs in connection with the relevant Shared Facility; and
- (B) will make good any damage caused to that Owner's Lot or to Common Property as a result of the Upgrade of the Shared Facility; and
- (vi) subject to this clause 56.10 and clause 56.11, all provisions of this management statement are applicable to an Upgraded Shared Facility, to the extent necessary.
- (b) For the purpose of clause 56.10(a)(iii), the increase in contributions will be calculated based on the difference between the actual expenditure and a reasonable estimation of what the expenditure would have been:
 - (i) until the time when the Shared Facility would have been replaced or the subject of a major capital repair, had the Shared Facility not been Upgraded; and
 - (ii) after the time when the Shared Facility would have been replaced or the subject of a major capital repair, had the Shared Facility been replaced at that time with comparable equipment with substantially similar specifications.

56.11 Use of Member upgraded Shared Facilities

If a Shared Facility is Upgraded in accordance with clause 56.10, the Member or Members who carry out the Upgrade may restrict other Members who elect not to participate in the Upgrade from the benefits of the Upgrade to that Shared Facility, so long as those Members who have not contributed to the Upgrade retain equivalent rights to the Shared Facility (including from a performance perspective) as prior to the Upgrade.

56.12 Member Substitution of Shared Facilities

- (a) If a Member or Members wish to procure the Substitution of an existing Shared Facility, and the required Resolution is not passed, the Member or Members may procure the Substitution of the Shared Facility on the following conditions:
 - (i) the Member in whose Lot or Common Property the Shared Facility is located consents to the Substitution (acting reasonably), such consent only to be required if the Substitution would:
 - (A) require the allocation of additional space from the Member's Lot or Common Property to the Shared Facility; or
 - (B) have an adverse material impact on the usual operation of that Member's Lot or Common Property once the Substitution has occurred;
 - (ii) subject to clause 56.12(b), the incremental cost of the Substitution of the Shared Facility is the responsibility of the Member or Members who elect to make the Substitution under this clause 56.12;

- (iii) when accessing a Lot or Common Property to procure the Substitution of a Shared Facility, the Member or Members must not unreasonably interfere with the use and enjoyment of another Member's or Occupier's use of a Lot and must comply with the reasonable directions of the Member in whose Lot or Common Property the Shared Facility is located;
- (iv) the Member or Members procuring the Substitution of the Shared Facility:
 - (A) indemnifies the Owner of each Lot or Owners Corporation in respect of Common Property in which the Shared Facility is located and each Lot or Common Property which must be accessed from all liability and costs in connection with the relevant Shared Facility; and
 - (B) will make good any damage caused to that Owner's Lot or to Common Property as a result of the Substitution of the Shared Facility; and
- (v) subject to this clause 56.12 and clause 56.13, all provisions of this management statement are applicable to a Shared Facility which has undergone a Substitution, to the extent necessary.
- (b) For the purpose of clause 56.12(a)(ii), the incremental cost of the Substitution of the Shared Facility will be the reasonable estimate of the additional cost that is incurred in bringing forward the time for the Substitution of the relevant Shared Facility, having regard to the time when the Shared Facility would have been replaced or the subject of a major capital repair, had the Shared Facility not been Substituted.

56.13 Use of Member Substituted Shared Facilities

If the Substitution of a Shared Facility is procured in accordance with clause 56.12, each Member retains the right to use and obligation to contribute to the maintenance of that Shared Facility (subject to any adjustment under clause 56.12(b)).

57 Using approved contractors

57.1 Overview

Many of the Shared Facilities in Wynyard Place are highly technical and affect other components in the development. As a result Shared Facilities, building works and services must be maintained to a high standard.

57.2 Obligations of the Committee

- (a) The Committee may appoint contractors to maintain Shared Facilities and carry out structural building works.
- (b) If it does so, the Committee must give each Member a list of current approved contractors and you must use those approved contractors.

58 Damage to Shared Facilities

58.1 What are your obligations?

You must:

- (a) immediately notify the Committee if you know about damage to or a defect in a Shared Facility; and
- (b) compensate the Committee for any damage to Shared Facilities caused by you, your visitors or persons doing work in Wynyard Place on your behalf.

58.2 No interference

You must not interfere with or use Shared Facilities other than according to this management statement.

59 Security control at Wynyard Place

59.1 An integrated security system

Security at Wynyard Place is important to all Members, Owners and Occupiers. To maintain an integrated security system, this management statement regulates access and security issues and the use of security equipment (eg the provision of Security Keys and Security Services).

59.2 Restricting access to and monitoring parts of Wynyard Place

Subject to this management statement and the Easements, the Committee may:

- (a) restrict by Security Key, Security Services and other means, vehicular and pedestrian entrances to the basement carpark at Wynyard Place and access to some or all of the carpark levels of any part of Wynyard Place; and
- (b) close off or restrict access to parts of Wynyard Place that you do not use to get to your Lot or Common Property but it cannot restrict access to the Transit Hall Lot; and
- (c) restrict access to Shared Facilities but it cannot restrict access to the Transit Hall Lot other than during an Emergency Situation; and
- (d) secure doors or gates in Wynyard Place between the hours the Committee determines are appropriate to preserve the security of Wynyard Place and to protect Members, Owners, Occupiers and their property; and
- (e) monitor, by surveillance cameras and other security device or patrol, Shared Facilities, various parts of the basement carpark at Wynyard Place, and vehicular and pedestrian entrances to any part of Wynyard Place.

59.3 Provision of Security Keys

The Committee must provide:

- (a) each Member with a Security Key to access the carpark and their component of Wynyard Place; and
- (b) each Owner and Occupier of Lot with a Security Key to access their Lot,

but only if that access is controlled by the integrated security system for Wynyard Place.

59.4 Charging fees for Security Keys

The Committee may charge you a fee or bond if you want additional or replacement Security Keys.

59.5 Your rights and obligations

You must:

- (a) take all reasonable steps not to lose a Security Key; and
- (b) return Security Keys to the Committee if you do not need them; and
- (c) notify the Committee immediately if you lose a Security Key; and
- (d) comply with the reasonable instructions of the Committee about Security Keys including instructions about re-coding and returning Security Keys; and
- (e) take reasonable steps to ensure the security of Wynyard Place is regulated as contemplated by this clause 59, including taking steps to ensure that your Invitees comply with the provisions of this clause 59.

59.6 Some prohibitions

You must not:

- (a) copy a Security Key; or
- (b) give a Security Key to someone who is not a Member, an Owner or an Occupier; or
- (c) interfere with or shut down any part of the integrated security system for Wynyard Place without the Committee's consent; or
- (d) if you are an Owners Corporation, restrict access to Common Property or Shared Facilities in your Strata Scheme without the Committee's consent.

59.7 Who owns Security Keys?

Security Keys belong to the Committee.

59.8 Managing the Security Key system

The Committee has the power to:

- (a) re-code Security Keys; and
- (b) require you to promptly return your Security Keys to the Committee to be re-coded; and
- (c) enter into agreements with third parties about the provision and management of Security Keys and the management of security systems generally.

[KWM Note: This is indicative only. Not all security in Wynyard Place will be a shared facility.]

60 Carpark Accessway

60.1 Rights of the Committee

The Committee may by Ordinary Shared Facility Resolution:

- (a) impose a speed limit for traffic in the Carpark Accessway; and
- (b) impose reasonable restrictions on the use of the Carpark Accessway; and
- (c) install speed humps, signs and other traffic control devices in the Carpark Accessway; and
- (d) install directional and parking signs in the Carpark Accessway.

60.2 Complying with requirements

You must comply with any speed limits, restrictions or other requirements of the Committee made according to clause 60.1 ("Rights of the Committee") for the use of the Carpark Accessway.

60.3 No parking on Carpark Accessway

You must not park or stand a motor vehicle on the Carpark Accessway other than according to this management statement.

[KWM NOTE: This will only be included if the Carpark is a Shared Facility]

61 Using the Loading Dock

61.1 Shared Facilities

- (a) The Loading Dock is a Shared Facility for use by Members and Occupiers and any licensees under clause 73 ("Goods Lift and Loading Dock") in accordance with the Loading Dock Easement and this management statement.
- (b) The Loading Dock must be used in accordance with the Loading Dock Management Plan which may require a booking to be made with the Loading Dock Manager.
- (c) The Loading Dock may be used during those hours as permitted by any applicable development consent and in accordance with all laws.
- (d) You must not leave any vehicle unattended in the Loading Dock for a period exceeding 20 minutes.
- (e) You must not use the Loading Dock in a manner that unreasonably restricts use of the Loading Dock by any other person. During shared use of the Loading Dock the presence of a vehicle in the Loading Dock for a period of not more than 20 minutes constitutes a reasonable use of the Loading Dock.

61.2 Rules and rights

- (a) The Committee may make Rules by Ordinary Shared Facility Resolution for the use of the Loading Dock in accordance with clause 8.5 ("Making Rules").
- (b) The Committee cannot make Rules in relation to the Loading Dock which give or purport to give access to the Loading Dock which is not on an equal footing basis for all Members Benefited including any third parties

of that Member Benefited. However, the Rules may allocate priority to different types of users at different times.

- (c) Rules made by the Committee in relation to the use of the Loading Dock may not be the subject of expert determination or an appeal by any party.
- (d) You must:
 - (i) comply with all reasonable requirements of the dock master; and
 - (ii) not use the Loading Dock in a manner that breaches the conditions of any development consent, permit or authorisation or any Law applicable to the Land.
- (e) All Members and Occupiers entitled to use the Loading Dock must use the Loading Dock in accordance with this management statement, the Loading Dock Management Plan and the Loading Dock Easement and any other rules determined by the Committee.

62 CCTV Security System

62.1 Shared Facility

The CCTV Security System is a Shared Facility for the benefit of the Members and Occupiers.

62.2 Access to CCTV Footage

- (a) The CCTV Security System monitors public spaces within Wynyard Place, including the lifts, lift lobbies, corridors, fire stairs, Transit Hall Lot and Loading Dock, and is managed by the Committee.
- (b) The Facilities Manager may review CCTV footage for the purpose of monitoring the areas referred to in clause 62.2(a).
- (c) The Committee may access the [Security Room] to view the CCTV footage.
- (d) Members and Occupiers are not permitted to access the [Security Room] to review CCTV footage without the prior consent of the Facilities Manager (such consent must not be unreasonably withheld if the matter relates to the security of Wynyard Place).
- (e) The Committee can refuse to provide consent to a Member or Occupier to access the CCTV footage if the provision of such information would constitute:
 - (i) a breach of any law or requirement of an authority of any Member;
 - (ii) in the case of the Transit Hall Lot Owner, a breach of its security policies and procedures applicable at the time of the request.

62.3 Security Surveillance

Notwithstanding this clause 62, the Committee will provide 24 hour security surveillance of some of the public areas in Wynyard Place (by means of CCTV Security System and/or roving patrol by security guards). However, the Committee is not obliged to provide security services to all areas in Wynyard Place.

62.4 Transit Hall Lot Owner

The Committee must provide to the Transit Hall Lot Owner or its representatives unfettered access to the Security Room to view footage of the Transit Hall Lot at all times. The Committee must also provide to the Transit Hall Lot Owner unfettered access to and the right to remove CCTV footage of the Transit Hall.

KWM NOTE: This clause is indicative only and will be developed and agreed at a later time]

63 Garbage storage and removal

63.1 Shared Facility

The Garbage Room is a Shared Facility.

63.2 Rules and rights

- (a) The Committee may make Rules and impose conditions in relation to the use of the Garbage Room in accordance with clause 8.5 ("Making Rules").
- (b) Use of the Garbage Room:
 - (i) must comply with any rules regarding garbage disposal and recycling, made by the Committee;
 - (ii) may dispose of non-recyclable garbage and waste directly in the Garbage Room; and
 - (iii) may place recyclable material in an area in the Garbage Room determined by the Committee.
- (c) Members acknowledge that a Contractor may be responsible for collecting garbage and recyclable materials from the Garbage Room.

63.3 Some prohibitions and obligations

You must not leave garbage or recyclable materials and receptacles in areas other than the designated garbage storage rooms and facilities for your Lot. You must immediately remove any garbage you have spilled and clean the affected parts of Wynyard Place.

[KWM NOTE: Provision to be included regarding Architectural feature within Retail Lot and displays from the feature.]

Wynyard Place Building Management Statement

Part 7

Transit Hall Rights and Obligations

64 Overriding provisions

64.1 Paramount

The Committee and each Member acknowledge and agree that the provisions in this part 7 ("Transit Hall Rights and Obligations") apply and, to the extent that any provision in this part 7 ("Transit Hall Rights and Obligations") is inconsistent with any other provision in this management statement, the provisions in this part 7 ("Transit Hall Rights and Obligations") will apply and have precedence to the extent of the inconsistency.

64.2 Retail and Office Lot Owners

- (a) Every obligation of the Retail Lot Owner under this part 7 ("Transit Hall Rights and Obligations") is also a joint obligation of the Office Lot Owner and the Retail Lot Owner and the Office Lot Owner are jointly and severally liable. Where the Transit Hall Lot Owner can require the Retail Lot Owner to do or refrain from doing anything the Office Lot Owner is also required to do or refrain from doing anything. The Retail Lot Owner is responsible to carry out the obligations under this part 7 ("Transit Hall Rights and Obligations") but if the Retail Lot Owner fails to do so, the Transit Hall Lot Owner can serve notice or require payments from the Office Lot Owner to pay or do any matter or thing which the Retail Lot Owner was obliged to pay or do.
- (b) An acknowledgment or agreement by the Retail Lot Owner is deemed to be an acknowledgment or agreement by the Office Lot Owner.
- (c) A notice served on the Retail Lot Owner must also be served on the Office Lot Owner.

[KWM NOTE: Provisions may be included in the BMS (outside of Part 7) which detail the arrangements between the Retail Lot Owner and Office Lot Owner]

65 Other Transit Hall Matters

65.1 Role of the Transit Hall Lot Owner as a Member

The Transit Hall Lot Owner must comply with this management statement as it applies to it from time to time. However, while it is a Government Agency, it may but is not obliged or required to exercise the powers or functions of a Member of the Committee.

65.2 Right to vote and veto resolutions

- (a) The Transit Hall Lot Owner, for so long as it is a Government Agency, has the right to veto any resolution which is a Transit Hall Matter.
- (b) If the Transit Hall Lot Owner does not attend a meeting and a resolution passed is a Transit Hall Matter, the Committee must within 5 Business Days after a resolution has passed, give notice to the Transit Hall Lot Owner of the resolution.

- (c) The Transit Hall Lot Owner may exercise the right to veto the resolution within 10 Business Days after receipt of a notice from the Committee that the resolution has passed.
- (d) If the Transit Hall Lot Owner does not exercise the right to veto the resolution in accordance with clause 65.2(c), then the Transit Hall Lot Owner's right is exhausted and the resolution cannot be vetoed after the expiration of 10 Business Days after the notice given under clause 65.2(b).
- (e) The Committee must not give effect to a resolution which is a Transit Hall Matter and which is not vetoed until after the expiry of 15 Business Days after the date of the meeting when the resolution was passed.
- (f) If the Transit Hall Lot Owner is not given notice of a resolution passed in contravention of clause 65.2(b), any resolution purported to be made is invalid and of no force or effect.
- (g) The Transit Hall Lot Owner can exercise its right to vote or veto any resolution despite the Transit Hall Lot Owner not being a Member Entitled to Vote.

65.3 Contributions, Administrative and Sinking Fund Levies

- (a) The Transit Hall Lot Owner is not liable for and cannot be required to contribute towards the cost of Shared Facilities even if it is a Member Benefited other than for Insurance Shared Facilities for which it is obliged to contribute in accordance with this management statement.
- (b) The Transit Hall Lot Owner is not liable for Sinking Fund contributions and cannot be required to contribute to Sinking Fund contributions.
- (c) The Transit Hall Lot Owner is not liable for any and cannot be required to contribute to any levy including the Transit Hall Levy.
- (d) The Members acknowledge and agree that the obligation of the Transit Hall Lot Owner to contribute only to Insurance Shared Facilities as contained in clause 65.3(a) cannot be varied, amended or be the subject of a Dispute or an expert determination without the consent of the Transit Hall Lot Owner. A Member must not procure or seek to procure a review including a review under clause 56 ("Changing and adding to Shared Facilities") to require the Transit Hall Lot Owner to contribute to other Shared Facilities of which it is a Member Benefited.
- (e) If the Transit Hall Lot Owner becomes liable to pay any cost for Shared Facilities other than for Insurance Shared Facilities as a result of a change in law, or a breach by a Member of the provisions of clause 65.3(d) or for any other reason, the Retail Lot Owner and the Office Lot Owner are jointly and severally liable to pay:
 - (i) that part of the Administrative Fund contribution levied on the Transit Hall Lot Owner not being for the cost for Insurance Shared Facilities; and
 - (ii) all of the Sinking Fund contribution levied on the Transit Hall Lot, on behalf of the Transit Hall Lot Owner.
- (f) The Retail Lot Owner and the Office Lot Owner jointly and severally indemnify the Transit Hall Lot Owner in relation to any liability, claim, Cost, Loss or expense incurred or suffered or likely to be incurred or

suffered by the Transit Hall Lot Owner in relation to the matters contained in clause 65.3(e).

