

Undertaking to the Commissioner for Fair Trading

by

Network Strata Services Pty Ltd

(ACN 064 030 324)

Corporate licence number 933785

*Given under section 38 of the Property Stock Agents Act 2002 (NSW) (the **Act**)*

1. Person giving the Undertaking

1.1 This Undertaking is given to the Commissioner for Fair Trading (**Commissioner**) by Corporate Licence holder **NETWORK STRATA SERVICES PTY LTD** (ACN 064 030 324).

1.2 The Commissioner exercises functions under the Act.

1.3 Nothing in this Undertaking is to be construed as limiting the Commissioner's powers to investigate or take any other step under the Act or any other Act.

2. Background

2.1 **NETWORK STRATA SERVICES PTY LTD** is an Australian corporation, registered pursuant to the *Corporations Act 2001* (Cth).

2.2 The Directors of **NETWORK STRATA SERVICES PTY LTD** are:

- Mr **JEREMY DAVID STONE** (appointed 21 November 2014)
- Mr **STEPHEN JOHN BRELL** (appointed 20 November 2003) and
- Mr **EDWARD JOHN MIDDLETON** (appointed 16 October 1995).

2.3 **NETWORK STRATA SERVICES PTY LTD** holds a licence, number 933785 issued under the Act to operate as a strata agent pursuant to that Act and the *Strata Schemes Management Act 2015* (NSW) (the **SSMA**). The licence was first issued on 29 February 1996 and is current until 28 February 2026.

2.4 **NETWORK STRATA SERVICES PTY LTD** operates in New South Wales as a strata managing agent and manages a number of strata complexes, believed to be those set out in **Confidential Attachment A** to this Undertaking.

2.5 The Licensees in charge of **NETWORK STRATA SERVICES PTY LTD** are:

- **STEPHEN JOHN BRELL**, who holds an individual licence under the Act, number 907443, first issued on 17 January 1997 and valid until 16 January 2026; and
- **LIESL SAMANTHA BILES**, who holds an individual licence issued under the Act, number 846403, first issued on 12 May 2010 and valid until 11 May 2024.

2.6 **NETWORK STRATA SERVICES PTY LTD** exercises functions under the Act including those functions as set out in section 3B of the Act; clause 7 of the *Property and Stock Agents Regulation 2022 (NSW)*; sections 13 and 52 of the SSMA and clause 4 of the *Strata Schemes Management Regulation 2015 (NSW)*.

2.7 On 21 March 2024, a broadcaster published a report making various allegations regarding **NETWORK STRATA SERVICES PTY LTD** and its conduct (**Allegations**).

2.8 **NETWORK STRATA SERVICES PTY LTD** undertakes to engage in an independent review of the matters set out in Attachment B: Agreed Scope of Review for the period 1 January 2022 to 27 March 2024 (the **Relevant Period**).

2.9 Nothing in this Undertaking is to be taken as an admission or concession by **NETWORK STRATA SERVICES PTY LTD** in respect of the Allegations.

3. Commencement of this Undertaking

3.1 This Undertaking comes into effect when:

- a. this Undertaking is executed by **NETWORK STRATA SERVICES PTY LTD**; and

b. this Undertaking so executed is accepted by Commissioner for Fair Trading as evidenced by the Commissioner signing (the **Commencement Date**).

4. Undertaking

4.1 Under section 38 of the Act, **NETWORK STRATA SERVICES PTY LTD** has offered and the Commissioner for Fair Trading has accepted the undertakings in paragraphs 4.2 to 4.14 below.

4.2 **NETWORK STRATA SERVICES PTY LTD** undertakes, within 7 days after the Commencement Date, to fully co-operate (to a reasonable level, taking into account the purpose of the review as set out in clauses 2.7 to 2.8) with the engagement by the Commissioner of Matthew James Fehon of McGrathNicol Advisory Partnership as an independent expert (the **Expert**) to conduct an independent review of **NETWORK STRATA SERVICES PTY LTD** of the matters set out in Attachment B: Agreed Scope of Review, for the Relevant Period.

