



Strata Plan 64622

EXECUTIVE COMMITTEE MEETING

Wednesday 19 October 2011, Elan meeting room 18.30h

Present:

Ralf Harding (Chair), Tim Trollip (Secretary), Richard Beck (Treasurer), Michael Meredith, Deborah Moore (partial attendance), Kathryn Thiel-Sirett, John Anderson, Gavin Napier and Rob Di Iorio (partial attendance),

In attendance:

Carole Ferrier, Mark Nielsen, Kevin Harrington, Jimmy Thomson, Kama Harding, David Stanger (Building Manager), Eric Francis (Francis Management) and Jim McDonald (Linders)

Jim McDonald chaired the meeting and took the minutes by invitation

1. Minutes of Last Meeting

Resolved that the Minutes of the Executive Committee Meeting held 21 September 2011 be accepted with the following amendments:

Meeting time and place reference:

Deletion of date reference:

August 2011

Retail Lot:

Addition of the following words:

The chair tabled a plan/proposal drawn up by James Tonkin, an owner and an architect, for an alternative treatment of the eastern façade using the existing Altair glazing but at a lower height – 3m rather than 4m - which would preserve the eastern roofline. James had emailed the chair stating that he did not think the proposed plans are sensitive enough to the building and was not in favour of the proposed plans to the extent that they will detrimentally affect the existing cantilevered roof of the pavilion/pergola. It was agreed that James' plan/proposal should be discussed with the lessee.

AND

The chair sought an EC vote that the current plans be approved and that the EC decide not to refer them/anything else to an EGM.

AND

The chair did not vote separately in the capacity of or on behalf of John Anderson or Gavin Napier.

Meeting closure (final item)

Deletion of the following words:

~~The next meeting will be held at 19h30 on Wednesday 19 October 2011. Subsequently it has been agreed that further meeting will be held at a time to be notified once a proposed special by law has been received. This meeting will probably be held during the week commencing 4 October 2011.~~

2. Matters Arising (from the previous Minutes).

As dealt with in the order of business in the Agenda.

3. Correspondence

- a. Notes from Tim Trollip dated 15 October 2011 regarding issues surrounding the Retail Lot and the duties of office-bearers, the building manager and strata manager – were tabled – content of the notes were discussed under items 12 and 13.
- b. E-mail from Sue Williams dated 17 October 2011 regarding the defamation action of *Beck v Brener & Ors*. It was agreed to record that: *The defamation action has been resolved in court, there are no longer any outstanding legal issues which might affect Altair insurances and the insurance broker has been advised accordingly.*
- c. E-mail from James Tonkin dated regarding proposed amendments to previous minutes – noted, and amendments made under item 1.
- d. E-mail from Sanda Sgambellone dated 18 October 2011 re replacing the carpets. The Meeting noted that the replacement of carpets is in the 10-year plan (work scheduled for 2012). D Stanger has relayed this advice direct to Sanda.

4. Finance report

The September report was tabled and accepted. Costs for the 9 months are broadly on-budget. There are still some levy arrears, reminder notices have been sent to the corresponding Lots; one matter in the hands of Solicitors for collection. The Treasurer may explore the feasibility regarding the introduction of the 10% discount provision on early levy payment in accordance with s79(4) of the *Strata Schemes Management Act (SSMA)*, however this will require adjustment of the budget provisions accordingly.

5. Building Manager's report

The report dated 17 October 2011 was tabled and accepted. Matters requiring determination/action were dealt with under items 6, 7 & 8.

6. Leaks – update on repairs

- a. Apt 502 balcony leak is now fixed, replacement tiling was required. The existing tiles in situ are longer manufactured. New tiles installed were as close a match as possible.
- b. 'Blue Bits': the work is now complete. New weep holes were cut at the base of the bottom course of blocks at the affected apartments and a significant amount of water egressed, particularly from the worst affected apartments. This suggests that the leaks were caused by trapped and ponding water below the existing flashing and weep hole line entering apartments by capillary action. The Building Manager is liaising with affected owners regarding remediation of minor damage to common property.

7. Gas usage contract

The gas contract needs to be renewed. It was noted that it difficult to make a direct comparison between competing gas companies due to the way rates and fees are calculated. Despite this, rates are regulated by a State regulatory body 'IPART' who can effectively change the rates at any time. The proposed new contract shows an increase up 1.2% overall on a 2 year term, it was Resolved to renew on that basis. D Stanger will attend to the matter as appropriate.