- (g) The provisions in clause 65.3(b) and 65.3(c) cannot be varied, amended or be the subject of a Dispute or an expert determination without the consent of the Transit Hall Lot Owner. A Member must not procure or seek to procure a review including a review under clause 56 ("Changing and adding to Shared Facilities") to require the Transit Hall Lot Owner to contribute to any levy or Sinking Fund contribution.

65.4 Repair and maintenance and structural adequacy requirements

For the avoidance of doubt, where the Transit Hall Lot Owner has repair, maintenance and structural adequacy obligations under this management statement including under clauses 21.3 ("Maintenance requirements") and clause 25 ("Obligations of Owners relating to maintenance, repair and structural adequacy"), the repair, maintenance and structural adequacy obligations in respect of the Transit Hall Lot Owner are the joint and several responsibility of the Retail Lot Owner and Office Lot Owner in accordance with the requirements of this part 7 ("Transit Hall Rights and Obligations").

65.5 Making Rules

The Committee cannot make Rules in relation to the Transit Hall Lot.

65.6 Signage Code and Retail Protocol

The Signage Code and the Retail Protocol do not apply to the Transit Hall Lot.

65.7 Security surveillance

The Committee will provide 24 hour security surveillance for the Transit Hall Lot by means of CCTV Security System and a roving security patrol service.

65.8 Access in an emergency

The Transit Hall Lot Owner whilst it is a Government Agency, may at any time gain access into another Member's Lot without prior notice or approval from the relevant Member or Occupier provided that such access is reasonably required by the Transit Hall Lot Owner:

- (a) for the safety of railway passengers, patrons or rail infrastructure facilities (as defined in the Transport Administration Act 1988) except for routine maintenance and repair; or
- (b) in the case of an Emergency Situation or an Alert Event.

65.9 Gaining access to the Transit Hall Lot to Repair, Maintain and Replace

- (a) A person must not exercise a right of access to the Transit Hall Lot under this management statement to carry out the Repair, Maintain and Replace obligations set out in this Part 7("Transit Hall Rights and Obligations") or any other repair, maintenance or inspection of Shared Facilities except with the prior consent of the Transit Hall Lot Owner and having regard to the Transit Hall Lot Owner's operational requirements.
- (b) The Transit Hall Lot Owner will give consent to the Retail Lot Owner, the Office Lot Owner or the Committee to carry out their obligations under this management statement provided that access:
 - (i) is coordinated with and minimises disruption to, and where reasonably practicable also prevents disruption to:

- (A) the normal functioning of the Transit Hall providing ingress and egress to Wynyard Station; and
 - (B) the occupation and operation by the Transit Hall Lot Owner of the Transit Hall;
- (ii) does not interfere with or threaten:
 - (A) the use of the Transit Hall Lot for railway purposes or the operation of the Transit Hall Lot, or Wynyard Station or the railway;
 - (B) the safe operation of the Transit Hall Lot, or Wynyard Station or the railway; or
 - (C) the safety of Transit Hall Users, Wynyard Station or patrons.
- (c) The Retail Lot Owner, the Office Lot Owner and the Committee must comply with any directions of the Transit Hall Lot Owner acting reasonably, in regard to accessing the Transit Hall Lot.
- (d) The Transit Hall Lot Owner may impose additional reasonable conditions on any approval or access rights given under this clause 65, including a requirement that access not occur during the peak operating hours of passenger railway trains to Wynyard Station and Special Events.

65.10 Restricting access to the Transit Hall Lot

- (a) The Committee is not permitted to restrict access to the Transit Hall Lot other than in an Emergency Situation.
- (b) The Committee is not permitted to restrict access to and use of the stairs and escalators allowing access from the Transit Hall Lot to George Street and Carrington Street whilst the Transit Hall remains open unless permitted under the terms of any Easement.
- (c) It is acknowledged and agreed by the Members and Occupiers, that the Transit Hall Lot Owner whilst it is a Government Agency, is permitted to close off, alter or restrict access to the Transit Hall despite any other access provision:
 - (i) during the hours of 1.00 am to 6.00 am;
 - (ii) if there is an Alert Event or Emergency Situation, for so long as the Transit Hall Lot Owner considers necessary; and
 - (iii) during Special Events,

but otherwise it must leave the Transit Hall open so that Transit Hall Users and Members and Occupiers can access or pass across the Transit Hall to the Retail Lot.
- (d) Neither an Occupier or a Member, or any body acting on a Member or Occupier's behalf, is permitted to make a claim for loss, costs or damage suffered or incurred by a Member or Occupier as a result of the Transit Hall Lot Owner exercising its rights under this clause 65.

65.11 Rights reserved to the Developer under part 8 (“Development Works, subdivisions and replacement management statements”)

Whilst the Transit Hall Lot Owner is a Government Agency, the provisions in part 8 (“Development Works, subdivisions and replacement management statements”) of this management statement do not apply to the Transit Hall Lot Owner and for the avoidance of any doubt those provisions do not override the provisions in this part 7 (“Transit Hall Rights and Obligations”) and specifically:

- (a) the Developer is not permitted to carry out Development Works in the Transit Hall Lot without the consent of the Transit Hall Lot Owner;
- (b) the Developer is not permitted to install new or Upgrade Shared Facilities within the Transit Hall Lot without the consent of the Transit Hall Lot Owner;
- (c) the Developer is not permitted to temporarily disconnect, augment or relocate existing Shared Facilities in existence on the Transfer Date which are located in the Transit Hall Lot or for which the Transit Hall Lot Owner is a Member Benefited without the consent of the Transit Hall Lot Owner;
- (d) is not obliged to consent to Subdivision Plans if the proposed subdivision will have a detrimental impact on the Transit Hall regarding a Transit Hall Matter; and
- (e) is not obliged to consent to the creation, variation, replacement or extinguishment of any Easement which the Transit Hall Lot is a lot benefited or a lot burdened.

65.12 Consents required under this management statement

- (a) Where any provision of this management statement requires the consent of a Member including consents for upgrading and redevelopment of the Transit Hall Lot, then notwithstanding the relevant provision may require the Member to not withhold consent unreasonably, if the consent relates to or is in connection with a Transit Hall Matter, the Transit Hall Lot Owner whilst it is a Government Agency can withhold its consent in its absolute discretion.
- (b) Any notices, requests for consent directions, decisions, certificates, demands, requests, determinations, rejections, consents, approvals, agreements, claims or notices of satisfaction or other communication under or with respect to this part 7 (“Transit Hall Rights and Obligations”) must be in writing and delivered to the Current Address (or to any new address or facsimile number that a party notifies to the others).

65.13 Power to bind Government Agency

- (a) Whilst the Transit Hall Lot Owner is a Government Agency, the Committee does not have the power to enter into a contract, make an appointment or any other arrangement which purports to bind the Transit Hall Lot Owner or impose obligations on the Transit Hall Lot Owner or create liabilities for the Transit Hall Lot Owner unless the Transit Hall Lot Owner gives its consent.
- (b) Each Member acknowledges that the Transit Hall Lot Owner is not required to be a party to any agreement with the Facilities Manager or Manager or any other agreement or contract entered into by the Committee other than a contract relating to insurance under clause 13 (“Insurance requirements”).

65.14 Agent of the Transit Hall Lot Owner

- (a) The Members and Occupiers acknowledge and agree that:
 - (i) the Transit Hall Lot Owner may in its absolute and unfettered discretion appoint a person or entity to act as its agent (**Agent**) for the purposes of this management statement; and
 - (ii) the Agent will have the same rights and obligations under this management statement as the Transit Hall Lot Owner.
- (b) For the purposes of clause 65.14(a), the Members and Occupiers must promptly comply with all reasonable requests of the Agent as if the Agent is the Transit Hall Lot Owner.

66 Transit Hall Repair Maintain and Replace obligations and documentation

66.1 Retail Lot Owner's general obligations

The Retail Lot Owner must at its cost and expense:

- (a) keep the Transit Hall Repaired, Maintained and Replaced;
- (b) make any payments in respect of and comply with any Easement (other than compliance in respect of usage requirements) including performing any obligation under the Easement to carry out repair or maintenance for which the Transit Hall Lot Owner has the responsibility whether under this management statement or under the instrument creating the Easement; and
- (c) otherwise perform its obligations under this part 7 ("Transit Hall Rights and Obligations").

66.2 Retail Lot Owner's Repair, Maintain and Replace obligations

Except as otherwise expressly provided under this part 7 ("Transit Hall Rights and Obligations"), the Retail Lot Owner must at its cost and expense Repair, Maintain and Replace in accordance with the Quality Standards so that the Transit Hall:

- (a) can be used as a safe, reliable and operational transit connection to Wynyard Station stated in, or contemplated by, or reasonably ascertainable from this management statement as at the Transfer Date; and
- (b) meets each of the requirements of this management statement set out or reasonably ascertainable from the Transit Hall Documentation.

66.3 Carrying out the Repair Maintain and Replace obligations

The Retail Lot Owner, in keeping the Transit Hall Repaired, Maintained and Replaced must:

- (a) use materials, workmanship and services of the same or higher level of quality in accordance with the Transit Hall Practices; and
- (b) without limiting the Transit Hall Lot Owner's obligations under this clause 66, have regard to the Transit Hall Monthly Maintenance Schedule; and
- (c) ensure that any items of Transit Hall Plant & Equipment which are replaced:

- (i) either:
 - (A) have the same or better standard relative for that plant or equipment at the time of replacement: or
 - (B) if a new item exists, which has better functionality, better standard relative to the equipment being replaced, or is more technically advanced than the item of plant or equipment it is replacing and is less than or equal to 105% of the cost of the item being replaced, then the Retail Lot Owner is obliged to replace with that item; and
- (ii) meets the requirements contained in the Transit Hall Facility Specification; and
- (iii) meets or exceeds the Quality Standards regardless of cost; and
- (iv) have a design life equal to or greater than the items being repaired or replaced.

66.4 Payments by Transit Hall Lot Owner

- (a) The Retail Lot Owner must prepare an invoice for any amounts which the Transit Hall Lot Owner must pay to the Retail Lot Owner under this part 7 ("Transit Hall Rights and Obligations").
- (b) The Transit Hall Lot Owner must pay the invoice within 30 days of receipt of the invoice.
- (c) Clause 52 ("Late payments") applies to late payments except that the interest is payable to the Retail Lot Owner and not the Committee.
- (d) If the Transit Hall Lot Owner does not pay the invoice on time, the Retail Lot Owner must not suspend provision of the service the subject of the invoice or the carrying out of a Transit Hall Modification Order as applicable until payment is received.

66.5 On going cost reimbursements

- (a) The Transit Hall Lot Owner must pay to the Retail Lot Owner any amount on a monthly basis in advance for regular on-going costs which it is liable for under this management statement.
- (b) The Retail Lot Owner must provide an invoice for amounts due under paragraph (a).
- (c) Clause 52 ("Late payments") applies to late payments except that the interest is payable to the Retail Lot Owner and not the Committee.
- (d) If the Transit Hall Lot Owner does not pay the invoice on time, the Retail Lot Owner must not suspend provision of the service the subject of the invoice until payment is received.

66.6 Transit Hall Documentation

- (a) The Transit Hall Monthly Maintenance Schedule, the Transit Hall Facility Specification and the Transit Hall Asset Management Plan do not limit nor should those documents be taken as a code of fulfilment of the obligations of the Retail Lot Owner in keeping the Transit Hall Lot Repaired Maintained and Replaced at all times, but are working

documents to be updated regularly as and when required with the consent of the Transit Hall Lot Owner.

- (b) The Retail Lot Owner must update the Transit Hall Asset Register on an annual basis by 1 April each year and submit the updated Transit Hall Asset Register to the Transit Hall Lot Owner for review and approval.
- (c) The Retail Lot Owner must provide any additional information in relation to the Transit Hall Documentation and the Transit Hall Asset Register when reasonably requested in writing by the Transit Hall Lot Owner.

66.7 Liability of Retail Lot Owner and the Office Lot Owner

- (a) Despite any transfer of the Retail Lot or the Office Lot, neither the Retail Lot Owner nor the Office Lot Owner are released from any liability, Cost or Loss incurred prior to the transfer of the Retail Lot or the Office Lot but is released from all liability, Cost and Loss incurred after the transfer date.
- (b) If, at the time a person becomes a Retail Lot Owner, another person being a prior Retail Lot Owner is liable in respect of the Retail Lot to meet any liability, Loss or Cost under this management statement, the Retail Lot Owner is jointly and severally liable with that other person for the payment of that liability, Loss or Cost incurred prior to the date of transfer.
- (c) If, at the time a person becomes a Office Lot Owner, another person being a prior Office Lot Owner is liable in respect of the Office Lot to meet any liability, Loss or Cost under this management statement, the Office Lot Owner is jointly and severally liable with the other person for the payment of that liability, Loss or Cost incurred prior to the date of transfer.

66.8 Excluded Loss

- (a) Subject to clauses 66.8(c) and 66.8(d), but otherwise despite any other provision of this management statement the Retail Lot Owner and the Office Lot Owner have no liability to the Transit Hall Lot Owner or any Rail Entity (whether in contract, tort or otherwise), nor will the Transit Hall Lot Owner be entitled to make any Claim against the Retail Lot Owner or the Office Lot Owner, in respect of any Excluded Loss incurred or sustained by the Transit Hall Lot Owner or any Rail Entity as a result of any act or omission of the Retail Lot Owner or Office Lot Owner (whether negligent or otherwise).
- (b) Despite any other provision of this management statement, the Transit Hall Lot Owner has no liability to the Retail Lot Owner or the Office Lot Owner (whether in contract, tort or otherwise), nor will the Retail Lot Owner or the Office Lot Owner be entitled to make any Claim against the Transit Hall Lot Owner or any Rail Entity, in respect of Excluded Loss incurred or sustained by the Retail Lot Owner or Office Lot Owner as a result of any act or omission of the Transit Hall Lot Owner or a Rail Entity (whether negligent or otherwise).
- (c) Clause 66.8(a) does not operate to limit or restrict the Retail Lot Owner or Office Lot Owner's liability to the Transit Hall Lot Owner or any Rail Entity:
 - (i) to the extent that the Retail Lot Owner or Office Lot Owner has:

- (A) recovered from a third party (including any subcontractor and whether by way of indemnity or otherwise); or
 - (B) would have recovered from a third party, had it diligently pursued a claim against the third party;

an amount in respect of that liability; and
- (ii) to the extent that any payment is owed to the Transit Hall Lot Owner or any Rail Entity by the Retail Lot Owner or Office Lot Owner under this management statement (including liquidated damages);
- (iii) to the extent that the Retail Lot Owner or Office Lot Owner:
 - (A) is indemnified in respect of that liability by a policy of insurance required under this management statement; or
 - (B) would have been indemnified in respect of that liability by a policy of insurance required under this document if the Developer had:
 - (1) diligently pursued a claim under that policy of insurance;
 - (2) complied with the terms and conditions of that policy of insurance; or
 - (3) complied with its insurance obligations under this management statement;
- (iv) for loss in respect of any liability of the Transit Hall Lot Owner or any Rail Entity to a third party (including to another Rail Entity), except to the extent that such liability arises in contract;
- (v) for loss arising from any criminal acts or fraud on the part of the Retail Lot Owner or Office Lot Owner;
- (vi) for loss arising from wilful misconduct on the part of the Retail Lot Owner or Office Lot Owner; or
- (vii) to the extent to which, by law, the parties cannot limit or contract out of.
- (d) Clause 66.8(b) does not operate to limit or restrict the Transit Hall Lot Owner or any Rail Entity's liability to the Retail Lot Owner or Office Lot Owner:
 - (i) for loss arising from any criminal acts or fraud on the part of the Transit Hall Lot Owner or a Rail Entity as applicable;
 - (ii) for loss arising from wilful misconduct on the part of the Transit Hall Lot Owner or Rail Entity as applicable;
 - (iii) to pay any amount that is expressly payable under this management statement; or
 - (iv) to the extent to which, by law, the parties cannot limit or contract out of such liability;

in respect of which the Transit Hall Lot Owner or any Rail Entity retains the risk.

67 Transit Hall Committee

67.1 Formation of Transit Hall Committee

- (a) The Transit Hall Lot Owner, the Office Lot Owner and the Retail Lot Owner must, no later than 20 Business Days after the registration of this management statement, form a Transit Hall Committee.
- (b) The Transit Hall Committee is a sub committee of the Committee.
- (c) The Transit Hall Committee must comprise of:
 - (i) representatives of the Retail Lot Owner who must be experienced members of the Retail Lot Owner; and
 - (ii) representatives of the Office Lot Owner who must be experienced members of the Office Lot Owner; and
 - (iii) representatives of the Transit Hall Lot Owner who must be experienced members of the Transit Hall Lot Owner.
- (d) A representative of the Retail Lot Owner must chair the Transit Hall Committee.

