

*Strata Schemes Management Act 2015*

**MINUTES OF THE GENERAL MEETING**

**The Owners Corporation of Strata Plan 77971**

**Held in the meeting room at Santai Resort, 9-11 Dianella Drive, Casuarina**

**on Wednesday 7 November 2018 at 11.00 am**

---

**OWNERS PRESENT:**

Lot 1 Anpak Investments Pty Ltd represented by Paul Kaiser  
Lots 3, 17, 19, 26, 27, 28, 31, 33, 43, 46, 51, 53, 60, 61, 62, 70, 74, 92, 93,  
94, 100, 101, 103, 107 & 111 Casuarina Corporation Pty Ltd represented by  
Grace Irvin  
Lot 5 Gaye Sternberg  
Lot 7 Patricia Murray  
Lot 18 Santai Management Pty Ltd represented by Adrian Leary  
Lot 34 Commander Land & Air Investments Pty Limited represented by  
Grace Irvin  
Lot 36 Nigel Crow  
Lot 45 Joanne Messenger  
Lot 50 Bryan & Merrilyn Gething  
Lot 68 Peter Brussel & Di Hendy  
Lot 71 Ron & Beverley Hendy  
Lot 79 Kathryn Borton  
Lot 82 Andy Kilpatrick  
Lot 85 Strategic Endeavour Partners Pty Ltd represented by Thomas  
Schroeder  
Lot 87 Bruce Robertson  
Lot 96 Kylie Foy  
Lot 99 Colin & Patricia Howard

**PROXIES:**

Lots 14 & 32 represented by Grace Irvin  
Lot 42 represented by Paul Curby  
Lots 45, 77, 86 & 95 represented by Patricia Murray

**PRE-MEETING  
VOTING FORMS  
RECEIVED FROM:**

Lots 6, 9, 10, 16, 21, 23, 41, 44, 47, 52, 64, 65, 66, 67, 72, 73, 106, 113, 115

**UNFINANCIAL:**

Lot 22 Frank & Georgina Monserrat  
Lot 68 Peter Brussel & Di Hendy  
Lot 71 Ron & Beverley Hendy  
Lot 76 James Frizelle

**IN ATTENDANCE:**

Andrew Thompson of Strata Professionals (via telephone)

**CHAIRPERSON:**

Grace Irvin acted as Chairperson for the Meeting.

**QUORUM:**

As a quorum was present, either personally or by proxy votes, the meeting was able to proceed.

1. **MINUTES:** The Owners Corporation **RESOLVED** that the Minutes of the General Meeting held on 2 October 2018, as recorded in the Owners Corporation Minute Book, be confirmed as a true and accurate account of the proceedings of that meeting.

2. **SALE OF MANAGEMENT AND CARETAKING RIGHTS – CONSENT TO THE DRAFT DEED OF TRANSFER**

Adrian O'Leary on behalf of Santai Management Pty Ltd indicated that it was the intention of the parties to negotiate and agree final documentation between the Notice of Meeting being issued and the date of the Meeting and that had occurred, with all parties being happy with the outcome and documentation.

Grace Irvin indicated that on a without admission basis, Santai Management Pty Ltd had agreed to pay the Owners Corporation the sum of \$100,000 in satisfaction of the potential overpayment of cleaning and handyman fees as part of the negotiations that had taken place.

This motion was **WITHDRAWN** on the basis that a subsequent meeting had been called for Friday 16 November 2018 to approve the final Deed of Transfer together with the Settlement Deed.

3. **SALE OF MANAGEMENT AND CARETAKING RIGHTS – AUTHORITY TO STRATA COMMITTEE TO NEGOTIATE AND SIGN DEED OF TRANSFER**

This motion was **WITHDRAWN** on the basis that a subsequent meeting had been called for Friday 16 November 2018 to approve the final Deed of Transfer together with the Settlement Deed.

4. **REPAYMENT OF UNDISCLOSED BROKERAGE FEES BY MR PAUL KAISER**

This motion was ruled Out of Order on the basis that it could expose the Owners Corporation to a liability given Mr Kaiser's compliance with the Strata Schemes Management Act 2015. Mr Paul Kaiser gave a detailed explanation of the history of the insurance for Santai including the fact that at one point the building was uninsured for a period of 15 days as a result of the then insurer refusing to renew the insurance policy due to the number of claims that the Owners Corporation had lodged.

5. **REPAYMENT OF ELECTRICITY ARREARS INCURRED BY RESORT CORPORATION WRITTEN OFF BY THE OWNERS CORPORATION**

This motion was ruled Out of Order on the basis that it could expose the Owners Corporation to a liability given the Chairperson's explanation of the fact that both legal advice had been received by the Owners Corporation prior to the electricity arrears that had been incurred by Resort Corporation were written off by the Owners Corporation and a previous application had been made by Mr Kilpatrick to NCAT in 2010 for orders to reinstate that liability and assign it to Casuarina Corporation which NCAT refused to grant.

6. **ALLEGED BREACH OF DEVELOPMENT APPROVAL:**

That the Owners Corporation demands that Casuarina Corporation cease letting their lots to permanent residents, in breach of the Development Approval for the building.

