



## NOTICE OF EXECUTIVE COMMITTEE MEETING OF THE PBC

**Name of Property:** Sanctuary Cove Principal Body Corporate  
**GTP:** 202  
**Location of Meeting:** Meeting Room 1, Sanctuary Cove Body Corporate Services,  
Shop 1A, Marine Village, Masthead Way, Sanctuary Cove QLD 4212  
**Date and Time of meeting** Monday 15<sup>th</sup> July 2024  
9:00AM

This notice is forwarded to all committee members. If a committee member is unable to attend, they can assign their proxy to an alternate member by completing the attached proxy form or complete the enclosed Voting Paper, in accordance with Schedule 2, Part 2, Section 17 of the Building Units and Group Titles Act 1980.

The following agenda sets out the substance of the motions to be considered at the meeting. Sanctuary Cove Body Corporate Services Pty Ltd, for the Secretary.

### Agenda

1. Attendance record
2. Apologies and proxies
3. Quorum
4. Conflict of Interest Member Declaration
5. Recording of meeting
  
6. Motions
  1. Approval of PBC EC Minutes 13<sup>th</sup> June 2024
  2. Body Corporate ARC Report 1<sup>st</sup> July 2024
  3. Matters in Progress
  4. Residential By-Law Compliance application to referee – Lot 25, Woodsia
  5. PBC Governance Review
  6. Secondary Thoroughfare By-Law (STBL) amendment to control parking
  7. Not to amend S56 of the SCRA

## 7. Correspondence for Information

For noting of the PBC and the PBC EC

| No | Date         | From                   | To              | Regarding                         |
|----|--------------|------------------------|-----------------|-----------------------------------|
| 1. | 24 June 2024 | SCCSL CEO              | Zieria Resident | 1858 Decision Notice - Complaint  |
| 2. | 26 June 2024 | SCCSL In-House Counsel | PBC             | Towing Report                     |
| 3. | 27 June 2024 | PTBC Chairperson       | PBC Chairperson | Statement of Stephen Anderson     |
| 4. | 10 July 2024 | PBC Treasurer          | PBC             | Legal and Consulting Fee Schedule |

## 8. Correspondence for Action

For noting of the PBC and the PBC EC

| No | Date         | From                  | To  | Regarding  |
|----|--------------|-----------------------|-----|--|
| 1. | 10 June 2024 | Alpinia Chairperson   | PBC | Transfer of part of Alpinia Common property to the PBC     |
| 2. | 14 June 2024 | Harpullia Resident    | PBC | Additional carpark Bays                                    |
| 3. | 17 June 2024 | Zieria Resident       | PBC | Formal Complaint to PBC from Decision Notice issued - 1858 |
| 4. | 23 June 2024 | SRB - Steve           | PBC | Boat Moored at 4734  |
| 5. | 3 July 2024  | Washingtonia Resident | PBC | Off Leash dog area   |

## 9. Reports for Information

For noting of the PBC and the PBC EC

| No | Date         | From      | To     | Regarding           |
|----|--------------|-----------|--------|---------------------|
| 1. | June 2024    | SCCSL CEO | PBC EC | Ops Report          |
| 2. | July 2024    | CSC       | PBC EC | CSC Minutes & Notes |
| 3. | 21 June 2024 | FSC       | PBC EC | FSC Minutes         |

## 10. General Business

10.1 PBC EGM Motions – July 2024

10.2 Towing or refusal of access to cars that continue to park contrary to the by-laws

10.3. Recording of sub-Committee meetings

11. Next Meeting – Thursday 8<sup>th</sup> August 2024 at 9:00am

12. Closure of Meeting

Reply To  
PO Box 15, SANCTUARY  
COVE  
QLD, 4212

**Proxy form for Body Corporate meetings**

*Building Units and Group Titles Act 1980*

**Section 1 – Body corporate secretary details**

**Name:** The Secretary  
**Address of scheme:** C/- Sanctuary Cove Principal Body Corporate, PO Box 15,  
SANCTUARY COVE, 4212

**Section 2 – Authorisation**

Notes: The Regulations set out a number of restrictions on the use of proxies, including an ability for the body corporate to further restrict their use including prohibition. If there is insufficient space please attach separate sheets.

I/we

**Name of owner 1:** .....

**Signature:** ..... **Dated:** \_\_\_ / \_\_\_ / \_\_\_

**Name of owner 2:** .....

**Signature:** ..... **Dated:** \_\_\_ / \_\_\_ / \_\_\_

being the Proprietor/s of the following Lot/s

**Lot number/s:** ..... **Plan number:** .....

**Name of Body Corporate:**

.....  
hereby appoint,

**Proxy (full name):** .....

as my/our proxy to vote on my/our behalf (*including adjournments*) at (please tick **one**)

- The body corporate meeting to be held on \_\_\_ / \_\_\_ / \_\_\_
- All body corporate meetings held before \_\_\_ / \_\_\_ / \_\_\_ (*expiry date*)
- All body corporate meetings held during the rest of the body corporate's financial year unless I/we serve you with a prior written withdrawal of the appointment

unless I/we serve you with a prior written withdrawal of the appointment of Proxy.

**Signature of proxy holder:** ..... **Dated:** \_\_\_ / \_\_\_ / \_\_\_

**Residential address:** .....

**Suburb:** ..... **State:** ..... **Postcode:** .....

**Postal address:** .....

**Suburb:** ..... **State:** ..... **Postcode:** .....

**VOTING PAPER**

**Executive Committee Meeting for Sanctuary Cove Principal Body Corporate GTP 202**

**Location of meeting:** Meeting Room 1, Sanctuary Cove Body Corporate Services,  
Shop 1A, Marine Village, Masthead Way, Sanctuary Cove QLD 4212

**Date and time of meeting:** **Monday 15<sup>th</sup> July 2024 – 9:00AM**

**MOTIONS**

|          |   |                            |
|----------|---|----------------------------|
| <b>1</b> | <b>Approval of PBC EC Minutes 16<sup>th</sup> June 2024 (Agenda Item 6.1)</b> | <b>ORDINARY RESOLUTION</b> |
|----------|---|----------------------------|

Proposed by: Statutory Motion

**THAT** the Minutes of the PBC Executive Committee Meeting held on 16<sup>th</sup> June 2024 be accepted as a true and correct record of the proceedings of the meeting.

|         |  |
|---------|--|
| Yes     |  |
| No      |  |
| Abstain |  |

|          |   |                            |
|----------|---|----------------------------|
| <b>2</b> | <b>Body Corporate ARC Report – 1<sup>st</sup> July 2024 (Agenda Item 6.2)</b> | <b>ORDINARY RESOLUTION</b> |
|----------|---|----------------------------|

Proposed by: Statutory Motion

**THAT** the PBC EC approves the applications recommended for approval by the ARC at its meeting held 1<sup>st</sup> July 2024.

Further **THAT** the PBC EC approves the applications recommended for approval, subject to conditions, by the ARC at its meeting held 1<sup>st</sup> July 2024.

Further **THAT** the PBC EC does not approve the applications which have not been recommended for approval by the ARC at its meeting held 1<sup>st</sup> July 2024.

Further **THAT** the PBC EC approves the applications recommended for approval by the ARC, based upon the recommendations by the Executive Architect and the Snr Body Corporate Manager, at its meeting held 1<sup>st</sup> July 2024.

|         |  |
|---------|--|
| Yes     |  |
| No      |  |
| Abstain |  |



**3 Body Corporate – Matters in Progress (Agenda Item 6.3) ORDINARY RESOLUTION**

Proposed by: Statutory Motion

**THAT** the PBC EC notes the Matters in Progress Report July 2024 as tabled and provides an instruction to the Body Corporate Manager to remove items (as detailed at the meeting)

|         |  |
|---------|--|
| Yes     |  |
| No      |  |
| Abstain |  |

**4 Residential By-Law Compliance application to referee – Lot 25, Woodsia (Agenda Item 6.4) ORDINARY RESOLUTION**

Proposed by: PBC Chairperson

**THAT** the PBC EC instructs the Body Corporate Manager to lodge an application with the Office of Commissioner as the Body Corporate Management are seeking an Order that the Owners of Lot 25, Woodsia comply with Residential Zone Activity By-Law 3.1 (a) Repair and Maintenance.

|         |  |
|---------|--|
| Yes     |  |
| No      |  |
| Abstain |  |

**5 PBC Governance Review (Agenda Item 6.5) ORDINARY RESOLUTION**

Proposed by: PBC Chairperson

**THAT** based on two detailed assessments of suitably qualified governance auditors and consultants, and benchmarking consulting fees and charges with a local governance expert, the PBC EC recommends that the PBC accept the formal proposal and quote from Directors Australia for \$39,200 plus GST. This proposal covers the governance review of the PBC, PBC Executive, and sub-committees, with the aim of developing a ‘best fit’ governance blueprint and framework."

|         |  |
|---------|--|
| Yes     |  |
| No      |  |
| Abstain |  |

***Annexure A attached***

**6 Secondary Thoroughfare By-Law (STBL) amendment to control parking (Agenda Item 6.6) ORDINARY RESOLUTION**

Proposed by: PBC Chairperson

**THAT** the EC supports the approval of the proposed amendments to the STBLs and that a motion be put to the July PBC EGM this for consideration of the amendment.

|         |  |
|---------|--|
| Yes     |  |
| No      |  |
| Abstain |  |

## **Motion 7 Background:**

Earlier last year, MBA Lawyers, representing the Primary Thoroughfare Body Corporate (PTBC), sent a letter to the Principal Body Corporate (PBC) Executive Committee. They claimed the PBC was acting unlawfully by opposing the rezoning of golf course land for new residential units, saying the PBC has no authority outside the Residential Zones.

The PBC consulted Grace Lawyers, who advised that the PBC does have the right to object to developments outside the Residential Zones. This is because Section 56 (s56) of the Sanctuary Cove Resort Act (SCRA) gives lawful occupiers of land within the resort a right of way through the Secondary Thoroughfare in the Residential Zones. Therefore, any development outside these zones affects us all.

Despite this, and without consulting the PBC, the PTBC instructed MBA Lawyers to draft a deed for the PBC to sign. This deed would prevent the PBC from objecting to developments and rezoning outside the Residential Zones.

## **Why This Matters**

The PBC has rules (Development Control By-Laws) that limit the number and size of buildings within the Residential Zones. Outside these zones, there are no such controls except for a general rule limiting buildings to four storeys. As new homes are being developed outside the Residential Zones, the PTBC should create new rules to maintain standards.

The PBC is a significant stakeholder in areas outside the Residential Zones, with a 47% interest in the PTBC. This means the PBC has a say in voting rights, funds for upkeep, and ownership of common areas.

The Sanctuary Cove Resort Regulation allows residential apartments in areas like the Recreation Club, Village, and Hotel Zones. Mulpha, the developer, believes this means apartments can become the main use in these zones. This could change the makeup and character of the resort.

For example, Lot 52 is now proposed to have four-storey apartment buildings, doubling the number of units compared to Harbour One. Uncontrolled development like this could harm the resort's environment and quality of life.

In 2022 and 2023, the PBC opposed the rezoning of Lots 52 and 54 due to concerns about uncontrolled development.

## **Other Considerations**

1. Many new buyers in Harbour One are current or former residents of the Residential Zones. They are likely to have friends and family here and can register as eligible visitors, gaining access to the Secondary Thoroughfare.
2. Some residents outside the Residential Zones will be members of the golf club, giving them access to the Secondary Thoroughfare along with other members from outside Sanctuary Cove.
3. Hotel guests, corporate groups, and golf tour groups will continue to have access to the Secondary Thoroughfare to play golf.

4. Commercial vendors and tradespeople will continue to have access to the Secondary Thoroughfare.
5. Section 56 grants a right of way, not a right to use the Secondary Thoroughfare. This right should not be unreasonably restricted by the PBC.

Residents within the Residential Zones must register annually with security for access. It would be reasonable to expect residents outside these zones to do the same if they want to travel through the Residential Zones.

The number plate recognition system can monitor vehicles entering and leaving the Residential Zones to ensure compliance with s56.

Since owners of dwellings outside the Residential Zones do not contribute to the PBC, it seems fair to charge them an annual fee to cover the costs of providing access.

**Conclusion**

Given these points, the PBC should decline the offer to sign the deed for now. This decision preserves the PBC’s right to object to uncontrolled development. The PBC will continue to explore ways to monitor and manage access to the Secondary Thoroughfare under the current rules.

**7 Not to amend S56 of the SCRA (Agenda Item 6.7) ORDINARY RESOLUTION**

Proposed by: PBC Chairperson

**THAT** the EC does not support the amendment of s56 of the SCRA and proposes the following motion at the forthcoming EGM:

***THAT the PBC does not sign the draft deed proposed by the PTBC and that the PBC investigates the controls that can apply to residents of homes outside of the Residential Zones who wish to have a right of way along the Secondary Thoroughfare roads.***

|         |  |
|---------|--|
| Yes     |  |
| No      |  |
| Abstain |  |

Proposed by: PBC Chairperson

**THAT** the PBC EC notes and accepts the Correspondence for Action June/July 2024 as tabled and instructs the Manager of Body Corporate to action as issued at the meeting.

|         |  |
|---------|--|
| Yes     |  |
| No      |  |
| Abstain |  |

GTP:202

Name of voter: \_\_\_\_\_

Signature of voter: \_\_\_\_\_ Date: \_\_\_\_\_

**MOTION  
INFORMATION**



**MINUTES OF PBC EXECUTIVE COMMITTEE MEETING**  
**for Sanctuary Cove Principal Body Corporate GTP 202**

**Location of meeting:** Meeting Room 1, Body Corporate Services, Shop 1A, Masthead Way Sanctuary Cove  
**Date and time of meeting:** Thursday 13<sup>th</sup> June 2024  
**Meeting time:** 09:01AM – 10:57AM  
**Chairperson:** Stuart Shakespeare

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**Attendance**

**The following members were present in person at the meeting:**

Lot: Felicia GTP 107128 Owner Felicia GTP 107128 Rep: Mr Stuart Shakespeare (SS)  
Lot: Livingstonia GTP 1712 Owner Livingstonia GTP 1712 Rep: Mr Brian Earp (BE)  
Lot: Molinia GTP 1072442 Owner Molinia GTP 107442 Rep: Mrs Cheryl McBride (CM)  
Lot: Roystonia GTP 1769 Owner Roystonia GTP 1769 Rep: Mrs Simone Hoyle (SH)

**The following members were present by Proxy:**

**The following members were present by Voting Paper:**

Lot: Harpullia GTP 107045 Owner Harpullia GTP 107045 Rep: Mr Paul Kernaghan (PK)

**Present by Invitation:**

Mr Dale St George, CEO SCCSL  
Mrs Jodie Syrett, Manager Body Corporate (Minute Taker)

**Apologies:**

Mr Nicholas Eisenhut  
Mr Paul Kernaghan  
Mr Andrew Brown

A Quorum was present.

Meeting was recorded.

Nil Conflict of Interest

**1. Motions:**

|          |   |                            |
|----------|---|----------------------------|
| <b>1</b> | <b>Approval of PBC EC Minutes 9<sup>th</sup> May 2024 (Agenda Item 6.1)</b> | <b>ORDINARY RESOLUTION</b> |
|----------|---|----------------------------|

Proposed by: Statutory Motion **CARRIED**

**RESOLVED** that the Minutes of the PBC Executive Committee Meeting held on 9<sup>th</sup> May 2024 be accepted as a true and correct record of the proceedings of the meeting.

|         |   |
|---------|---|
| Yes     | 5 |
| No      | 0 |
| Abstain | 0 |

**NOTE:**

**General Business:**

**8.6 – Parking Compliance:** *SS advised In-House Counsels advise didn't rule out completely denying access to resident cars through the gate if numerous parking breaches, However, more legal advice is necessary before deciding. DSTG advised information regarding past legal advice on this topic will be compiled and distributed.*

**9.6 – Irrigation:** *DSTG advised it will be included in the 2024/2025 budget*

| Members Name       | Yes | No | Abstain |
|--------------------|-----|----|---------|
| Stuart Shakespeare | X   |    |         |
| Andrew Brown       |     |    |         |
| Cheryl McBride     | X   |    |         |
| Simone Hoyle       | X   |    |         |
| Brian Earp         | X   |    |         |
| Paul Kernaghan     | X   |    |         |
| Nicholas Eisenhut  |     |    |         |

**2 Body Corporate ARC Report – 3<sup>rd</sup> June 2024 (Agenda Item 6.2) ORDINARY RESOLUTION**

Proposed by: Statutory Motion **CARRIED**

**RESOLVED** that the PBC EC approves the applications recommended for approval by the ARC at its meeting held 3<sup>rd</sup> June 2024.

|         |   |
|---------|---|
| Yes     | 5 |
| No      | 0 |
| Abstain | 0 |

Further **RESOLVED** that the PBC EC approves the applications recommended for approval, subject to conditions, by the ARC at its meeting held 3<sup>rd</sup> June 2024.

Further **RESOLVED** that the PBC EC does not approve the applications which have not been recommended for approval by the ARC at its meeting held 3<sup>rd</sup> June 2024.

Further **RESOLVED** that the PBC EC approves the applications recommended for approval by the ARC, based upon the recommendations by the Executive Architect and the Snr Body Corporate Manager, at its meeting held 3<sup>rd</sup> June 2024.

| Members Name       | Yes | No | Abstain |
|--------------------|-----|----|---------|
| Stuart Shakespeare | X   |    |         |
| Andrew Brown       |     |    |         |
| Cheryl McBride     | X   |    |         |
| Simone Hoyle       | X   |    |         |
| Brian Earp         | X   |    |         |
| Paul Kernaghan     | X   |    |         |
| Nicholas Eisenhut  |     |    |         |

**3 Body Corporate – Matters in Progress (Agenda Item 6.3) ORDINARY RESOLUTION**

Proposed by: Statutory Motion **CARRIED**

**RESOLVED** that the PBC EC notes the Matters in Progress Report June 2024 as tabled and provides an instruction to the Body Corporate Manager to remove items (as detailed at the meeting)

|         |   |
|---------|---|
| Yes     | 5 |
| No      | 0 |
| Abstain | 0 |

**NOTE:**

**316 DCBLs Stage 2** – Working on completion by the end of the year.

**419 Village Gates – 15 July 24 – 19 Aug 24** traffic limited to 1 lane

**19 Aug 24 – 1 Oct 24** Paving

**1 Oct 24 – 1 Nov 24** Gate shut for paving

**426 Cypress Point** – Remove the tasks that have been completed and change to working progress.

**Add:**

**ST Bylaw** – Signage “Visitors Parking”

**EMP** – Residents



| Members Name       | Yes | No | Abstain |
|--------------------|-----|----|---------|
| Stuart Shakespeare | X   |    |         |
| Andrew Brown       |     |    |         |
| Cheryl McBride     | X   |    |         |
| Simone Hoyle       | X   |    |         |
| Brian Earp         | X   |    |         |
| Paul Kernaghan     | X   |    |         |
| Nicholas Eisenhut  |     |    |         |

**4 Correspondence for Information (Agenda Item 7) ORDINARY RESOLUTION**

Proposed by: PBC Chairperson **CARRIED**

**RESOLVED** that the PBC EC notes and accepts the Correspondence for Information April/May 2024 as tabled.

|         |   |
|---------|---|
| Yes     | 5 |
| No      | 0 |
| Abstain | 0 |

**NOTE: Remove as a motion, for noting only.**

| Members Name       | Yes | No | Abstain |
|--------------------|-----|----|---------|
| Stuart Shakespeare | X   |    |         |
| Andrew Brown       |     |    |         |
| Cheryl McBride     | X   |    |         |
| Simone Hoyle       | X   |    |         |
| Brian Earp         | X   |    |         |
| Paul Kernaghan     | X   |    |         |
| Nicholas Eisenhut  |     |    |         |

**5 Correspondence for Action (Agenda Item 8) ORDINARY RESOLUTION**

Proposed by: PBC Chairperson **CARRIED**

**RESOLVED** that the PBC EC notes and accepts the Correspondence for Action May/June 2024 as tabled and instructs the Manager of Body Corporate to action as issued at the meeting.

|         |   |
|---------|---|
| Yes     | 5 |
| No      | 0 |
| Abstain | 0 |

| Members Name       | Yes | No | Abstain |
|--------------------|-----|----|---------|
| Stuart Shakespeare | X   |    |         |
| Andrew Brown       |     |    |         |
| Cheryl McBride     | X   |    |         |
| Simone Hoyle       | X   |    |         |
| Brian Earp         | X   |    |         |
| Paul Kernaghan     | X   |    |         |
| Nicholas Eisenhut  |     |    |         |

## **7. Correspondence for Information:**

### **7.3 - 4686 Broken Window:**

- SS advised for MBC to check if BUP, as this would be considered an RBC responsibility. There didn't appear to be sufficient evidence the part came from the contractor's lawn mower.