67.2 Meetings of the Transit Hall Committee

- (a) The Transit Hall Lot Owner, the Office Lot Owner and the Retail Lot Owner must ensure that the Transit Hall Committee meets regularly (on a monthly basis or on such other regular intervals as is agreed between the Transit Hall Lot Owner and the Retail Lot Owner) to:
 - (i) discuss and consider any matters relating to or arising out of the Transit Hall Documentation including the requirement to update the Transit Hall Documentation to reflect the requirements of this part 7 ("Transit Hall Rights and Obligations"); and
 - (ii) review the Retail Lot Owner and Office Lot Owner's compliance with this part 7 ("Transit Hall Rights and Obligations") and performance of the Repair Maintenance and Replacement obligations generally.
- (b) Members of the Transit Hall Committee may at their own cost have advisers and consultants at the meetings from time to time as required, subject to giving at least 2 Business Days prior notice to the other party of any attendance.
- (c) Meetings of the Transit Hall Committee must be conducted according to procedures as the Members from time to time agree, but at least one representative of each of the Transit Hall Lot Owner, Office Lot Owner and the Retail Lot Owner constitutes a quorum.
- (d) The Transit Hall Lot Owner, Office Lot Owner and the Retail Lot Owner agree that the minutes of meeting are not to be taken as conclusive evidence of any matter discussed at the meeting unless such minutes have been adopted at the next meeting of the Transit Hall Committee.

67.3 Keeping of minutes

The Retail Lot Owner must:

- (a) prepare detailed minutes in respect of each meeting of the Transit Hall Committee, which include:

- (i) a list of attendees; and
 - (ii) details of the matters discussed at the meeting; and
- (b) provide a copy of the minutes of each meeting of the Transit Hall Committee to the Transit Hall Lot Owner Representative within 10 Business Days of each meeting.

67.4 Further information

The Transit Hall Lot Owner may require the Retail Lot Owner to provide further information on matters discussed at any meeting of the Transit Hall Committee, and the Retail Lot Owner must provide that information in a timely manner.

68 Modifications to Transit Hall Facility Specification

68.1 Transit Hall Modification Request

The Transit Hall Lot Owner may at any time issue to the Retail Lot Owner a Transit Hall Modification Request setting out the details of a proposed Transit Hall Modification Order. The Transit Hall Lot Owner is not obliged to proceed with submitting a Transit Hall Modification Order proposed in a Transit Hall Modification Request.

68.2 Transit Hall Modification Proposal

As soon as practicable after receipt of a Transit Hall Modification Request, the Retail Lot Owner must provide the Transit Hall Lot Owner with a Transit Hall Modification Proposal, setting out detailed particulars of the Retail Lot Owner's views on:

- (a) the Net Financial Impact of the proposed Transit Hall Modification Request;
- (b) the time within which the proposed Transit Hall Modification Request will be implemented;
- (c) the cost (if any) of implementing the Transit Hall Modification Request;
- (d) any Approvals required to implement the Transit Hall Modification Request, and the effect (if any) of the Transit Hall Modification Request on any existing Approvals;
- (e) how the Transit Hall Modification Request will affect the Retail Lot Owner's obligations under this part 7 ("Transit Hall Rights and Obligations");
- (f) any relief which is required from the Retail Lot Owner's obligations under this management statement to ensure that it is left in a no better and no worse position than the Retail Lot Owner would be in if the Transit Hall Modification Request were not implemented; and
- (g) any other information requested by the Transit Hall Lot Owner in the Transit Hall Modification Request.

68.3 Acceptance of Transit Hall Modification

If the Transit Hall Lot Owner accepts the Transit Hall Modification Proposal, the Retail Lot Owner must implement the Transit Hall Modification Order on the basis of the Transit Hall Modification Proposal as accepted by the Transit Hall Lot Owner.

68.4 Rejection of Transit Hall Modification

If the Transit Hall Lot Owner rejects the Transit Hall Modification Proposal, the Transit Hall Lot Owner may require that the two parties consult and use their reasonable endeavours to agree on a mutually acceptable resolution to the matters set out in the Transit Hall Modification Proposal which are in dispute.

68.5 Right to direct a Transit Hall Modification

- (a) The Transit Hall Lot Owner can direct:
 - (i) the Retail Lot Owner to implement any modifications by issuing a Transit Hall Modification Order if the Transit Hall Lot Modification Order is given to the Retail Lot Owner to require the Retail Lot Owner to comply with the requirements of the obligations in part 7 ("Transit Hall Rights and Obligations") of this management statement in relation to the Transit Hall and the Retail Lot Owner will not be entitled to recover any loss from, or make any claim including a claim under clause 68.6 ("Entitlement to Costs of a Transit Hall Modification Order");
 - (ii) the Retail Lot Owner to implement any modifications by issuing a Transit Hall Modification Order if the Transit Hall Lot Modification Order is given to the Retail Lot Owner to require the Retail Lot Owner to comply with Quality Standards which require compliance prior to the replacement of the Transit Hall Plant and Equipment under clause 69 ("Transit Hall Plant and Equipment"). The Retail Lot Owner will be entitled to recover from the Transit Hall Lot Owner the capital cost of the replacement items or Transit Hall Plant and Equipment however the Retail Lot Owner will not be entitled to recover any loss from, or make any claim including a claim under clause 68.6 ("Entitlement to Costs of a Transit Hall Modification Order") for the ongoing Repair, Maintain and Replace costs.
- (b) A direction given to the Retail Lot Owner is deemed to be a direction given to the Office Lot Owner.

68.6 Entitlement to Costs of a Transit Hall Modification Order

If a Transit Hall Modification Order which is given to the Retail Lot Owner is of a nature and scope that is beyond the requirements of the Transit Hall Documentation or any other obligations under this management statement in relation to the Transit Hall Lot or is the result of a Site Specific Change in Law and has a Net Financial Impact, then the Retail Lot Owner will be entitled to be reimbursed the Net Financial Impact by the Transit Hall Lot Owner.

68.7 Net Financial Impact

The Net Financial Impact will be calculated in accordance with the following principles:

- (a) the Net Financial Impact will be calculated as the incremental costs which the Retail Lot Owner incurs or will incur as a result of implementing any modification from a Transit Hall Modification Order, less any costs the Retail Lot Owner incurs or would have incurred from performing its obligations under this part 7 ("Transit Hall Rights and Obligations") without implementing the Transit Hall Modification Order:
 - (i) the Retail Lot Owner will not be entitled to any amount on account of profit or offsite overheads in respect of any incremental costs incurred as a result of implementing any modifications pursuant to a Transit Hall Modification Order; and

- (ii) the Retail Lot Owner must use all reasonable endeavours:
 - (A) to minimise any incremental costs incurred or suffered as a result of carrying out the modifications pursuant to any Transit Hall Modification Order; and
 - (B) maximise any cost savings as a result of carrying out the modifications pursuant to any Transit Hall Modification Order,

and must comply with the provisions of this part 7("Transit Hall Rights and Obligations") in carrying out the Transit Hall Modification Order.

69 Transit Hall Plant & Equipment

69.1 Adjusted Forecast Life

- (a) Without limiting the Retail Lot Owner's obligations to Repair Maintain and Replace under clause 66 ("Modifications to Transit Hall Facility Specification"), the Retail Lot Owner cannot acting reasonably defer the replacement of an item of Transit Hall Plant & Equipment beyond the Adjusted Forecast Life. For the purposes of this clause 69 the 'Adjusted Forecast Life' means, in respect of an item of Transit Hall Plant & Equipment the period of the replacement cycle as shown in the Transit Hall Asset Management Plan current as at the date of this management statement, extended by 20%.
- (b) Where an items of Transit Hall Plant and Equipment cannot be used in to the level of performance for which it was designed and is not capable of being repaired, the Retail Lot Owner must replace the item of Transit Hall Plant and Equipment before the Adjusted Forecast Life.

69.2 Replacement of Transit Hall Plant & Equipment

Where the Retail Lot Owner is required to replace an item of Transit Hall Plant & Equipment under this clause 69 or clause 66 ("Modifications to Transit Hall Facility Specification"), it must do so in accordance with clause 66.3 ("Carrying out the Repair and Maintain and Replace obligations").

69.3 Disposed Equipment

- (a) The Retail Lot Owner must provide the Transit Hall Lot Owner with 10 Business Days' notice of its intention to dispose Disposed Equipment.
- (b) The Retail Lot Owner must promptly dispose of or remove the item of Disposed Equipment from the Transit Hall unless the Transit Hall Lot Owner has notified the Retail Lot Owner in writing within 3 Business Days of receipt of Retail Lot Owner's notice in clause 69.3(a) that the Transit Hall Lot Owner wants to:
 - (i) retain the item of Disposed Equipment in the Transit Hall; or
 - (ii) transfer the item of Disposed Equipment to another location.
- (c) If the Transit Hall Lot Owner has notified the Retail Lot Owner in accordance with clause 69.3(b) that the Transit Hall Lot Owner wants to:
 - (i) retain the item of Disposed Equipment at the Transit Hall:

- (A) the relevant item of Disposed Equipment will become Excluded Equipment upon the date of such written notice; and
- (B) the Retail Lot Owner must tag the item of Disposed Equipment which the Transit Hall Lot Owner wishes to retain; or
- (ii) transfer the item of Disposed Equipment to another location:
 - (A) the Transit Hall Lot Owner must remove that item of Disposed Equipment from the Transit Hall within 10 Business Days of issuing the notice to the Retail Lot Owner in accordance with clause 69.3(b); and
 - (B) the costs associated with such transfer will be borne by the Transit Hall Lot Owner.

69.4 NSW Code and NSW Guidelines

- (a) Terms used in this clause 69.4 have the same meaning as is attributed to them in the NSW Code and NSW Guidelines.
- (b) In carrying out or implementing any obligation under the Transit Hall Documentation which is in the nature of “building and construction work”, the Retail Lot Owner must comply with, the NSW Code and the NSW Guidelines.
- (c) The Retail Lot Owner must notify the Construction Compliance Unit (**CCU**) and the Transit Hall Lot Owner of a non-compliance with the NSW Code and NSW Guidelines and of any remedial action taken, within a reasonable time of becoming aware of the non-compliance.
- (d) If the Retail Lot Owner engages a subcontractor to carry out “building and construction work” within the NSW Code and NSW Guidelines, the Retail Lot Owner must ensure that the contract with the subcontractor imposes equivalent obligations to those in this clause 69.4, including that the subcontractor must at all times comply with, and meet any obligations imposed by the NSW Code and the NSW Guidelines.
- (e) The Retail Lot Owner must maintain adequate records of compliance with the NSW Code and NSW Guidelines by it and any subcontractor.

69.5 Other Legislative Requirements

- (a) To the extent that the Repair Maintain and Replace obligations or other works carried out in accordance with this management statement in relation to the Transit Hall Lot constitute a Construction Project that has been commissioned by:
 - (i) the Transit Hall Lot Owner; or
 - (ii) the Retail Lot Owner; or
 - (iii) both,
 then:
 - (iv) if commissioned by the Transit Hall Lot Owner, or the Transit Hall Lot Owner and the Retail Lot Owner, the Transit Hall Lot Owner engages the Retail Lot Owner as Principal Contractor in respect of the relevant works and authorises the Retail Lot

Owner to have management and control of the Transit Hall Lot and to discharge the functions, obligations and duties of a Principal Contractor under the WHS Regulations; or

- (v) if commissioned by the Retail Lot Owner, the Retail Lot Owner is the Principal Contractor; and

the Retail Lot Owner accepts the engagement as Principal Contractor and will discharge the duties of a Principal Contractor under the WHS Regulations.

- (b) The Retail Lot Owner must have a corporate work health and safety management system which complies with the Law and is otherwise in accordance with the WH&S Legislation and the New South Wales Government Work Health and Safety Management Systems and Auditing Guidelines (5th Edition) (March 2014), as updated from time to time, before it carries out any Transit Hall Refurbishment Works.
- (c) The Retail Lot Owner must notify the Transit Hall Lot Owner immediately (and in any event, within 24 hours) after becoming aware of a “notifiable incident” (as defined in the WH&S Legislation) arising out of, or in any way in connection with the Transit Hall Refurbishment Works.
- (d) The Retail Lot Owner must ensure that it does not do anything or fail to do anything that would cause the Transit Hall Lot Owner to be in breach of the WH&S Legislation.
- (e) In this clause 69.5:
 - (i) Construction Project has the meaning given to it under the WHS Regulation; and
 - (ii) Principal Contractor has the meaning given to it under the WHS Regulation.

69.6 AEO status

- (a) Subject to clauses 69.6(b) to 69.6(h), the Retail Lot Owner must ensure that it and its subcontractors hold AEO status for all specialist engineering services and disciplines whilst complying with and implementing the Repair Maintain and Replace obligations. The Retail Lot Owner acknowledges that in doing so, the Retail Lot Owner must and must procure that its subcontractors:
 - (i) co-operate fully with the ASA in the performance of the ASA’s functions including in relation to the ASA’s authorization processes;
 - (ii) implement and comply with ASA Requirements;
 - (iii) provide access to premises and resources as reasonably required by the ASA, including so that it can effectively carry out its review, surveillance and audit functions;
 - (iv) comply with decisions, instructions and requirements issued by the ASA, subject to the internal review process;
 - (v) notify the ASA of any matter that could reasonably be expected to affect the exercise of the ASA’s functions; and

- (vi) provide the ASA with any information relating to its activities or any documents or other things reasonably requested by the ASA in the exercise of its functions.
- (b) Clause 69.6(a) is subject to the Retail Lot Owner being relieved in whole or in part of the Retail Lot Owner's obligations under an AEO Modification.
- (c) Any determination by ASA or any concession or modification granted under this clause 69.6 will not be subject to expert determination or dispute resolution under clause 80 ("How to resolve Disputes").
- (d) The Retail Lot Owner can prepare for submission to ASA an AEO Modification Application.
- (e) Prior to the Retail Lot Owner submitting the AEO Modification Application, the Transit Hall Lot Owner will facilitate a meeting of the Retail Lot Owner, the Transit Hall Lot Owner and ASA to agree the details of the information to be provided in the AEO Modification Application.
- (f) The Retail Lot Owner is responsible for lodging the AEO Modification Application with ASA.
- (g) The Retail Lot Owner must during the assessment of the AEO Modification Application by ASA:
 - (i) keep the Transit Hall Lot Owner informed of any correspondence between the Retail Lot Owner and ASA;
 - (ii) consult with the Transit Hall Lot Owner on any matters raised by ASA;
 - (iii) invite the Transit Hall Lot Owner to attend any meetings requested by the ASA, as required.
- (h) Within 10 Business Days of receipt of the AEO Modification, the Retail Lot Owner must, provide written notice to TfNSW advising of any changes to the Repair Maintain and Replace obligations as a result of the AEO Modification. The Retail Lot Owner must update the Transit Hall Documentation or other relevant documentation affected by any change as a result of the AEO Modification and provide copies to the Transit Hall Lot Owner for approval by the Transit Hall Lot Owner acting reasonably.

69.7 Compliance by subcontractors

- (a) Without limiting any other provision of this management statement, the Retail Lot Owner must comply with, and ensure its subcontractors comply with the requirements of this part 7 ("Transit Hall Rights and Obligations"); and
- (b) The Retail Lot Owner must promptly notify Transit Hall Lot Owner in writing of any circumstances that arise which may materially impact on the ability of the Retail Lot Owner or its subcontractors to comply with its Repair, Maintenance and Replacement and the provisions this part 7 ("Transit Hall Rights and Obligations") generally.

69.8 Access, inspections and audits

- (a) The Transit Hall Lot Owner (and any person authorised by the Transit Hall Lot Owner) may:

- (i) monitor compliance by the Retail Lot Owner with its obligations under this management statement relating to the Transit Hall; or
 - (ii) exercise any right or perform any obligation which the Transit Hall Lot Owner has under this management statement.
- (b) When exercising this right, the Transit Hall Lot Owner must do so (and must ensure any person authorised by the Transit Hall Lot Owner does so) in a manner that:
 - (i) does not unreasonably interfere with the obligations of the Retail Lot Owner under this management statement;
 - (ii) complies with the Retail Lot Owner's reasonable site access and work health and safety procedures; and
 - (iii) is at the sole risk of the Transit Hall Lot Owner.
- (c) The Retail Lot Owner must provide the Transit Hall Lot Owner with every reasonable facility and other assistance necessary for any inspection by the Transit Hall Lot Owner.
- (d) If an inspection shows that the Retail Lot Owner has not complied or is not complying with its obligations under this management statement, the Transit Hall Lot Owner:
 - (i) may notify the Retail Lot Owner of the details of the non-compliance;
 - (ii) may specify a reasonable period within which the Retail Lot Owner must carry out appropriate rectification and/or remedy activities; and
 - (iii) will be entitled to be reimbursed by the Retail Lot Owner for the reasonable costs of the inspection but excluding any internal costs.
- (e) A notice given to the Retail Lot Owner under clause 69.8(d) must also be given to the Office Lot Owner.
- (f) Without limiting any other clause in this management statement:
 - (i) the Transit Hall Lot Owner may at any time notify the Retail Lot Owner that it requires access to information held by the Retail Lot Owner or any of its subcontractors which relates to the Transit Hall;
 - (ii) upon receipt of a notice under this clause 69.8(e), the Retail Lot Owner must provide the Transit Hall Lot Owner (or any person authorised by the Transit Hall Lot Owner) with access to, or a copy of, the required information which is in the Retail Lot Owner's possession or control; and
 - (iii) the Transit Hall Lot Owner (and any person authorised by the Transit Hall Lot Owner) may review, copy, retain or otherwise deal with such information.
- (g) The Retail Lot Owner must cooperate, and must use reasonable endeavours to ensure that its subcontractors cooperate with, the Transit Hall Lot Owner and any persons authorised by the Transit Hall Lot

Owner in the exercise of the Transit Hall Lot Owner's rights under this clause 69.8.