**Voting was recorded as follows:**

<b>For:</b>	<b>594 unit entitlements (17 lots)</b>
<b>Against:</b>	<b>1776 unit entitlements (46 lots)</b>

This motion was **LOST**.

7. **NCAT – APPOINTMENT OF LAWYER:**

The Owners Corporation **RESOLVED** to engage David Le Page to act for the Owners Corporation in connection with the NCAT application as set out in the costs agreement tabled at the meeting.

**Voting was recorded as follows:**

<b>For:</b>	<b>1739 unit entitlements (45 lots)</b>
<b>Against:</b>	<b>655 unit entitlements (18 lots)</b>

## 8. **SPECIAL ADMINISTRATIVE FUND LEVY:**

Subject to continuation of the NCAT proceedings, the Owners Corporation **RESOLVED** to raise a Special Administrative Fund Levy in the sum of \$30,000.00 for the purpose of meeting additional legal costs required to defend the NCAT matter. The Special Administrative Fund levy will be divided by the unit entitlements of the individual lots and will be payable in one instalment due by 1 January 2019.

**Voting was recorded as follows:**

**For: 2016 unit entitlements (53 lots)**

**Against: 414 unit entitlements (11 lots)**

The Strata Manager clarified that Strata Professionals had withdrawn their consent (rather than 'support' which was the term used in the agenda) for the application and would not act as Manager should the orders be made. Strata Professionals stated that unless required to do so, it was not their intention to provide a statutory declaration as mentioned in the application and nor was it their intention to have any input into the matter.

The Strata Manager suggested that genuine and reasonable discussions take place as soon as possible between the Strata Committee and the Applicant in an effort to resolve outstanding issues between the parties. If the issues can be satisfactorily resolved then the expectation is that the NCAT Application would be withdrawn and the Owners Corporation would not then be required to raise the Special Administrative Fund Levy of \$30,000. Owners at the meeting agreed with the suggestion and expressed the strong view that Mr Kilpatrick withdraw his application.

As such, the meeting directed the Strata Manager to arrange a meeting between available members of the Strata Committee to engage in discussions with the Applicant with a view to resolving any issues.

When pressed, Mr Kilpatrick indicated that he had commenced the proceedings because he felt unappreciated for his hard work. A number of owners reminded Mr Kilpatrick that owners had in fact thanked him for his efforts at the General Meeting held 28 May 2018 when the Owners Corporation voted to demand repayment of the \$20,000 paid to Mr Kilpatrick. The Chairperson also reminded Mr Kilpatrick that this was reflected in the fact that the reimbursement of expenses for which Mr Kilpatrick had made a claim were not demanded despite some irregularities with invoices not being provided.

The Owners Corporation will be advised of the outcome in due course.

## 9. **LANDOWNERS CONSENT**

There was considerable discussion about the process and Grace Irvin on behalf of Casuarina Corporation Pty Ltd explained that this was simply an application involving Casuarina Corporation's use of its lots to provide flexibility for the length of stays by their guests. This was not an application made by or on behalf of the Owners Corporation. A number of other owners had expressed a desire to also make such an application.

The Owners Corporation **RESOLVED** to approve the granting of landowner's consent to Casuarina Corporation Pty Ltd in the form tabled at the meeting (and to any other owner that requests such a consent from time to time) to lodge a development application for the modification of the Concept Plan (DA187-8-2004) to permit the use of tourist accommodation units owned by Casuarina Corporation Pty Ltd (or any other owner) as permanent residential units as well as tourist accommodation and authorised the Strata Manager to affix the seal to the Landowners Consent form tabled and to attest to the affixing of the seal immediately following the meeting and to return the original to Grace Irvin for Casuarina Corporation Pty Ltd. The Owners Corporation further **RESOLVED** that any two committee members be authorised to sign the landowners consent form, in the event that the strata manager failed to do so.

**Voting was recorded as follows:**

**For: 1811 unit entitlements (47 lots)**

**Against: 559 unit entitlements (16 lots)**

10. **PAINTING PEER REVIEW**

The Chairperson and Trish Murray provided background information to the meeting including the fact that a number of owners had raised complaints or concerns about the quality of the painting taking place at Santai.

Ross Alexander, who is an experienced painting professional, had knee reconstruction surgery requiring him to rest during the time the painting project was underway and was able to observe the painting from his balcony. He advised that he had observed a number of practices that were not considered either to a professional standard or in keeping with the obligations of the contract. Ross passed his phone around showing photos of painting over mould. He said he had a number of photos and video of the process. Adrian O'Leary explained that in other strata schemes that he had managed, the Owners Corporation engaged a professional project manager to oversee the painting project. Whilst it appeared too late to do this, it was certainly not too late to engage an experienced painting professional.

The Owners Corporation **RESOLVED** to obtain a peer report commenting on the quality of painting works and compliance with the contractual specifications.

**Voting was recorded as follows:**

**For: 1971 unit entitlements (51 lots)**

**Against: 459 unit entitlements (13 lots)**

**CLOSURE:** The meeting was declared closed at 1.30 pm.