

**MINUTES OF A COMMITTEE MEETING OF CATHEDRAL PLACE COMMUNITY BODY CORPORATE MCP 106902 HELD AT THE MEETING ROOM, CATHEDRAL PLACE ON MONDAY 12 NOVEMBER 2007 AT 6.00 PM**

**Representation:**

Peter Zunker	Cathedral Place 'A' – Notre Dame
Pat Brown	Cathedral Place 'B/C' – Oxford & Cambridge
Tony Rich	Cathedral Place 'D/E' – Canterbury & Westminster
Randall Edwards	Cathedral Place 'F' – Duhig
Ken Morrisby	Cathedral Place 'G & H' – Kensington & Sandringham
John Gilliland	Cathedral Village
Conrad Beal	Body Corporate Manager, Representing Archers Body Corporate Management Pty Ltd

**Present:** Warren Fischer Alternative Dispute Resolution Services

**Quorum:** It was noted that a quorum was declared constituted there was more than half (50%) of all members of the committee being present.

**Chairman:** Tony Rich, the Body Corporate Chairman, chaired the meeting.

**Report From Warren Fischer :** The Chairman welcomed Warren Fischer for coming to the meeting to present his report.

Warren Fischer presented his report, which is his preliminary advice, going through his findings. A copy of the report is included in the minutes of the meeting.

He detailed the meaning of Section 206 of the Mixed Use Development Act 1993, Restrictive By-laws and levies, Unrestricted Area and levies, Agreements and their affect on payment for services, and Subsidiary Bodies Corporate.

In particular, Warren Fischer advised the following from his report:-

1. Under the Mixed Use Development Act 1993 Act the CBC responsibility is limited to the Community Property, Lot 4

2. Car Spaces on Community Property

Under By-law 25, which grants various owners in the BUP's exclusive use to car spaces on Community common property:

- Those owners are responsible for the maintenance of that car space, excluding cleaning. This includes the cost of any repairs and maintenance. The responsibility includes to the centre of the slab above and below that car space; and
- The Community Body Corporate is responsible for cleaning of the car spaces.

3. Restricted Community Property

By-law 27 places a restriction upon the podium recreation area, which includes the podium level and not the car park levels. This By-law requires that Budgets be put in place for the Restricted Community Property.

The CBC is required to:-

- Determine an Administrative Fund Budget for the normal operational and maintenance costs of the Restricted Community Property
- Determine a Sinking Fund Budget for the periodic capital costs arising from the Restricted Community Property
- Strike a levy for the collection of those amounts
- Levy those contributions in accordance with By-law 27 (e) (iii)

4. Visitor Car park

By-law 28 restricts the authority to use the visitor car park (including that area given by easement from Notre Dame that is visitor car park) to the proprietors of Cathedral Village, and persons authorised by them. The proprietors of Cathedral Village are required to maintain that car park.

5. Both the Administrative and Sinking Funds are recommended to have separate Restricted and Unrestricted Funds for the deposit of the levies arising under By-law 27 from which all liabilities arising in respect of the podium recreation area are to be satisfied.

\*\* Note – The CBC has resolved to do this commencing in the current financial year.

6. Easements

Warren Fischer has considered the details provided in respect of the easements that have been granted, and will further investigate these easements. There appears to be some transfer of costs from BUP's to the CBC.

7. Unrestricted Area Levies

Section 177 details the duties and responsibilities for areas and items outside of the Restricted Community Property such as insurance, rates, taxes and other liabilities (ie, easement liabilities)  
Such contributions are to be levied in proportion to voting entitlements.

8. Other Agreements

The CBC may – and has – entered into agreements for the provision of Services with contractors and with lot owners or a Body Corporate. The CBC and the Subsidiary Body Corporate are bound by its terms.  
It is recommended that a suspense account be established for the purpose of holding the contributions.

9. Subsidiary Bodies Corporate

Each Subsidiary Body Corporate is responsible for its own common Property, and is required to have a Administrative and Sinking Funds, and levy contributions from proprietors for those funds based on their lot entitlements.

Following this the members and Body Corporate Manager addressed with Warren Fischer the following for further clarification and advice:-

1. Lot Entitlement Review

Warren Fischer recommended the CBC carry out a voting entitlement review. He advised that there is a potential error in at least one of the voting entitlement allocations for the residential BUP's, where the voting entitlement does not equal the number of lots (as it does in the other residential BUP's)

2. Rates and Land Tax

As they are based on the unimproved value these items are to be allocated by voting entitlement.

3. Caretaking Agreement – CBC and Residential BUP's

The Agreement has been entered into on behalf of all Residential BUP's  
The Agreement is to provide caretaking services to the Residential BUP's and the CBC. The payment of this Agreement in respect of the Restricted Area is as per By-law 27 (e) (iii).