69.9 Title and responsibility for risk

- (a) The Retail Lot Owner must transfer, or procure the transfer of, to the Transit Hall Lot Owner the right title and interest to any Transit Hall Plant & Equipment which is procured by the Retail Lot Owner on the earlier of delivery to or installation in the Transit Hall.
- (b) When the Retail Lot Owner is performing or procuring any work on the Transit Hall Plant & Equipment as part of its obligations under this part 7 ("Transit Hall Rights and Obligations"), the Retail Lot Owner is responsible for:
 - (i) the care of, and takes the risk of, the Transit Hall Plant & Equipment; and
 - (ii) any damage or loss caused to the Transit Hall Plant & Equipment when performing that work.

The Retail Lot Owner must indemnify the Transit Hall Lot Owner against any loss, cost or expense that the Transit Hall Lot Owner may suffer or incur in relation to that work.

- (c) The Retail Lot Owner must:
 - (i) do all things reasonably requested by the Transit Hall Lot Owner to hold for the benefit of the Transit Hall Lot Owner, itself and the Office Lot Owner all warranties in respect of the Transit Hall Plant & Equipment, installed, acquired or replaced after the registration of this management statement; and
 - (ii) submit to the Transit Hall Lot Owner, copies of all warranties and all guidance material produced by the manufacturers in respect of the Transit Hall Plant & Equipment relating to the operation and maintenance in respect of the Transit Hall Plant & Equipment, installed, acquired or replaced after the registration of this management statement.
- (d) To the extent that any item of Transit Hall Plant & Equipment is damaged, and not caused by the Retail Lot Owner or the Transit Hall Lot Owner (its employees and contractors):
 - (i) the Transit Hall Lot Owner may request the Retail Lot Owner to replace that item at the Retail Lot Owner's cost, and the Retail Lot Owner must comply with that request if practicable; and
 - (ii) if the Retail Lot Owner is unable to comply with that request within the timing required by the Transit Hall Lot Owner, the Transit Hall Lot Owner may carry out itself (or procure the carrying out of) such replacement work and recover the cost as a debt due and owing from the Retail Lot Owner. This does not relieve the Retail Lot Owner of its obligations or modify or vary the Retail Lot Owner's obligations under this management statement.

70 Transfer of Transit Hall Lot and change of use of the Transit Hall

70.1 Transfer of Transit Hall Lot to an entity other than a Government Agency

If the Transit Hall Lot is wholly transferred to an entity that is not a Government Agency:

- (a) the management statement is amended so that the Transit Hall Lot Owner is not permitted to self-insure under clause 13 ("Insurance requirements") and the provisions regarding self-insurance contained within clause 13 ("Insurance requirements") will not apply;
- (b) the Transit Hall Lot Owner will grant before completion of the transfer a Right of Foot way easement on the terms of Part 2 of Schedule 8 of the *Conveyancing Act 1919* limited in width and height over an area as determined by the Transit Hall Lot Owner acting reasonably, burdening the Transit Hall Lot and benefiting the Retail Lot to enable Occupiers of the Retail Lot to get to and from the Retail Lot ; and
- (c) any other amendments to the management statement as agreed between the Transit Hall Lot Owner and the Retail Lot Owner.

70.2 Change of Use of the Transit Hall Lot

If the use of the Transit Hall Lot changes so that it is no longer used as a Transit Hall providing Transit Hall Users with access to Wynyard Station, then regardless of the ownership of the Transit Hall Lot, the management statement is amended by the following:

- (a) the Transit Hall Lot Owner will grant before completion of the transfer a Right of Foot way easement on the terms of Part 2 of Schedule 8 of the *Conveyancing Act 1919* limited in width and height over an area as determined by the Transit Hall Lot Owner acting reasonably, burdening the Transit Hall Lot and benefiting the Retail Lot to enable Occupiers of the Retail Lot to get to and from the Retail Lot;;
- (b) clause 66 ("Transit Hall Repair Maintain and Replace Obligations and Documentation") is deleted and replaced with the following:

"The Retail Lot Owner must at its cost and expense:

 - (i) repair and maintain the Transit Hall Lot so that it is kept in good and substantial repair;
 - (ii) replace the Transit Hall Plant & Equipment at the end of the Adjusted Forecast Life and otherwise in accordance with the Transit Hall Asset Management Plan; and
 - (iii) make any payments or carry out any repair, maintenance and replacement obligations in respect of any Easement for which the Transit Hall Lot Owner has the responsibility whether under this management statement or under the instrument creating the Easement."
- (c) clauses 69.4 ("NSW Code and NSW Guidelines") and 69.6 ("AEO Status") are deleted;
- (d) clauses 65.2 ("Right to vote and veto resolutions") 65.5 ("Signage Code and Retail Protocol"), 65.6 ("Security surveillance"), 65.8 ("Access in an

emergency”), 65.9 (“Gaining access to the Transit Hall Lot”) and 65.14 (“Agent of the Transit Hall Lot Owner”) are deleted; and

- (e) in any other respect as agreed between the Transit Hall Lot Owner and the Retail Lot Owner.

71 Hoardings and Blade Signage

71.1 Hoardings acknowledgement

The Transit Hall Lot Owner acknowledges that the Retail Lot Owner and persons authorised by it will need to erect temporary hoardings within the Transit Hall Lot to enable the fitting out from time to time of shops and kiosks within the Retail Lot.

71.2 Hoardings

- (a) The Retail Lot Owner can make a request to the Transit Hall Lot Owner to seek access to the Transit Hall Lot for the purpose of enabling the erection of temporary hoardings for the purpose of carrying out of fitout works to shops located within the Retail Lot. An indicative Hoarding Zone is shown in the diagram attached as schedule 8.
- (b) If a request is made by the Retail Lot Owner, the Transit Hall Lot Owner and the Retail Lot Owner will negotiate with a view to the Transit Hall Lot Owner agreeing to give the Retail Lot Owner access to the Transit Hall Lot pursuant to a separate licence agreement at no cost to the licensee for the purpose of the erection of temporary hoardings to enable the fit out of shop and kiosks within the Retail Lot, on reasonable terms.

71.3 Blade Signage

- (a) The Retail Lot Owner can make a request to the Transit Hall Lot Owner seeking the right for the Retail Lot Owner to install blade signage in the Transit Hall Lot benefiting shops located in the Retail Lot. An indicative Blade Signage Zone is shown in the diagram attached as schedule 7.
- (b) If a request is made by the Retail Lot Owner, the Transit Hall Lot Owner and the Retail Lot Owner will negotiate with a view to the Transit Hall Lot Owner agreeing to give the Retail Lot Owner the right pursuant to a separate licence agreement at no cost to the licensee (other than for reasonable legal and administrative costs) to install blade signage in the Transit Hall Lot, on reasonable terms.

72 Step In Rights

72.1 Step In Rights

- (a) If the Retail Lot Owner and the Office Lot Owner have breached their joint and several obligations to Repair Maintain and Replace the Transit Hall in accordance with this part 7 (“Transit Hall Rights and Obligations”) and the Transit Hall Lot Owner has notified the Retail Lot Owner and the Office Lot Owner of such under clause 69.8 (“Access, inspections and audits”), then the Transit Hall Lot Owner may step in and repair or maintain the Transit Hall on behalf of the Retail Lot Owner and the Office Lot Owner, provided the Transit Hall Lot Owner has given the Retail Lot Owner and the Office Lot Owner 2 Business Days’ notice of its intention to do so and the Retail Lot Owner or the Office Lot Owner has failed within that period to then take reasonable steps to remedy the breach.

- (b) The Transit Hall Lot Owner must exercise this right in accordance with clause 69.8(b)(i) and (iii).

72.2 Cost recovery

The Transit Hall Lot Owner can recover from the Retail Lot Owner and the Office Lot Owner, and the Retail Lot Owner and the Office Lot Owner jointly and severally indemnify the Transit Hall Lot Owner for, the costs and expenses it incurs in Repairing, Maintaining and Replacing the Transit Hall in accordance with this clause 72.

73 Goods Lift and Loading Dock

73.1 Good Lift and Loading Dock

- (a) The Goods Lift and Loading Dock is a Shared Facility.
- (b) The Transit Hall Lot has the benefit of the Easement to Use and Access Goods Lift (B) and the Loading Dock Easement.
- (c) The Transit Hall Lot Owner acknowledges that the Good Lift and Loading Dock must be used in accordance with development consents and law.

73.2 RailCorp and RailCorp Tenants

- (a) When requested by the Transit Hall Lot Owner or another Rail Entity, the Retail Lot Owner must grant licences to use the Goods Lift and the Office Lot Owner must grant licences to use the Loading Dock or both to:
 - (i) RailCorp for the purpose of carrying out its management functions as the owner of Wynyard Station; and
 - (ii) RailCorp's Tenants within the area shown on the Railcorp Tenancy Area Plan which must include persons servicing vending machines on the platforms of Wynyard Station and the ATM on the Coles level of Wynyard Station.
- (b) The form of licence is to be agreed by the Transit Hall Lot Owner and the Committee and must:
 - (i) be at no cost to RailCorp or a RailCorp Tenant other than in respect of the costs for cleaning the waste management facilities and waste removal but only if:
 - (A) those costs are also passed on to other retail users of the Loading Dock; and
 - (B) the proportion of those costs payable by RailCorp or RailCorp's Tenants is calculated using the same method as for other retail users of the Loading Dock on a like for like basis;
 - (ii) permit access and use of the waste management facilities located in the Loading Dock area; **[KWM NOTE: Coles Tenancy to be carved out of this if as a condition precedent to the Delivery Agreement, the Developer provides Coles with alternative waste management facilities which are acceptable to Coles]**
 - (iii) otherwise provide for access and use on an equal footing basis with Members and Occupiers entitled to use the Loading Dock and Goods Lift under this management statement and otherwise

be in accordance with the Loading Dock Management Plan which may contain priority arrangements as between users; and

- (iv) be for a term commensurate with the term of the lease or licence (including any further term) granted by RailCorp.

74 Installations by Transit Hall Lot Owner

- (a) The Transit Hall Lot Owner remains responsible for all costs, expenses and damage caused by the installation by the Transit Hall Lot Owner of any good, matter or thing in the Transit Hall Lot (including signage) other than any costs or expenses incurred by Transit Hall Lot Owner is exercising its Step In Rights under clause 72 ("Step In Rights").
- (b) The Retail Lot Owner is entitled to recover from the Transit Hall Lot Owner any reasonable costs incurred by it as a result of the Transit Hall Lot Owner or an Occupier of the Transit Hall Lot installing or placing any matter or thing in the Transit Hall (including signage) if the Transit Hall Lot Owner requests the Retail Lot Owner to repair or make good the damage.

75 RailCorp

75.1 Limitation of Liability

- (a) Despite anything in this management statement including an other indemnity in this management statement, whilst the Transit Hall Lot Owner is RailCorp or a Rail Entity, its liability to indemnify any person under this management statement:
 - (i) is limited to the extent of any limitation provision contained or referred to in the *Transport Administration Act 1988 (NSW)*; and
 - (ii) excludes liability to the extent arising from any action of RailCorp or a Rail Entity which:
 - (A) is in the lawful exercise of Rail Functions (which may include, by way of example only, cessation of electricity supply, closing the Transit Hall Lot or Wynyard station and diverting customers to different areas of Wynyard Place);
 - (B) is a response to an Alert Event (which may include, by way of example only, restricting use or access to the Transit Hall Lot or other parts of Wynyard Place) for security reasons; or
 - (C) is a response to any Force Majeure Event.

75.2 Statutory discretion

Despite any other provision in this management to the contrary, nothing in this management statement in any way restricts or otherwise fetters the statutory discretion of the Transit Hall Lot Owner whilst it is a Government Agency to exercise its statutory powers or functions under any law (excluding functions or powers the Transit Hall Lot Owner has in its capacity as a landowner only).

75.3 RailCorp restructure

- (a) The Members and Occupiers acknowledge and agree that the NSW Government has indicated that it may restructure RailCorp. The

restructure of RailCorp may result in RailCorp's assets, rights and liabilities being transferred to other entities.

(b) The Members and Occupiers agree:

- (i) that this management statement and any assets, rights or liabilities RailCorp holds in connection with this management may be novated, assigned or otherwise transferred from RailCorp to any other entity;
- (ii) to undertake all actions reasonably requested by RailCorp to effect such a novation, assignment or other transfer; and
- (iii) that it is not entitled to make RailCorp or any novatee, assignee or transferee liable for, any claim arising from or in connection with any novation, assignment or transfer contemplated by this clause 75.3.

75.4 RailCorp Tenancy Area Plan

RailCorp may serve on the Committee an updated Railcorp Tenancy Area Plan from time to time to reflect changes in the configuration of retail areas within Wynyard Station provided the retail area does not increase above the maximum area contained in the plan attached at schedule 9.

Wynyard Place Building Management Statement

Part 8

Development Works, subdivisions and replacement management statements

76 Interpreting this part

76.1 Application of part

This part 8 and the rights of the Developer under it apply despite any other provisions in this management statement.

76.2 References to the Developer

In this part 8, references to the Developer include all persons authorised by the Developer.

77 Development Works

77.1 Developer's rights

The Developer may carry out Development Works in Wynyard Place and is not required to obtain consent from you or the Committee to do so.

77.2 Consents from Government Agencies

The Developer must obtain all necessary consents from Government Agencies to carry out Development Works. Clause 77.6 ("Development Works Applications") applies.

77.3 Access arrangements

The Developer may gain access via Shared Facilities and Common Property (where applicable) to a component in Wynyard Place to carry out Development Works, including the Carpark Accessway. If the Developer requires access to your part of Wynyard Place (other than a Shared Facility) to carry out Development Works:

- (a) the Developer must provide you with reasonable notice (except in an emergency when no notice is required); and
- (b) you must act reasonably and provide the Developer with access.

77.4 Works affecting Shared Facilities

The Developer may install new Shared Facilities as part of the Development Works. The Developer may also:

- (a) temporarily disconnect existing Shared Facilities as part of the Development Works; and
- (b) augment existing Shared Facilities as part of the Development Works; and
- (c) relocate existing Shared Facilities.

In addition to its obligations under clause 77.3 ("Access arrangements"), the Developer must provide you with reasonable notice before it temporarily

disconnects an existing Shared Facility which you are entitled to use (except in an emergency when no notice is required).

77.5 Rectifying damage

The Developer must promptly rectify any damage it causes to your Stratum Lot as a result of carrying out Development Works.

77.6 Development Works Applications

The Developer does not need consent from you or the Committee to make Development Works Applications to Government Agencies. However, if that consent is required by a Government Agency (or otherwise) in order for the Developer to make an application, you and the Committee must promptly give consent.

77.7 Notice when Shared Facilities complete

The Developer must notify the Committee promptly when it completes Development Works for a Shared Facility.

78 Subdivisions and registration of Subdivision Plans

78.1 Acknowledgements about subdivisions and their effect on this management statement

You acknowledge that:

- (a) the Developer may, subject to all necessary development approvals and consents being obtained from the relevant Government Agencies, subdivide a Lot by a Subdivision Plan; and
- (b) when the Developer subdivides a Lot by a Subdivision Plan, this management statement may be replaced by a new building management statement or a strata management statement; and
- (c) it may be necessary to amend or replace this management statement with a new management statement if as a result of the registration of Subdivision Plans:
 - (i) the Shared Facilities in schedule 1 ("Indicative list of Shared Facilities") change; or
 - (ii) the Members contemplated in this management statement change; or
 - (iii) the subdivisions contemplated in this management statement change; or
 - (iv) the Members entitled to use Shared Facilities according to schedule 1 ("Indicative list of Shared Facilities") change.

78.2 Consenting to Subdivision Plans

You must, if required by the Developer, consent to registration of one or more Subdivision Plans unless the proposed subdivision would detrimentally and substantially affect your use of Shared Facilities.

