



**EXECUTIVE COMMITTEE MEETING**  
**Wednesday 20 November 2013, Diamant 19h00**

**Attendance:** Ralf Harding (Chair), Michael Meredith (Secretary), Paddy Conroy, Luisa Liotta, Deb Moore, Gavin Napier, Troy Scott.  
Doug Mallam (Building Manager), David Stanger (Francis Management).

The new Building Manager, Doug Mallam, was welcomed to the meeting.

**Guests:** Kathryn Thiel-Sirett.

**Apologies:** Chris Gardener (proxy to Michael Meredith), Anna Shepherd.

**Minutes of Last Meeting:**

The Minutes of the last meeting were accepted.

**Matters Arising:**

**Minutes**

At the October EC meeting it was agreed to defer any decision regarding the treatment of future minutes, particularly with respect to using correspondent's names, until the November meeting to allow possibly wider EC representation and avoid making a decision by proxy if possible.

It has already been resolved NOT to change any existing minutes; and that our minutes, past and future, should be common to both Owners and the Altair website.

**Resolved** that we would identify correspondents by name in future minutes (as currently) in the interest of transparency.

**Telecommunications**

Following the report commissioned from SiteXcell and received by the EC last month regarding this issue we have an approach from an internet carrier, OPENetworks ('Open'), demanding access to our building and roof-top. On the advice of both our Building Manager and Strata Manager and after consideration by the EC we have sought legal advice from Grace Lawyers who have advised that there is over-riding Commonwealth legislation on this issue. **Resolved** to ratify the Costs Agreement for legal advice of up to \$3k. Advice from Grace Lawyers is that:

- Carriers (arguably plural but in effect 'first up best dressed') can require access to our building/roof in certain circumstances.

- We may require them to agree some sort of legal instrument with us (a lease?) with a clearly defined scope of operation/area and some form of commercial arrangement.
- If we resist unreasonably they can pursue ‘forcing’ access usually by going to the Telecommunications Ombudsman.

We have taken a more commercial approach after further consultation with Grace Lawyers and have written a letter to Open denying access until we have a signed agreement covering operational, legal and commercial matters. Following despatch of the letter we have had discussions with the CEO of OPENetworks and matters are temporarily in abeyance until we make some decisions.

FM is researching other interested carriers, and the Chair is in dialogue with Elan who has installed a system from Open, to test the market for alternative options. It was agreed that we should delay any decision until we have a better understanding of the options and the pros and cons.

### **Visitors Car Parking**

This remains a problem particularly on Saturday nights. Le Concierge provided details of the system used at Elan which is largely successful but requires intensive man-power (Elan have 2 concierges on-duty at all times). It was agreed

- We did not fully understand the issue
- That it was important that any solution was proportionate with the problem and in this light it was recognized that a booking system may be cumbersome and may not be deliverable with existing resources.
- That we did not want to have the concierge constantly away from the front desk which the ‘Elan’ system would require; and noted that
- There is strong suggestion that car spaces may have previously been ‘rented out’ in an unauthorized manner at peak periods.

**Resolved** that an extra concierge would be hired for the peak periods up until New Year’s Eve to assist in getting a better understanding of the problem, allow some experimentation with managing the issue; and to deter ‘casual’ parkers.

### **Correspondence**

- Letter from The Lord Mayor of Sydney responding to correspondence from the Chair on behalf of the EC expressing concern about potential closures of Darlinghurst Rd on Friday and Saturday nights and the subsequent impact on Kings Cross Rd. Lord Mayor advises that the plan to trial partial or total closure of Darlinghurst Rd will not proceed at this stage and that there will be no trial without public consultation.