### **7.5 – Response to S56:**

- SS advised he will distribute a draft position paper on s56 for the next meeting.

## **8. Correspondence for Action:**

### **8.2 – 8007 approval to plant tree:**

- The Committee denied the request based on the advice given by the Facilities Manager as there are many services located in this area, and the tree roots could impact the main lines and infrastructure. MBC to advise resident via a decision notice.

### **8.3 – 4734 Boat moored at pontoon:**

- Meeting arranged with DSTG, JS and Steve from SRB to discuss boat and quay lines. This information will be tabled at the next meeting for a decision.

### **8.4 – 2024/2026 Bamboo Fencing:**

- The committee decided based on the decking encroaching on the neighbouring property's privacy, they support the EAR recommendation to allow bamboo screening to remain until the end of the year to allow plants to grow. MBC to advise both residents via a decision notice.

## **9. Reports for Information:**

### **9.2 – Contracts Minutes & Notes:**

- SS enquired as to where the Landscape contract was at. DSTG explained they had received 12 expressions of interest. SS mentioned the last page with the scope/map was hard to read, and queried if the contractors would be able to read this.

### **9.3 – Finance Minutes:**

- Include finance report moving forward, which is included in FSC.

## **10. General Business**

### **10.1 Livingstonia Florida Room:**

- BE stated he wasn't sure what stance PBC takes on this issue. In the past the resident called the MBC and was sent out a kit, nowhere did it refer to the process. No one was told by the MBC that the process should go through the RBC first for approval. It required a vote without dissent from the RBC. BE stated, some 48 Florida Rooms have been approved by either the MBC or the PBC.
- SS advised that whatever has happened in the past has happened, moving forward the PBC will require RBC approval prior to the PBC's assessment.
- BE explained a lot of Florida Rooms need rectification due to being non-compliant and who will be funding that?
- BE stated that there has been no response back yet from SCCSL to Mahoney's for their involvement in this process. DSTG advised that a response will be coming to Mahoney's in a few days as it has taken some time to gather all the information required.

- SS mentioned the PBC can only approve Florida room for compliance to the DCBLs. BE stated that he questioned the process 3 times with the MBC, however, was advised it had already been approved.
- SS mentioned that this appears to be between the RBC and the BCM
- SH questioned if the project hadn't taken place whether this would still have been an issue? If not, why didn't the project manager mention this issue before the work took place. BE stated the drains and gutters are the issue as well, some Florida Rooms are attached right under the gutters.

**10.3 Solar Installation on common property:**

- CM advised the referee stated they required more information from Harbour Terraces regarding the installation of Solar Panels on common property. One Lot owner has addressed this and will put an application back in for consideration.

**10.4 PBC EGM motions – June 2024:**

- Governance Audit for 2 companies and invoices
- Access to information for MN no charge if no additional work required
- RZABLs Motion

**Other General Business**

- CM enquired if the company offered compliance training around handling complaints. DSTG advised yes. SH asked if the company had considered recording the phone calls as part of training to listen back and discuss.
- CM advised; WB would like to attend the EC meeting when Schotia Island is being discussed.
- CM mentioned with StrataVote available now, encourage MN to participate with voting online if they are unable to make the meeting.
- CM discussed the legal advice being available to MN, perhaps on certain topics rather than related to an owner.

**11. Next Meeting** – Monday 15<sup>th</sup> July 2024 @ 9:00am

**12. Closure of Meeting**

**MEETING CLOSED @ 10:57am**

Chairperson: .....

## MINUTES OF ARCHITECTURAL REVIEW COMMITTEE MEETING

**Body Corporate:** Sanctuary Cove Principal Body Corporate

**Committee:** Architectural Review Committee

**Location of Meeting:** Meeting Room 1, Sanctuary Cove Body Corporate Services, Sanctuary Cove, QLD 4212

**Date of Meeting:** Monday, 1 July 2024

**Meeting chaired by:** Mrs Caroline Tolmie (CT)

**Meeting Start Time:** 8:56am      **Finish Time:** 9:59am

### Attendance

The following Committee members were present in person at the meeting:

Chairperson    Mrs Caroline Tolmie (CT)  
Ordinary        Mr Peter Ginn (PG)  
Ordinary        Mr Craig Eccles (CE)

|              |                          |                            |
|--------------|--------------------------|----------------------------|
| Non - Voting | Mr Michael Jullyan (MJ)  | Executive Architect        |
| Non – Voting | Mr Dale St George (DSTG) | Chief Executive Officer    |
| Non – Voting | Ms Kira Cook (KC)        | Building Approvals Officer |
| Non – Voting | Mrs Jodie Syrett (JS)    | Manager of Body Corporate  |

### Apologies

Ordinary        Mr Stuart Shakespeare (SS) – Voted prior to meeting.  
Ordinary        Mr Paul Lynam (PL)  
Ordinary        Mr John Venn (JV)

### Conflict of Interest

Michael Jullyan advised he reviewed plans and provided feed back to the applicant of 4707 The Parkway.

### Meeting Recorded

No

## BUSINESS ARISING

### 4.2. 7008/7010 Riverview Crescent – Side Boundary Fencing Relaxation Request

The ARC reviewed applicants request for fencing relaxation and provided feedback. The committee is in favour of the proposed fence change with the condition that the fence is not visible from the secondary thoroughfare and no higher than the front fence.

### 4.3. 4799 The Parkway – Joined Property Colour Change

The ARC reviewed applicants request for the exterior colour and façade change and provided feedback. The committee has advised that the proposed works are not compliant. As the applicant is located on a prominent joined property, the ARC has advised that for these works to be approved, the neighbouring property must also complete these works to ensure a cohesive look is maintained.

### 4.4 5638 Harbour Terraces – Gate Change

The ARC reviewed applicants request for to change the front and bin enclosure gates and provided feedback. The committee is in favour of the proposed gate change with the condition that the works are in accordance with examples provided.



Proposed by: The Chairperson

**RESOLVED** The Architectural Review Committee recommends the application for a Landscaping at 7008 Riverview Crescent to be approved by the Principal Body Corporate, subject to:

1. **Rear Building Setback Line - Shade Structures or Similar** – No height or elevations provided for garden shed, amended plans to be provided with height and photo to show materials.
2. **Swimming Pool Fences** - In accordance with requirements of local authority.
3. **Screened Enclosures, Open Roofed Structures and Secondary Structures** – No changes approved
4. **Finished Floor/Ground Levels** – Ground Levels must not be altered more than 500mm within 1.5m of the side boundary.
5. **Trees** – Must not be on Noxious Weed List
6. **Plant Palette** – All plants must be selected from the Sanctuary Cove Planting Palette.
7. **Service Conduit** – Must be laid beneath the driveway to enable irrigation to service the Secondary Thorough. Specifications of the conduit area as follows:
  - a. 150mm diameter PVC Conduit
  - b. 500-600mm from the inside of the kerb
  - c. 300mm depth to the top of the pipe
  - d. 300mm protrusion from both ends of the driveway.
8. **Garbage Bin Enclosure** – Specifications of the enclosure as follows:
  - a. Fully screened
  - b. Accessible from street
  - c. Maximum 12m from front boundary
9. **Retaining Wall** – Wall behind car park area approved for extension only, must not be increased in height.

|         |   |
|---------|---|
| Yes     | 4 |
| No      | 0 |
| Abstain | 0 |

Further **RESOLVED** that the ARC requests the Building Approvals Officer (BAO) to advise the applicant of the outcome.

4

8071 Riverside Drive, Lot 50 Harpullia

CARRIED

Proposed by: The Chairperson

RESOLVED The Architectural Review Committee does not recommend the application for New Dwelling at 8071 Riverside Drive be approved by the Principal Body Corporate, subject to:

- **Note:** ARC requested for BAO to obtain confirmation regarding the rights to the Easement on the RHS of Lot 50 prior to any further assessment being completed.

Further RESOLVED that the ARC requests the Building Approvals Officer (BAO) to advise the applicant of the outcome.

|         |  |
|---------|--|
| Yes     |  |
| No      |  |
| Abstain |  |

5

6260 Broken Hills Drive, Lot 32 Araucaria

CARRIED

Proposed by: The Chairperson

RESOLVED The Architectural Review Committee does not recommend the application for a Patio and Pergola at 6260 Broken Hills Drive be approved by the Principal Body Corporate, subject to:

1. **Lot Coverage** – No information provided, amended plans to be provided with a maximum of 40% coverage.
  2. **Floor Space Ratio** - No information provided, amended plans to be provided with a maximum FSR of 60%.
  3. **Front Boundary Building Line** – Additional information required for front façade changes.
  4. **Side Boundary Building Setback Line** – Patio roof not compliant at 900mm, amended plans to be provided with a minimum of 1.5m.
  5. **Swimming Pool Fences** - In accordance with requirements of local authority.
  6. **Exterior Finish** – Patio finish not consistent with materials of principal structure.
  7. **Fascia, Trim, Exposed Metalwork Colour** – Colours not consistent with the principal structure.
  8. **Landscape Open Space** – No information provided, amended plans to include a minimum of residual area.
  9. **Stormwater Connection** - No information provided. Must be connected to legal point of discharge.
- **Note:** Possible flooding issues were identified by ARC. Letters to be sent to rear abutting properties requesting preliminary approval for applicant to install downstream discharge pipes through their properties, should the renovations proceed.

Further RESOLVED that the ARC requests the Building Approvals Officer (BAO) to advise the applicant of the outcome.

|         |   |
|---------|---|
| Yes     | 4 |
| No      | 0 |
| Abstain | 0 |



**6 5903 Muirfield Place, Lot 111 Cassia**

**CARRIED**

Proposed by: The Chairperson

**RESOLVED** The Architectural Review Committee recommends the application for Major Alterations at 5903 Muirfield Place be approved by the Principal Body Corporate, subject to:

1. **Principal Structure Height** – not compliant as small roofed area increases the total storeys to 3, no more than 2 storeys permitted.
2. **Swimming Pool Fences** - In accordance with requirements of local authority.
3. **Privacy for Neighbouring Properties** - Roof terrace will overlook adjacent properties from circa 15m distance, not compliant.

- **Note:** The conditions for **Principal Structure Height** and **Privacy for Neighbouring Properties** have been redacted as the structure is existing and previously granted a relaxation in 2005.

Further **RESOLVED** that the ARC requests the Building Approvals Officer (BAO) to advise the applicant of the outcome.

|         |   |
|---------|---|
| Yes     | 4 |
| No      | 0 |
| Abstain | 0 |

**7 4707 The Parkway, Lot 7 Araucaria**

**CARRIED**

Proposed by: The Chairperson

**RESOLVED** The Architectural Review Committee recommends the application for New Dwelling at 4707 The Parkway be approved by the Principal Body Corporate, subject to:

1. **Swimming Pool Fences** - In accordance with requirements of local authority.

In making this recommendation, the ARC notes to the PBC that the application recommends for approval by the PBC the following relaxation:

1. **Front Façade Articulation**

Further **RESOLVED** that the ARC requests the Building Approvals Officer (BAO) to advise the applicant of the outcome.

|         |   |
|---------|---|
| Yes     | 4 |
| No      | 0 |
| Abstain | 0 |

**5 Executive Architect / Building Approvals Officer recommendations – ending 24 June 2024**

**CARRIED**

Proposed by: The Chairperson

**RESOLVED** That the Architectural Review Committee notes and accepts the following building applications recommended for approval by the Principal Body Corporate EC as submitted by Executive Architect and Building Approvals Officer for the period ending 24 June 2024.

|         |   |
|---------|---|
| Yes     | 4 |
| No      | 0 |
| Abstain | 0 |

**1. Horizon Court - Mulpha Developments**

Release of Compliance Agreement Fee – New Dwellings

**2. 5483 Bay Hill Terrace, Lot 20 Colvillia**

Release of Compliance Agreement Fee – Exterior Painting

**3. 8838 The Point Circuit, Lot 8 Alyxia**

Release of Compliance Agreement Fee – Pontoon

**4. 4662 The Parkway, Lot 25 Washingtonia**

Application for Solar Panels

**5. 5254 Marine Drive North, Lot 116 Roystonia**

Release of Compliance Agreement Fee – Exterior Painting

**6. 8834 The Point Circuit, Lot 4 Alyxia**

Release of Compliance Agreement Fee – Pontoon

**6 ARC Recommendations to the PBC – 1 July 2024**

**CARRIED**

Proposed by: The Chairperson

**RESOLVED** That the Architectural Review Committee (ARC) requests the PBC EC consider the matters recommended by the ARC at its meeting held 1 July 2024.

|         |   |
|---------|---|
| Yes     | 4 |
| No      | 0 |
| Abstain | 0 |

**OTHER MATTERS/GENERAL BUSINESS**

**8071 Riverside Drive, Lot 50 Harpullia – Pontoon**

KC tabled the Report and application for Pontoon as a late submission for consideration.

The Architectural Review Committee recommends the application for a Pontoon at 8071 Riverside Drive to be approved by the Principal Body Corporate.

In making this recommendation, the ARC notes to the PBC that the application recommends for approval by the PBC the following relaxation:

**1. Pontoon Positioning**

Further **RESOLVED** that the ARC requests the Building Approvals Officer (BAO) to advise the applicant of the outcome.

**John Reid – Correspondence Concerning Neighbour Comments Procedure**

John Reid – Plumeria Chairperson, requested for his concerns regarding Neighbour Comments Procedure to be addressed by the ARC. The ARC is in agreeance with Johns concerns and moving forward all applications requiring neighbours’ comments for relaxations will be administered directly to the neighbour by the Building Approvals Team. This is to help alleviate any intimidation that may cause the neighbours to agree to conditions they are not comfortable with.

**Name of voter:** \_\_\_\_\_

**Signature of voter:** \_\_\_\_\_ **Date:** \_\_\_\_\_

DRAFT

## Motion 6.3

As at 8<sup>th</sup> July 2024



| #   | MEETING DATE | RESOLUTION   | RESPONSIBILITY | COMMENTS  | EXPECTED COMPLETION DATE |
|-----|--------------|--|----------------|---|--------------------------|
| 316 | 11/24        | Stage 2 DCBL's RESOLVED that the PBC authorise the ARC and Developer to meet and finalise the DCBL documentation: FURTHER RESOLVED that the PBC is required to review the revised final documentation and the PBC will then approve if it is satisfactory. | ARC/ BCM       | <ul style="list-style-type: none"> <li>o Stage 2 commence working group February 2024.</li> <li>o Teams meeting held 22/4/24 with SS, CT, AL, EAR, JS to discuss changes</li> <li>o End of 2024 RBC resolution</li> </ul>   | Ongoing                  |
| 399 | 05/22        | Amenities across the Resort  | PBC            | <ul style="list-style-type: none"> <li>o Sept 21 raised by previous Chair, low priority – parking bays being installed.</li> <li>o Parking bays have been installed</li> </ul>  | On hold                  |
| 419 | 08/22        | Village Gate   | PBC            | <ul style="list-style-type: none"> <li>o Mulpha will commence works on the infrastructure for the gates and the townhouse development opposite.</li> <li>o Works expected to take three months.</li> <li>o Gate structure postponed until June 2024 after the boat show.</li> <li>o Gates structure and design, the mirror image of the Pines.</li> <li>o Awaiting on approved traffic plan &amp; WH&amp;S before release.</li> <li>o Confirmation is required by Mulpha whether the Primary Thoroughfare can be approved for change without council approval?</li> <li>o SC Resort Proposed use plan amendment gazetted and communicated on 2<sup>nd</sup> April 2024</li> <li>o Update to commencement date due to unfavourable forecasted weather</li> </ul> | Commencing               |



| #   | MEETING DATE | RESOLUTION  | RESPONSIBILITY | COMMENTS   | EXPECTED COMPLETION DATE |
|-----|--------------|---|----------------|--|--------------------------|
| 425 | 03/23        | Village update from Mulpha to be included in future Agendas for the PBC EGM | Mulpha         | <ul style="list-style-type: none"> <li>o Mulpha rep to provide a monthly update.</li> <li>o SS mentioned Barry Teeling advised Mulpha paying for everything including landscaping</li> </ul>   | Mulpha                   |
| 426 | 04/23        | Cypress Point licence agreement and buggy path repairs                      | PBC            | <ul style="list-style-type: none"> <li>o Pricing for Boom Gate, similar to Livingstonia being obtained.</li> <li>o DSG advised he will look into temporary lighting.</li> <li>o Awaiting prices on boom gate</li> <li>o DSTG advised asphalt considered after boat show</li> </ul>                     | Working Progress         |
| 427 | 05/23        | OptiComm Sale   | PBC            | <ul style="list-style-type: none"> <li>o Update of possible OptiComm sale</li> <li>o Recent meeting on 10<sup>th</sup> Oct 23 with OptiComm to discuss proposals.</li> <li>o Received proposal, will be presented to PBC EC in early 2024.</li> <li>o DSTG to complete a report for June 24</li> </ul> | Ongoing                  |
| 429 | 03/24        | Purchasing Policy updated   | PBC            | <ul style="list-style-type: none"> <li>o Purchasing policy to be updated – Finance Manager and CEO.</li> </ul>   | Ongoing                  |
| 430 | 07/24        | Secondary Thoroughfare By-Law   | PBC            | <ul style="list-style-type: none"> <li>o Visitor’s Parking Signage</li> </ul>  | Working Progress         |
| 431 | 07/24        | Emergency Management Plan   | PBC            | <ul style="list-style-type: none"> <li>o Tailored for Residents.</li> </ul>  | Working Progress         |

Note: Green = Complete, Yellow = In Progress, Red = Not yet in Progress.