78.3 New management statement

You must, if required by the Developer, consent to the registration of a new building management statement or strata management statement with a

Subdivision Plan to subdivide a Lot into one or more Stratum Lots or Strata Schemes (or a combination of them).

78.4 Repealing this management statement

These provisions apply if a Subdivision Plan or new building management statement or strata management statement is to be registered for Wynyard Place according to this clause 78:

- (a) Members must vote in favour of a Unanimous Resolution to repeal this management statement; and
- (b) Owners and Occupiers must give any consents required to repeal this management statement.

78.5 Subdivisions and Easements

It may be necessary or desirable, as part of the subdivision of Wynyard Place, to:

- (a) create new Easements with a Subdivision Plan; and
- (b) vary existing Easements with a Subdivision Plan; and
- (c) extinguish existing Easements with a Subdivision Plan; and
- (d) replace existing Easements; and
- (e) do any of the things in (a) to (d) if required by Government Agencies.

You must:

- (f) consent and obtain all necessary consents (including from your financier) to the creation of new Easements if they do not detrimentally affect the use of your Lot to a substantial extent; and
- (g) consent and obtain all necessary consents (including from your financier) to the extinguishment or variation of existing Easements if the extinguishment or variation does not detrimentally affect the use of your Lot to a substantial extent; and
- (h) despite (f) and (g), consent to any of the things in (a) to (e) if those things are required by any Government Agency; and
- (i) consent to replacement Easements if the replacement Easement is on terms no more onerous to you than the existing Easement.

78.6 Endorsement of consent

You must, subject to this clause 78:

- (a) promptly sign all documents contemplated in this clause 78 if required by the Developer; and
- (b) subject to clause 78.4 ("Repealing this management statement"), promptly sign all documents required by the Developer to repeal this management statement; and
- (c) promptly produce to the Registrar-General the certificate of title for your Lot if the Developer notifies you that production of the certificate of title is necessary to enable registration of all documents contemplated in this clause 78; and

- (d) do the things in this clause 78 more than once if required by the Developer .

78.7 Costs

The Developer agrees to pay your reasonable costs under clause 78.6 ("Endorsement of consent").

79 Effect of registering a new management statement

79.1 Statement continuation of provisions

The following provisions apply if a new building management statement is registered:

- (a) Service Contracts entered into by the previous Committee continue to apply; and
- (b) each new Member must become a party to each current Service Contract; and
- (c) Rules continue to apply; and
- (d) the Officers of the previous Committee continue to hold office (until they vacate or are dismissed from their position); and
- (e) clause 16.5 ("Certificate is evidence of matters in it") continues to have effect in respect of Outstanding Levy Certificates issued before registration of the new building management statement; and
- (f) consents given by the Committee according to clause 20 ("Consents by the Committee") continue to apply; and
- (g) Resolutions, Unanimous Resolutions and Shared Facility Resolutions continue to apply; and
- (h) bank accounts established by the Committee in the names of the Members continue to operate; and
- (i) the contractors approved by the Committee under clause 57 ("Using approved contractors") continue to apply; and
- (j) all consents and approvals under this part 8 continue to apply.

79.2 Financial statement

Immediately before a new building management statement is registered, the Committee must:

- (a) have its accounts audited by a qualified auditor; and
- (b) prepare and provide to each Member a financial statement for each of its accounts (from the date of the last financial statement) which contains the information in clause 49.2 ("Information to be included in a financial statement").

[KWM NOTE: Additional Part to be added setting out a Retail Protocol which will apply to the retail components of Wynyard Place. There may also be a sharing of costs and single management of the areas to present the

Retail as a seamless offering and to ensure that the Retail provides a mix of shops.]

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Wynyard Place Building Management Statement

Part 9 Miscellaneous

80 How to resolve Disputes

80.1 Interpretation

For the purpose of this clause 80, "party" or "parties" means the party or parties to a Dispute. The party or parties to a Dispute may be the Committee, a Member, an Owner or an Occupier.

80.2 Resolution of Disputes

The parties to a Dispute must endeavour in good faith to resolve their Dispute before taking action under this clause 80.

80.3 Dispute Notice

A party may give another party a Dispute notice if they are unable to resolve their Dispute under clause 80.2 ("Resolution of Disputes"). In the Dispute notice the party must:

- (a) describe what the Dispute is about; and
- (b) identify the provisions of this management statement or the law that applies to the Dispute; and
- (c) state the position of the party; and
- (d) set out the facts and other circumstances on which the party relies; and
- (e) attach copies of correspondence and other documents mentioned in the Dispute notice.

80.4 Negotiation

Within 10 Business Days after a party gives a Dispute notice, the parties to the Dispute must meet in person (or conduct a telephone conference) at an agreed time and place. If they cannot agree on the time and place, they must meet to try to resolve the Dispute by negotiation:

- (a) at 2.00 pm on the day which is 10 Business Days after the Dispute notice was given; and
- (b) at Wynyard Place or by telephone conference.

80.5 Referring a Dispute to expert determination

If the parties cannot resolve their Dispute by negotiation, a party may give a determination notice requiring the parties to refer the Dispute to an independent expert for determination and appoint an expert to determine the Dispute.

80.6 Appointing an expert

If the parties cannot agree on an expert within five Business Days after a party gives a determination notice, a party may ask the President of the Law Society of New South Wales to appoint an appropriate expert having regard to the nature of the Dispute and determine the remuneration of the expert.

80.7 Instructions to the expert

The parties must instruct the expert to:

- (a) act as an expert and not as an arbitrator; and
- (b) determine the rules for the conduct of the expert determination; and
- (c) consider the documents and other information the parties give the expert and which, in the opinion of the expert, are relevant.

80.8 Conducting expert determination

If the parties cannot agree on the rules for the conduct of the expert determination, then the expert is to determine the rules and notify the parties accordingly.

80.9 Expert determination

The expert:

- (a) is not bound to observe the rules of natural justice or the rules of evidence; and
- (b) may obtain and refer to documents and information not provided by the parties; and
- (c) must determine the Dispute and give written reasons for the determination within one month after being appointed.

80.10 Binding effect

Except as to matters of law and a Dispute over an amount in excess of \$500,000, the Expert's decision including any decision about an expense arising from the dispute is final and binding on each Member.

80.11 Expert determination about Shared Facility costs

If a Dispute about the proportion of a Member's cost for a Shared Facility is determined under this clause 80, the expert who determines the Dispute must determine any adjustments the Member or the Committee must pay.

80.12 Costs

The parties to the Dispute must equally share the costs for expert determination of their Dispute (unless the expert decides otherwise) and pay their costs in connection with the Dispute.

81 How to serve notices

81.1 Methods of serving notices

A notice must be:

- (a) delivered personally to the addressee; or
- (b) left at the Current Address of the addressee; or
- (c) sent by pre-paid ordinary post to the Current Address of the addressee.

Any notices to be served on the Committee are to be addressed to the Secretary of the Committee.

81.2 When does a notice take effect?

A notice takes effect from the time it is received unless a later time is specified.

81.3 Receipt - post

If sent by post, a notice is taken to be received three days after posting (or seven days after posting if sent to or from a place outside Australia).

81.4 Form of notices

Unless stated otherwise in this management statement, all notices, certificates, consents and other communications in connection with this management statement must be in writing, signed by the sender (if an individual) or an authorised officer of the sender.

81.5 Receipt - general

Despite clause 81.3 ("Receipt - post") and clause 81.4 ("Receipt - fax"), if a notice is received after 5.00pm in the place of receipt or on a non-Business Day, it is taken to be received at 9.00am on the next Business Day.

81.6 Notices to the Committee

A notice (or other document) intended for the Committee must be served in accordance with the methods provided under clause 81.1 ("Methods of serving notices") to the Manager, or if the Committee has not appointed a Manager, the Chairperson.

81.7 Other form of communication

The parties may agree any other form of communication in respect of the service of a notice, from time to time.

82 GST

82.1 Amounts are exclusive of GST

Unless otherwise expressly stated, all amounts payable under or in connection with this management statement are expressed to be exclusive of any amount of GST.

82.2 Obligation to pay GST

Where GST is imposed on any supply made under or in connection with this management statement by one party ("the supplying party") to another party ("the receiving party"), the receiving party must pay or provide the GST exclusive consideration for the supply and, in addition to and at the same time as the GST exclusive consideration is payable or to be provided, an additional amount equal to the amount of GST liability of the supplying party. The supplying party must issue a Tax Invoice to the receiving party.

82.3 Differences in amounts

If the amount of GST recovered by the supplying party from the receiving party differs from the amount of GST payable at law by the supplying party (or an entity grouped with the supplying party for GST purposes) in respect of the supply, the amount payable by the receiving party to the supplying party will be adjusted accordingly.

82.4 Reimbursement

Where one party ("payer") is liable to reimburse another party ("payee") for any expenditure incurred by the payee ("Expenditure"), the amount reimbursed by the

payer will be the GST exclusive Expenditure plus any GST payable to the payee by the payer under this clause 82.

83 General

83.1 Discretion in exercising rights

The Committee, a Member or an Owner may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (unless this management statement expressly states otherwise), including by imposing conditions.

83.2 Partial exercise of rights

If the Committee, a Member, an Owner or an Occupier do not exercise a right or remedy fully or at a given time, they may still exercise it later.

83.3 Approvals and consents

By giving its approval or consent, the Committee, a Member or an Owner does not make or give any warranty or representation as to any circumstance relating to the subject matter of the consent or approval.

83.4 Conflict of interest

The Committee, Members, Owners and Occupiers may exercise their rights and remedies under this management statement even if this involves a conflict of duty or a party has a personal interest in their exercise.

83.5 Remedies cumulative

The rights and remedies provided in this management statement are in addition to other rights and remedies given by law independently of this management statement.

83.6 Severability

If the whole or any part of a provision of this management statement is void, unenforceable or illegal, then that provision or part provision is severed from this management statement. The remainder of this management statement has full force and effect unless the severance alters the basic nature of this management statement or is contrary to public policy.

84 Trustee limitation of liability

84.1 Application of clause

This clause 84 applies only to Trustee Members.

84.2 Capacity and limitation of liability

- (a) The Trustee enters into this management statement only in its capacity as Trustee of the Trust.
- (b) Subject to clause 84.3 ("Circumstances where limitation does not apply"):
 - (i) a liability arising under or in connection with this management statement (or the transactions contemplated by it) is limited and can be enforced against the Trustee only to the extent to which it can be satisfied out of property of the Trust out of which the Trustee is actually indemnified for the liability; and
 - (ii) the limitation in clause 84.2 applies despite any other provisions of this management statement.

- (c) Subject to clause 84.3("Circumstances where limitation does not apply") no party shall:
- (i) sue the Trustee Member in any capacity other than as Trustee of the Trust;
 - (ii) seek to appoint or take any steps to procure or support the appointment of a receiver, a receiver and manager, a liquidator, a provisional liquidator, an administrator or similar person to the Trustee or prove in any liquidation, administration or arrangement of or affecting the Trustee (except in relation to property of the Trust);
 - (iii) enforce or seek to enforce any judgment in respect of any liability arising under or in connection with this management statement (or the transactions contemplated by it) against any property of the Trustee other than property held by the Trustee as responsible entity of the Trust.

84.3 Circumstances where limitation does not apply

The limitations in clause 84.2("Capacity and limitation of liability") do not apply to any liability of the Trustee Member to the extent that the liability is not satisfied because, under the constitution of the Trust or by operation of law there is a reduction in the extent of the Trustee's indemnification out of the assets of the Trust, as a result of the Trustee's fraud, negligence or breach of trust (involving its wilful default or lack of good faith).

85 Custodian limitation of liability

85.1 Application of clause

This clause 85 applies only to Custodian Members.

85.2 Capacity and limitation of liability

Members, Owners and Occupiers acknowledge that:

- (a) each Custodian Member enters into this management statement solely in its capacity as the custodian for the Trust, and not in its private or personal capacity; and
- (b) subject to clause 85.5 ("Custodian Member's personal liability") and any contrary requirements of the law, despite any other provision of this management statement, the liability of the Custodian Member under this management statement is at all times, and for all purposes, to be construed solely as a liability or obligation to be satisfied out of, and only to the extent of, the assets of the Trust ("Scheme Assets"), and in no circumstances will the Custodian Member be liable in its private or personal capacity.

85.3 Limited recourse

Where a Member, Owner or Occupier makes a claim or pursues a remedy against the Custodian Member in respect of any cause of action, claim or loss arising:

- (a) under or in connection with this management statement; or

- (b) in connection with any transaction, conduct or other agreement contemplated by this management statement

(together, an "Claim"),

that Member, Owner or Occupier, subject to clause 85.5 ("Custodian Member's personal liability") and any contrary requirements of the law:

- (c) is only entitled to recover an amount which does not exceed the amount the Custodian Member actually recovers from the Scheme Assets by exercising its rights of indemnity under the constitution governing the Trust; and
- (d) is not entitled to pursue a remedy which would require the Custodian Member to expend monies in excess of the amount the Custodian Member is able and entitled to recover referred to in sub-clause (c) above,

provided that the Custodian Member shall use its best endeavours to exercise its right of indemnity against the Scheme Assets.

85.4 Acknowledgment of limitations

Subject to clause 85.5 ("Custodian Member's personal liability") and any contrary requirements of the law, Members, Owners and Occupiers agree and acknowledge that they must not, in respect of any Claim:

- (a) bring proceedings against the Custodian Member in its personal capacity;
- (b) seek to appoint an administrator or liquidator to the Custodian Member;
- (c) commence the winding up, dissolution or administration of the Custodian Member; or
- (d) appoint a receiver, receiver and manager, administrative receiver or similar official to all or any of the assets of the Custodian Member.

85.5 Custodian Member's personal liability

The limitations of the Custodian Member's liability in clause 85.2 ("Capacity and limitation of liability") and 85.3 ("Parties may not sue"), and the restrictions on the rights of Members, Owners and Occupiers under clause 85.4 ("Acknowledgment of limitations"), do not apply to the extent that the relevant Claim arises from the Custodian Member's fraud or gross negligence or breach by the Custodian Member of its duties under the Corporations Act 2001 (Australia).

Wynyard Place Building Management Statement

Part 10 Dictionary

86 Definitions

These meanings apply unless the contrary intention appears:

Act means the *Conveyancing Act 1919* (NSW) as amended from time to time.

Administrative Fund means the fund established by the Committee according to clause 45 (“What funds must the Committee establish?”).

Alert Event means an actual or likely event or circumstance which arises in relation to the conduct of activities at Wynyard Station or the Transit Hall which in the reasonable opinion of a suitably qualified senior representative of a Government Agency has or is likely to have a materially detrimental effect on:

- (a) the safety or support of rail facilities at Wynyard Station; and/ or
- (b) the safety of railway passengers, Wynyard Station patrons or Transit Hall Users.

Appointment Form means a form in or to the effect of the form in schedule 4 (“Appointment Form”).

Approvals includes any licence, permit, consent, approval, determination, certificate or permission or exemption from any Authority or under any law.

AEO means an authorisation issued by the Assets Standards Authority to a legal entity which permits it to carry out Asset Maintenance Lifecycle work.

AEO Modification means the response, whether conditional or otherwise, to an AEO Modification Application.

AEO Modification Application means a Concession Application or another application to exempt in whole or in part or modifying (other than under a Concession Application) the application of clause 69.6(a) (“AEO status”).

ASA means the Asset Standards Authority.

ASA Requirements means the standards and requirements of the Assets Standards Authority.

Asset Standards Authority means the Authority who is responsible for providing the standards for NSW Transport assets.

Australian Standard means the standards published by Standards Australia as amended from time to time.

Authority any government or semi government authority or instrumentality, statutory or judicial authority.

Authorised User means a Member, a lessee of the whole or part of a Lot, a mortgagee in possession of a Lot, a Transit Hall User and a person otherwise authorised by a Member to use a Shared Facility.

Blade Signage Zone means the area of the Transit Hall Lot shown in the plan attached as schedule 7.

Business Day means a day other than a Saturday, Sunday or public holiday in Sydney.

Carpark Accessway - see the definition in schedule 1 ("Indicative list of Shared Facilities"). **[KWM NOTE: TO BE CONFIRMED]**

CCTV Security System – see the definition in schedule 1 ("Indicative list of Shared Facilities") **[KWM NOTE: TO BE CONFIRMED.]**

Chairperson means the chairperson of the Committee.

Committee means the building management committee established and maintained by the Members under clause 8 ("Establishment and membership") and required by the Subdivision Legislation.

Common Property has the meaning it has in the *Strata Schemes Management Act 1996* (NSW).

Concession Application means an application using T MU MD 00011 F1 *Request for Concession to ASA Requirement*.

Coles Tenancy means [tbd].

Cost includes a cost, charge, expense, Loss, outgoing, fee, levy, impost or any other expense.

Cost Review Report means a report prepared by an expert consultant recommending the apportionment of costs of a Shared Facility amongst Members Benefitted.

Council means the Council of the City of Sydney.