- E-mail from Celeste Wilde requesting advice on legal costs associated with the an ex-employees hearing. See 'Legal Costs' following.
- E-mail from Ronald Pront requesting permission to install an awning over his north facing podium courtyard. See 'Awning' following.
- Letter from the lawyers of apartment 1402 requesting that the EC allow, or recommend to the Owners to allow, the existing air-conditioning unit to remain or a modified version to replace it. See 'CTTT/Air-Conditioning' following
- E-mail from BAC Brokers via StrataChoice regarding building insurance renewal premium. See 'Insurance' following.

### **Finance Report**

We remain broadly on budget. As StrataChoice do not use accrual accounting it is always difficult to be absolutely precise regarding our position at any point in time but preliminary estimates indicate that our end of year position will remain broadly on budget albeit stretched by some unbudgeted repairs, and legal and associated expenses (see 'Legal Costs' following). A copy of the financial summary is available to any Owner on application to the Building Manager.

### **Building Manager's Report**

Attached.

It was noted that FM are investigating the viability of converting the current 'cleaners' room into a possible common room which could also facilitate EC meetings. The cleaners will possibly be re-located to the storage room vacated by SGT SAM. Agreed to get an approximate price for fit-out and put to the Owners at the AGM.

### **Updates**

#### **Retail Lot**

The owner and the previous operators of the retail lot have been alerted to storage/rubbish left in the site and have either not responded or taken no action by various deadlines. Accordingly the Building Manager has arranged for all remaining storage/rubbish to be taken away. The costs of remediation have been funded from the security deposit.

#### **Roof Membrane**

The roof membrane has been repaired at a cost of approx. \$4k plus approx. \$1k to have our roof-top safety lines re-certified. We are advised that further work to the roof membrane will be required in a few years at an approx. cost of \$40k but that this should mean that the roof membrane will not require further attention for about another 10 years after that. This has been factored into our 20-year plan.

## **Cardio Gym Equipment**

New *Life Fitness* cardio equipment – 2 x walkers, elliptical striders and bikes – and a new rubberised floor have been installed in the cardio gym. Some renovation work has been carried out on the rower. The carpet, which proved to be at the end of its useful life, has been replaced with a rubberised flooring. Some repairs have also been carried out to the rubberised floor in the weights gym. An attempt has been made to clean some rust specks off the multi-gym equipment in the weights gym with limited success - the equipment, however, remains entirely functional.

## **CTTT/Air Conditioning**

Our adjourned application to the CTTT regarding penalties and removal of the AC unit in apartment 1402 will now be heard on December 2.

The owner of 1402 has had her lawyers write to us requesting that we allow the existing air-conditioning unit to remain or to allow a modified unit to replace it.

Owners are reminded that:

- We (Building Management) advised the representative and/or the owner of 1402 both before and during installation that the AC unit was not permitted under our by-laws and that we would take action regarding its removal...and were told 'where to go'.
- The Altair OC have sent a Notice to Comply to the owner and had no response at all.
- We have had 2 previous hearings at the CTTT, the first of which the owner did not attend nor even respond to. At the second hearing she appointed lawyers to represent her who requested a delay so they could familiarise themselves with the case as they had been appointed 'the day before' when in fact they had been appointed a considerable time before, as noted by the CTTT.
- At the 2012 AGM our by-laws were strengthened by the Owners, specifically listing air-conditioning units as prohibited, amongst other things, to remove any possible ambiguity (which, in any case, our lawyers say did not previously exist).
- We have commissioned an expert electrical consultant's report which demonstrates that at peak times as few as 17 additional standard air-conditioning units could cause a 'black-out'.
- Our lawyers have informally advised that they see no legal reason why we should grant this request and many reasons why we should not - as detailed above for example.

Agreed to decline the request and to instruct our lawyers to oppose the request for the AC unit to remain or be modified.

### **Christmas Party/Trees**

Christmas Party Committee recommends purchasing a new tree for use in the foyer at a cost of approx. \$300 but that the existing trees feature at the Christmas party on the podium. Catering budget approx. \$1000. A series of posters for the noticeboard and lifts and flyers for residents pigeon-holes have been created and printed at no cost (thanks to AKA Design) and are being progressively circulated. Costs for tree and catering agreed.