## Motion 6.4

### 1. Lot 25 Woodsia, 2489 The Parkway - RZABL 3.1 (a) Repair & Maintenance

**Distribution:** PBC

**MOTION**

That the PBC EC instructs the Body Corporate Manager to lodge an application with the Office of Commissioner and Body Corporate Management seeking an Order that the Owners of **Lot 25, Woodsia** comply with Residential Zone Activity By-Law 3.1 (a) Repair and Maintenance.

**RESOLVED**

#### Background

The property was first reported to the compliance team on the 17<sup>th</sup> of April 2024. The property has noticeable staining covering the front, side and back of the principal structure. The staining on the rendering do not comply to the established standards outlined in the RZABLs, which are designed to uphold architectural aesthetics within the community.

#### 1<sup>st</sup> Notice – 17.04.2024

- First Notice was issued requesting for the property to be cleaned and/or repainted, no correspondence or action was taken from the owners to rectify the matter. A period of 18 days was given to rectify the matter.

#### 2<sup>nd</sup> Notice – 01.05.2024

- Second notice was issued requesting for the property to be cleaned and/or repainted, no correspondence or action was taken from the owners. A further 18 days were given to rectify the matter.

#### 3<sup>rd</sup> Notice – 15.05.2024

- Third and final notice was sent advising the matter must be immediately rectified. It was outlined in the notice that the PBC may start proceedings in the Magistrates Court or lodge a dispute, and no correspondence or action was taken from the owners of the property.



## **SANCTUARY COVE PBC GOVERNANCE REVIEW – 2024**

**DRAFT 13<sup>th</sup> June 2024.**

### **Background**

The Principal Body Corporate (PBC) and the Primary Thoroughfare Body Corporate (PTBC) are the two corporate entities responsible for governing the operation of Sanctuary Cove Resort under the SCRA 1985. A summary of PBC and PTBC responsibilities is set out in Appendix A and a summary of the current Sanctuary Cove Resort structure is included in Appendix B. In 2006, the PBC and PTBC established Sanctuary Cove Community Services Limited (SCCSL) as a jointly owned (50:50) Holding Company. The holding Company consequently established a wholly owned operating subsidiary to deliver Body Corporate and Facilities Management services, and a Security Company. The Company directly delivers (or procures the delivery of) the services to the PBC, PTBC and the Subsidiary Residential Body Corporates (RBCs) in the residential precincts, and Commercial Owners and tenants in the PTBC Commercial Zones. The RBCs elect members nominees (MNs) to represent their RBC on the PBC, and the Commercial lot owners (and the PBC) do the same for Nominees to represent them on the PTBC.

The Holding Company (SCCSL) is managed according to a Constitution and Shareholders Agreement between the PBC and PTBC. The delivery of services from the Companies to the PBC, PTBC, RBCs and Commercial Owners and tenants is governed according to an Administration and Management Agreement between the parties.

### **Objectives**

#### **Enhance Efficiency, Effectiveness and Compliance:**

- Ensure the governance bodies (PBC, PTBC, and RBC) legislated under SCRA 1985 are fully compliant with SCRA and BUGTA legislation.
- Competitive and cost effective procurement of other services required for the amenity of residential and commercial property owners in the Sanctuary Cove Resort

#### **Uphold High Standards:**

- Maintain high standards of integrity, equity in participation and decision-making, and transparency in the operation of the governance model.

#### **Ensure Sustainability of Model:**

- Assure the operating model is enduring by providing long-term benefits and stability for all stakeholders involved.



# SANCTUARY COVE PBC GOVERNANCE REVIEW – 2024

DRAFT 13<sup>th</sup> June 2024.

## Key deliverables and outcomes

Two-Phase Approach to the Governance Review:

### Phase 1: Desk Review

- Conduct a review of roles, responsibilities, procedures, processes, and compliance with relevant legislative acts.
- Deliver a detailed report identifying key issues or inefficiencies in structure, systems, processes, communication, and high-level risks.
- Develop an initial draft of the governance blueprint.

### Phase 2: Stakeholder Engagement

- Using the initial draft governance blueprint to guide interviews with stakeholder groups, assess culture, training programs, and risk management practices. Recommend governance blueprint.
- Recommend best practices and propose actionable opportunities for improvement under a recommended governance framework and blueprint
- **Practical and actionable recommendations:** The recommendations should be feasible and implementable, potentially leading to proposed changes in committee structures, delegations, terms of reference (TORs) and charters, committee compositions, information storage and access, processes and documentation, education, and codes of conduct.
- **Timeframe:** The first phase review is expected to take up to 4 weeks to complete the full scope of work and issue a detailed report. The second phase is expected to take 2 weeks. The detailed approach and timetable will be recommended by the external governance consultant engaged to lead and steer the review process. Any serious concerns identified with potential legal or legislative consequences will be promptly addressed, without waiting for the completion of the entire process.
- **Primary outcome:** The primary goal is to achieve a contemporary operating model that is effective and efficient, capable of delivering consistent performance, by developing a governance blueprint, ensuring compliance with all relevant legislation.

## Why conduct a Governance Review?

The governance, effectiveness, and efficiency of the current operating model for the Resort has not undergone a thorough review for 10 years. Several existing governance documents have not undergone timely periodic review and re-approval as required.

In addition, there are several issues which have impeded the efficacy of the model. Some are new while others are recurring. These matters include:

- **Divergence of interests:** A divergence of interests and views between the commercial owner and developer (MSCD) and residents has led to disputes and tension between stakeholders.

# SANCTUARY COVE PBC GOVERNANCE REVIEW – 2024

**DRAFT 13<sup>th</sup> June 2024.**

- **Role clarity issues:** Lack of clarity over the roles, responsibilities, interdependences, relationships, decision rights and delegations among the Manager (SCCSL), PBC, PBC EC, RBCs, PTBC and PTBC EC and Sub-Committees. This has led to some processes potentially being poorly executed, resulting in disagreement, and wasted time and effort.
- **Leadership continuity:** Turnover of elected PBC officials on the SCCSL Board, PBC, PTBC and Executive Committees and Steering Committees and short terms of tenure has negatively impact on the development of experience and expertise in volunteer leadership roles. Consistent, professional expertise can often be difficult to obtain.
- **Complex structure:** The existing governance structure, including sub-committees, is complex, poorly understood, and hard to resource, especially from community volunteers. There is a large number of required meetings and the associated administrative and resources required to execute.
- **Legislative understanding:** There is limited understanding among PBC (and RBC) members of the complex and often confusing legislation that governs the Sanctuary Cove Resort, including SCRA 1985 and BUGTA, and PBC by-laws in relation to development and activity. Unlike many Body Corporates in Queensland, Sanctuary Cove operates under a layered scheme governed by the Sanctuary Cove Resort Act 1985. Where gaps in the legislation exist, BUGTA and BCCMA are relied upon to guide operation.

## Proposed Scope

Given potential conflicts of interest, this review will focus exclusively on the operation of the PBC, PBC Executive Committee, Sub-Committees, their interface with PTBC, and the interaction with SCCSL as service provider to the PBC (and RBCs) and PTBC under the current Administration and Management Agreement. The current Agreement expires on 31<sup>st</sup> October 2025.

This review does not include the internal governance of SCCSL, which will be covered by a separate review.

This review is also separate from a review of the current Administration and Management Agreement. However, recommendations from this review may feed into desired revisions to the Administration and Management Agreement and the Shareholders Agreement.

| <b>Focus Areas</b>  | <b>Recommended Key Questions</b>  |
|---|---|
| <ul style="list-style-type: none"><li>• <b>Purpose, structure, roles &amp; responsibilities</b> - functions, duties, and authorities of Executive Committee, RBC, PBC and PTBC</li><li>• <b>Code of conduct</b></li></ul> | <ul style="list-style-type: none"><li>• Does each team have a clear purpose, role, defined duties, and list of authorities?</li><li>• What are the strengths, weakness, opportunities, and threats of the overall structure? What recommended changes could</li></ul> |

# SANCTUARY COVE PBC GOVERNANCE REVIEW – 2024

DRAFT 13<sup>th</sup> June 2024.

|  |   |
|--|---|
|  | <p>be considered to improve efficiency, productivity, governance, and performance?</p> <ul style="list-style-type: none"> <li>• Are all roles and responsibilities defined?</li> <li>• How are roles and responsibilities defined within RBCs, PBCs, PTBCs, and ECs to ensure clear authority and decision-making processes?</li> <li>• What is the overall purpose of the Executive Committees (EC) within the governance structure?</li> <li>• How is the EC structured, including the composition, roles, and responsibilities of its members?</li> <li>• What are the specific functions and duties of the EC?</li> <li>• How does the Executive Committee coordinate and collaborate with the RBC, PBC, and PTBC to ensure effective governance?</li> <li>• How are decisions made within the EC, and what is the decision-making process?</li> <li>• Are there any conflicts of interest policies in place for EC members?</li> <li>• Are the current codes of conduct modern and relevant to today business environment?</li> </ul>  |
| <ul style="list-style-type: none"> <li>• <b>Processes, authorities, information flow and performance</b> - RBCs, PBC and PTBC and EC number of meetings, agendas and motions, processes, timetables, papers, minutes, and other documentation. Access to information for ECs and MNs. Continuous improvement in processes -Use of up-to-date digital technology for supply of information, authorised data access and key processes such as voting.</li> </ul> | <ul style="list-style-type: none"> <li>• What is appropriate level of access to information to discharge their duties based on the roles and responsibilities of the different roles and stakeholder groups?</li> <li>• Are there any barriers or challenges hindering the adoption of digital technology or the reduction of paper usage, and if so, how are these being addressed?</li> <li>• How do stakeholders perceive the current state of governance processes, information flow, and technology utilisation within the organization, and what suggestions do they have for improvement?</li> <li>• Do written procedures exist with required actions required if Committees and/or Committee members who do not adhere to required governance standards, code of conduct and/or legislative requirements?</li> <li>• Where can the systems and processes be simplified and streamlined, whilst still complying to legislative requirements?</li> <li>• Is there clarity and documented decision rights for each stakeholder group?</li> <li>• How is the performance and effectiveness of each committee (Executive Committees, RBC, PBC, PTBC) evaluated and monitored?</li> <li>• Is there sufficient visibility and tracking on the progress and performance of each stakeholder group against clear goals and objectives?</li> </ul> |

# SANCTUARY COVE PBC GOVERNANCE REVIEW – 2024

DRAFT 13<sup>th</sup> June 2024.

|   |   |
|---|---|
|   | <ul style="list-style-type: none"> <li>Is the annual budget development and review processes to sequence the relevant stakeholder reviews, approvals and communication logical, efficient and effective?</li> </ul>   |
| <ul style="list-style-type: none"> <li><b>Governance / Legal Framework</b> - compliance with the SCRA, BUGTA and other relevant legal requirements</li> </ul>   | <ul style="list-style-type: none"> <li>What is the level of understanding among RBC Chairs and MNs regarding the SCRA, BUGTA and other relevant legal frameworks?</li> <li>How well do RBC Chairs and MNs understand the key requirements and processes outlined in the by-laws?</li> <li>What legal frameworks and regulations govern the activities of PBC and PTBC?</li> <li>How is compliance with legal requirements monitored and ensured?</li> <li>What are the potential legal liabilities and how are they mitigated</li> </ul>  |
| <ul style="list-style-type: none"> <li><b>Stakeholder communication, engagement, and transparency</b> - Interaction and communication flows between RBCs, PBC, PTBC, ECs, and Sub-Committees and the Manager. Granularity of reporting and information provision.</li> </ul>  | <ul style="list-style-type: none"> <li>How is the effectiveness of stakeholder communication and engagement initiatives evaluated, and what metrics are used to measure success?</li> <li>Are there any barriers or challenges hindering effective stakeholder communication and engagement. If so, how are these being addressed?</li> <li>What opportunities exist for enhancing stakeholder communication, engagement, and transparency within the organisation? How can these be leveraged to improve governance outcomes?</li> </ul>   |
| <ul style="list-style-type: none"> <li><b>Three Sub-Committees – Finance Review Committee, Contracts Review Committee, Architectural Review Committee</b> – need, purpose, roles, delegations, decision rights and authorities, reporting lines, composition, meeting numbers, timing, processes, liabilities, ongoing performance measures and documentation. Information sharing, project review and PBC communication, ongoing review and approval.</li> </ul> | <ul style="list-style-type: none"> <li>What is the rationale for the existence of each sub-committee, and how does it align with the strategic objectives and operational plan?</li> <li>Are the purposes, roles, delegations, decision rights, and authorities of each sub-committee clearly defined and documented?</li> <li>Is there sufficient contract performance review management?</li> <li>Is there adequate review and assessment undertaken for procurement or service provider contracts – probity, spend analysis, strategic sourcing, supplier relationship management?</li> <li>Are there any conflicts of interest between committee roles and other roles?</li> <li>What are the critical skills and capabilities required for each committee?</li> <li>What mechanisms are in place for ongoing review and approval of sub-committee activities, and how are performance metrics monitored and evaluated?</li> <li>Information sharing and communication and protocols in place?</li> </ul> |

# SANCTUARY COVE PBC GOVERNANCE REVIEW – 2024

DRAFT 13<sup>th</sup> June 2024.

|  |  |
|--|--|
|  | <ul style="list-style-type: none"> <li>• What opportunities exist for streamlining or optimising the structure and processes of sub-committees to enhance overall governance effectiveness and performance?</li> <li>• Is there an effective process to manage exceptions to by-laws? Is there a recommended best practice?</li> </ul>   |
| <ul style="list-style-type: none"> <li>• <b>Education</b> - RBC Chair and MN education on SCRA, BUGTA, governance structures and key requirements and processes. Education on by-laws and role of PBC vs RBCs.</li> <li>• <b>Culture</b> - committee and organisational culture</li> </ul> | <ul style="list-style-type: none"> <li>• Are RBC Chairs and MNs aware of the governance structures within the organisation, including the roles and responsibilities of different committees and key decision-making processes?</li> <li>• Are there processes in place and are they consistently executed for induction and ongoing, to ensure paid employees, contractors or volunteers are aware of their responsibilities, obligations, duties, and code of conduct including legal requirements? Is training refreshed as appropriate and training records kept?</li> <li>• Does the culture support transparency, accountability, and integrity?</li> <li>• Any opportunities for improvement identified and is there a better way to get improved knowledge?</li> </ul>   |
| <ul style="list-style-type: none"> <li>• <b>Risk Management</b> - Risk management (legal, organisational, and operational continuity for PBC and PTBC.</li> </ul>  | <ul style="list-style-type: none"> <li>• Is there effective management and control of risks identified?</li> <li>• Is the risk managed in accordance with ISO 31000?</li> <li>• Do we need a formal stakeholder management framework? If so, what are the best practices?</li> <li>• Is there a robust business continuity plan that addresses key operational risks?</li> <li>• What measures are in place to maintain operational continuity during emergencies or crises?</li> <li>• Are members of PBC and PTBC adequately trained in risk management principles and practices?</li> <li>• How is risk awareness promoted among committee members?</li> <li>• Is there a process for continuous learning and improvement in risk management capabilities?</li> <li>• Is there a process for regularly reviewing and updating risk management practices?</li> </ul> |

# SANCTUARY COVE PBC GOVERNANCE REVIEW – 2024

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## Reference Documents

Key documents include but are not limited to:

- Terms of reference for EC, and Sub-Committees
- Specified sections of SCRA and BUGTA
- Administration and Management Agreements
- Purchasing Policy, tender Process and Preferred Supplier list
- PBC and RBC budgets
- Operational reports
- Codes of conduct
- Minutes and workbooks from PBC and EC, and sub-committees
- Correspondence with SCCSL
- Governance of Sanctuary Cove overview document
- Constitution and shareholders agreement
- Administration and management agreement

## Resourcing and Leadership

Governance review led by a governance consultant, while supported by a small group to help facilitate access to information, coordinate stakeholder interviews and document review. A proposed budget associated with this component would need approval by the PBC and PTBC.

The main working party could delegate sub-components of the review to other volunteers to complete and recommend to the main working party.

Work may involve, among other things:

- Reviewing existing documentation, information, and reports
- Interviewing MNs
- Surveying MNs and Committee members
- RBC, Residents and MN focus Groups
- Obtaining input and perspectives from the Manager and SCCSL staff.

# SANCTUARY COVE PBC GOVERNANCE REVIEW – 2024

DRAFT 13<sup>th</sup> June 2024.

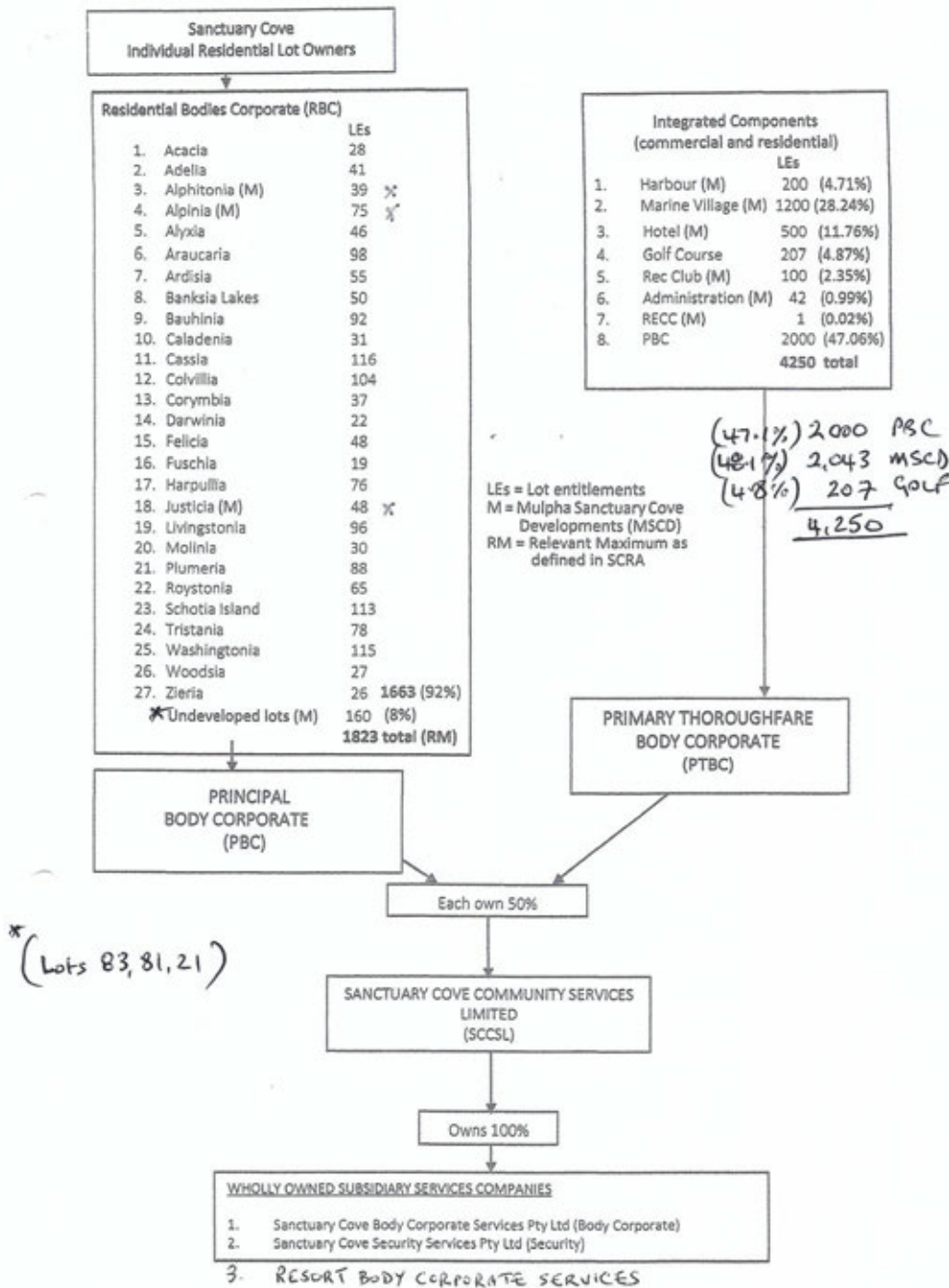
## Appendix A – PBC and PTBC Responsibilities

| Governance Body                                    | Duties and Responsibilities  |
|--|--|
| <i>Principal Body Corporate (PBC)</i>              | <ul style="list-style-type: none"> <li>• Control and maintenance of the secondary throughfare in the residential zones and any property of the PBC invested in it (roads, security gates, fencing, canals, street lighting, electricity supply, water and sewerage, communications infrastructure).</li> <li>• Ensures compliance with overarching by-laws for property use and development control within the Residential Zones.</li> <li>• Maintains any other common property of the PBC (parks, gardens, barbecues, lakes, other common recreation areas).</li> <li>• Can source and procure other services for residents in the Subsidiary Residential Bodies Corporate (for example, security services, waste management and recycling, lawn mowing).</li> <li>• Compliance with SCRA and BUGTA - record keeping, accounting, meetings, notices and minutes, supply of information.</li> </ul> |
| <i>Principal Throughfare Body Corporate (PTBC)</i> | <ul style="list-style-type: none"> <li>• Control and maintenance of the primary throughfare and any property of the PTBC invested in it (roads within the commercial zones, fencing, street lighting, electricity supply, water and sewerage, communications infrastructure).</li> <li>• Ensures compliance with PTBC by-laws.</li> <li>• Maintains any other common property of the PTBC (gardens, lawns, public seating).</li> <li>• Can source and procure other services for owners and businesses in the Commercial Zones (for example, security services, waste management and recycling).</li> <li>• Compliance with SCRA – record keeping, meetings, notices and minutes, supply of information.</li> </ul>  |