8. Roof car

Aurecon (Engineers) were due to provide a report by the time of the meeting. The report did not eventuate. It was noted that Aurecon have indicated that there are issues surrounding engineering aspects of what is being proposed. In essence the roof may need some form of strengthening; when the report is to hand the issue will be reviewed further.

Contractual obligations/liabilities to the suppliers are to be reviewed – with legal advice, if appropriate.

9. Maintenance clean windows & louvers

The *East and West* windows and louvres required cleaning and maintenance due to the Roof Car project is taking longer than initially envisaged (it may be at least another 8 months). The windows and louvres have not been cleaned and/or serviced for approximately two years. Richard and David have liaised with Adam and Beverley Beck and Cecile Modolo who have kindly allowed access to their balconies to allow abseillers to attend to this work starting this week (thanks Adam, Beverley and Cecile). Thanks were also provided to Ronn and Maggie (Apt 408) as well as Donald (Apt 405) for access to their courtyards for the rope access technicians and their equipment following each 'drop'. Both courtyard areas will be cleaned (water-blasted) following the completion of the works. Costs of approximately \$9000 plus GST for the works were approved.

10. Gym protocols

To ensure equitable access to the 'cardio equipment' in the gym at peak times, the use of that equipment (treadmill, rower, cross trainers etc) is to be limited to 20 minutes per user during 'peak hours'. Peak hours are defined as 6am to 8am and 5pm to 7pm Monday to Friday. David Stanger will arrange appropriate signage.

11. 2012 Finances.

Richard Beck and Rob Di Iorio will develop the budget alongside David Stanger and Ralf Harding with a view to incorporating the requirements for maintenance and the items to be attended to under the 10 year Sinking Fund plan; matter ongoing.

12. Retail space update. Legal issues, procedural issues, situation update

The meeting made note of and referred in part to the notes provided by Tim Trollip (detailed under item 3 'a' *correspondence*).

Item discussed at considerable length.

Retail space (Lots 140 &141):

There was consensus that it is preferable to have a viable tenant in the Retail Lot and that the space when not used has impacted on the look and feel of the building and is used by skate-boarders and as a 'shooting gallery'.

The new proprietors, after consultation with the EC's representatives, have developed plans to negate the impact of the strong wind across the site by enclosing the eastern façade. This proposal, which has evolved since the last EC meeting, has raised new issues. The EC has become aware that the current building works involve alterations to common property. James Tonkin raised the issue of Moral Rights (N.B. *Moral Rights* are rights of "authors" (including an architect) relating to the change/alteration of their works including original built design – these rights are a part of copyright law and associated statutes). Amendments & changes to the common property encompassing the Retail Lot will require consent at an Extraordinary General Meeting (**EGM**) - it was Resolved that an EGM be called on a date to be determined via the Strata Manager.

It was Resolved that Grace Lawyers – who have been retained to provide legal services (refer 2009 Annual General Meeting) - attend to the following matters concerning the following:

- a. implications regarding Moral Rights incurred by any changes to the Retail Lot. A draft Deed of Indemnity from the owner of the Retail Lot (at their cost) indemnifying the Altair Executive Committee against any action(s) regarding Moral Rights is to be reviewed and amended as appropriate. It was noted that the owner of the retail lots and tenant have retained/sought advice from the original architect, Ian Moore. Ian Moore has provided a design 'blueprint' to be executed by the proprietor's designers/architects; Ian Moore has apparently (with his own amendments) approved the proposed design.
- b. a review of, and possible amendments to, the Special By-Law that has been drafted by Rosemary Hall (Solicitor) (acting for Lot 140 & 141 and the tenants) regarding 'works' to the Lot and common property.
- c. a review of, and possible amendments to, the License Agreement. The License Agreement governs behaviour and places certain obligations of the tenant as well as providing an agreement for use of some parts of the common property for storage etc. The Licence Agreement will also contain clauses relating to (i) initial hours of operation and numbers not being greater than those provided for under existing Development Applications in respect of the Retail Lot, and (ii) the effect that hours and numbers will not be changed without the express agreement of the Executive Committee.

Concerns were raised regarding ongoing works by the prospective tenants of the Retail Lot (D.O.M. Gastronomica Pty Ltd). The main concerns being:

- a. that existing and prospective building works have been and are in breach of various sections of the SSMA, various Altair By-laws and Altair's Rules for Renovations and Building Works; and
- b. that common property is being affected and altered by amongst other things the moving of the existing sliding doors and perhaps the juxtaposition of the eastern façade to the garden bed(s) wall.

The issue of encapsulation of *air space* and a fee for allowing building works to proceed has been raised, but it is not proposed to take any action on these issues.