Current Address means the current address at which a person may be served a notice or communication under this management statement (including an email address if the notice or communication is served electronically) in accordance with clause 35.2 ("How to serve notice of a Meeting").

Custodian Member means a Member who owns its Stratum Lot as custodian for a trust.

Developer means Brookfield Office Properties One Carrington Developer Pty Ltd (ABN 72 169154 830) and includes its successors and assigns.

Development Consent means the Approval granted by the Acting Executive Director (Infrastructure and Industry Assessments, Department of Planning and Environment), as delegate of the Minister of Planning on 25 September 2015 for the Development Works Application and includes:

- (a) any modifications to the Development Works Application imposed by that consent;
- (b) any future modifications of that Development Consent; and
- (c) any other Approval sought in conjunction with or arising out of the Development Works Application.

Development Period means the period from the date of registration of this statement until the Office Lot is complete.

Development Works means all building, construction and development works to be carried out on Wynyard Place land the development works the subject of the Development Consent: including:

- (a) building and demolition works; and
- (b) the installation, augmentation, connection and temporary disconnection of services; and
- (c) the installation and connection of Shared Facilities; and
- (d) the augmentation and temporary disconnection of existing Shared Facilities; and
- (e) changing the location of Shared Facilities; and
- (f) placing in Wynyard Place anything in connection with building, construction and development works including temporary signs, structures, building materials, fences, cranes and other equipment.

Development Works Application means the State significant development application No. SSD 13_5824 made under Part 4 of the EP&A Act made by the Developer (or a person authorised by the Developer) to a Government Agency for approval to carry out the Development Works.

Disposed Equipment means any Transit Hall Plant & Equipment which is being replaced under clause 69.2("Replacement of Transit Hall Plant & Equipment").

Dispute means any dispute between the Committee, the Members, Owners or Occupiers about:

- (a) the construction of this management statement; or
- (b) the rights or obligations of a Member, an Owner or an Occupier under this management statement; or
- (c) amounts which the Committee determines for Administrative Fund or Sinking Fund contributions; or
- (d) the Committee passing or failing to pass a Resolution; or
- (e) amounts owing to the Committee under this management statement; or
- (f) the operation, maintenance, repair or replacement of a Shared Facility; or
- (g) matters under clause 13 ("Insurance Requirements"); or
- (h) matters under part 7 ("Transit Hall Rights and Obligations") with the exception of those matters which are prohibited from being disputed.

Easements means any easements, restrictions on use and positive covenants benefiting or burdening any part of Wynyard Place.

Emergency Meeting means a meeting of the Committee convened in an emergency in accordance with part 4 ("Meeting procedures and resolutions").

Emergency Situation means any circumstance involving a need, for reasons of safety, for evacuation or egress from any part of Wynyard Place, including fire, earthquake, flooding, terrorist activity and any training or test of such evacuation or egress.

Essential Shared Facility means [tbd].

Evacuation Management Plan means a plan prepared by the Committee and updated from time to time which details the evacuation procedures in an Emergency Situation. ***[KWM NOTE: To be considered whether this is now required given that we have now included a requirement to comply with the Site Incident Management Plan]***

Excluded Equipment means:

- (a) an item which becomes excluded equipment in accordance with clause 69.3(c) ("Disposed Equipment");
- (b) any item which TfNSW has agreed during the construction of the Transit Hall will be excluded from the Retail Lot Owner's obligation to maintain and repair; and
- (c) items installed in the Transit Hall by the Transit Hall Lot Owner or an Occupier of the Transit Hall Lot but does not include any items installed by the Transit Hall Lot Owner exercising rights under clause 72 ("Step in Rights").

Excluded Loss means any loss of opportunity, profit, anticipated profit, business or business opportunities and any failure to realise anticipated savings.

Facilities Management Areas - see the definition in schedule 1 ("Indicative list of Shared Facilities"). ***[KWM NOTE: TO BE CONFIRMED]***

Facilities Manager means the facilities manager appointed by the Committee according to clause 12 ("Appointing a Facilities Manager").

Financial Year means a financial year of the Committee determined according to clause 46 ("Financial Years").

Fire Safety Device means any item in a Lot or Common Property or comprising a Shared Facility (for example, part of the integrated fire system) which:

- (a) monitors the incidence of smoke, heat or fire; or
- (b) signals warnings of smoke, heat or fire; or
- (c) provides lighting or directional signals in the case of smoke, heat or fire; or
- (d) controls access in to and out of Wynyard Place in an emergency (for example, fire stairs); or
- (e) notifies the fire brigade (and any other emergency agency) of smoke, heat, fire or an emergency in Wynyard Place; or
- (f) retards the spread of smoke, heat or fire through Wynyard Place; or
- (g) extinguishes fires in Wynyard Place (for example, hose reels and fire extinguishers); or
- (h) is required under statutory controls for fire safety.

Force Majeure Event means any one or more, or a combination, of the following:

- (a) lightning, cyclone, earthquake, natural disaster, landslide, tsunami, or mudslide;
- (b) civil riot or rebellion, revolution, terrorism, insurrection commotion and military usurped power, act of sabotage or act of a public enemy and war (declared or undeclared) or other like hostilities;
- (c) ionising radiation, contamination by radioactivity, nuclear, chemical or biological contamination excluding any contamination which is caused or contributed to by the Retail Lot Owner;
- (d) fire, flood at or transgressing onto the Transit Hall Lot (or in the immediate vicinity of the Transit Hall Lot which prevents, delays or disrupts access to the Transit Hall Lot) or explosion caused by any of the events described in paragraphs (a) or (b);

which (either separately or together) causes the Retail Lot Owner to be unable to perform all or a material part of the Retail Lot Owner's obligations (other than an obligation to pay money) under this management statement, where the event or its consequences could not have been prevented by the exercise of a standard of care and diligence consistent with that of a prudent person undertaking the obligations under this management statement.

Garbage Room means the shared receptacle for garbage, recyclable material and waste located on [to be inserted].

Government Agency means any government or any governmental or semi-governmental administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity or state owned corporation and includes a Rail Entity.

Grantor means a Member who is burdened by an Easement in respect of a Shared Facility.

GST means any form of goods and services or similar value added tax.

Hoarding Zone means that part of the Transit Hall Lot shown in the plan attached as Schedule 8.

Insurances means the insurances referred to in clause 13 ("Insurance Requirements").

Insurance Shared Facilities means the Shared Facilities listed in schedule 1 ("Indicative list of Shared Facilities").

Invitees means any guest, employee, agent or any other person who the Owner or Occupier consents to enter or remain within Wynyard Place, subject to this management statement.

Land means the land contained in lots 11-15 (inclusive) in the Stratum Plan.

Loading Dock Easement means the Easement to Use and Access the Loading Dock (G) registered with the Stratum Plan.

Loading Dock Management Plan means the loading dock management plan approved by the Committee and the Transit Hall Lot Owner in accordance with clause 61.2 ("Rules and rights")

Loss means:

- (a) any cost, claim, damage, expense, liability or other amount; and

- (b) without being limited by paragraph (a) and only to the extent not prohibited by law, any fine or penalty,

whether direct, indirect, consequential, present, future, fixed, unascertained, actual or contingent.

Lot means a Strata Lot (if this management statement is a strata management statement) and a Stratum Lot.

Manager means the strata managing agent appointed by the Committee under clause 11 ("Appointing a Manager").

Meeting means a meeting of the Committee held in accordance with part 4 ("Meeting procedures and resolutions") and includes a meeting held in writing according to clause 36.8 ("Special provisions for Meetings held in writing").

Member means an Owners Corporation and an Owner of a Stratum Lot.

Members Benefitted means a Member who is entitled to use a Shared Facility as set out in schedule 1 ("Indicative list of Shared Facilities").

Member Entitled to Vote means, in relation to a matter requiring a Resolution:

- (a) in relation to any matter requiring an Ordinary Resolution, a Special Resolution or a Unanimous Resolution, a Member who has paid the Committee all of their Administrative Fund and Sinking Fund contributions and other money they owe the Committee under this management statement which are due and payable before the Meeting or Emergency Meeting at which the Resolution will be considered; and
- (b) if the motion deals with a Shared Facility and requires an Ordinary Shared Facility Resolution, a Special Shared Facility Resolution or a Unanimous Shared Facility Resolution:
- (i) a Member who is entitled to use the Shared Facility; and
 - (ii) a Member who will be entitled to use the Shared Facility if the Resolution is passed; and
 - (iii) a Member in whose Strata Scheme or Stratum Lot the Shared Facility is located and whose Strata Scheme or Stratum Lot will be substantially and detrimentally affected if the Resolution is passed; and
 - (iv) if the motion deals with adding a Shared Facility, a Member who has indicated by written notice to the Committee prior to the relevant Meeting that it wishes to be entitled to use the Shared Facility,

being a Member who has paid the Committee all of their Administrative Fund and Sinking Fund contributions and other money they owe the Committee under this management statement which are due and payable before the Meeting or Emergency Meeting at which the Ordinary Shared Facility Resolution, the Special Shared Facility Resolution or Unanimous Shared Facility Resolution will be considered

Membership Form means a form in or to the effect of the form in schedule 5 ("Membership Form").

Net Financial Impact means the amount payable by the Transit Hall Lot Owner to the Retail Lot Owner to carry out a Transit Hall Modification approved in a Transit Hall Modification Order.

Occupier means the occupier, lessee, licensee or person in occupation of a Lot (or part of a Stratum Lot).

Office Lot means [lot 12] in the Stratum Plan.

Office Lot Owner means the Owner of the Office Lot.

Officer means the Secretary, Treasurer or Chairperson.

Optional Shared Facility means [tbd].

Ordinary Shared Facility Resolution means a resolution that relates to a Shared Facility which is passed at a Meeting if not more than one half in value of votes is cast against the motion by Members Entitled to Vote.

Ordinary Resolution means a motion passed at a Meeting or an Emergency Meeting in respect of which a majority of votes are cast in favour.

Outstanding Levy Certificate means a certificate provided by the Committee under clause 16 ("Providing Outstanding Levy Certificates").

Owner means an owner or mortgagee in possession of a Lot.

Owners Corporation means an owners corporation for a Strata Scheme at Wynyard Place (if any).

Proxy Form means a form in or to the effect of the form in schedule 6 ("Proxy Form").

Quality Standards all applicable standards, codes, specifications and requirements to be complied with in relation to the Repair, Maintain and Replace obligations of the Transit Hall including:

- (a) all laws;
- (b) all Approvals;
- (c) the Building Code of Australia and /or alternative engineered solutions approved by a registered certifier;
- (d) ASA Requirements (but only whilst the Transit Hall Lot is being used as a Transit Hall); and
- (e) the relevant standards, codes and guides from time to time of Standards Australia and Standards New Zealand,

as they may be amended, supplemented or replaced from time to time.

RailCorp means Rail Corporation New South Wales a New South Wales Government agency and corporation incorporated under section 4 of the Transport Administration Act 1998 (NSW) (ABN 59 325 778 353).

RailCorp Tenants means RailCorp's tenants or licensee's located on the paid or unpaid concourse at Wynyard Station (which include persons servicing vending machines on the platforms of Wynyard Station and the ATM on the Coles level of Wynyard Station)., the Coles Tenancy and the Carrington Street retail tenancies.

RailCorp Tenancy Area Plan means the plan attached at schedule 9 which may be updated from time to time in accordance with clause 75.4 ("Railcorp Tenancy Area Plan") to reflect changes in the configuration of retail areas within Wynyard Station provided the retail area does not increase above the maximum area contained in the plan attached as schedule 9.

Rail Entity means any Authority which has as its function the ownership, operation or management of railway infrastructure of itself or any other form of asset of any kind and includes TfNSW and RailCorp and their respective statutory successors.

Rail Risk Premium Cost means a premium payable under an insurance policy effected under clause 13 ("Insurance requirements") in respect of rail risk and use as a Transit Hall.

Repair Maintain and Replace means:

- (a) the keeping, repairing and maintaining of the Transit Hall in good and substantial repair;
- (b) carrying out of the Transit Hall Refurbishment Works; and
- (c) the replacement of the Transit Hall Plant & Equipment as and when required under this management statement.

The expression "Repaired Maintained and Replaced" has the same meaning.

Representative means a natural person appointed by each Member to represent them at Meetings and Emergency Meetings.

Retail Lot means [lot 13] in the Stratum Plan.

Retail Lot Owner means the Owner of the Retail Lot.

Resolution means each of:

- (a) an Ordinary Resolution;
- (b) an Ordinary Shared Facility Resolution;
- (c) a Special Resolution;
- (d) a Special Shared Facility Resolution;
- (e) a Unanimous Resolution; and
- (f) a Unanimous Shared Facility Resolution.

Rules means rules made by the Committee according to clause 8.5 ("Making Rules").

Secretary means the secretary of the Committee.

Security Key means a key, magnetic card or other device or information used in Wynyard Place to open and close Shared Facility doors, gates or locks or to operate Shared Facility alarms, security systems or communication systems.

Security Room means a room containing CCTV security equipment servicing the Transit Hall Lot and the Shared Facilities.

Service Contractor means a person who provides services to the Committee including, operational, maintenance, repair and replacement services for Shared Facilities.

Shared Facilities means:

- (a) the items in clause 55.2 ("What do Shared Facilities include?"); and
- (b) services, facilities, machinery, equipment and other items used by more than one Member; and
- (c) other facilities and services stated to be Shared Facilities under this management statement,

Shared Facilities Plan means the plan in schedule 3 ("Shared Facilities Plan") which shows the location of various Shared Facilities.

Shared Facilities Register means a list of the Facilities and Services that the Committee decides is a Shared Facility.

Shared Facility Resolution means a resolution according to clause 43 ("Shared Facility Resolution at Meetings").

Shell House Lot means [Lot 11] in the Stratum Plan (and any subsequent lots into which it is subdivided).

Shell House Lot Owner means the Owner of the Shell House Lot.

Signage Code means the signage code for Wynyard Place in schedule [tbd].

[KWM NOTE: The signage code can be attached or it may be better for the Developer to file it with the Committee at the first meeting. This will have provisions regarding wayfinding signage and digital advertising as well as all other signage and include the blade signage]

Sinking Fund means the fund established by the Committee according to clause 45.2 ("Sinking Fund").

Site Incident Management Plan means a plan attached as schedule [tbd] which sets out procedures to be followed in an Emergency Situation as amended by RailCorp from time to time acting reasonably.

Site Specific Change in Law means a change in law occurring after the Transfer Date which applies to the Transit Hall Lot and not to any other similarly situated land facilities, or land or facilities where similar activities are carried out by a Government Agency.

Special Event means an event or organised event for which there is anticipated by the Transit Hall Lot Owner or Government Agency to be on a temporary or short term basis an unusually high demand for train services at Wynyard Station or as a result of the special event or organised event for security or safety reasons a need to alter access to and from Wynyard Station. They include:

- (a) New Year's Eve and New Year's Day;
- (b) Australia Day;
- (c) ANZAC Day;
- (d) Vivid Festival;
- (e) Sydney Festival;

- (f) Mardi Gras; and
- (g) any other event which in the reasonable opinion of a suitably qualified senior representative of a Government Agency requires a need to vary or prevent access to Wynyard Station resulting from an anticipated unusually high level of demand for train services at Wynyard Station, or for security or safety reasons.

Special Resolution means a motion passed at a Meeting or an Emergency Meeting in respect of which not more than one quarter in value of votes is cast against the motion by Members Entitled to Vote.

Special Shared Facility Resolution means a resolution in relation to a Shared Facility which is passed at a Meeting if not more than one quarter in value of votes is cast against the motion by Members Entitled to Vote.

Strata Plan means a strata plan under the *Strata Schemes (Freehold Development) Act 1973 NSW*.

Stratum Lot means a lot in the Stratum Plan which has not been subdivided by a Strata Plan.

Stratum Plan means DP [to be inserted].

Subdivision Legislation means:

- (a) if this management statement is a building management statement, the *Conveyancing Act 1919 (NSW)*; and
- (b) if this management statement is a strata management statement, the *Strata Schemes Management Act 2015 (NSW)* and *Strata Schemes Development Act 2015 (NSW)*.

[Corrs note: we have included the updated legislation but note whilst passed is not yet in force.]

Subdivision Plan means a Strata Plan or a subdivision plan which subdivides a Stratum Lot, or part of a Stratum Lot, into two or more Stratum Lots (or a combination of both).

Substitute Representative means a natural person appointed by a Member as a substitute for their Representative.

Substitution means replacement of an existing shared facility with comparable equipment of substantially similar specifications. **Substitute** and **substituted** have corresponding meanings.

TfNSW means Transport for NSW (ABN 18 804 239 602) a New South Wales Government agency constituted by section 3C of the *Transport Administration Act 1988 (NSW)* of Level 7, 8-12 Castlereagh Street, Sydney New South Wales 2000.

Transit Hall means the transit hall which may include ancillary uses (including ancillary retail uses) and the Transit Hall Plant & Equipment located within the Transit Hall Lot.