The caretaker should be requested to provide a breakdown of the balance of the costs between the various residential BUP's which would identify the amount that each residential BUP should contribute for the caretaking of it's common areas.

4. Painting

The Agreement has been entered into on behalf of all BUP's. The Agreement is to provide painting and surface maintenance services to all BUP's.

The painters should be requested to provide a breakdown of their costs between each of the bodies corporate which would identify the amounts that they should be contributing for the maintenance of the body corporate and for the Unrestricted CBC areas, which should be levied as per the voting entitlements and for the Restricted CBC area, which should be

levied as per By-law 27 (e) (iii).

5. Body Corporate Management

The Agreement has been entered into on behalf of all BUP's. (with Cathedral Village not consenting to entering an Administration Agreement with the CBC).

Warren Fischer noted that it is usual practice for Body Corporate Management firms and agreements to be based on a per lot basis.

The CBC should confirm that is the position with the present agreement, and, if so, each of the affected bodies corporate should contribute to the costs in accordance with the number of lots therein.

Otherwise the Body Corporate Manager should be requested to provide a breakdown of their costs between each of the various areas and the allocation of these costs should be made similarly to those for the painting.

6. Car Spaces

The dividing line of responsibility for car spaces is the centre of the slab. For maintenance of the podium slab the cost allocation would be equally Restricted and Unrestricted.

The CBC is required to maintain the structural integrity of the building, and would be required to undertake any required repairs in circumstances where any other person otherwise liable for those repairs failed to carry them out.

In circumstances where the proprietor of a car space granted exclusive use failed to carry out the necessary maintenance work of their own accord the CBC would be responsible to carry out that work, and, if necessary, sue the proprietor for the recovery of the costs thereof.

The Chairman thanked Warren Fischer for his report and meeting with the members to gain further clarification and his valued assistance in the cost allocation dispute. Warren Fischer left the meeting at 6.45 pm

**Building Manager's Report:**

A Building Managers Report was provided by Lorraine Zunker. The following items were discussed.

Pool Chemicals – two quotes have been obtained, and awaiting a third quote.

Collecting Water

A further option has been considered with an inspection of a Kangaroo Point building, which is expected to provide more water. Currently the tanks are not being filled. An existing well would be utilised. The use of this and the success of it's use was considered. A quote for a sump pump was provided.

Building Manager to do further research and obtain a quote for the work.

Letter from Telstra

QFRS fire phone line network to be discontinued in 2010 by Telstra, with QFRS developing a replacement service. No action required.

Towing of Illegally Parked Vehicles

The current charge is \$350.00 from the towing company.

Currently the Owner signs the authority to tow from their exclusive use car space and CPM signs the authority for towing from the common property of the CBC or a BUP.

Lorraine Zunker advised of her concern as to the legality of this charge and the towing of vehicles, and provided a copy of a letter from the previous Body Corporate Manager (which is given to any owner who challenges the right to tow) whereby the CBC Committee supported this practice.

Body Corporate Manager advised requirement for a By-law and specific signage.

Lorraine Zunker to check legality of towing and signage with towing company.

Signage on Driveway

The adequacy of the signage on the driveway was discussed, including need to change to different pillars to be more useful.  
Randall Edwards raised painting "No Standing" on the driveway, which was considered to be too unsightly.

RESOLVED that Tony Rich would, with CPM, investigate and coordinate any move of signage or additional signage that is required  
**Carried 6 For, 0 Against, 0 Abstain**

#### Spa Signs

The signs at the spa, which have proved successful, need replacing, with more detail provided.

RESOLVED that CPM arrange suitable signage  
**Carried 6 For, 0 Against, 0 Abstain**

Lorraine Zunker then left the meeting.

#### Confirmation of Minutes of previous meetings:

RESOLVED that Minutes of the Committee meetings held 10 September 2007, 20 September 2007 and 15 October 2007 be accepted as a true and correct record of proceedings  
**Carried 6 For, 0 Against.**

#### General Business:

Tony Rich raised the problem with some residents making noise and nuisance early on a recent Sunday morning at 6.00 am. The problem and how best to deal with such problems was discussed.

#### Business Arising:

##### Update from Tony Rich on Nicol Robinson Halletts (NRH)

Tony Rich updated members on his progress with Peter Townley. He has received a response, which advises that NRH will provide a further breakdown and NRH does not expect to be paid until he provided this.

##### Tender Process

###### Update from Tender Supervisor

Body Corporate Manager provided list of questions from independent supervisor/reviewer of the tendering, Greg Millsopp.

Within the EOI Terms of Reference doc the following points:-

1. Page 8, 2nd para; "The caretaker contracts with and supervises a nightly security patrol....."; is there further details with regards to this, i.e. what is meant by "supervising" and does the caretaker pay for the security out of their budget?