# SANCTUARY COVE PBC GOVERNANCE REVIEW – 2024

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## Appendix B – (1) Existing Resort Ownership and entitlement Structures



### SANCTUARY COVE STRUCTURE

July 2023

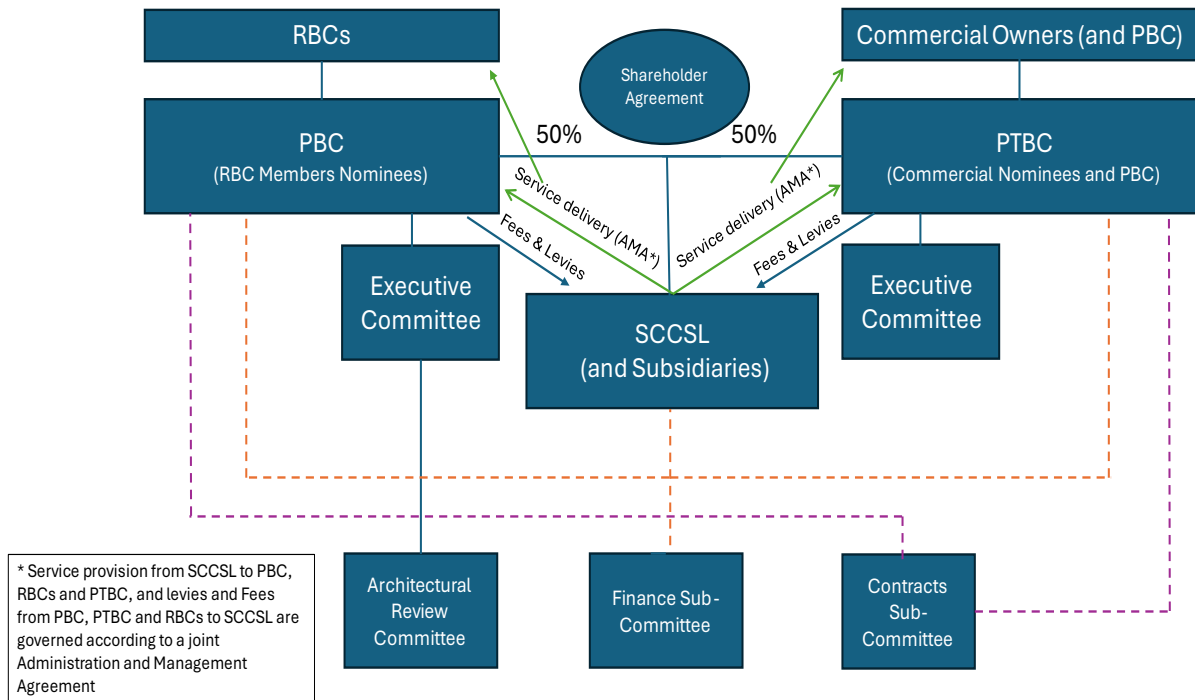


# SANCTUARY COVE PBC GOVERNANCE REVIEW – 2024

DRAFT 13<sup>th</sup> June 2024.

## Appendix B – (2) Existing Resort Governance Bodies

### Sanctuary Cove Governance Bodies 2024



## Appendix C – Services Provided by SCCSL

Under and Administration and Management Agreement, the Company is contracted to provide the PBC (and RBCs) and PTBC with:

1. Services to enable the PBC and PTBC to meet their statutory obligations under SCRA:
  - a. Control and maintenance of thoroughfares.
  - b. Maintenance of common property
  - c. Compliance with by-laws (PBC – Development and Activity, PTBC separate).
  - d. Compliance with accounting and record keeping requirements.
  - e. Meetings, notices, and minutes.
  - f. Supply of information.
2. Management of supply or procurement of other services to residents and commercial zone occupiers on behalf of the PBC, RBCs and PTBC
  - a. Security
  - b. Waste management and recycling.
  - c. Mowing and other services
  - d. Other Facilities and Asset Management (including Resort infrastructure).

# SANCTUARY COVE PBC GOVERNANCE REVIEW – 2024

**DRAFT 13<sup>th</sup> June 2024.**

SCCSL uses a mix of in-house resources and externally sourced services to meet the contractual AMA requirements as follows:

| <b>In sourced</b>  | <b>Externally procured</b>   |
|--|--|
| <b><i>Recovered via Management Fees</i></b>  | <b><i>Charged directly to Body Corporates from Suppliers</i></b>   |
| <ul style="list-style-type: none"> <li>• Body corporate management and compliance</li> <li>• Secretarial</li> <li>• Finance and Accounting</li> <li>• Asset and Facilities Management</li> <li>• Limited Internal legal</li> </ul>   | <ul style="list-style-type: none"> <li>• External Legal</li> <li>• Audit</li> <li>• Insurances</li> <li>• Road maintenance/replacement</li> <li>• Gardening and landscaping</li> <li>• Waste management and recycling.</li> <li>• Fencing</li> <li>• Water supply and sewerage management</li> <li>• Electricity</li> <li>• FTTH network maintenance and repairs</li> <li>• Animal and pest management</li> <li>• Fire safety</li> </ul> |
| <b><i>Recovered by Separate Fee</i></b>  |  |
| <ul style="list-style-type: none"> <li>• Security</li> </ul>   |  |
| <b><i>Recovered by recharge/allocation to Body Corporates</i></b>  |  |
| <ul style="list-style-type: none"> <li>• Trades employees                             <ul style="list-style-type: none"> <li>○ Electrical</li> <li>○ Plumbing</li> <li>○ Irrigation</li> </ul> </li> <li>• Materials and consumables                             <ul style="list-style-type: none"> <li>○ Electrical components</li> <li>○ Pipes and valves, etc</li> <li>○ Other consumables, stationery supplies etc.</li> </ul> </li> </ul> |  |

SCCSL aims to operate on a cost recovery basis. Payments for Management and Security fees are made to SCCSL quarterly in advance by the PBC, RBCs and PTBC based on estimated costs in the budget. Any shortfall is recovered, or surplus refunded via adjustment of the first invoice for the new financial year, or earlier if the budget is in deficit.

The Bodies Corporate and SCCSL operate on a financial year running from 1<sup>st</sup> November to 31<sup>st</sup> October.

4 July 2024

# **REVISED PROPOSAL: Governance Review**

## **Sanctuary Cove Principal Body Corporate**

**Thank you for inviting us to submit a proposal to assist with a governance review for the Sanctuary Cove Principal Body Corporate.**

**We look forward to the opportunity to work with you!**

**Your dedicated Directors Australia contacts**

Kerryn Newton | 1300 890 267 | 0408 735 529  
kerryn.newton@directorsaustralia.com

Katie Simpson | 1300 890 267 | 0434 648 441  
katie.simpson@directorsaustralia.com

**Directors Australia Pty Ltd | 1300 890 267**  
info@directorsaustralia.com  
PO Box 3018 South Brisbane Qld 4101  
ACN 134627875

# Our proposal addresses the following

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# 1. Our understanding of your needs

|                                |   |
|--------------------------------|---|
| <p><b>Context</b></p>          | <ul style="list-style-type: none"> <li>&gt; Located on Queensland’s magnificent Gold Coast, Sanctuary Cove is a prestigious residential community set among native Australian flora and fauna. It is a contemporary, secure and master-planned community.</li> <li>&gt; Sanctuary Cove Community Services Limited (SCCSL) provides administration and management services to three levels of bodies corporate within Sanctuary Cove, namely the Primary Thoroughfare Body Corporate (PTBC), the Principal Body Corporate (PBC) and the Residential Bodies Corporate (RBC) which currently comprises 27 RBCs.</li> <li>&gt; The PBC shares representation of the PTBC with Sanctuary Cove Golf &amp; Country Club Ltd (SCGCCL) and Mulpha Sanctuary Cove Developments (MSCD) and the PTBC determines plans for the primary thoroughfare and commercial areas.</li> <li>&gt; The PBC is the peak representative and custodial body for the residents of Sanctuary Cove. It is comprised of member nominees who are representatives of the RBC committee from each Sanctuary Cove precinct.</li> <li>&gt; The PBC meets monthly to consider various governance matters including determining the PBC budgets, approving building applications, responding to residents’ issues, approving contracts and supervising the administration of security services, upgrades and maintenance, landscaping and other services.</li> <li>&gt; The PBC is also an equal shareholder with the PTBC of SCCSL and its wholly-owned subsidiaries. Two PBC nominee directors are responsible for representing the interests of Sanctuary Cove residents in this forum.</li> <li>&gt; The PBC’s Executive Committee (EC) is seeking to engage a governance specialist to assist with undertaking a governance review of the PBC to enhance its effectiveness and efficiency, whilst also ensuring it operates in a sustainable and compliant way.</li> </ul> |
| <p><b>Scope</b></p>            | <ul style="list-style-type: none"> <li>&gt; In response to the PBC’s requirements as outlined in the request for proposal document entitled ‘<i>Sanctuary Cove PBC Governance Review – 2024</i>’, we propose to deliver this assignment based on the scope outlined in section 5.2 of this proposal. Our assignment would be limited to undertaking a governance review with respect to the PBC.</li> <li>&gt; Phase 1 of the assignment would entail us reviewing existing governance artefacts, preparing a draft governance checklist and facilitating an EC roundtable to discuss our observations and suggested actions before producing a draft blueprint and short covering report.</li> <li>&gt; Phase 2 would involve us consulting key stakeholders to receive feedback regarding the proposed blueprint prior to its implementation.</li> </ul>  |
| <p><b>Timing</b></p>           | <ul style="list-style-type: none"> <li>&gt; The assignment would commence in August 2024, with Phases 1 and 2 delivered within approximately 8 weeks of commencement.</li> </ul>  |
| <p><b>Key deliverables</b></p> | <ul style="list-style-type: none"> <li>&gt; The key deliverables for Phases 1 and 2 of the assignment are summarised in section 5.2 of this proposal.</li> </ul>  |



## 2. Our people

Our key consultants for this assignment would be Kerryn Newton and Katie Simpson.



**KERRY N NEWTON**  
LLM, MBA, MA, FAICD, FGIA, FIML  
**Chief Executive Officer**

Kerryn has over 25 years' experience working in various legal, management and commercial roles in the private and public sectors. She has Masters qualifications in Law, Business Administration and Arts and is a Fellow, and accredited facilitator, of the Australian Institute of Company Directors.

For over a decade, Kerryn has worked exclusively in the board and governance arena including director recruitment. Through consulting to a wide array of boards and organisations, Kerryn has key skill sets in all aspects of corporate governance (including governance structures, systems, policies and practices), board and organisational performance, strategic planning, risk and compliance management, board skills assessment, and director search and selection.

In addition to her qualifications and broad work experience, Kerryn has extensive personal experience in governance and directorship through her membership on the boards of a range of organisations in the non-profit, private and government sectors. Kerryn's board and governance experience includes the Queensland Liquor and Gaming Commission, Energex Ltd (electricity distributor), Energy Queensland Ltd (electricity distributor and retailer with an asset base of \$25B), and a leading independent secondary school for girls. Kerryn also serves as an independent governance expert on Nominations Committees for a number of Australian banks.

Kerryn's board experience augments her highly relevant qualifications and work experience to provide her with exceptional practical insight to her board consultancy work.



**KATIE SIMPSON**  
LLB, GradDipACG, GradDipLegalPrac, FGIA, FCG, GAICD and GAIST  
**General Manager – Advisory**

Katie advises a range of businesses to enhance board and organisational performance through strategy, coupled with fit for purpose governance systems and practices. Katie's areas of speciality include board performance, governance policy frameworks in regulated and complex industries, company secretary services, risk and compliance management.

Katie has over 15 years' experience leading legal, governance, risk and assurance teams and providing boards and C-Suite with pragmatic legal and governance advice.

A qualified lawyer and company secretary, Katie has held senior management roles across banking, insurance, funds management, superannuation and aviation. In these roles, Katie has supported the development and execution of corporate strategy and delivered organisation wide governance transformation projects and regulatory reform programs for profit-for-member, semi-government and for-profit entities.

Katie holds a Bachelor of Laws, Graduate Diploma (Applied Corporate Governance) and is a Fellow of the Governance Institute of Australia and Chartered Governance Institute. Katie is also a Graduate Member of the Australian Institute of Company Directors.

### 3. Our expertise

Directors Australia delivers organisations the right people, insights, and strategies to govern effectively. We do this through experienced board and governance advisory services and specialist director recruitment.

We work with the boards of publicly listed, government, private, APRA-regulated and not-for-profit organisations to achieve real, 'best fit' corporate governance appropriate to the organisation's nature, and thus enhance board and organisational performance. Our aim is to add value to organisations by working with their boards and executives to identify areas for improvement and provide practical and innovative ways to realise those improvements.


We have conducted in excess of 300 governing entity governance reviews / performance evaluations for a wide range of organisations. Through our experience, we have established methodologies and processes which are leading practice in this area. Central to our assessment of governance aspects of an organisation is our Governing for Performance® framework (attached). Beneath each of the 8 dimensions in this framework sits supporting attributes which we use as a baseline assessment.

Consistent feedback from clients is that we take a constructive, outcomes-based perspective and are timely, transparent and pragmatic in our work.

Examples of benefits that we have achieved for clients in our governance framework work include:

- > governance structures that are aligned to purpose and strategy
- > clear and documented roles, responsibilities and authorities across the board, management and team members
- > tailored board committee structures and processes
- > tailored and pragmatic governance. policies and processes

Of particular relevance to this assignment are previous advisory and director recruitment assignments we have conducted for complex governing bodies established to drive outcomes for the members they represent both in the private sector as well as government business enterprises and special purpose vehicles created by government (including local councils).



**Why Directors Australia?**

**Governing for Performance**

- Proven expertise, deep governance knowledge and lived board experience
- A tailored process which starts with you
- Practical insights and actionable recommendations
- Powerful, connected network
- Trusted, long-term partner with the highest levels of integrity
- Genuine passion for what you do and why it matters

PASSIONATE ABOUT PEOPLE AND PURPOSE    PRIDE IN WHAT WE DO    LIVE AND BREATHE BOARDS



## 4. What our clients say about us

*"I have worked with Directors Australia on many occasions over the years with respect to board member recruitment and board evaluations, across a number of industry sectors including utilities, financial services and not-for-profit entities.*

*I have always found them to be highly professional, diligent and pro-active in their service. They understand what good governance looks like and are outcome-focussed. To achieve the best outcomes, they always ensure they have a thorough understanding of the particular organisation they are working for, including its values. Their assistance in refining role descriptions to focus on the key attributes required in a director search has always been greatly appreciated. The team at Directors Australia deliver a first-class service and I have never been disappointed with the outcomes.*

*As a result, I have engaged their services on many occasions and have no doubt I will continue to do so well into the future."*

**Bronwyn Morris AM, Chair and non-executive director | VARIOUS ENTITIES**

*"Movember engaged Directors Australia to assist with a review of our global governance practices. Kerryn has a flexible approach and worked with us to agree on a practical and phased plan of work. Kerryn reviewed a range of our charters and policies, annual reports and other usual sources of information; but her genuine interest in engaging with our Directors and leaders, to learn about Movember, our core values and strategic priorities ensured that her advice was meaningfully tailored and highly useful. Kerryn's advice, along with the workshop she facilitated with our Board was thoughtful in both content and delivery.*

*Ultimately, Kerryn's work helped to start a series of well-structured conversations at the Board table around how the Board's work can best support and guide our global impact on men's health. Just as importantly, Kerryn left us with a set of practical actions to ensure those conversations could continue beyond her engagement with us."*

**Elaine Farrelly, Chief Strategy Officer | MOVEMBER**

*"Sunwater engaged Directors Australia initially for an external review of Board performance, with a further request for review around governance structures and documentation.*

*We received excellent support from Directors Australia. The Governing for Performance® framework worked well for our Board. The entire process was professional, practical and inclusive of Directors and Executives. The Board were very happy with the outcomes."*

**Dan Hunt, Chair | SUNWATER**

## 5. Our approach

### 5.1 Overarching principles

Our approach to this assignment would be based on drawing together:

- > our extensive experience developing ‘best fit’ governance models and frameworks, including the structures, policies, procedures and processes required to effectively and efficiently govern organisations
- > our deep expertise in conducting tailored governance reviews, and
- > our first-hand experience working with private and member-based organisations as they seek to enhance their governance frameworks to support ongoing effectiveness and sustainability.