Transit Hall Asset Management Plan means the plan of that name which is initially filed with the Committee and updated from time to time and on replacement of an asset by the Transit Hall Committee. [KWM NOTE: This will include the design life of the Assets (which are part of the Transit Hall

Brief) and the forecasted replacement of assets as contemplated by clause 67.1.]

Transit Hall Asset Register means the register listing all items of Transit Hall Plant & Equipment filed with the Committee as updated from time to time in accordance with clause 66.6 ("Transit Hall Documentation").

Transit Hall Committee means the committee established under clause 67.1 ("Formation of Transit Hall Committee").

Transit Hall Documentation means each of the following:

- (a) Transit Hall Asset Register;
- (b) Transit Hall Asset Management Plan;
- (c) Transit Hall Facility Specification;
- (d) Transit Hall Monthly Maintenance Schedule; and
[insert other relevant documentation]

as reviewed, amended and updated in accordance with this statement.

Transit Hall Facility Specification means the specifications for the repair, refurbishment and maintenance obligations as set out in schedule [tbd] as amended from time to time in accordance with this management statement.

Transit Hall Levy [TBD]. *[KWM Note: This may be included if the Retail Owner wishes to pass on a proportion of the costs in relation to the Transit Hall to owners other than the Transit Hall Lot Owner while that owner remains a Rail Entity.]*

Transit Hall Lot means [lot 14] in the Stratum Plan.

Transit Hall Lot Owner means the registered proprietor of the Transit Hall Lot.

Transit Hall Matter means a Resolution which concerns or impacts or relates to, or is likely to concern or impact or relate to, the Transit Hall or any Easement burdening or benefiting the Transit Hall or the use or operation of the Transit Hall or Easements and includes Resolutions:

- (a) relating to Insurance;
- (b) to give effect to a matter decided by the Transit Hall Committee;
- (c) in respect of Shared Facilities including to Upgrade or Substitute a Shared Facility located within the Transit Hall Lot or for which the Transit Hall Lot is a Member Benefited; or
- (d) to upgrade or refurbish the Transit Hall;
- (e) any rights granted to third parties in respect of Shared Facilities for which the Transit Hall Lot Owner is a Member Benefited.

Transit Hall Modification means a modification to the Transit Hall Facility Specification and confirmed in a Transit Hall Modification Order.

Transit Hall Modification Order means a modification order issued by the Transit Hall Lot Owner under clause 68.3 ("Acceptance of Transit Hall Modification").

Transit Hall Modification Proposal means a response to the Transit Hall Modification Request issued by the Retail Lot Owner under clause 68.2 ("Transit Hall Modification Proposal").

Transit Hall Modification Request means a request issued by the Transit Hall Lot Owner under clause 68.1 ("Transit Hall Modification Request").

Transit Hall Monthly Maintenance Schedule has the meaning given to it in section [tbd] of the Transit Hall Facility Specification as amended and updated in accordance with this management statement.

Transit Hall Plant & Equipment means all plant, machinery, fittings, fixtures and equipment installed within the Transit Hall at the date of this statement or any replacement fittings, fixtures and equipment installed by the Retail Lot Owner (whether under a Transit Hall Modification) but excluding Excluded Equipment and Shared Facilities.

Transit Hall Practices means repairing, maintaining and replacing a facility of the nature of or having the characteristics of the Transit Hall:

- (a) with due care and skill;
- (a) without limiting paragraph (a), exercising that degree of skill, care, diligence, which would be expected from a skilled and experienced person when working on projects of commensurate type, size and value to the Transit Hall, its use and operational requirements;
- (b) with good workmanship and the use of new fixtures, fittings, finishes and materials of merchantable quality and free from defects;
- (c) with due expedition and without unnecessary or unreasonable delay;
- (d) in a manner which facilitates good technical practice;
- (e) where applicable, in accordance with the NSW Code and NSW Guidelines;
- (f) in a manner safe to Authorised Users and the general public and the Transit Hall Lot Owner.

Transit Hall Refurbishment Works means periodic refurbishment or replacement of the Transit Hall or parts of the Transit Hall which may involve capital or structural works.

Transit Hall Users means all users of Transit Hall for the purpose of accessing Wynyard Station.

Transfer Date means [insert date] [the date inserted will be date of completion of the contracts for sale.]

Treasurer means the treasurer of the Committee.

Trust means:

- (a) in relation to each Trustee Member, the trust in respect of which the Trustee Member owns its Stratum Lot as trustee; or
- (b) in relation to each Custodian Member, the trust in respect of which the Custodian Member owns its Stratum Lot as custodian.

Trustee means the trustee of the Trust.

Trustee Member means a Member who owns its Stratum Lot as trustee of a Trust.

Unanimous Shared Facility Resolution means a resolution in relation to a Shared Facility which is passed at a Meeting against which no Member Entitled to Vote casts a vote.

Unanimous Resolution means a motion passed at a Meeting against which no Member Entitled to Vote casts a vote.

Upgrade means improving the performance, amenity or technical specifications of an existing shared facility other than by substitution.

Valuation Period means each successive period of 3 years, commencing from the date of registration of this management statement.

Wynyard Place means the Land and improvements on the Land.

Wynyard Station means the train station including concourse located at Wynyard.

87 Interpretation

87.1 References to certain terms

Unless the contrary intention appears, a reference in this management statement to:

- (a) a document (including this management statement) includes any variation or replacement of it; and
- (b) a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this management statement; and
- (c) a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and
- (d) the singular includes the plural and vice versa; and
- (e) the word “you” means a Member, an Owner or an Occupier; and
- (f) the word “person” includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, or any Government Agency; and
- (g) a particular person includes a reference to the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns; and
- (h) if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day; and
- (i) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later; and
- (j) the words “including”, “for example” or “such as” when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind; and

- (k) if an act under this management statement to be done by a party on or by a given day is done after 5.30pm on that day, it is taken to be done on the next day; and
- (l) if an event under this management statement must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day.

87.2 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this management statement.

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Schedule 1 - Indicative list of Shared Facilities

The following is an indicative list of the types of facilities and services provided to Members that are expected to be Shared Facilities because they are likely to service more than one Member or benefit more than one Member and as such would satisfy the definition of "Shared Facility" in this management statement. For the avoidance of doubt, the inclusion of a facility or service in this schedule does not mean that it is a Shared Facility or that all Members share in use of the Facility. A Shared Facility is only a facility or service satisfying the definition of "Shared Facility".

Administration Shared Facilities
Accounting, Audits and Taxation
Administrative Consultants Fees of consultants to the Committee
Legal Fees of the Committee
Manager

Car Park Shared Facility
Car Park Cleaning
Car Park Exhaust including the air supply plenums
Car Park fresh air supply
Car Park fresh air supply Air Plant Room
Car Park substructure and walls
Car Park Supply Air Intake Louvre
Car Park Wall Roof Slabs
Car wash bays
Electricity to Car Park
End of trip facilities
Entry and Exit Boom Gates
Lifts servicing more than one member from the Car park
Panelift Door
Ramp Roller Shutter and boom gate
Shared Driveways and Ramps

Car Park Shared Facility
Service Vehicle Spaces
Fire Services in Car park
Loading Dock

Insurance Shared Facilities
Insurance
Insurance Deductibles
Professional advisors relating to Insurance
Valuations

Other Shared Facilities
Air Intake Plant Room and Plant Room & Associated Equipment
Basement Sub structure
Cleaners' Room
Communications Room including the MDF room
Contingency
Detention Tank
Escalators and stairs transitioning from the Transit Hall Lot to the George Street and Carrington Street exits
Electrical Switch Room
Essential Fire Services
Fan Room & Associated Equipment
Facility Consultants Fees to the consultants to the Committee
Facilities Manager and Facilities Manager's office (if any)
Fire Control Room and EWIS
Fire Stairs and stair pressurisation system
Gas mains and associated infrastructure
Garbage Room/Bin Storage [not for the use of 285 George Street Owner]
Generator

Other Shared Facilities
Hydrant Booster & Fire Sprinkler Room
Hydraulic Plant Room & Associated Equipment
Mechanical Risers
National Broadband Network infrastructure and associated cabling
locational and directional signage
Security Access Control and Systems
Security Room [not for the Transit Hall Lot Owner]
Security Surveillance Equipment
Services - water consumption and standing charges through water meters for shared water servicing
Sewer Pump Station
Shared Garbage Holding Areas
Shuttle Lift (within Easement to Use and Access Shuttle Lift)
Substations and High Voltage Switch Room and associated cabling
Subsurface Drainage System and Stormwater
Testing and certification of fire services
Building Management Systems
Waste Removal
Transit Hall Levy

Transit Hall Shared Facilities
Goods Lift (within Easement to Use and Access Goods Lift) [Retail Lot and Transit Hall Lot]
Shuttle Lift (within Easement to Use and Access Shuttle Lift) All Members]
Security Room (if applicable)

Office and Retail Shared Facilities
Electricity and water supply to Air conditioning Plant

Air Conditioning Plant
Testing and servicing of Air conditioning Plant
Retail management

Member Entitled to Use Shared Facilities

Type of Shared Facilities	Member Entitled To Use
Car Park Shared Facilities	[tbd]
Other Shared Facilities	All Members unless otherwise stated [KWM NOTE: To be completed when development is complete to reflect as built]
Transit Hall Shared Facilities	Transit Hall Lot and as stated above
Office and Retail Shared Facilities	Office Lot and Retail Lot

Schedule 2 – Formula for contribution to Shared Facilities

[tbd]

The Transit Hall Lot Owner is not responsible for and is not obliged to contribute to the cost of Shared Facilities (whether existing on registration of this management statement, new, upgraded or replaced Shared Facilities) other than in respect of Insurance Shared Facilities which will be determined in accordance with the formula set out below.

Except for the Transit Hall Shared Facilities where the Retail Lot Owner and the Office Lot Owner are jointly and severally liable for 100% of the costs, each Member (excluding the Transit Hall Lot Owner other than for Insurance Shared Facilities) must contribute to the cost of each Shared Facility which that Owner is entitled to use in accordance with the following formula:

$$A = \frac{B}{C}$$

Where:

A = The Member's Contribution (expressed as a percentage) of the cost of each Shared Facility; and

B = the Member's Numerator for the Shared Facility as described in the table below; and

C = the Denominator for the Shared Facility as described in the table below.

Facility	Member's Numerator	Denominator
Admin Shared Facilities	[tbd] eg GFA of a Member's Parcel	[tbd] eg GFA of the Parcel excluding the Transit Hall Lot
Car Park Shared Facilities	Number of Active Car Parks within a Member's Parcel	Number of Active Car Parks within the Parcel
Other Shared Facilities	[tbd] eg GFA of a Member's Parcel	[tbd] eg GFA of the Parcel excluding the Transit Hall Lot
Insurance Shared Facilities	Replacement Value of the structures comprised within a Member's Parcel	Replacement Value of the structures comprised within Wynyard Place *
Office and Retail Shared Facilities	[tbd] Note: payable by only office and retail	[tbd] Note: Payable by only office and retail

A worked example of the application of this formula over the Development Period is set out below **[tbd]**

*subject to clause 13 – where the Transit Hall Lot Owner may self insure

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Wynyard Place Building Management Statement

Schedule 3 – Transit Hall Facility Specification

[KWM NOTE: To be prepared based on the indicative Transit Hall Facility Specification attached to the Delivery Agreement]

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Wynyard Place Building Management Statement

Schedule 4 - Appointment Form

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STAGE 1

Appointment Form

This form is for use by members of the Wynyard Place Building Management Committee who wish to appoint a new or replacement representative or substitute representative. See clause 22 in the Wynyard Place building management statement for more information.

Date	
Your name	
Lot owned	

Part A

Appointment of a new representative

Complete this part if you have not previously appointed a representative.

Name of representative	
Address of representative	
Telephone number of representative	
Facsimile number of representative	
Do you authorise your representative to appoint a proxy to vote for you at Meetings and Emergency Meetings of the Building Management Committee?	

Part B

Appointment of a replacement representative

Complete this part if you have previously appointed a representative and you wish to appoint a different representative. When the Building Management Committee receives this form, the appointment of your previous representative is terminated and the new representative is appointed.

Name of current representative	
Name of new representative	
Address of new representative	
Telephone number of new representative	
Facsimile number of new representative	
Do you authorise your new representative to appoint a proxy to vote for you at Meetings and Emergency Meetings of the Building Management Committee?	

Part C

Appointment of a new substitute representative

Complete this part if you have not previously appointed a substitute representative.

Name of substitute representative	
Address of substitute representative	
Telephone number of substitute representative	
Facsimile number of substitute representative	
Do you authorise your substitute representative to appoint a proxy to vote for you at Meetings and Emergency Meetings of the Building Management Committee?	

Part D

Appointment of a replacement substitute representative

Complete this part if you have previously appointed a substitute representative and you wish to appoint a different substitute representative. When the Building Management Committee receives this form, the appointment of your previous substitute representative is terminated and the new substitute representative is appointed.

Name of current substitute representative	
Name of new substitute representative	
Address of new substitute representative	
Telephone number of new substitute representative	
Facsimile number of new substitute representative	
Do you authorise your new substitute representative to appoint a proxy to vote for you Meetings and Emergency Meetings of the Building Management Committee?	

.....
Signature or execution by Member

.....
Signature of representative or substitute representative
(or replacement member or substitute member)

Notes

1. The representative or substitute representative (or replacement representative or substitute representative) appointed by this form must be a natural person.
2. This form is effective only if it is signed by the member, representative or substitute representative (or replacement member or substitute member).

Wynyard Place Building Management Statement

Schedule 5 - Membership Form

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STAGE 1

Membership Form

This form is for use by new members of the Wynyard Place Building Management Committee or existing members who lease their lot or change their contact details. See clause 23 in the Wynyard Place building management statement for more information.

Date	
Your name	
Lot owned	

Part A: New member

Complete this part if you have purchased a stratum lot or are a new owners corporation.

Date on which you became a member	
Your address for service of notices	
Your telephone number	
Your facsimile number	
Your e-mail address	

Part B: New tenant or licensee

Complete this part if you are the owner of a stratum lot and you have leased or licensed your lot (or part of it) or you have a new tenant or licensee.

Name of tenant or licensee	
Term of lease	
Name of contact person	
Their address for service of notices	
Their telephone number	
Their facsimile number	
Their e-mail address	

Part C: Change of address details

Complete this part if you have changed your address or other contact details.

New address for service of notices	
New contact person	
New telephone number	
New facsimile number	
New e-mail address	

Signature or execution by
Member

.....