### **Former Staff**

A concierge took an action against the Altair OC for unfair dismissal. This was set down for a hearing before the Fair Work Commission (FWC) in October. The Altair OC was represented by our lawyer and the Secretary, Michael Meredith. Prior to the hearing a conciliation meeting was held, initiated and mediated by the FWC. A full and final settlement was agreed which was conditional by the FWC as being confidential to all parties.

A notice - checked, edited and approved by our lawyer - was sent to all Owners noting that

- i) The concierge had withdrawn his claim for unfair dismissal
- ii) The concierge had been allowed to resign
- iii) Altair had made a payment to the concierge in respect of entitlements.

**Resolved** to ratify settlement agreement.

### **Legal costs**

The EC has a policy of trying to avoid legal actions unless absolutely necessary. Owners should be aware that during 2013 Altair has, unfortunately but necessarily, been involved in the following actions:

- 1) In both actions regarding former employees claiming unfair dismissal we were the defendant. We did not initiate the actions; and the unfair dismissal claims were either dismissed or withdrawn. We have paid no monies in respect of any unfair dismissal claims.
- 2) In one case we accepted the recommendation of the FWC mediator.
- 3) In the other case the EC initiated 4 separate attempts to settle prior to the final FWC mediated agreement. After some discussion we accepted the recommendation of the FWC mediator. The employee would have been substantially advantaged had he accepted our first offer.

- 4) In the case at the CTTT case regarding air-conditioning the EC only took action after being re-buffed by the owner and/or her representative, our Notice to Comply being apparently ignored and after advising the owner and/or her representative both before and during installation that the installation transgressed our by-laws. The case is on-going but will hopefully be settled in December.
- 5) The telecommunications issue has been forced on us by the aggressive actions of a carrier trying to gain a commercial distribution advantage for supply of internet services using, and we would argue abusing, the Telecommunications Act. We believe that the Altair OC has to control our own destiny as much as is possible in this rapidly evolving field.

Unfortunately we have consequently incurred unavoidable but unbudgeted legal expenses. These are approximately

- i) Employee 'A' conciliation - \$2k
- ii) Employee 'B' conciliation and hearing - \$5k
- iii) CTTT/Air-conditioning - \$9k - guesstimate to conclusion.
- iv) Telecommunications issue - \$3k

These approximate costs have been factored into our financial plans for 2013 as reported under 'Finance Report'.

### **Awnings**

An owner, Ronald Pront, has requested permission to erect an awning on his north facing podium courtyard. We have consulted both our Building Manager and Strata Manager who have noted the following issues:

- a. **Wind sensor issue** - we note that the podium level does get wind. We do not want the awning being ripped off in a squall.
- b. **Maintenance** - of the canvas insofar as it being replaced when it fades, tears or is damaged. How do we measure an 'acceptable appearance'?
- c. **Debris issue** - being the damage to the canvas from items dropped onto it – who would be responsible for the repair?
- d. **Insurance issue** - as to who insures it as a fixture. As these types of awning are prone to damage by either wind or by debris damage (e.g. a cigarette end); as a fixture to the building it becomes part of Altair's responsibility to insure. As Altair has chosen a high excess level this means that a party who has a benefit from the policy has the right to force the policy holder (Altair) to make a claim for damage. To this end Altair would be responsible for making insurance claims and bearing the excess at each turn.
- e. **Bylaw issue** – the current bylaw at Altair would make the installation permissible as a rule, however what the current bylaws do not account for is the insurance excess matter or the problem of 'exclusive use' of part of the wall to

*where it is installed, the size, colour and continued maintenance and appearance of the awning.*

*We suggest that the ideal course of action is that a specific bylaw is drafted to deal with this matter alone and that the bylaw looks to govern additional installations on that level/type of apartment layout.*