### 5.2 High level overview of proposed review process

We have briefly set out the approach to Phases 1 and 2 of the assignment below.

| Assignment stage   | Timeframe (2024)   | Scope of services  |
|--|--|--|
| <b>Phase 1 – Governance review</b>   |  |  |
| <b>Stage 1:</b> Understand current arrangements, including a PBC meeting observation | <b>Week 1 and 2</b><br><i>We estimate that Stage 1 would require 3.5 consulting days</i> | <p>During this stage of the assignment we would:</p> <ul style="list-style-type: none"> <li>&gt; hold a virtual meeting with PBC representatives to:               <ul style="list-style-type: none"> <li>- confirm the assignment scope, objectives and methodology, and</li> <li>- establish clear expectations, outcomes and timeframes for each stage of the assignment.</li> </ul> </li> <li>&gt; attend a PBC meeting as an observer. We have developed a meeting observation check list which we would use to assess aspects such as the forum’s decision-making processes, dynamic and engagement and these observations would inform latter stages of the assignment, and</li> <li>&gt; engaging with each of the PBC’s sub committees.</li> </ul> <p>We would also gain a clear understanding of the PBC and the broader governance arrangements in place. This would involve us reviewing documents such as:</p> <ul style="list-style-type: none"> <li>&gt; the <i>Sanctuary Cove Resort Act 1985 (Qld)</i> and <i>Building Units and Group Titles Act 1980 (Qld)</i></li> </ul> |

| Assignment stage   | Timeframe (2024)  | Scope of services  |
|--|---|--|
|  |   | <ul style="list-style-type: none"> <li>&gt; constitution and shareholders' agreement</li> <li>&gt; administration and management agreement</li> <li>&gt; Governance of Sanctuary Cove overview document</li> <li>&gt; terms of reference for the PBC, the EC and other PBC established committees</li> <li>&gt; sample PBC, EC and other PBC committee meeting papers, including minutes and workbooks, and</li> <li>&gt; relevant governance policies including the existing Purchasing Policy, tender process and preferred supplier list and Codes of Conduct.</li> </ul>   |
| <p><b>Stage 2:</b><br/>Consultation, evaluation of review outcomes and facilitation of PBC EC workshop</p> | <p><b>Week 3 and 4</b></p> <p><i>We estimate that Stage 2 would require approximately 4 consulting days</i></p> | <p>This stage would involve us:</p> <ul style="list-style-type: none"> <li>&gt; preparing a draft governance checklist summarising the results of our review as well as any further issues for the PBC EC's consideration. This checklist would include a proposed blueprint to support implementation of the observation and suggested actions proposed in the governance checklist</li> <li>&gt; providing the draft governance checklist to PBC representatives for factual review and holding a 30 minute virtual meeting to discuss the approach to the PBC EC workshop, and</li> <li>&gt; facilitating a face-to-face workshop with the PBC EC to work through our observations and suggested actions as outlined in the draft governance checklist.</li> </ul> <p>The PBC would be required to separately engage legal advisors to provide legal advice if required. Ideally this advice would be sought prior to presentation of the discussion paper and draft blueprint to the PBC. However, as discussed, we can work with you to discuss an alternative approach, if required.</p> |
| <p><b>Stage 3:</b> Prepare final report and confirm next steps</p>   | <p><b>Week 5</b></p> <p><i>We estimate that Stage 3 would require 2.5 consulting days.</i></p>                  | <p>We would prepare and issue the final governance checklist and blueprint to the PBC.</p> <p>We would also provide a proposed consultation plan for PBC approval prior to commencing Phase 2 of this assignment.</p>  |

| Assignment stage  | Timeframe (2024)   | Scope of services  |
|---|--|--|
| <b>Phase 2 – Stakeholder consultation and final blueprint</b>   |  |  |
| Stakeholder consultation and issuing final report and blueprint | <p><b>Weeks 6 to 8</b></p> <p><i>We estimate that we would require 4 consulting days for any additional consultation. We are unable to estimate the time and therefore cost of drafting documents at this stage.</i></p> | <p>We would engage on a one-on-one basis with key stakeholders (up to six stakeholders and the PBC committees where required) via virtual meetings to seek feedback regarding the proposed governance blueprint as well as understand their views on issues within the scope of the review.</p> <p>This stage would involve us consolidating information gathered during Phases 1 and 2 and preparing a summary report incorporating the findings of our review and recommendations for implementation of required changes.</p> <p>In this stage we would also draft / re-draft any governance documents identified in the review process.</p> |

## 6. Investment and expenses

Our fee for conducting this assignment would be \$39,200 plus GST based on an estimated 14 consulting days’ effort. Our fee would be payable as follows: one quarter on commencement of the assignment; one half on completion of stage 2 of the review; and one quarter on delivery of the final report (stage 3).

We are a Brisbane-based firm and we do not anticipate that there would be any interstate travel and/or accommodation expenses incurred as part of this assignment. However, any expenses associated with travel in this regard would be charged at cost. We would meet all incidental expenses such as telephone calls and printing.

## 7. Insurance

Directors Australia Pty Limited carries the following professional and public & products indemnity insurance. This insurance is renewed annually.

Insurer: Insurance Australia Ltd - CGU  
 Policy: Professional Indemnity - policy no. 83MIS1992866  
 Liability limit (PI): \$10,000,000 any one claim - \$40,000,000 in the aggregate  
 Policy: Public and Product Liability - policy no. 83MIS1992866  
 Liability limit (PL): \$20,000,000  
 Period: 14 September 2023 to 14 September 2024

## 8. Declarations of interests

We do not believe we have any conflicts which would preclude us from conducting this work.

## 9. Assignment terms

*Please note that:*

- > Our fee is based on the estimated consulting effort involved given the brief as we currently understand it. If it is apparent in our initial meeting that the scope is different to that on which this proposal is based, then we reserve the right to vary our fee. Further, if during our work the effort required to complete the task exceeds the estimation on which our proposal is based, then we will discuss this with you before proceeding further.*
- > No aspect of the services provided as part of this assignment should be construed in any way whatsoever as legal advice. It will be the client's responsibility to obtain expert legal advice on any issue which requires a professional legal opinion.*
- > This proposal is current for one month from its date.*

I, \_\_\_\_\_, being a duly authorised officer of the PBC accepts the proposal outlined above and on the terms and conditions outlined.

Please countersign a copy of this proposal below and return it to Directors Australia, or alternatively confirm acceptance by email.

\_\_\_\_\_  
\_\_\_\_\_  
[Name and signature]  
[Date]



# Consultant profiles



Specialist Profile

## Kerryn Newton

LLM, MBA, MA, FAICD, FGIA

Chief Executive Officer



**Kerryn leads the board advisory division of Directors Australia working with boards and organisations on a range of governance issues to assist them improve their performance.**

Kerryn's background is in law and business and she has worked in various legal, policy and management roles in the private and public sectors.

In addition to her qualifications and broad work experience, Kerryn has extensive personal experience in governance and directorship through her membership on the boards on a range of companies in the private, public and not for profit sectors. Kerryn's board experience spans the child care, aged care, housing, education, property and energy sectors.

Kerryn's board and governance experience includes the Queensland Liquor and Gaming Commission, Energex Ltd (electricity distributor), Energy Queensland Ltd (electricity distributor and retailer with an asset base of \$25B), and a leading independent secondary school for girls. Kerryn also serves as an independent governance expert on Nominations Committees for a number of Australian banks.

Kerryn is a regular media commentator and speaker on issues relating to governance and boards.

### Key areas of expertise

- > Improving the performance of boards, board committees, directors, and board and management relationships
- > Conducting board, director and CEO performance evaluations
- > Developing and reviewing corporate governance systems, structures, policies and procedures
- > Assessing and mapping board skills
- > Improving board dynamics
- > Conducting corporate governance training
- > Facilitating strategic planning and other board workshops
- > Reviewing board processes and board reporting documentation
- > Conducting organisational reviews
- > Managing human resources including selection and recruitment, performance planning and review

### Qualifications

- > Advanced Company Directors 'Course and Company Directors 'Course, Australian Institute of Company Directors
- > Masters of Business Administration (Recipient, Dean's Award for Excellence)
- > Masters of Law
- > Masters of Arts in International Studies, China
- > Grad Dip, Applied Finance & Investment
- > Bachelor of Laws (Second Class Honours, Division A)
- > Certified HBDI® practitioner

### Memberships

- > Australian Institute of Company Directors (Fellow)
- > Governance Institute of Australia (Fellow)
- > Chief Executive Women (Member)

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## Katie Simpson

LLB, GradDipACG, GradDipLegalPrac, FGIA, FCG, GAICD and GAIST

### General Manager – Advisory



Specialist Profile

**As General Manager – Advisory , Katie advises a range of businesses to enhance board and organisational performance through strategy, coupled with best governance systems and practices.**

Katie has extensive experience leading legal, governance, risk and assurance teams, providing boards and C-Suite with pragmatic legal and governance advice and delivering governance transformation projects and regulatory reform programs.

A qualified lawyer and company secretary, Katie has held senior management roles across banking, insurance, funds management, superannuation and aviation. In these roles, Katie has supported the development and execution of corporate strategy in profit-for-member, semi-government and for-profit entities.

#### Key areas of expertise

- > Conducting board, director and CEO performance evaluations and board governance reviews
- > Developing board renewal strategies, including reviewing and mapping board skills
- > Reviewing director remuneration structures
- > Providing pragmatic corporate governance advice
- > Developing and reviewing corporate governance systems, structures, policies and procedures
- > Delivering governance training
- > Developing stakeholder engagement strategies, including regulator and shareholder engagement plans
- > Designing executive accountability, consequence management and performance frameworks to support board oversight of organisational culture and conduct
- > Developing fit for purpose board and management reporting tools

#### Qualifications

- > Bachelor of Laws
- > Solicitor of the Supreme Court of Queensland
- > Chartered Secretary
- > Graduate Diploma, Applied Corporate Governance
- > Graduate Diploma, Legal Practice
- > Graduate, AICD Company Directors Course and AIST Trustee Director Course

#### Memberships

- > Governance Institute of Australia (Fellow)
- > Chartered Governance Institute (Fellow)
- > Australian Institute of Company Directors (Graduate Member)

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ACN: 134 627 875

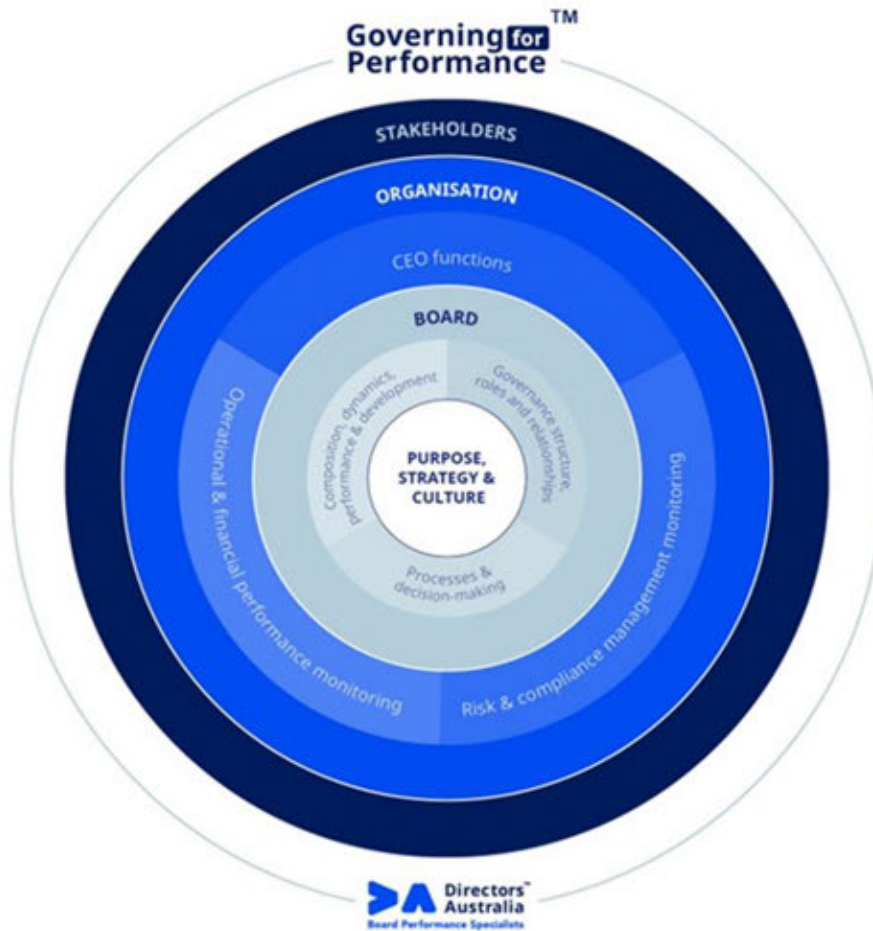
katie.simpson@directorsaustralia.com  
1300 890 267  
0434 648 441

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# Governing for Performance<sup>®</sup> framework

Governing for Performance assists boards in their continual improvement given complex and dynamic strategic environments and in light of contemporary societal expectations regarding boards and directors.



- PURPOSE, STRATEGY AND CULTURE**

**Dimension 1**  
**Purpose strategy and culture**  
 The organisation is clear about its purpose, has well developed strategic and operational plans to drive success and clearly articulates, and monitors, organisational values and culture.
- BOARD**

**Dimension 2**  
**Governance structure, roles and relationships**  
 The organisation's governance framework is fit for purpose and there is clarity as to key governance roles, relationships and authorities.

**Dimension 3**  
**Board composition, dynamics, performance and development**  
 The board is comprised of the right people behaving in the right way to guide and drive strategy and effectively govern the organisation.

**Dimension 7**  
**Board processes and decision-making**  
 The board's meetings result in effective decision-making through timely and relevant information sharing and purposeful, honest and challenging discussions.
- ORGANISATION**

**Dimension 4**  
**CEO functions**  
 The board has appointed and monitors the performance of a 'fit for purpose' CEO.

**Dimension 5**  
**Operational and financial performance monitoring**  
 The board oversees the organisation's financial and non-financial performance in light of strategic performance measures, and drives continuous improvement.

**Dimension 6**  
**Risk and compliance management monitoring**  
 The board sets the organisation's risk appetite and ensures that appropriate risk and compliance management frameworks are in place and being implemented.
- STAKEHOLDERS**

**Dimension 8**  
**Stakeholder engagement**  
 The board seeks to understand key stakeholder issues and engages with stakeholders in a way that informs and supports the delivery of the organisation's purpose and strategy.

See more at: [www.directorsaustralia.com](http://www.directorsaustralia.com)



**Motion 6.6**

4. ADDITIONAL BY-LAWS

A person shall not, at any time, drive a vehicle upon any road on the secondary thoroughfare unless at that time such person is lawfully entitled to drive that vehicle on a public road:

- (a) every person who lawfully occupies any land within a residential zone in the site is entitled to use the roads on the secondary thoroughfare;
- (b) save as aforesaid, no other person shall drive on or otherwise use the roads except with the permission of the Principal Body Corporate;
- (c) the said permission of the Principal Body Corporate shall not be unreasonably refused if it is requested by a lawful owner or occupier of land within a Residential Zone as defined in the Sanctuary Cove Resort Act 1985 (Qld);
- (d) the Principal Body Corporate may erect, maintain and cause to be operated gatehouses for the purposes of regulating or prohibiting with these by-laws and the Act;
- (e) the Principal Body Corporate may delegate to the operators of any such gatehouse or to any other person the function of deciding whether to grant such permission. Any such delegation shall not limit the power of the Principal Body Corporate to grant such permission. The Principal Body Corporate may revoke such delegation at any time;
- (f) any person who has the permission of the Principal Body Corporate or its delegate to drive or otherwise use the roads is entitled to do so to the extent of such permission;
- (g) any such permission may be limited in time, in the parts of the Secondary Thoroughfare which are roads or otherwise used, in the manner in which such driving or use may take place and in any other manner whatsoever;
  - (i) a vehicle of a service provider to a lawful owner or occupier of land within a Residential Zone may stand on any a part of the Secondary Thoroughfare between the hours of 7am – 5pm Monday – Friday, and 8am – 1pm on a Saturday (excluding public holidays);
  - (ii) unless approved otherwise by the Principal Body Corporate, a lawful owner or occupier of land within a Residential Zone must not park a vehicle or allow a vehicle to stand on any part of the Secondary Thoroughfare unless:
    - (1) The vehicle belongs to an invitee and is parked on a part of the Secondary Thoroughfare that has been clearly marked as a visitor car park; and
    - (2) The vehicles of the invitee must not be parked overnight from 6pm to 6am.
- (h) the Principal Body Corporate may revoke any such permission granted by it or its delegate at any time and such delegate may revoke any such permission granted by the Principal Body Corporate or such delegate at any time, provided that where such permission is given pursuant to the request of an owner or occupier of land within the site the, the Principal Body Corporate or delegate shall not unreasonably revoke such permission; and
- (i) for the purposes of the control, management, administration, use and enjoyment of those parts of the secondary thoroughfares that are inundated by water the provisions of the Queensland Marine Act 1985 (as amended) and its regulations shall apply to those parts of the secondary thoroughfare.

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**CORRESPONDENCE  
FOR INFORMATION**

24 June 2024

Mr. Neville Crawford  
1858 Oak Hill Drive  
Sanctuary Cove, QLD 4212  
Transmission via email:

Dear Neville,

**FORMAL COMPLAINT AGAINST THE ADMINISTRATION STAFF OF THE BC OFFICE  
PROPERTY: 1858 OAK HILL DRIVE, LOT 8 ZIERIA GTP 107434**

We are writing to provide an update regarding your formal complaint to the PBC regarding the alleged conduct of staff at the Body Corporate office.

The PBC has determined this matter should be handled internally rather than by the committee. After a thorough review of all information, including reports from the individuals you spoke with, we have concluded that no further action will be taken.

Please be advised that the Company adopts a zero-tolerance policy approach to abusive behaviour towards Body corporate staff members while carrying out their duties on behalf of the Sanctuary Cove Community Services.

For your information I highlight the following aspect of that policy:

*"It is Company policy to provide an environment where all customers are treated fairly whilst, at the same time, ensuring employees are provided a safe work environment."*

Our employees are committed to always maintaining the highest levels of professionalism and customer service. In return, they are entitled to receive appropriate levels of courtesy and respect while performing their duties.

Kind Regards,



**Dale St George**  
Chief Executive Officer  
Sanctuary Cove Community Services Limited.

## ITEM 2



### REPORT: TOWING

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|                      |  |
|----------------------|--|
| <b>DISTRIBUTION:</b> | PBC – Member’s Nominees  |
| <b>ATTACHMENTS:</b>  | <ul style="list-style-type: none"><li>• Advice from Hynes Lawyers dated 30 November 2006</li><li>• Advice from Hynes Lawyers dated 19 November 2007</li><li>• Advice from Hynes Lawyers dated 14 October 2010</li><li>• Advice from Hynes Lawyers dated 29 June 2015</li><li>• Department of Transport and Main Roads – Fact Sheet (July 2022)</li></ul> |
| <b>DATE:</b>         | 26 June 2024   |

#### Overview

- The PBC has sought guidance from SCCSL on its ability to tow vehicles that are in breach of parking by-laws and impose penalties.
- The PBC has previously obtained the attached 4 legal advices on towing and penalties. All advices have been given by Hynes Legal.
- The most recent advice relating to towing was obtained in 2007 – 17 years ago.
- The most recent advice relating to penalties was obtained in 2015 – nine years ago.
- If the PBC is serious about better understanding its current legal rights to tow vehicles and impose penalties, SCCSL recommends that the PBC obtains an updated legal advice to address its current concerns and queries.