Wynyard Place Building Management Statement

Schedule 6 - Proxy Form

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STAGE 1

Proxy Form

Date	
Name of member, representative or substitute representative	
Name of member who appointed representative or substitute representative	
Name of proxy	
Address of proxy	

I/we,....., appoint as my/our proxy for the purpose of Meetings and Emergency Meetings of the Building Management Committee (including adjourned Meetings and Emergency Meetings)

Period or number of meetings for which appointment of my/our is valid for *months/*meetings

* This form authorises the proxy to vote on my/our behalf on all matters **OR** * This form authorises the proxy to vote on my/our behalf on the following matters only and in the manner specified below:

Signature or execution by member (if proxy appointed by member)

Signature or representative or substitute representative (if proxy appointed by them)

Signature of proxy

Notes

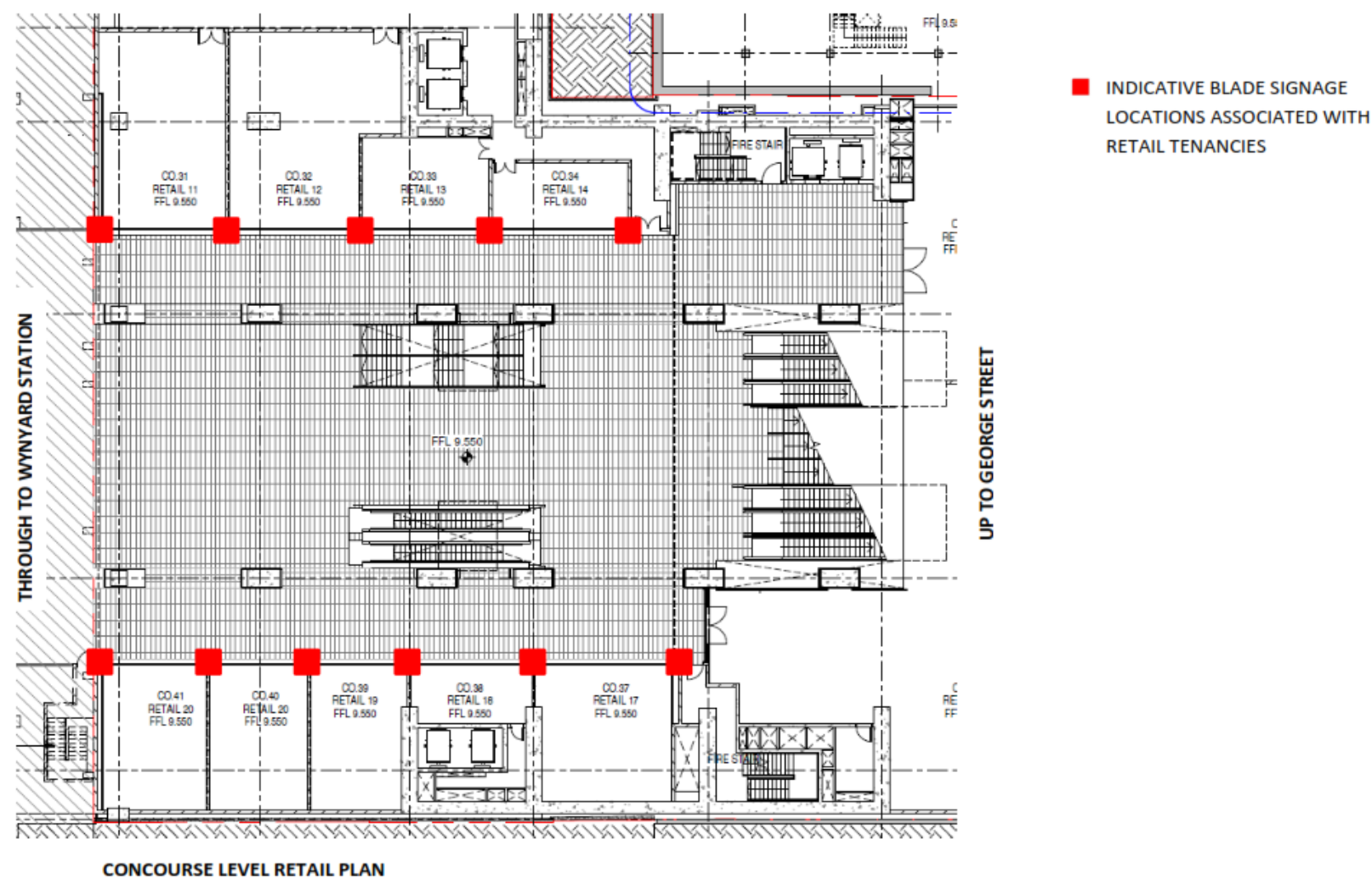
1. The proxy appointed by this form must be a natural person.
2. This form is effective only if it is signed by the member, representative or substitute representative (as appropriate) and the proxy.
3. This form does not authorise voting on a matter if the representative or substitute representative of the member is present at the relevant meeting or emergency meeting and personally votes on the matter.
4. This form is ineffective unless it is given to the secretary of the Building Management Committee at or before the first meeting in relation to which it is to operate and it contains the date on which it was made.
5. This form will be revoked by a later proxy appointment form delivered to the secretary of the Building Management Committee.
6. A vote by the proxy which does not comply with the directions to vote given by the member, representative or substitute representative who appointed the proxy is void.

Wynyard Place Building Management Statement

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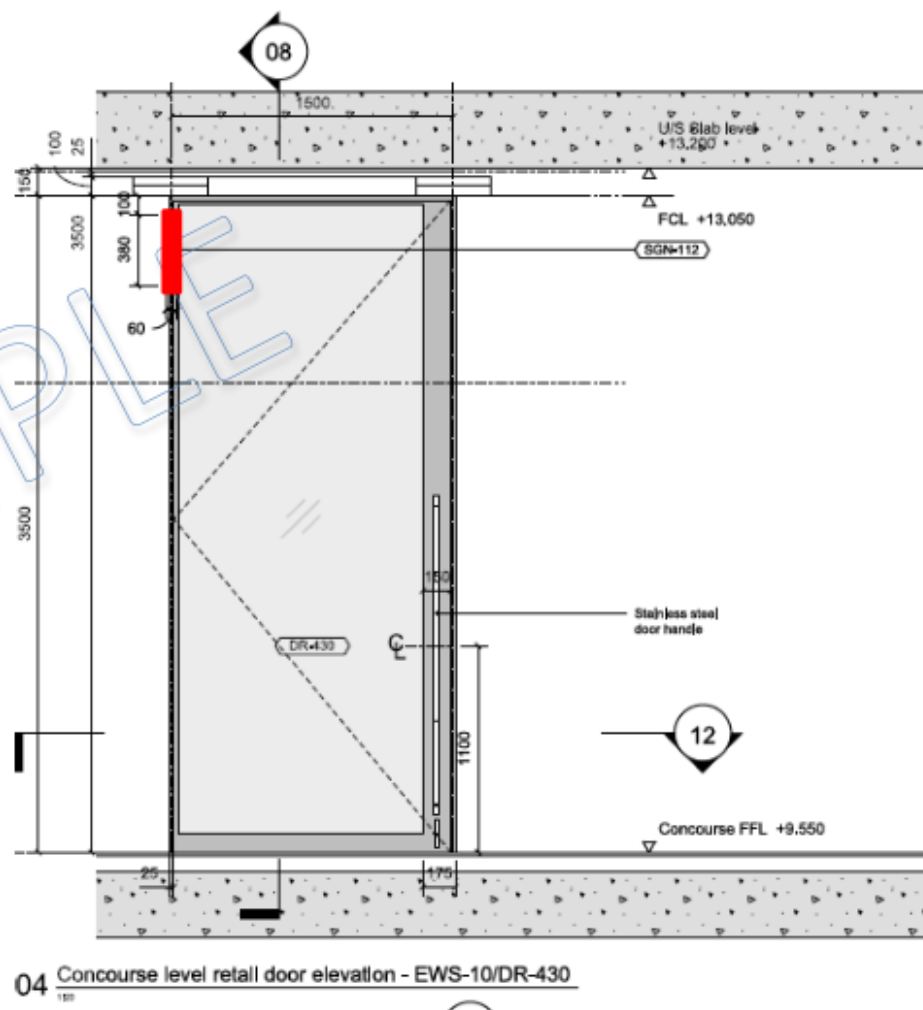
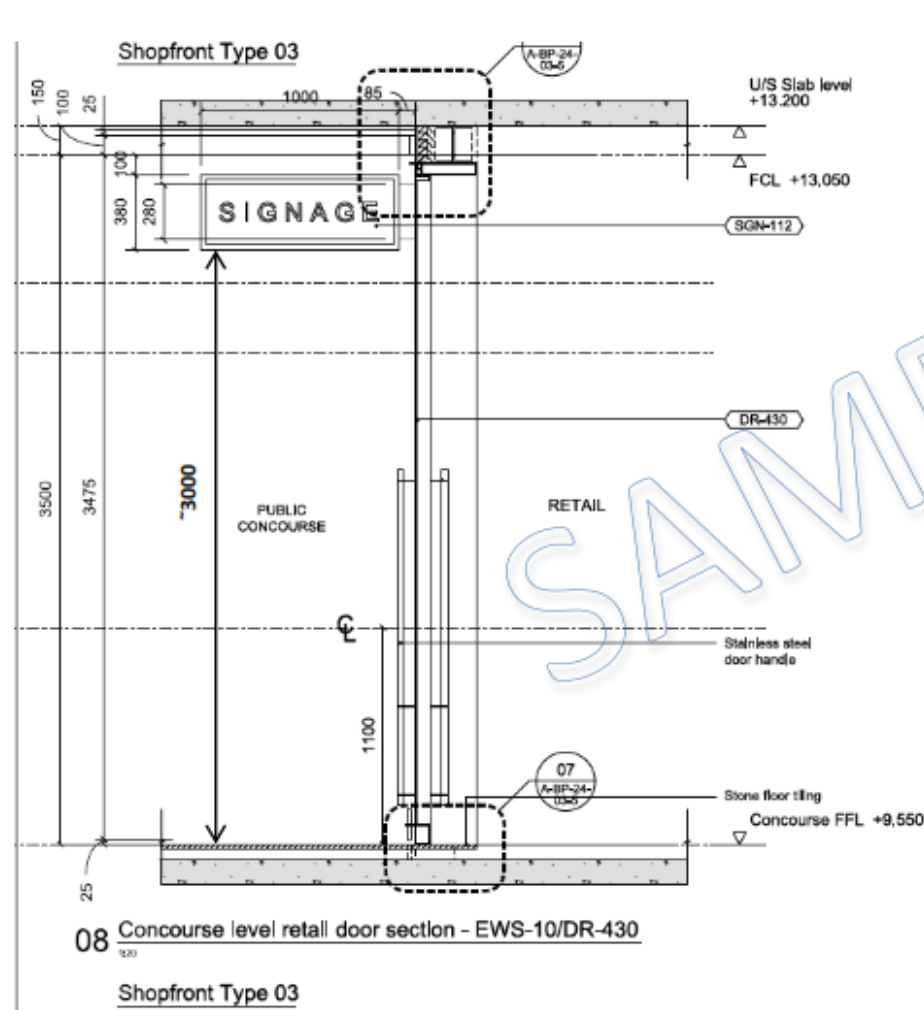
Wynyard Place Building Management Statement

Schedule 7 – Blade Signage Zone Plan



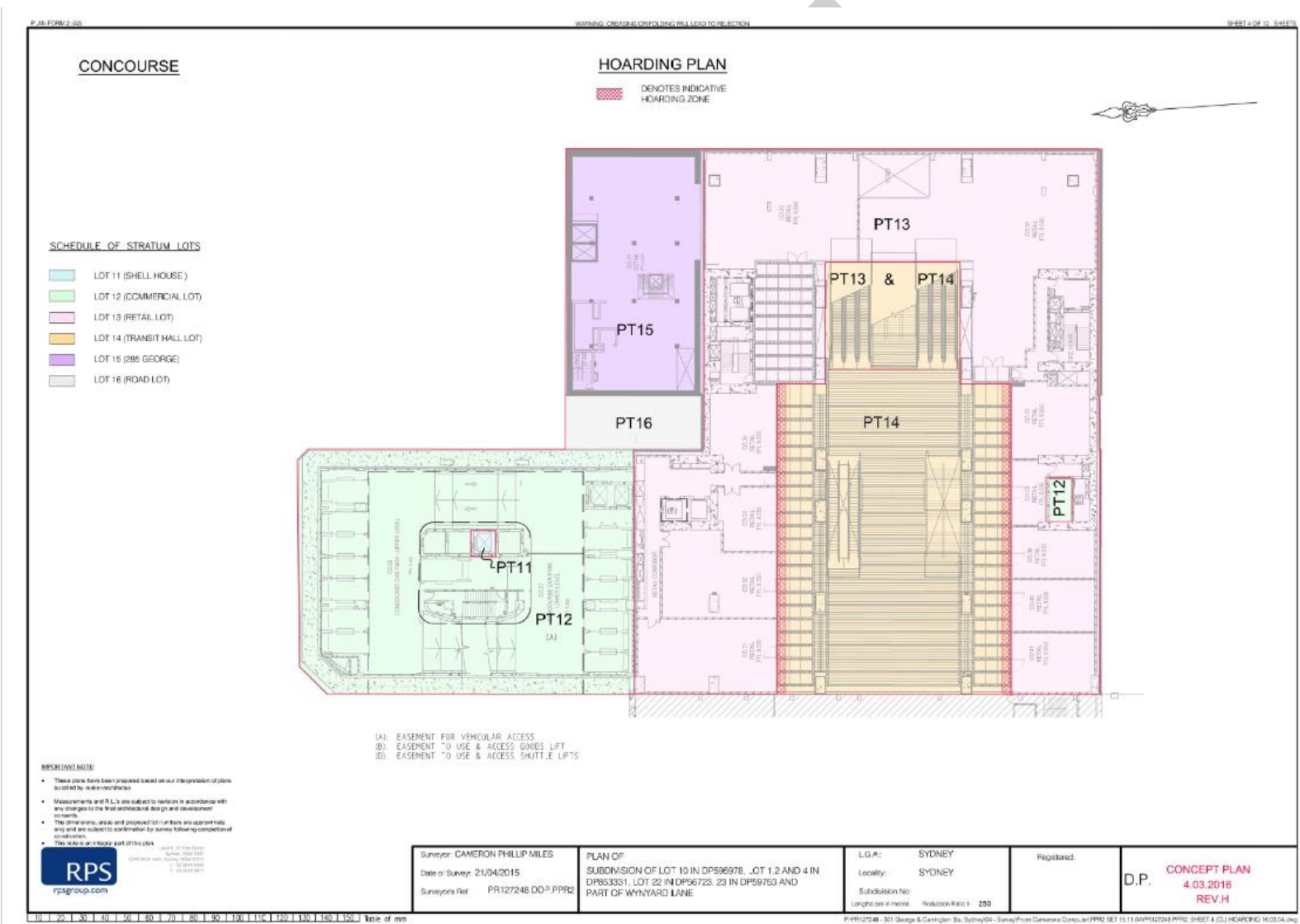
Wynyard Place Building Management Statement

INDICATIVE BLADE SIGNAGE DETAIL



Wynyard Place Building Management Statement

Schedule 8 – Hoarding Zone Plan



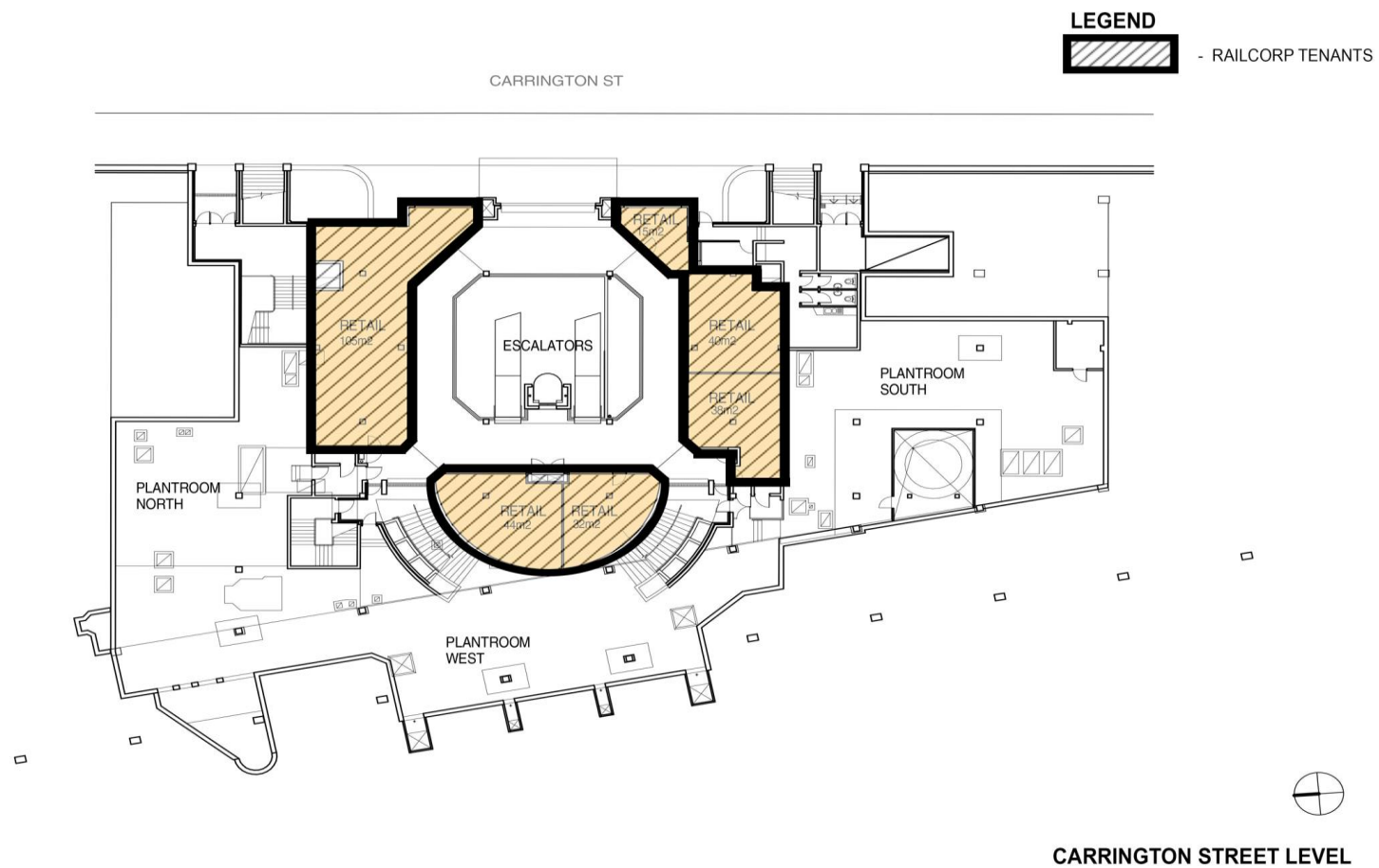
Wynyard Place Building Management Statement

Schedule 9 – Railcorp Tenancy Area Plan

[KWM NOTE: This is to be updated with a plan that states the size of the Retail areas so that it can be a benchmark for updated plans]







Wynyard Place Building Management Statement

Signing page

SIGNED by

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