4.3 **NETWORK STRATA SERVICES PTY LTD** undertakes to accept and agree that the Expert will at all times take instructions from the Commissioner for Fair Trading or their delegate. The Commissioner's instructions will not vary Attachment B: Agreed Scope of Review or approve disbursements payable to the Expert without **NETWORK STRATA SERVICES PTY LTD's** express written consent, which will not be unreasonably withheld.

4.4 **NETWORK STRATA SERVICES PTY LTD** undertakes to accept and agree to the following. The Expert will prepare and issue to the Commissioner and **NETWORK STRATA SERVICES PTY LTD** a report to the Commissioner that addresses the matters set out in Attachment B: Agreed Scope of Review. The Expert will also prepare and provide to the Commissioner, for the purposes of publication, a summary of the findings and recommendations of the report that does not include any information that is confidential, commercially sensitive, personal information within the meaning of the *Privacy and Personal Information Act 1998* (NSW) or that identifies individual properties under **NETWORK STRATA SERVICES PTY LTD's** management. Prior to publication of the summary of the report, the Commissioner will give a copy to **NETWORK STRATA SERVICES PTY LTD** for it to review and provide comments

as to any further information that should not be published. **NETWORK STRATA SERVICES PTY LTD** will provide its comments within 48 hours of being provided with a copy of the summary report and the Expert may make any further redactions in light of those comments before publication.

4.5 **NETWORK STRATA SERVICES PTY LTD** undertakes to notify in writing the relevant owners corporation of any findings or recommendations in the Expert's report that are specific to a particular owners corporation (or the associated property under management), to the extent that the finding is not already documented in the summary of the report. Any such written notification is to be made in a manner consistent with any findings or recommendations as set out by the Expert in the report.

4.6 **NETWORK STRATA SERVICES PTY LTD** undertakes to accept and agree that, except where to do so would cause **NETWORK STRATA SERVICES PTY LTD** to breach any duty of confidentiality, any statutory or other legal obligation or waive legal professional privilege over any document (or part of a document) or disclose a without prejudice privileged document (or part of a document), it will copy, collate and retain relevant records of the business that are the basis of the Expert's opinion (**Supporting Documentation**). The Supporting Documentation will remain confidential and for the Commissioner's benefit only and must not be released or any part of their content disclosed publicly. Nothing in this provision is intended to affect the Commissioner in the performance of duties, functions or powers under the Act or other legislation administered by the Commissioner.

4.7 **NETWORK STRATA SERVICES PTY LTD** undertakes to remunerate the Expert within 90 days of receipt of any invoice disclosing reasonable work at reasonable rates in accordance with the terms of engagement, fee disclosure and estimate provided by the Expert, and further provided the total payable to the Expert by **NETWORK STRATA SERVICES PTY LTD** is not to exceed \$300,000 excluding GST.

4.8 **NETWORK STRATA SERVICES PTY LTD** undertakes to reimburse the Expert in relation to any reasonable disbursements which the Expert must incur to carry out the review described in this Undertaking, including costs of data storage and retention, within 90 days of receipt of any invoice, provided that an estimate of the cost of the disbursement has been provided to **NETWORK STRATA SERVICES PTY LTD**

and its approval of the disbursement is sought and obtained in advance of the disbursement being incurred. **NETWORK STRATA SERVICES PTY LTD** reserves the right to refuse to pay for any disbursements for which its prior approval is not sought and obtained, or which exceeds the estimate.

4.9 **NETWORK STRATA SERVICES PTY LTD** undertakes to notify the Expert of its contact person (**Contact**) for the purposes of the Expert making requests under this Undertaking (including for information) and undertakes to instruct that Contact to cooperate (to a reasonable level, taking into account the purpose of the review as set out in clauses 2.7-2.8) with the Expert including, by facilitating **NETWORK STRATA SERVICES PTY LTD** in, to the extent it can lawfully do so, answering any requests for information made by the Expert and otherwise providing access to:

- a. appropriate data and records;
- b. relevant current employees, agents, contractors and directors; and
- c. current or last known contact details of former employees, agents, contractors and directors,

subject to any such current or former employee consenting to the release of their personal information, and provided that **NETWORK STRATA SERVICES PTY LTD** may not be able to require former employees or third parties to cooperate with the Expert or provide any information. If the Expert considers that necessary information has not been provided, the Expert may request the Commissioner to use any appropriate statutory powers to compel the production of material.