#### Changes to strata legislation regarding towing

- There has been a recent change to towing laws in strata schemes in Queensland.
- However, the change was made to the *Body Corporate and Community Management Act 1997* (Qld) (the **BCCMA**) which does not apply to Sanctuary Cove Resort.
- The change does not permit any and all vehicles to be towed. It simply provides that a body corporate is not required to enforce a by-law through the Commissioner’s Office before it tows a vehicle. A body corporate regulated under the BCCMA is still required to:
  - act reasonably;
  - adhere to the towing legislation; and
  - consider the introduction of a by-law to permit towing before proceeding (as way to reduce risk exposure).

#### Summary of past legal advices

- Advice of 30 November 2006
  - Best way to enforce by-laws is through the Commissioner’s Office and it is not recommended that a matter is taken directly to the Magistrates Court.
- Advice of 19 November 2007



## REPORT: TOWING

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- The PBC and the PTBC have statutory obligations to maintain a safe environment on the secondary and primary thoroughfares by virtue of sections 33 and 66 of SCRA.
- Many bodies corporate have entered into contracts with external service providers to clamp and tow vehicles.<sup>1</sup>
- To clamp/tow a vehicle, a motion needs to be passed by the Committee to retain a contractor.<sup>2</sup>
- The by-laws do not need to change.<sup>3</sup>
- Before any stickers are applied to vehicles or any towing/clamping is undertaken, residents should be properly advised of the starting date and adequate signage should be erected.
- There is no provision in SCRA or BUGTA permitting the imposition of fines. Therefore, doubtful that such a power exists especially in the absence of a by-law.
- The PBC should:
  - i. enter into a contract for towing and/or wheel clamping;
  - ii. declare parking on common areas to be a Specific Nuisance pursuant to RZBL 4.3(b);
  - iii. have the EC make Rules regarding parking on common property pursuant to RZBL 7;
  - iv. check the permission conditions for visitors and make sure they specify the essential rules to be observed (STBL 4(g)).
- Advice of 14 October 2010
  - The cost of commencing proceedings to enforce the imposition of a fine could be cost prohibitive.
  - A referee is limited to ordering a sum payable in the amount of \$1,000.
  - The advice did not form a conclusive view on whether:
    - i. a by-law is valid if it imposes a fine;
    - ii. a by-law imposing a fine is a dispute within the meaning of section 78 of BUGTA.
- Advice 29 June 2015
  - There is no limitation in SCRA (as there is under the BCCMA) that says that a by-law cannot impose a monetary liability (ie a fine or penalty).

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<sup>1</sup> Note: we understand vehicle clamping in Queensland is illegal and the PBC may wish to seek updated advice on this is if they intend to use it.

<sup>2</sup> Note: if the motion relates to expenditure, we are of the view it should be put to the PBC and not just the EC.

<sup>3</sup> Note: the PBC may want to seek updated advice on whether a by-law should be put in place to reduce the risk of adverse action being taken against the PBC.



## REPORT: TOWING

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- However, this does not mean that a by-law can impose a monetary penalty through a by-law.
- A monetary by-law could be imposed through the RZABs. However, there is some risk to this approach and a Referee may determine such a by-law to be invalid.
- The Minister may also be reluctant to approve such a change.

### Guidance on towing

If the PBC ultimately decides to consider towing vehicles from its property, the Department of Transport and Main Roads has prepared a Fact Sheet on matters to be considered and implemented prior to towing a vehicles from private property. This has been **attached**.



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## FACSIMILE

Date: 30 November 2006

To: Sanctuary Cove Principal Body Corporate

Attention: Susan Minnekeer

Chief Executive Officer

Fax No: (07) 5500 3309

From: Peter Hunt

Direct Email: [Peter.Hunt@hyneslawyers.com.au](mailto:Peter.Hunt@hyneslawyers.com.au)

Subject: BY-LAW ENFORCEMENT OPTIONS

Our Reference: PAH:SJH.SAN

Your Reference:

Reply To: GOLD COAST

Page(s) 2

Dear Madam

We refer to your email dated 29 November 2006.

### Instructions

We note your instructions that:-

1. Some owners at Sanctuary Cove are not complying with By-Laws; and
2. The PBC has pursued matters via the referee process, but has found it to be a time consuming and ineffective process.

You have sought our advice as to other options available to enforce the By-Laws.

### Advice

We regret to advise that we believe that the best way for the By-Laws to be enforced is via the dispute resolution provisions of the Building Units and Group Titles Act 1980 ("BUGTA").

While it has been the general practice that all disputes for a body corporate governed by BUGTA will be resolved pursuant to the dispute resolution provisions of that Act, a matter could go to a Court.

The position under BUGTA is therefore different to the Body Corporate and Community Management Act 1997 ("BCCMA"), which specifically states that its dispute resolution provisions must be invoked.

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Where this facsimile transmission is a communication between solicitor and client, it is confidential and privileged. If this facsimile transmission is, for whatever reason, received by other than the named addressee, you are requested to immediately notify the sender by telephone or facsimile and return the original message to the sender at the postal address shown on this facsimile message.

The client entitled to the benefit of the confidential legal professional privilege which attaches to this document is entitled to recover all copies of the document and to prevent its/their dissemination or use in any form by appropriate application to the Courts. The confidential legal professional privilege is not waived, lost or destroyed by the reason of a mistaken delivery of the document to other than the addressee.



Sanctuary Cove Principal Body Corporate

2

30 November 2006

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We do not recommend that a matter be taken to a Magistrates Court as:

1. the costs would be significantly higher as attendances would be required at Court by those wishing to give evidence and a lawyer;
2. the Magistrate would not have any significant experience in body corporate matters. Therefore the outcome of a matter would be even more unpredictable than a referee's decision;
3. it is unlikely to deliver a quicker result – especially if a decision were reserved; and
4. the defendant would undoubtedly argue that the matter should only be heard by a referee under BUGTA, and there is a real possibility that a Court may make that order, which would take the matter back to the start of the dispute resolution process.

The only advantage of going to the Magistrates Court would be the potential to receive a costs order, as section 75(7) of BUGTA provides that a referee cannot make an order for costs.

#### **Suggestion for future applications**

In all applications an attempt should be made to make the situation appear urgent so that an interim order can be sought, and possibly obtained. An interim order can be made in 1- 3 weeks depending on the urgency.

An important aspect in drafting the interim order is to make the relief sought different to the final order. Obviously this is impossible in many situations.

Obviously we would be willing to assist with the drafting of any applications.

If you have any queries please contact Peter Hunt.

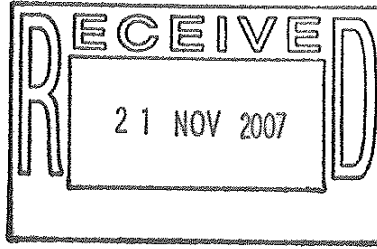
Yours faithfully  
**Hynes Lawyers Gold Coast**



**Contact: Peter Hunt, Special Counsel**  
(07) 5592 6698  
Peter.Hunt@hyneslawyers.com.au

**Ian Bisson, Partner**  
(07) 5592 6698  
Ian.Bisson@hyneslawyers.com.au





19 November 2007

The CEO  
Sanctuary Cove Principal Body Corporate  
C/- Sanctuary Cove Body Corporate Services  
PO Box 15  
SANCTUARY COVE QLD 4212

Attention: Susan Minnekeer

Dear Madam

### **TRAFFIC ISSUES**

We refer to your letter dated 31 October 2007.

### **Instructions**

We confirm your instructions that the PBC is becoming increasingly concerned about the traffic related issues of noise, speeding and parking.

We note your advice that:

1. There is signage on the various primary and secondary thoroughfares as to speed limits;
2. Some speed bumps have been installed but they cost about \$20,000 each and due to the noise they create nobody wants a speed bump in front of their residence. We note from TTM's report of TTM that the speed humps have been successful in reducing speeding. However, it isn't clear to us whether the speed reduction occurred within close vicinity of the speed humps or adjacent roads;
3. The security provider has a radar gun to detect speeding vehicles;
4. If contractors are speeding then their permit to enter the resort can be cancelled, but there is no similar ability in respect of residents;
5. Parking restrictions are ignored;
6. Secondary thoroughfares are being used as a "rat run" by contractors;
7. Some drivers are driving dangerously (poorly or affected by alcohol);
8. Drivers are parking on common property, rather than on allocated car spaces, or are simply ignoring time restrictions.
9. GCCC parking inspectors do not attend the resort.



You have therefore asked us for advice and solutions regarding these issues.

## **ADVICE - YOUR SPECIFIC QUERIES**

We comment on the various issues raised in your letter as follows.

All references to sections refer to the Sanctuary Cove Resort Act ("SCRA") unless stated to the contrary.

### **1. The PBC's duty of care regarding traffic**

The PBC's duties regarding traffic are expressed in the following sections of SCRA:

#### S.23 Principal body corporate

*"6) Subject to this Act, the principal body corporate shall have the powers, authorities, duties and functions conferred or imposed on it by or under this Act, the development control by-laws or the residential zone activities by-laws and shall do all things reasonably necessary for the enforcement of the development control by-laws and the control, management and administration of the secondary thoroughfares."*

*"(8) The principal body corporate may--*

- (a) sue and be sued on any contract made by it;*
- (b) sue for and in respect of any damage or injury to the secondary thoroughfares caused by any person;*
- (c) be sued in respect of any matter connected with the secondary thoroughfares for which as proprietor it is so liable;*
- (d) take such legal action as may be necessary to enforce the development control by-laws and the secondary thoroughfare by-laws."*

#### S.33 Duties of principal body corporate

*"(1) The principal body corporate shall--*

- (a) control, manage and administer the secondary thoroughfare for the benefit of its members; and*
- (b) properly maintain and keep in a state of good and serviceable repair—*
  - (i) the secondary thoroughfare, including any improvements thereon;*
  - (ii) any personal property vested in it; and .."*

## 2. The PTBC's duty of care

S.33 for the PBC is mirrored in S.66 for the PTBC. It provides:

*"(1) The primary thoroughfare body corporate shall--*

*(a) control, manage and administer the primary thoroughfare for the benefit of its members; and*

*(b) properly maintain and keep in a state of good and serviceable repair—*

*(i) the primary thoroughfare, including any improvements thereon;*

*(ii) any personal property vested in it; and .."*

## 3. The obligation to maintain a safe environment – (presumably regarding traffic issues)

The obligation imposed on the PBC by s.33 and on the PTBC by s.66 require the secondary and primary thoroughfares respectively to be:

1. controlled, managed and administered;
2. properly maintained; and
3. kept in a state of good and serviceable repair, including any improvements and any personal property vested in it.

It is critical to the compliance with these obligations that the roads are safe. Accordingly, the PBC and PTBC both have an obligation to maintain a safe environment.

## 4. What would be reasonable measures to control the traffic issue?

The required measures to be taken are those needed to make reasonably sure that the roads are safe, while acknowledging that there are funding, noise and visual pollution issues to take into consideration.

Your traffic consultants would be best placed to advise you when the reasonable measures have been taken.

## 5. Speed camera

S.210 of the Traffic Regulations 1962, are imported into the Secondary Thoroughfare By-Laws. It provides:

*"If a speed camera is used to provide evidence of a prescribed offence, the following provisions must be complied with--*

- (a) *the camera must be positioned and aimed to ensure an image taken by the camera depicts the front or rear of the vehicle the speed of which was measured by the camera;*
- (b) *each person who inserts into or removes a film magazine from the camera, or who relocates the camera with a film magazine in place, or who changes information programmed into the camera, must—*
- (i) *ensure the camera is positioned and aimed in accordance with the camera manufacturer's instructions; and*
  - (ii) *use the camera's testing mode to ensure the camera operates correctly; and*
  - (iii) *if a fault is indicated, take corrective action and repeat the testing process until no fault is indicated by the camera in its testing mode;*
- (c) *if the tests or the film when developed indicate a fault has affected the proper operation of the camera as required under this section, the film must be rejected for evidentiary purposes."*

It is therefore vital to follow these rules if a speed camera is used as suggested by Mr Hildebrand, even though the speed camera would not be used to provide evidence of a prescribed offence.

Curiously, the same provision of the Traffic Regulations is not imported into the Primary Thoroughfare By-Laws. Accordingly, there is no clear right to use a speed camera on the PTBC. However, it should be difficult for a dangerous driver to convince a Referee to disregard the evidence from a speed camera on the basis that its use was unreasonable or illegal and not in the best interests of the body corporate.

Unfortunately, given the PBC's and PTBC's inability to impose a fine (see below), or deny access (see below), we query the benefit of detecting the speeding vehicles, apart from collating statistics to provide to the Minister in support of a change in By-Laws and trying to enforce the nuisance provisions through the Commissioner for Body Corporate and Community Management ("Commissioner").

We refer to the Draft "Notice of Speed" and suggest that the second paragraph which commences "This form//"

 should be deleted as it requests information, and the balance of the letter provides information.

Mr Hildebrand correctly states in his "Discussion Paper of 31 July 2007 that there is no power to stop and detain a motor vehicle in the relevant legislation.

## **6. Wheel clamping / Towing and stickers**

Many bodies corporate have entered into contracts with external service providers to provide clamping and/or towing services, and we understand that the results have been positive.

In order to retain the contractor a motion needs to be passed by the Committee. The By-Laws do not need to be changed.

We suggest that before any stickers are applied or any clamping and/or towing is undertaken that all residents are advised of the starting date and adequate signage is erected (usually provided by the service provider).

## 7. Right of Access

You have enquired whether an unsafe driver could be denied entry to the gated areas.

S.56 provides that:

*“Subject to the application of any primary thoroughfare by-law or any secondary thoroughfare by-law, every person who lawfully occupies any land within the site or the adjacent site has a right of way over the primary thoroughfare and the secondary thoroughfare.”*

The PBC and the PTBC therefore have no right to restrict any owner or occupier’s access to the scheme.

It is unlikely that the right of access would be satisfied by allowing an owner or occupier to walk or cycle along the thoroughfares, but deny them the right to drive a car.

You have also enquired whether transgressors could be provided with a lesser form of technology (an intercom) to enable them to open gates rather than the standard technology (remote control device). Unfortunately, this idea amounts to treating people differently and it would therefore be discriminatory and unlawful.

We refer to the Draft “notice of Infringement” and suggest that a modification is required to distinguish between residents and others. This can be done by using separate letters, or by adding “If you are not a resident” before “Pursuant” in the second sentence of the second paragraph.

## 8. Can transgressors be fined?

This possibility is also raised in Mr Hildebrand’s “Draft Covering Memo”.

There is no provision in SCRA or in BUGTA permitting the imposition of fines. Accordingly, we strongly doubt that there is a power to impose fines, especially in the absence of a By-Law that would authorise the fines.

There have been many bodies corporate which have tried to impose a monetary penalty on owners for By-Law breaches. However, the Commissioner’s office has consistently ruled in respect of bodies corporate subject to the Body Corporate and Community Management Act (“BCCMA”) that 180(6) prevents the imposition of any fine. The logic is that only a Court should be able to impose fines or make a person liable for costs, to prevent the claims being unreasonable.

We suspect that the only way a fine will ever be legitimately imposed is for the By-laws to be changed, which will obviously require you to convince the Minister of the need for fines to be imposed. Given that there is a fine payable for offences on all public roads, we struggle to understand why your roads should be treated any differently.

The balance of the issues raised in your letter are answered below.

## ADVICE – OTHER ISSUES

### 1. Introduction

The conduct within the Residential Zone is governed by:

- The Residential Zone Activities By-Laws (“RZBL”) which are enforceable by the PBC;
- The Secondary Thoroughfare By-Laws (STBL”)
- The individual RBC By-Laws (which incorporate the RZBL, STBL and Primary Thoroughfare By-Laws (PTBL”).

The term “Residential Zone” is not defined, but it seems to apply to the areas comprising the secondary thoroughfares and the RBCs. The term appears in the DCBL as follows:

*“Residential Area” means the land (other than secondary thoroughfares) in the residential zones of the Site”.*

We will now examine the provisions which can be used against the issues of parking, noise and speeding, and then review the enforcement options.

### 2. The Nuisance provision

S.4.3 of the RZBL prohibits the existence of a nuisance and will be important in trying to curb the unacceptable behaviour of some motorists. It provides:

- (a) *No person may carry out activities that amount to a General Nuisance or Specific Nuisance without the prior written approval of the Principal Body Corporate.*
- (b) *The Principal Body Corporate may determine if a particular activity is a General Nuisance or a Specific Nuisance.*
- (c) *For the purposes of this by-law 4.3(a), ‘General Nuisance’ means any activity which:*
  - (i) *is or may become a unreasonable annoyance or nuisance to Residents; or*
  - (ii) *in any way unreasonably interferes with the quiet enjoyment of Residents; or*
  - (iii) *in any way increases the insurance premiums of any Resident, Residential Body Corporate or the Principal Body Corporate.*

**‘Specific Nuisance’ includes:**

- (i) *conducting auction sales; and*
- (ii) *making loud noises or emitting noxious odours; and*

- (iii) *operating exterior speakers, horns, whistles, bells or other sound devices (other than a security or warning devices used exclusively for the purposes) at unreasonable and excessive noise levels; and*
- (iv) *using unreasonably noisy or smoky vehicles, large power equipment or large power tools and marine craft; and*
- (v) *using unlicensed motor vehicles, except motorised golf carts where all requirements of operating those gold cars are complied with; and*
- (vi) *using items which ay unreasonably interfere with television or radio reception of any Lot,*

*but does not include, where the Company is the registered proprietor of a Lot, the use by the Company of a Lot as a display unit.*

### **3. Parking**

#### **3.1 Residential Zone**

The RZBL do not contain any restrictions regarding parking on common property. Accordingly, more general provisions need to be examined in order to find a means of combating the unacceptable conduct.

#### Declaration of a Specific Nuisance RZBL 4.3(b).

To solve this problem the PBC can declare parking on common property to be a specific nuisance pursuant to RZBL 4.3(b). This should mean that the specific nuisance can then be enforced like any other By-Law.

We need to be cautious on this issue as there have been decisions that as "house rules" are not ascertainable from a search of the DNR records they are unenforceable, and the same criticism could be made of the PBC's declaration. However, the downside from trying to enforce the specific nuisance is so minor compared to the potential upside that we recommend that the resolution be passed, and the By-law enforced in the normal manner.

#### RZBL 7 – Making rules

RZBL 7 provides:

*"The Executive Committee may in its absolute discretion, make rules about:*

- (i) *any services to be provided by the principal Body Corporate in the Residential Areas; and*
- (ii) *the use of the Common Property other than the secondary thoroughfares."*

We note that RZBL 7 restricts the Executive Committee of the PBC from making rules regarding the Secondary Thoroughfare. Presumably this means that the members of the PBC can make rules regarding the Secondary Thoroughfare which are enforceable in the normal way.

### RBC By-Laws

The Washingtonia GTP 1703 By-Laws restricts parking on common property as follows:

*9.2 An Occupier of a Lot must not, and must not permit any invitee to park a vehicle, or allow a vehicle to stand on any part of the common property, other than a designated parking area and then for short-term parking only.*

*37. Unless permitted under a by-law, a proprietor or occupier of an HT Lot must not park or stand a motor vehicle or bicycle on HT Common Property.*

We expect that the other RBC By-Laws contain similar clauses dealing with parking on common property, but each set of By-Laws will need to be checked.

As the RZBL are incorporated into the RBC By-Laws the specific nuisance declaration can also be made by a RBC.