*This installation as far as we can ascertain cannot be readily approved by the Committee without these matters being addressed first. As this is a new installation (i.e. there is no precedent) then the matters above have to be reviewed and determined.*

*To attend to the bylaw a General Meeting must determine the issue.*

It was agreed to have the Building Manager advise Ronald Pront that the EC propose that he agrees to the following before any request for the installation goes before the Owners via a by-law at a General Meeting:

- i) To fund the by-law which our Strata Manager will organise – guesstimate cost \$1000-1500 at Ronald's expense – and which will include amongst any other relevant issues:
- ii) To accept full responsibility for any damage to any property including common property and the awning itself from whatever cause and any consequences of any damage the awning may cause to other property.
- iii) To waive any rights to claim against the Altair Owners Corporation, the EC and any of the Officers and/or Managers employed by the Altair Owners Corporation for any such damage including any forms of insurance claims.
- iv) To fully indemnify the Altair Owners Corporation, the EC and any of the officers and/or managers employed by the Altair OC from all and any actions resulting in any way from the awning and its installation.
- v) To agree to upgrade and/or update/replace the awning at the total discretion of the EC. If there is any dispute about replacing the awning; to allow unrestrained access by the OC to replace the awning at the expense of the lot owner.
- vi) Colour and type of awning to be specifically approved by the Altair Owners

### **Strata Law**

There has been some media commentary regarding proposed changes to Strata Law in NSW. We have been in constant contact with our Strata Management company, StrataChoice, regarding this issue; and have the government positioning paper – a copy is available to any owner on application to the Building Manager. There are some 'idiosyncrasies' in the paper and there will undoubtedly be issues which require some time and experience to resolve whether they are positive changes. No doubt more information will emerge over time and as legislation is drafted.

It was noted that there were some proposed changes that do not, on the surface, make much sense and it was agreed to write the Minister to comment and seek clarification. A copy of that letter is attached.

### **Insurance**

Our renewal premium has been received for 6 Dec 2013 to 6 Dec 2014 at \$80,978. This is a 6.2% increase on 2013 (\$76,221) of which 2% is for an increase in the sum assured making the 'inflation' increase 4.2%. Our base building cover has increased from \$86.95m to \$88.69m. There are no other changes in the policy. Our brokers advise that the 'average' premium increase in our category is between 10-15%.

Jim at StrataChoice advises that the norm increase that they have seen to date is between 12-15% with a high of a bit over 30% and a low of 3%, however each situation depends largely on circumstance including claims history. Our premium increase is the second lowest that they have seen this year on large schemes.

StrataChoice also receive a representation fee from BAC Insurance Brokers which is 50% of the broker fee in the policy making their income from insurance \$4275 which added to the direct fee from Altair (\$18748) makes their base income from Altair and related sources \$22,753. If they did not receive this income our fees would rise by that amount and there is no guarantee (and some evidence to the contrary) that the insurance premium would drop by that amount if we went direct. **Resolved** to accept the premium on behalf of the Owners for ratification at the AGM.

### **20-Year Expenditure Plan**

FM is completing their annual review of the on-going 20-year Sinking Fund Expenditure Plan with special attention to

- Ensuring that 2013 costs are as complete as possible at this point.
  - Estimating 2014 projects as accurately as possible with regard to cost, ongoing relevance and timing.
  - Looking at timing and ongoing relevance of general items in the plan.
- The 20-year expenditure plan to date has been shared with the EC and it was agreed to use this for planning purposes at this stage.

### **20-Year Financial Plan/2014 Budget**

The 20-year expenditure data is being merged into our 20-year Financial Plan including projections by FM of 2014 expenditure for all three funds – Admin, Sinking and Lift. This information should be available for consideration by the EC at the December meeting.

**The meeting finished at 19h45.**

**Next EC meeting Wednesday December 11, 7pm, Diamant Hotel.**