Answer - the caretaker provides the service, and this comes within the salary, Cathedral Village have a different level of service requirement (not 24/7)

2. Page 8, 3rd para; "...the Body Corporate By-Laws...." will form part of the contract – is a set readily available to attach to the tender document?

Answer - Copy of By-laws to be provided by Body Corporate Manager

3. Page 8, 3rd para - "It is expected that the Agreement will be settled with a performance and minor remuneration review after 12 mths"; therefore the post is subject to a probation period? If so what are the details of the performance review and how is the minor remuneration determined (so as to include within the tender document)?

Answer – this sentence has been referred to the solicitor assisting with writing specific new clauses

4. Item 3, Page 5, Evaluation Criteria 3 - of the concept and development approach question; points (a) to (c) refer to a broader scope. The caretaking agreement sets down defined tasks and we would have thought this points go beyond a caretaking role? Answer – Leave as is

5. Points (e) and (f), Pages 5 & 6, Evaluation Criteria 3 - within question 3

refers to the letting agency. Is this still to be included? Answer - Yes

6. Point (i) - Page 6, Evaluation Criteria 3 - refers to incentives; Is this still to be included; if so could you please clarify?

Answer – Out. Open for tender to provide

7. Question 4 (a) - Page 6, Evaluation Criteria 4 - Do you want the Caretaking Evaluation Plan appended to the tender document to assist tenders with their answer? Answer - Yes

8. Question 5 (a) and (b) - Page 6, Evaluation Criteria 4 - Does the committee want these in the tender documents?

Answer - Yes

9. We have included an option for an interview with between 1-3 of the successful tenderers for CPCBC; let me know if you want this included/excluded? Answer – Possibly. Not decided as yet

RESOLVED that the Body Corporate Manager provide the responses and any required information to the Tender Supervisor.

**Carried** 6 For, 0 Against, 0 Abstain

#### Engagement of Gadens – preparation of draft clauses

Letter of Engagement received from Gadens was discussed, with Tony Rich and Peter Zunker advising of concerns about signing the letter. It was agreed that they would not proceed without the letter.

Tony Rich advised he would only sign the letter with Committee approval. Peter Zunker raised concern of another invoice from Gadens addressed to the CBC and his concern that Gadens may add this to this work.

It was discussed and agreed that this letter was very specific in the work being requested and that no other work could be included in any invoice.

Tony Rich and Peter Zunker then requested that the estimate of "in the order of \$3000.00 to \$6000.00" under "Present estimate of costs and disbursements" and "and attached entities" at the place of signature following "I accept on behalf of Cathedral Place Community Body Corporate" be deleted. It was raised that Gadens would probably be required by law to have an estimate included in their letter of engagement.

RESOLVED that Tony Rich be authorised to make the deletions and sign the Letter of Engagement for the CBC

**Carried** 6 For, 0 Against, 0 Abstain

John Gilliland raised that, following the request from the Tender Supervisor, the words in the Expression of Interest document - "It is expected that the Agreement will be settled with a performance and minor remuneration review after 12 months" – be also sent to Gadens to advise on the legality and whether the statement, which will be in the tender document, and perhaps not the Caretaking Agreement, is infallible.

RESOLVED that this request be added to the engagement of Gadens

**Carried** 6 For, 0 Against, 0 Abstain

#### Joint Committee Meeting

RESOLVED that a Joint Committee meeting of the Committees of all Subsidiary Bodies Corporate would be held to discuss the tender documents prior to the CBC voting on the final content to enable the Committees and any interested owners, who can also attend, to have an input.

**Carried** 6 For, 0 Against, 0 Abstain

#### **Flying Minutes**

John Gilliland raised at the previous meeting about the legality of Flying Minutes, and reiterated this. There was discussion about the validity.

John Gilliland expressed his concern that a Flying Minute meant there could not be any discussion about a matter being voted on.

Peter Zunker raised the ambiguity of the Mixed Use Development Act 1993 on attendance at meetings (eg, can a member be present by attendance or in writing?)

It was agreed to continue with Flying Minutes where it was, in the opinion of all members on each vote, that a vote could be made in this way.

#### **Car Space Allocation**

Body Corporate Manager provided an update on the matter of the exclusive use car space allocations that have not been recorded legally, and the process involved.

Each Body Corporate has - in it's own By-laws - allocated exclusive use car spaces. They are for car spaces on the common property of that body corporate. The Community Body Corporate has - in it's By-laws - allocated use car spaces to owners in each of the subsidiary bodies corporate (residential). They are on the Community common property.

The allocations that need to be changed are changed only on the Community - as they are on the common property of the Community. The subsidiaries could not allocate them, and so there is no need for the subsidiaries involved to do anything

By-law 25 of the Community Body Corporate By-laws will be amended by changes to the Allocation Schedule that is annexed to By-law 25 (b) (i). The motion will be as a resolution without dissent at a general meeting of the CBC.