## **3.2 Non- Residential Zone**

### Primary Thoroughfare By-Laws ("PTBL")

The Residential Zone Activities By-Laws do not apply to the Primary Thoroughfare.

#### New PTBL

The PTBL do not specifically refer to parking issues. Accordingly, they need to be changed which will require the consent of the Minister, which rules out any short term relief from the problem (s.71). It is ridiculous that there are no specific rules concerning the Primary Thoroughfare so the situation must be remedied.

### S.77 Of SCRA - The PTBC's general powers

One possible way for the PTBC to act is through S.77 which provides that:

*"(1) The primary thoroughfare body corporate shall--*

*(a) control, manage and administer the primary thoroughfare for the benefit of its members; and..."*

It is arguable that this permits the PTBC to impose restrictions on speeding, noise and parking. However, we cannot rule out the likelihood that an Adjudicator would determine that there was no such power, despite the blindingly obvious need to impose the restrictions.

If the Adjudicator's decision is against the PTBC then it could be appealed or used to justify the fast tracking of the Ministerial approval process.



### S.66 of SCRA

The PTBC should be able to make rules for parking pursuant to its general power in s.66, which was extracted above, although there is no specific power to do so.

There is little downside in making the rules as the chances are that nobody will challenge them, or alternatively, they may be obeyed for some time before being challenged.

If there was a challenge, we expect that there would be a good chance of a Referee upholding the Rules, otherwise he or she would be finding that there should not be any parking restrictions which would not be a sensible result.

If the Referee did find that the PTBC could not impose any parking restrictions then the case for an urgent review of the PTBL would be much stronger.

## **4. Noise from vehicles**

### **(i) Residential Zone**

#### RZBL

The RZBL address noise as follows:

#### *"4.3 Nuisance*

*(a) No person may carry out activities that amount to a General Nuisance or a Specific Nuisance without the prior written approval of the Principal Body Corporate."*

A Specific Nuisance is defined in RZBL 4.3(c) as:

*"making loud noises...using unreasonably noisy or smoky vehicles"*

Unfortunately, the RZBL do not address what is unreasonable.

#### Residential Body Corporate By-Laws

The Washingtonia By-Laws prohibits nuisances at By-Law 3:

*"An occupier of a lot must not cause or allow noise likely to interfere with the peaceful enjoyment of another person lawfully on another's lot or the common property"*

Although the BCCMA and related Commissioner's orders do not apply to Sanctuary Cove, they can be used to assist in defining what is unreasonable in relation to By-Laws and behaviour within a scheme.

In determining unreasonableness, the Commissioner's Office is likely to examine:

1. the circumstances behind the breach;
2. any potential costs involved in rectification of the breach;

3. the duration, frequency and time of the breach; and
4. consider the overriding situation of many people living together in close proximity and the need for compromise.

**(ii) Non- Residential Zone**

The Primary Thoroughfare By-Laws do not specifically refer to noise issues.

**5. Speeding**

There is no speed limit specified in any of the By-Laws applicable to Sanctuary Cove, being:

- the Residential Zone Activities By-Laws;
- the Primary Thoroughfare By-Laws;
- Secondary Thoroughfare By-Laws;
- Development Control By-Laws; and
- RBC By-Laws (assuming they are the same as the Washingtonia By-Laws).

Although speed limits are noted on signs in the scheme, there is no current specific power for the PTBC or STBC to set speed limits.

Consequently, the speed limit signage in the scheme may be found by a Referee to operate as 'house rules' as discussed earlier, so that they are only a guide, and unenforceable against owners and occupiers.

The Secondary Thoroughfare By-Laws ("STBL")

The STBL cannot be used to prevent access to all the ST by owners or occupiers lawfully occupying land in the scheme (by-law 4(a)).

The STBL provide that permission for visitors to use the ST can be revoked if they do not comply with the terms of that permission (STBL 4(g)). Is it practical to issue visitors with a notice regarding parking, noise and speed limits? Is this information already on the board as you enter the Residential Zone?

RZBL Nuisance provisions

While it is unsatisfactory to have to rely on the nuisance provision to regulate speeding, it is the best available option at present.

We therefore recommend that the PBC pass a resolution determining that a vehicle travelling at over a certain speed is a nuisance. Please note that there is no requirement for the determination to be approved by the Minister, although a change to a By-Law does require Ministerial consent (s.96A).

Obviously the PBC must act reasonably in everything it does, and this power must be exercised very carefully.

Unfortunately, being able to categorise travel above a certain speed as a nuisance doesn't make enforcement any easier, and the process outlined above will still need to be followed.

## **6. Amending the Primary and Secondary Thoroughfare By-Laws**

The Primary and Secondary Thoroughfare By-Laws can only be changed with the consent of the Minister, which rules out any short term relief from the problem (s.71 and s.28). However, there is probably no disadvantage seeking to change the By-Laws to implement a speed limit, even if the process does take years.

## **7. Enforcing Rules**

In order to enforce the By-Laws or Rules the Commissioner will need to be satisfied as to:

- identification of the owners or occupiers committing the breach;
- proof of the existence of the breach (photographs, speed camera);
- the car registration; and
- the time and nature of the incident.

Additionally, some actions of the owners/occupiers in relation to noise may amount to a Police matter in addition to a breach of By-Laws, and will certainly make the transgressor realise that the behaviour complained about will not be tolerated.

In our opinion, little is to be lost by raising a serious issue with the Police, even if it does not result in action being taken in respect of a first transgression.

## **8. Dispute resolution**

To obtain an Order in respect of any breach of the By-Laws or Rules will require an Application to a referee.

S.104A of SCRA provides that any dispute concerning it, or By-Laws, is to be dealt with under BUGTA.

S.77(1) of BUGTA states as follows:

*"A referee may, pursuant to an application of a body corporate, a body corporate manager, a proprietor, a person having an estate or interest in a lot or an occupier of a lot in respect of a parcel, make an order on any person entitled to make an application under this subsection or on the chairperson, secretary or treasurer of the body corporate for the settlement of a dispute, or the rectification of a complaint, with respect to the exercise or performance of, or the failure to exercise or perform, a power, authority, duty or function conferred or imposed by the Act in connection with that parcel."*

Therefore, where the By-Laws are being breached an Application can be made to the Commissioner for an Order that the transgressor not commit a further breach of the By-Laws. An Order will not be made imposing a fine.

An interim Order can be obtained in a matter of days, or less, depending on the level of urgency. A final determination of a matter can take several months.

#### Costs

A Referee will not make an Order that one party pays the other party's costs.

An Application in respect of noise will largely depend upon the source of the noise, with the cost likely to be about \$2,000, depending on the need for expert evidence.

An Application in respect of car parking will be fairly straightforward and also cost about \$2,000.

However, if there is a dispute about the validity of the rule or By-Law, the costs will be about \$5,000, but it should be a one-off cost.

The nature of the Application process is not really suited to parking infringements which really requires a more immediate response, such as towing, as discussed above.

#### Breach of an Order

If an Order is breached it can be registered in the Magistrates Court and an Application made for a fine to be imposed (finally!), and for the Order to be observed. Any fine is paid to State Revenue and not to the Body Corporate. A failure to comply with the Court's Order can lead to serious penalties and in extreme cases the possibility of a jail term.

### **9. The Traffic Regulations 1962 and the Secondary Thoroughfare**

The Traffic Regulations 1962 are imported into the STBL through By-Laws 2 and 3, and it appears that this was to provide all necessary road rules.

However, the Traffic Regulations 1962 have now been amended and repealed to such an extent that they no longer apply to the general public.

Paragraph 2.2 provides:

*"In these By-Laws, "Traffic Regulations 1962" means the regulations published pursuant to the Traffic Act 1949 in the Gazettes specified in Schedule 2 hereof".*

This indicates that the applicable regulations are essentially frozen in time as at the date of the specified Gazettes (there are dozens of gazette dates). Unfortunately, there does not appear to be a full copy of the STBL available at present which contains the schedule.

We will now make enquiries regarding the missing schedule.

**10. The Traffic Regulations 1962 and the Primary Thoroughfare**

Curiously, the Primary Thoroughfare By-Laws do not even import the Traffic Regulations 1962.

**11. Transport Operations (Road Use and Management-Road Rules) Regulation 1999**

This Regulation appears to replace the issues previously covered in the Traffic Regulation.

It may be worthwhile considering adopting the regulation, with some definitional changes, in the same way as the Traffic Regulations are incorporated into the PTBL and the STBL.

Please advise if you require our advice on the adoption of speed limits and legislation concerning speeding.

**Summary**

The various Bodies Corporate:

1. can enforce parking restrictions through towing and/or clamping;
2. can use the nuisance provisions of the RZBL to restrict noise;
3. are limited to using the nuisance provisions of the RZBL to restrict speeding; and
4. should seek to amend the RZBL to avoid any doubt that it can enact and enforce proper speed limits.

**Recommendations**

We recommend the following action be taken::

1. The PBC should send a letter should be sent to all occupiers putting them on notice of the intention to enforce rules concerning parking, speeding and noise.
2. Bodies Corporate should issue formal notifications of the breach of By-Laws (where applicable) on the owners/occupiers concerned.

These notices will need to identify what by-law has been breached, the action concerned, any remedy or rectification the PBC requires and what further action the PBC will take if the breach is not remedied. Please advise if you wish us to assist the PBC with the drafting of these notifications;

3. the PBC should make a formal request to the residential bodies corporate concerned to issue breach notices in relation to parking on common property (RBC By-Laws 9.2 and 37);
4. The PTBC and the PBC should consider amending the By-Laws to set speed and parking limits, within the Primary and Secondary Thoroughfares;
5. The PBC or a RBC should be willing to have a test Application to enforce speeding and parking restrictions;

6. All Bodies Corporate should enter into a contract for towing and/or wheel clamping to quickly fix the parking issue;
7. The PBC should declare parking on common areas to be a Specific Nuisance pursuant to RZBL 4.3(b), as well as exceeding a set speed limit;
8. The PBC should make Rules regarding speeding on ST pursuant to RZBL 7;
9. The PBC's Executive Committee could make Rules regarding parking on common property pursuant to RZBL 7;
10. The PTBC should make rules regarding the PT for speed limits and parking pursuant to ss.66 & 77 of SCRA;
11. The PBC should check the "permission conditions" for visitors and make sure they specify the essential rules that need to be observed as a condition of that permission (STBL 4(g)).

As this issue is very complex we suggest that it may be appropriate to meet to discuss the issues raised in this letter.

If you have any queries please contact Peter Hunt.

Yours faithfully

**Hynes Lawyers Gold Coast**



**Contact: Peter Hunt, Partner**

(07) 5504 9917

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our ref: LZJ: 20101185  
REPLY TO BRISBANE

14 October 2010

The Chief Executive Officer  
Sanctuary Cove Principal Body Corporate  
C/- Sanctuary Cove Body Corporate Services  
PO Box 15  
SANCTUARY COVE QLD 4212

Attention: Susan Minnekeer

**By Email:** [sue.minnekeer@scove.com.au](mailto:sue.minnekeer@scove.com.au)

Dear Susan

## **TRAFFIC MANAGEMENT: INTRODUCTION OF SPEED DETECTION DEVICES**

We refer to earlier advice dated 26 June 2009 and to recent emails and advise:

### **Instructions**

1. We have been instructed to provide advice on the following matters:
  - a. The permissibility of using speed detection devices to enforce speed limits within the residential zones of Sanctuary Cove ("the Residential Zones");
  - b. The procedure on enforcement of any speeding infringement notices; and
  - c. The permissibility of restricting access of 'repeat offenders' to the Residential Zones.

### **Structure of Advice**

2. We have broken this advice into parts for ease of reference:
  - a. Annexure 'A' discusses the currency of the Secondary Thoroughfare By-Laws ("the STBL");
  - b. Annexure 'B' discusses issues concerning any prosecution proceedings;
  - c. Annexure 'C' discusses the burden of proof for any speed infringement prosecution proceedings;
  - d. Annexure 'D' discusses issues concerning enforcement proceedings in QCAT; and
  - e. Annexure 'E' discusses the permissibility of restricting access of 'repeat offenders' to the Residential Zones.

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3. Please advise our office if you detect any incorrectly summarised factual matters in the body of this advice as it may cause us to alter our opinion.

#### **Executive Summary**

#### **4. Currency of the STBL**

- a. We accept that this issue was not raised directly in the request for instructions. Nonetheless, on preliminary review, there is a concern that the STBL may have expired.
- b. This is because: -
  - (i) All statutory instruments and / or subordinate legislation, save for where any exemption applies, expire 10 years after notification and publication.
  - (ii) It seems, at a cursory level, that the STBL falls within the definition for statutory instruments and subordinate legislation.
  - (iii) They were notified and published in 1987 – we have not yet found any renewal or exemption for them.
- c. We recommend being instructed to verify this as a matter of some priority.

#### **5. Power to bring Prosecutions**

- a. Section 107 of the *Sanctuary Cove Resort Act 1985* (“SCRA”) only provides a power of prosecution for contraventions of any provisions of the Act. There are no speeding provisions under the Act and the STBL, arguably, are not provisions of the Act. Accordingly, it does not appear that the PBS can bring any prosecution proceedings for speeding in the residential zones.
- b. Section 28(2) requires ministerial approval for the STBL to have full force and effect. Though requested, the relevant minister has not approved the STBL.
- c. Section 28(4) of the SCRA provides that the STBL imposed reciprocal obligations on each the PBC, its members, the registered proprietors, lessees and occupiers of the lots. Arguably though, a breach of the STBL is not a breach of a provision of the SCRA.

#### **6. Proof of Offence**

- a. On the assumption that: -
  - (i) section 107 of the SCRA does include contraventions of the STBL,
  - (ii) the STBL subsist; and
  - (iii) the PBC is granted the necessary authority,

the evidentiary burden to carry a speeding prosecution is onerous and expensive. The details of the requirements are set out in the body of this advice.



- b. We conservatively estimate that a prosecution will require at least 1 – 2 days in court. The costs for such a hearing could exceed \$4,000 - \$8,000. Under *the Justices Act 1886*, the prosecuting authority is only entitled to reimbursement of its reasonable expenses.
- c. As the award of costs is a discretionary matter for a judge, a judge may find that the costs in this magnitude might be considered potentially unrecoverable, at least to some extent.

## 7. QCAT

- a. The PBC might be able to bring enforcement proceedings through QCAT - as such enforcement proceedings appear to fall within the definition of 'dispute'.

We say "appear" as the Act is silent (apparently due to legislative error when changes were implemented some years ago) and although we have conducted extensive research on this point, we have not found a case defining this term.

- b. However, those proceedings, can only be brought against prescribed interest holders in the residential zones (ie they only include those with an interest in the properties and exclude visitors and trades people).
- c. The maximum penalty could only be \$1,000 and no order for costs can be made. In establishing such offences, the PBC would still have to incur substantial costs (potentially in excess of the fine allowable) in discharging a similar, though less onerous, burden of proof.

## 8. Suspension of Access

- a. Invoking a by-law under the STBL which has the effect of suspending a resident's access card would likely contravene section 56(2) of the SCRA and therefore be rendered invalid.
- b. Invoking a by-law with a similar effect under the Residential Zone By – laws ("RZBL") is possible, though it is likely that it will be challenged.
- c. One ground of challenge would be that such a by-law could be argued to be an attempt to undermine the protection granted to relevant interest holders pursuant to section 56(2) of the SCRA.
- d. Establishing a by-law under the STBL which gives a power to suspend a resident's use of the secondary thoroughfares for a period on its own or in conjunction with the use of a certain vehicle will arguably contravene section 28(5) of the SCRA in that it will modify a resident's easement to use those thoroughfares. To that extent, it would be invalid.

## Conclusion

We appreciate that this advice is rather lengthy and complex. It also raises some controversial questions in relation to the currency of the STBL. It is probably worthwhile arranging a meeting in the near future to discuss some of the practical ramifications that arise from this advice.

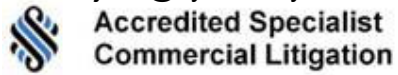
Please do not hesitate to contact Llewellyn Judd or Warren Jear if you have any questions or concerns regarding any aspect of it.

Yours faithfully  
**Hynes Lawyers**



**Contact: Llewellyn Judd, Senior Associate**  
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**Warren Jear, Partner**  
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## Annexure 'A'

### The Currency of the By - Laws

1. Section 33 of the *Sanctuary Cove Resort Act 1985* ("SCRA") relevantly provides:
  - (1) *The principal body corporate shall:*
    - (a) *control, manage and administer the secondary thoroughfare for the benefit of its members;*
  - ...
2. Section 28 of SCRA provides relevantly:
  - (1) *Subject to subsection 5, the principal body corporate, pursuant to a special resolution, for the purpose of the control, management, administration, use or enjoyment of the secondary thoroughfares, may from time to time make by-laws and may in like manner amend or repeal those by-laws.*
  - (2) *A secondary thoroughfare by-law has no force or effect until the Minister has approved the by-law and notification of the Minister's approval has been published in the gazette.*
  - ...
3. In accordance with section 28(2) of the SCRA, on 22 August 1987 R.J. Hinze, then Minister for Local Government and Roads, published in the Queensland Government Gazette notification of his approval of the Secondary Thoroughfare By- Laws ("STBL") for the PBA ("the Publication").
4. The STBL adopts, in part, the *Traffic Regulations 1962* ("the Regulations"). Since the date of the Publication the part of the Regulations which concern speeding offences has been repealed. They have been replaced by equivalent provisions in the *Traffic Operation (Road Use Management – Road Rules) Regulation 2009*.
5. Section 7 of the *Statutory Instruments Act 1992* provides:
  - (1) *A statutory instrument is an instrument that satisfies subsections (2) and (3).*
  - (2) *The instrument must be made under:*
    - (a) *an Act; or*
    - ...
  - (3) *The instrument must be of 1 of the following types:*
    - ...
    - *A by-law*
    - ...

6. Section 9 of the *Statutory Instruments Act 1992* provides:
  - (1) *Subject to subsection (2), the following instruments are subordinate legislation:*
    - (a) *a statutory rule that is a regulation, rule, by law, ordinance or statute*
7. Section 54 of the *Statutory Instruments Act 1992* provides:
  - (1) *Subordinate legislation expires on 1 September first occurring after the 10<sup>th</sup> anniversary of the day of its making unless:*
    - (a) *it is sooner repealed or expires; or*
    - (b) *a regulation is made exempting it from expiry*

...
8. Section 3 of the *Statutory Instruments Act 1992* provides:

*This Act applies to all statutory instruments.*
9. The SCRA and the *Sanctuary Cove Resort Regulation 2009* make no reference to any exemption with respect to the expiration date of the STBL.
10. The *Integrated Resort Development Act 1987*, to the extent it applies, makes no reference to any exemption with respect to the expiration date of the STBL.
11. The STBL meets the definition of a statutory instrument and subordinate legislation within the respective meanings under the *Statutory Instruments Act 1992*. Unless any of the stated exceptions apply, it seems, at a cursory level, that the STBL might have expired. We realise this is a potentially complex issue; accordingly, we would like to discuss this matter further with you. Depending upon those discussions we recommend that this matter be investigated further.