4.10 **NETWORK STRATA SERVICES PTY LTD** is entitled to have a legal representative present when any relevant current or former employees, agents, contractors or directors are interviewed.

4.11 **NETWORK STRATA SERVICES PTY LTD** undertakes to promptly provide all documents and information reasonably requested by the Commissioner from time to time, and on a confidential basis, for the purpose of assessing its compliance with the terms of this Undertaking, except where to do so would cause **NETWORK STRATA SERVICES PTY LTD** to breach any duty of confidentiality, any statutory or other legal obligation or waive legal professional privilege over any document (or part of a document) or disclose a without prejudice privileged document (or part of a document).

4.12 The Commissioner will instruct the Expert to give **NETWORK STRATA SERVICES PTY LTD** a reasonable opportunity of no less than 7 business days to review and comment on a draft Report prepared by the Expert before it is formally finalised and provided to the Commissioner for Fair Trading and make submissions on the draft Report, including on any topic on which the Expert intends to make a finding in the Report. The Expert will take those submissions into account in making findings and recommendations in the Report.

4.13 The Report and any findings and/or recommendations by the Expert are not binding on **NETWORK STRATA SERVICES PTY LTD**.

4.14 Where the Expert makes any recommendation under item 6 of Attachment B: Agreed Scope of Review, **NETWORK STRATA SERVICES PTY LTD** undertakes to consider any recommendations made by the Expert and, within 14 business days of the receipt of the report or such other period as may be agreed in writing with the Commissioner, notify the Commissioner of any proposed changes to the manner in which it exercises or will exercise its functions under the licence and/or otherwise the result of its consideration to address any recommendations made by the Expert.

5. Acknowledgements

5.1 **NETWORK STRATA SERVICES PTY LTD** acknowledges and accepts that:

- a. NSW Fair Trading may make this Undertaking publicly available including by publishing it on the NSW Fair Trading public register of undertakings on its website, except for Confidential Attachment A;
- b. NSW Fair Trading may, from time to time, make public reference to this Undertaking including in news media statements and in NSW Fair Trading publications;
- c. this Undertaking in no way derogates from the rights and remedies available to any person arising from the Allegations;

- d. the Report and Supporting Documentation may be used by the Commissioner for Fair Trading for any civil regulatory purpose or civil penalty proceeding within the Commissioner's statutory functions, including for formulating conditions on the licence, alerting affected strata bodies to any issues that directly affect that strata body and for disciplinary action or otherwise in accordance with the powers, functions and duties under the Act and any other legislation administered by the Commissioner, although the Supporting Documentation is otherwise confidential and the Report and Supporting Documentation cannot be relied upon by the Commissioner in any criminal regulatory process or proceedings;
- e. Nothing in (d) is to be construed so as to limit the Commissioner separately compelling production of those documents or from relying on the same documents as the Supporting Documentation in any criminal regulatory process or proceedings where those documents are obtained by the Commissioner in accordance with her powers of investigation under the Act, other legislation administered by the Commissioner, or pursuant to other lawful process and Netstrata will not take objection to any such reliance on the basis that the documents are the same as the Supporting Documentation;
- f. Subject to (d) above and to the same limitations therein applying to any other regulatory authority, the Report and Supporting Documentation may be referred to any appropriate regulatory authority by the Commissioner;
- g. Failure to comply with the terms of this Undertaking may be grounds for disciplinary action under Part 12 of the Act.