The solicitor engaged confirms this and prepares a document which is then signed and then lodged with the Minister, who approves it and sends it to the Titles Office for recording - following resolution at a CBC general meeting.

#### **General Business:**

##### **Annual General Meeting**

John Gilliland advised he requests that the Annual General Meeting of the Community Body Corporate be called in 7 days, and requested a vote.

Members asked whether this would include voting on budgets that have not been prepared, and budgets that could not be properly considered until the advice from Warren Fischer was fully considered, and that a proper Budget Committee meeting had not been held or called. John Gilliland advised this would be the case.

Members expressed their concern that this was not a workable situation. John Gilliland advised that the main reason for calling the AGM would be to hold Committee elections.

The motion that the Annual General Meeting of the Community Body Corporate be called in 7 days was considered and LOST

**Lost** 1 For, 5 Against, 0 Abstain

The preparation of budgets was then discussed. It was agreed that the audit would have to be conducted and the report received before the AGM could be called.

RESOLVED that the auditor be requested to audit and provide the report by 15 December 2007

**Carried** 6 For, 0 Against, 0 Abstain

A proposed date for the AGM was discussed with no agreement being reached.

John Gilliland advised that the AGM is legally required to be held within 2 months of the anniversary date of 6 November.

Peter Zunker advised that he considered that it would be of little consequence if the AGM was not held by 6 January 2008, and that, with the changes to cost allocations it would be difficult to draft correct budgets at this time.

### **Electricity Accounts**

Electricity invoices have been received for the Community and each Subsidiary for common power consumed following the reading of all meters and invoicing as resolved.

Peter Zunker considered that the costs of Oxford & Cambridge are too high, and can not be substantiated, and that the previous method of the CBC paying all electricity costs should be resumed. The matter was considered.

RESOLVED that :

- a. Metering and charging should be trialled for at least 3 months before any decision is made on the correctness, and that
- b. Oxford & Cambridge could engage the electrician doing the electricity auditing, Geoff Magoffin, to check the Oxford & Cambridge meters, and
- c. Oxford & Cambridge would be reimbursed if it were discovered that the electricity consumed and charged for proved to be incorrect
- d. Invoices of all BUP's are available to all BUP's

**Carried** 6 For, 0 Against, 0 Abstain

### **Electricity "Rebate"**

John Gilliland advised that his Body Corporate wants the allocation of excess funds to happen without further delay, and that Cathedral Village would withdraw from electricity metering and thus cause all residential owners to pay a higher cost for electricity.

The previously resolved reasons for not proceeding with an allocation were discussed, including accountancy advice from Archer Gowland, and advice from auditor in audit report fro 2006/2007 were discussed.

John Gilliland and Peter Zunker disagreed on the situation.

Randall Edwards proposed a compromise to ensure all owners get the benefit of any excess funds in the electricity bank account, and advised he considered that the CBC could not raise higher levies with excess funds in the electricity bank account.

RESOLVED that both John Gilliland and Peter Zunker put together a percentage of what can be allocated and a supporting statement.

**Carried** 6 For, 0 Against, 0 Abstain

### **Invoice Payment Approvals**

#### Additional CBC Meetings – Invoice

Body Corporate Manager presented a tax invoice of \$3043.33 for services provided that are additional as per the Agreement with Archers Body Corporate Management. The makeup of the charges was discussed.

RESOLVED that payment of the tax invoice of \$3043.33 for additional services to Archers Body Corporate Management be approved

**Carried** 6 For, 0 Against, 0 Abstain

#### Geoff Magoffin Electrical Work

RESOLVED that Invoice for \$440.00 for switchboard work be approved for payment

**Carried** 6 For, 0 Against, 0 Abstain

#### **Fire Audit**

Body Corporate Manager presented a quote to conduct an audit of fire services and facilities at Cathedral Place, advising that an audit of another

complex presented items that had not been advised by the fire service contractor, and proved to be a worthwhile exercise, and that it was conducted by a specialist firm providing independent (of the fire service Contractor).

RESOLVED that the Body Corporate Manager write to the fire service contractor g confirmation that all items in an inspection done by them are included in the audit.

**Carried** 6 For, 0 Against, 0 Abstain

**Cost Allocation – Lifts**

The allocation of costs relating to lifts was discussed

RESOLVED that each Body Corporate (BUP) be responsible for payment of all costs relating to the maintenance of lifts in that BUP.

**Carried** 6 For, 0 Against, 0 Abstain

**Next meeting:**

No decision was made as to the date of the next meeting for general business

The meeting was closed at 9.25 pm

Confirmed.

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Chairman