A motion to request the owners of the Retail Lots and D.O.M. Gastronomica Pty Ltd to *stop work* until matters concerning moral rights indemnities, make good obligations and compliance with Act, By-laws and Rules referred to in 'a.' above was proposed by Tim Trollip but defeated (Motion Lost). All members of the committee - with the exception of Tim Trollip - voted against this course of action.

The tenants advised that the bulk of the works to date (inside the Lot) do not require any Development Application consents via City of Sydney Council (**Council**). The tenants advised that Council had visited the site in the week of 17 October 2011 to inspect the works and (in their view) that Council are satisfied with what they (the tenants) are doing. Despite this development, the tenants have conceded that there have been breaches of Altair's established protocols and bylaws. Ralf Harding has negotiated a draft guarantee from the owner of the Retail Lot that (at their cost) any proposed works that require, or should have required Executive Committee/Owners Corporation or Council approval will be *made good* in the event that final approval and consent is not forthcoming. This guarantee will also be reviewed by Grace Lawyers. It was agreed that Ralf Harding would liaise with Jim McDonald to access Grace Lawyers and expedite resolution of all the legal matters as fast as possible.

Other matters:

Waterproofing: of the vergola roofing is required as part of the works, David Stanger will seek clarification on the products and methodology. The lack of an effective membrane will likely render any sound-proofing insulation materials ineffective.

Submission of Development Application: is to proceed once corrections and updates to the plans are attended to by the architects. The common seal is to be applied to the application and plans pursuant to s238. Ralf Harding will attend to the amendments to the plans with the owner & tenants of Lots 140 & 141. The final consents for the works still lie with the Owners Corporation at the EGM.

Executive Committee Liaison Group: will consist of Ralf Harding and Michael Meredith with respect to any negotiation between Altair, the owners of Lots 140 & 141 and the tenants. Ralf & Michael will also seek clarification as to the reimbursement of costs and legal fees from the owners of Lots 140 & 141.

The Executive Committee provided a vote of thanks to Tim Trollip for his time and efforts in researching the legal issues and associated issues surrounding works to the Retail Lots.

13. Future chair options, office bearer functions, management of EC affairs and strata and building management

Matter discussed at length.

The meeting made note of and referred in part to the notes provided by Tim Trollip (detailed under item 3 'a' *correspondence*).

Issues raised and discussed are précis as follows;

Future 'Chair' options:

Ralf Harding advised that it was his intention to continue as Chairperson for the foreseeable future at least up to and including the next Annual General Meeting.

Office Bearer Functions & management of Executive Committee affairs:

The role of the office bearers was discussed in brief; additional reference was made to the following issues:

- a. The Treasurer's reports and the Building management reports are provided on time and on request.
- b. Ralf Harding had liaised with office bearers in similar properties to Altair and has found that the management of each scheme is slightly different although based on the same fundamental principles that govern all schemes in excess of 101 Lots.
- c. In his role as chair Ralf Harding stated that he and other EC members will continue to meet with the Building manager on a weekly basis.

It was agreed by the Executive Committee that the management of the affairs of the Executive Committee will continue in the same vein. Following input from Jimmy Thomson and members of the EC; the suggestion of using sub-committee's of owners for various programmes and projects. This option – and as in previous instances – will continue as and when required.

Strata management:

It was agreed that there is to be a more consultative approach with the Strata Manager on items of a 'technical' nature (such as the Retail Lot and the recent bylaw changes). Jim McDonald clarified/responded some points made in Tim Trollip's notes when asked questions by Tim on the issue regarding the provisions of the Retail Lot License Agreement and Bylaw. Ralf Harding advised that the Strata Management Agreement was re-negotiated in May 2010 and that he personally is satisfied with the performance of the Strata Manager.

Building management:

It was agreed that there should be an evolution to greater autonomy for the Building Manager (David Stanger) on the management of the building as events permit now that the major 'defects' is over; the Committee agreed that they were happy with performance of Francis Management and David Stanger; clarification was provided on the 'job description' of the Building Manager noting that it was 'Altair' that actually wrote it. Changes to the role over the years have been made by negotiation between the parties. Ralf Harding & John Anderson will liaise with Francis Management to review the job description.

14. Any Other Business

It was noted that the 'barbeque season' is approaching. A copy of the *Barbeque Code of Conduct* will be provided to all owners and residents reminding them of their responsibilities regarding the use of their barbeques. A copy of the code will be placed on the notice board.

The meeting finished at 20.25h