Executed as an Undertaking under section 38 of the Property and Stock Agents Act 2002 (NSW)

Executed by **NETWORK STRATA SERVICES PTY LTD ACN 064 030 324** pursuant to section 127(1) of the Corporations Act 2001 by:

Signature of director

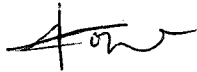


STEPHEN BROCK

Name of person signing

Date 1st MAY 2024

Signature of a director/company secretary:



JEREMY STONE

Name of person signing

Date 1st May 2024

Accepted by NSW Fair Trading pursuant to section 38 of the Property and Stock Agents Act 2002 (NSW) on:

and signed by the Commissioner for Fair Trading



Natasha Mann 02/05/2024

Attachment A

Attachment B: Agreed Scope of Review

1. Netstrata Group:

- a. Business structure of Netstrata and its related entities including all parent and all subsidiary entities and key personnel.
- b. Processes, policies, procedures, practices and systems of Netstrata in relation to the statutory functions applicable to Netstrata under the *Property Stock and Agents Act 2002* (NSW) (**PSAA**) and the *Strata Schemes Management Act 2015* (NSW) (collectively, **Applicable legislation**) including but not limited to compliance with disclosure obligations and conflicts of interest.

2. Strata Insurance Services (SIS)

- a. What is the relationship between SIS and Netstrata?
- b. What are the arrangements in place between SIS and Netstrata for the brokering of strata insurance?
- c. How is strata insurance brokered by SIS for its clients?
- d. What is the process that Netstrata follows when arranging strata insurance for an owners' corporation that it manages?
- e. What are the total insurance costs charged for strata insurance? How are these calculated?
- f. What was the disclosure of the total insurance costs referred to in 2(e)?
- g. Whether the total insurance costs generally reflected market costs for the services provided.

3. Contractors and suppliers

- a. Were third party contractors and suppliers engaged by Netstrata when exercising delegated functions of owners corporations?
- b. Were there terms of engagement or other contractual arrangements between Netstrata and each of the third party contractors and other suppliers?
- c. Where third party contractors and/or suppliers were engaged, did Netstrata disclose any related party nature of the engagement?
- d. Did Netstrata receive any payment (including but not limited to fees, charges, discounts and rebates, commissions or gifts) from third party contractors or suppliers it engaged to undertake work for owners' corporations?
- e. Were any payments referred to in 3(d) disclosed to the associated owners'?

corporations? If so, what was the mechanism of disclosure?

- f. The saturation rate of engagement of strata contractors and suppliers for Netstrata's clients.
- g. Whether the rates charged generally reflect market costs for the goods and services provided.

4. Promotions and incentives to engage third party contractors and suppliers

- a. Did Netstrata reward staff financially for promoting the engagement of third party contractors and suppliers? If so, when and in what circumstances and to what value?
- b. Did Netstrata reward staff for promoting the engagement of third party contractors and suppliers by giving gift vouchers to staff? If so, when and in what circumstances and to what value?
- c. Did Netstrata reward any other person, entity or body for promoting the engagement of third party contractors and suppliers? If so, when and in what circumstances and to what value?

5. General operation of Netstrata

- a. Does Netstrata have in place sufficient systems, processes and procedures to ensure statutory compliance? If the answer is no, what deficiencies are identified and why does the expert consider these matters to be deficiencies?
- b. Does Netstrata have in place appropriate supervision in accordance with section 32 of the PSA? If the answer is no, please specify why?
- c. Are there any other conflicts of interest, financial management, compliance, governance or consumer interest issues raised by the answers to questions 1 to 5(b)? If yes, please specify.

6. Recommendations

If deemed appropriate and acting reasonably, provide any:

- a. observations on any matters within the scope of the review;
- b. recommendations:
 - i. concerning the undertaking of any additional review together with the scope and estimate of costs and time of that additional review; and/or
 - ii. relating to the manner in which Netstrata undertakes its functions under

the license.

Notes:

“third party contractors and suppliers” as used in this letter is defined to include Strata Insurance Services, Winfire, Resolute, Maintenance Group and PG Martin Plumbing as well as any other third party contractors and/or suppliers engaged by Netstrata.

Items 2e to g and 3a to e to be based on a sample of properties managed by Netstrata, as chosen by the Expert (and ensuring that stratas that were referred to in the Allegations and stratas that are associated with complaints made to New South Wales Fair Trading about Netstrata are included in the sample). For avoidance of doubt, the other matters within the Scope of Review are not to be assessed only by reference to the sample, unless McGrathNicol considers that to be appropriate.