## Annexure 'B'

### Prosecutions

- B.1. The comments that follow assume that the STBL remain in force.
- B.2. Section 23 (8) of the SCRA provides that the PBC may take such legal action as may be necessary to enforce the STBL.
- B.3. Section 107 of the SCRA relevantly provides:
- (1) *A person who contravenes or fails to comply with any provisions of this Act commits an offence against this Act*
- ...
- B.4. Arguably, a contravention of the STBL is not a contravention of the SCRA. In the unlikely event that such a contravention does apply, section 108 of the SCRA relevantly provides:
- (1) *A prosecution for an offence against this Act shall be by way of summary proceedings under the Justices Act 1886 upon the complaint of:*
- ...
- (b) *in any other case – any person authorised in writing in that behalf by the Minister.*
- B.5. In spite of efforts made on behalf of the PBC, the relevant Minister has not yet provided the PBS with the relevant authorisation.
- B.6. Any authorised prosecutions are commenced pursuant to the *Justices Act 1886*.
- B.7. Section 19 of the *Justices Act 1886* gives the Magistrates Court jurisdiction over summary proceedings concerning the imposition of penalties for certain contraventions.
- B.8. Section 158A (2) of the *Justices Act 1886* gives the Magistrates Court the power to award the prosecuting authority its reasonable costs in successfully prosecuting an offence.
- B.9. Section 43 of the *Acts Interpretation Act 1954* provides that not more than half of any penalty imposed is to be paid to the prosecuting authority and the remainder paid to the Consolidated Fund – the State.

### Summary

- B.10. In the unlikely event that a breach of the STBL accounts for a breach of a provision of the SCRA, the PBC can arguably bring summary proceedings in the Magistrates Court to enforce compliance with the STBL. This is, of course, subject to being granted the necessary authorisation.
- B.11. Upon any successful prosecution, the Magistrate can impose a penalty and (subject to the order of the Court), the PBC can recover its reasonable legal costs and potentially receive half of any penalty imposed.

## Annexure 'C'

### Burden of Proof

- C.1. A summary proceeding issued under the *Justices Act 1886* is by way of a complaint and summons. It is a proceeding commenced in the Magistrates Court criminal jurisdiction.
- C.2. Accordingly, the PBC has to prove beyond reasonable doubt the commission of the relevant offences.
- C.3. Quite often, speed camera tickets issued by the police are challenged in the courts, and the level of evidence police prosecutors are required to produce is significant. The PBC will arguably be required to meet the same standard of evidence.
- C.4. Primarily, this includes the need to establish compliance with sections 210 or 210C of the *Traffic Regulation 1962* (certain provisions of which still apply) which state:
- a) *the system's camera must be positioned and aimed to ensure an image taken by the camera depicts the front or rear of the vehicle the speed of which was measured by the system;*
  - b) *each person who relocates the camera, or who adjusts the position or the aim of the camera, or who changes information programmed into the system, or performs a maintenance service on the system, or who checks the performance of the system, must—*
    - (i) *ensure the camera is correctly positioned and aimed; and*
    - (ii) *use the system's testing mode to ensure the system operates correctly; and*
    - (iii) *if a fault is indicated, take corrective action and repeat the testing process until no fault is indicated by the system in its testing mode;*
  - c) *if the tests or an image when viewed indicates a fault has affected the proper operation of the system as required under this section, the image must be rejected for evidentiary purposes.*
- C.5. This will require either affidavit evidence or potentially oral testimony from the person who most recently installed or adjusted the position of the speed camera deposing to compliance with the above matters. However, further evidence as to the correct testing, calibration, and use of the speed camera will also be required.
- C.6. The Queensland Police Service carry out regular laboratory calibration testing of their speed cameras to ensure they are continually producing accurate results. They also have an extensive policy manual regulating the use of speed cameras and other speed detection devices to ensure that they are operated correctly and their results can be relied upon in court.
- C.7. In proceedings contesting the accuracy of the speed detection devices, prosecutors are assisted by the provisions of section 124 of the *Transport Operation (Road Use Management – Road Rules) Regulation 2009* which provide that certificates signed by police officers, the police commissioner or the chief executive of the police giving details of:
- a) the location of a speed camera, including any features of the installation, road infrastructure, road boundaries or road markings;

- b) the detection device being calibrated and tested in accordance with the relevant Australian Standards or manufacturers instructions;
- c) the detection device being operated in accordance with the relevant Australian Standards or manufacturers instructions;

are deemed to be evidence of those matters.

C.8. The PCB do not have that assistance. Accordingly, the PBC will be required to either produce affidavit evidence or oral testimony deposing to the above matters to enforce the speeding tickets in order to discharge the relevant onus of proof as the PCB is not afforded the opportunity of providing signed certificates.

C.9. The costs of adhering to the necessary maintenance standards and record keeping could be expensive.

C.10. Proving the necessary evidence in court will be time consuming and expensive. It could potentially take up to 1 day to prove all the necessary elements for the charge to carry. Prosecution costs could exceed \$4,000.00 which might possibly be regarded by the Court as unreasonable in the circumstances.

C.11. If the total amount of costs are found to be unreasonable, only the reasonable costs will be recoverable. This is a discretionary matter and may vary from case to case.

### **Summary**

C.12. Unlike the police, the PBC will not be afforded the opportunity of producing certain certificates as conclusive proof of the evidentiary hurdles discussed above.

C.13. If PBC wish to use speed detection devices to enforce speed limits in the residential zones it will be necessary for it to keep meticulous records and maintain the speed detection devices to the requisite standards in order to discharge the necessary onus of proof.

## Annexure 'D'

### Enforcement proceedings in QCAT

- D.1 Subject to a number of reservations and limitations which have been discussed below, compliance with speed limits in the residential zone might be enforced through QCAT on the grounds that the subject driver contravened either the STBL (on the condition they subsist) or the Residential Zone Activity By-Laws ("RZBL").

### Contravention of the STBL

- D.2 As noted above, section 23 (8) of the SCRA provides that the PBC may take such legal action as may be necessary to enforce the STBL.
- D.3 In so far as any QCAT proceedings are concerned, section 104 A of the SCRA appears to narrow the PBC's capacity to bring proceedings. Specifically, this section provides that any disputes *about the operation of this Act* and *the rights and obligations of persons* under the Act is to be dealt with under the *Building Units and Group Titles Act 1980* ("BUGTA"), part 5.

- D.4 Section 28 (4) of the SCRA provides:

*Without limiting the operation of any other provision of this Act, the secondary thoroughfare by-laws for the time being in force bind the principal body corporate, each member of the principal body corporate and each registered proprietor and any mortgagee in possession (whether by himself or herself or any other person), lessee or occupier, of a lot within a residential zone to the same extent as if those by-laws had been signed and sealed by the principal body corporate, the members of the principal body corporate and each registered proprietor and each such mortgagee, lessee and occupier respectively and as if they contained mutual covenants to observe and perform all the provisions of those by-laws.*

- D.5 Arguably failure to comply with the STBL can give rise to a dispute relating to the rights and the obligations of persons imposed under section 28 (4) of the SCRA.
- D.6 The jurisdiction only includes persons subject to obligations imposed under this particular section. It follows that persons not subject to section 28(4) of the Act, people without an interest in the land, such as trades persons and visitors, arguably fall outside the jurisdiction.
- D.7 Section 104 C of the SCRA provides that before any application is made pursuant to BUGTA, the applicant and the disputant must attempt to resolve the subject dispute through the available internal dispute resolution processes.
- D.8 Once the PBC can prove that they have reasonably exhausted the internal dispute resolution processes without any success, the PBC can make an application to QCAT for an order 'for the settlement of a dispute' pursuant section 77 of BUGTA which provides:
- (1) *A referee may, pursuant to an application of a body corporate, a body corporate manager, a proprietor, a person having an estate or interest in a lot or an occupier of a lot in respect of a parcel, make an order on any person entitled to make an application under this subsection or on the chairperson, secretary or treasurer of the body corporate for the settlement of a dispute, or the rectification of a complaint, with respect to the exercise or performance of, or*



*the failure to exercise or perform, a power, authority, duty or function conferred or imposed by this Act in connection with that parcel.*

- D.9 On the condition that an application by the PBC for the imposition of a penalty for a contravention of the STBL meets the definition of 'dispute' pursuant to section 78 of the BUGTA the referee is empowered to make an order that *requires a party to the dispute before the referee to pay money not exceeding the sum of \$1,000 to a person specified in the order.*
- D.10 Further, before any order for payment is made by the referee the PBC would need to prove, on balance arguably, that the offender was speeding. In this regard, we refer to our comments above under the heading 'Onus of Proof'.
- D.11 Although the onus of proof in civil proceedings is discharged on the balance of probabilities as opposed to proof beyond reasonable doubt, proving the offence in QCAT proceedings would by and large follow the same course. Though, we note that subject to section 28(3)(b) of the *Queensland Consumer and Administrative Tribunal Act* the rules of evidence do not apply to QCAT proceedings. However, evidence will still need to be presented to discharge the civil burden of proof (balance of probabilities). Further, due to the informal manner in which evidence is taken in QCAT proceedings the results of these cases are unpredictable and often inconsistent.
- D.12 Section 75(7) of BUGTA provides that a referee may not make an order for costs in connection with an application for an order.
- D.13 Accordingly, the costs of prosecuting the penalty through QCAT would not be recoverable. Given the complexities involved in proving a speeding incident through the use of speed detection devices, the costs of doing so could potentially be prohibitive.

### **Contraventions of the RZBL**

- D.14 Section 96A(2) of the SCRA provides that a residential zone activities by-law may apply to all the residential zones or to a particular zone or part of a zone specified in the by-law.
- D.15 Clause 1.3 of the RZBL provides that these by-laws apply to all residential areas. We assume that each residential area is administered and managed by its own body corporate.
- D.16 As noted above, section 104 A of the SCRA provides that any disputes about the operation of this Act and the rights and obligations of persons under the Act is to be dealt with under the *Building Units and Group Titles Act 1980* ("BUGTA"), part 5.
- D.17 Section 96 A (6) of the SCRA provides:

*Without limiting the operation of any other provision of this Act, the residential zone activities by laws for the time being in force bind the principal body corporate, the members of the principle body corporate and the registered proprietor and any mortgagee in possession (whether by himself or herself or any other person), lessee or occupier of a lot within the residential zones to the same extent as if those by-laws had been signed and sealed by the principal body corporate, each member and each registered proprietor and each such mortgagee, lessee and occupier respectively as if they contained mutual covenants to observe and perform all the provisions of those by-laws.*

- D.18 Arguably any failure to comply with the RZBL by a person contemplated by section 96A (6) of the SCRA clears the way for the lodgement of an application with QCAT, subject of course, to compliance with section 104C of the SCRA.
- D.19 Presently there are no clauses of the RZBL which relate to speeding. The RZBL would need to be appropriately amended pursuant to the powers contained in section 96 A (1) of the SCRA.
- D.20 Subject to the amendment of the RZBL, enforcement of fines for specific speeding nuisances would arguably have to be pursued in the same fashion as described above. Namely, the specific body corporate would need to prove that the specified person was speeding. Such actions would be subject to the same limitations and costs as discussed above.

### **Summary**

- D.21 On the assumption that an application to enforce a speeding offence is falls within the definition of the term 'dispute' and subject to compliance with section 104C of the SCRA, the PBC or any other body corporate can bring enforcement proceedings in QCAT.
- D.22 The maximum of any penalty imposed would be \$1,000, costs are not recoverable, and jurisdiction itself can be unpredictable on the basis that the rules of evidence do not apply.

## Annexure 'E'

### Restricting Access to the Residential Zones

- E.1 We have been provided with a copy of a memo from Susan Minnekeer to Barry Hildebrand dated 18 July 2010 which states in part:

*It is proposed that repeat speeding offenders within the residential precinct of Sanctuary Cove are penalised in some form for their non compliance with the 40 km/h speed limit. Attached is a Matrix that has been agreed by the Traffic and amenities Committee and approved by the Principal Body Corporate.*

*Penalties under consideration:*

1. *Cancellation of a "Residents Gate Access Card" for a period of time up to and including 30 days.*
2. *Banning the residents' motor vehicle from the residential precinct for a period of time up to and including 30 days.*
3. *The legality of the use of a 'Speed Radar Gun' and its calibration.*

- E.2 We have addressed issue no. 3 separately above. We will now address issues 1 and 2 below.

- E.3 With respect to the proposal to suspend a resident's access card, section 56(2) of the SCRA provides:

*A primary thoroughfare by-law or a secondary thoroughfare by-law that, but for this subsection, would have the effect of unreasonably restricting access to or access from any land within the site or the adjacent site shall in respect of that land have no force or effect unless the person for the time being entitled to occupy that land consents in writing to that restriction.*

- E.4 To the extent it applies, section 100(2) of the *Integrated Resort Development Act 1987* makes a similar provision.
- E.5 Pursuant to the STBL (if still current) and the RZBL, the PBC or the bodies corporate for the various residential zones, do not have the power to suspend the operation of a resident's access card. We have not reviewed any by-laws for the PBC. On the assumption that no relevant by-laws exist, in order to suspend a resident's automatic and independent access to the residential zone, it would be necessary to amend the relevant by-laws.
- E.6 In practical terms, section 56(2) of the SCRA limits the PBC to creating by-laws for the primary and secondary thoroughfares which only reasonably restrict access to and from the residential zone. Given the obvious vagaries, we cannot be certain whether a by-law, to be included in the STBL, purporting to suspend the operation of a resident's access card and thereby restrict access to and from the residential zone will be considered unreasonable. No doubt it will be challenged.
- E.7 The only limitation placed on the PBC to make a by-law with respect to a residential zone is imposed by section 96A (7) of the SCRA which states:

*Notwithstanding the provisions of the Building Units and Group Titles Act 1980 or of section 28, a by-law made by a body corporate incorporated by the registration of a building units plan or group titles plan in respect of land within a residential zone or a secondary thoroughfare by-law that is inconsistent with the residential zone activities by-laws shall to the extent of the inconsistency have no effect.*

E.8 Any proposed by-law to suspend the operation of the resident's access card will not, depending upon its wording, be inconsistent with any of the RZBL. Arguably though, it will be challenged given that it would be an obvious attempt to circumvent the protection afforded to an interest holder by section 56(2) of the SCRA.

E.9 With respect to banning the resident's vehicle from the residential precinct for 30 days, section 56(1) of the SCRA provides:

*Subject to the application of any primary thoroughfare by-law or any secondary thoroughfare by-law, every person who lawfully occupies any land within the site or the adjacent site has a right of way over the primary thoroughfare and the secondary thoroughfare.*

E.10 The term 'right of way' is not defined in the SCRA or the *Acts Interpretation Act 1954*.

E.11 Kennedy J in the Full Court of the Supreme Court of Western Australia in the case *Timpar Nominees Pty Ltd v Archer* [2001] WASCA 430, stated at paragraph 41:

*The grant of a private right of way, ordinarily speaking, confers only a right to a reasonable use of the way by the grantee in common with others.*

E.12 Arguably section 56(1) of the SCRA, in so far as it relates to residential zones, provides a resident a right of reasonable use of the secondary thoroughfares subject to the STBL. The right of way arguably does not extend to its unreasonable use, such as driving a motor vehicle at speed.

E.13 Presently the STBL does not contain a provision which empowers the PBC to restrict a resident's access to the secondary thoroughfares. However, any newly created by-laws would have to comply with section 28(5) of the SCRA which states:

*No amendment of or addition to a secondary thoroughfare by-law shall be capable of operating to prohibit, destroy or modify any easement, service right or service obligation implied or created by this Act.*

E.14 Easement is not defined in the SCRA or in the *Acts Interpretation Act 1954*. At common law, an easement is<sup>1</sup>:

*A right annexed to land to utilise other land of different ownership in a particular manner (not involving the taking of any part of the natural produce of that land or any part of its soil) or to prevent the owner of the other land from utilising his land in a particular manner.*

E.15 In the instant circumstances, the right of way created in favour of a resident to use the secondary thoroughfare, land privately owned by the PBC, is arguably an easement. Accordingly, any amendment to the STBL (once again on the assumption they subsist) to modify the resident's terms of use of the secondary thoroughfares offends section 28(5) of the SCRA.

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<sup>1</sup> Halsbury's Laws of England (4<sup>th</sup> edition), Vol 14, page 4

- E.16 As specifically requested, the same reasoning applies to a hypothetical circumstance where the proposed suspension attaches to the resident's use of a specific car which has the net effect of permitting the resident to use the secondary thoroughfares but in a different car. Arguably such a suspension, in practical terms, 'modifies' the resident's existing terms of use or easement over the secondary thoroughfares. Such a proposed modification is likely to be construed as contravening section 28(5) of the SCRA.
- E.17 Arguably, a resident would contravene its implied obligation to use the right of way reasonably if it were driving a motor vehicle at excessive speed. However, based upon the present legislation, the PBC is arguably prevented by statute from making new by-laws which have the effect of modifying a resident's easement to use the secondary thoroughfares.

### Summary

- E.18 Any proposed by-law to suspend the operation of the resident's access card will not, depending upon its wording, be inconsistent with any of the RZBL. Arguably though, it will be challenged given that it would be an obvious attempt to circumvent the protection afforded to an interest holder by section 56(2) of the SCRA.
- E.19 Any amendment to the STBL (once again on the assumption they subsist) to modify the resident's terms of use of the secondary thoroughfares offends section 28(5) of the SCRA. Accordingly, we advise that the PBC is prevented from invoking a by-law suspending the resident's right of use or right of use in a specific vehicle.

our ref:FCH:TAG20150467

29 June 2015

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Dear Sir/Madam

## BY-LAW ISSUES

### 1 Preliminary

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1.1 We understand that:

- (a) at the resort, there are various by-law contraventions (some of which include damage to the common property); and
- (b) the Principal Body Corporate (**PBC**) and Primary Thoroughfare Body Corporate (**PTBC**) are having difficulties enforcing the by-laws given that the cost and process of enforcement in the Commissioner's Office can outweigh the immediacy and volume of the by-law contraventions at the resort.

1.2 To assist in dealing with these difficulties, you have instructed us to prepare an advice on the:

- (a) power of the PBC and PTBC to create (and enforce) monetary penalty by-laws and reverse by-laws which give the body corporate stronger powers of redress for breaches at the resort; and
- (b) process of any enforcement procedures and who the by-laws can be enforced against.

### 2 By-laws

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2.1 The *Sanctuary Cove Resort Act 1985* (Qld) (**SCRA**) provides for various types of by-laws including:

2.2 Secondary thoroughfare by-laws (**STBL**);

Section 28 of the SCRA permits the PBC to make by-laws for the purpose of the control, management, administration, use or enjoyment of the secondary thoroughfares.

They must be authorised by special resolution and take effect after the Minister has approved it and that approval is published in the gazette.

The only prescribed restriction on the STBLs is that they shall not be capable of operating to prohibit, destroy or modify any easement, service right or service obligation.

### 2.3 Primary thoroughfare by-laws (PTBL);

Section 71 of the SCRA permits the PTBC to make by-laws for the purpose of the control, management, administration, use or enjoyment of the primary thoroughfare.

They must be authorised by special resolution and take effect after the Minister has approved it and that approval is published in the gazette.

The only prescribed restriction on the PTBLs is that they shall not be capable of operating to prohibit, destroy or modify any easement, service right or service obligation.

### 2.4 Development control by-laws (DCBL); and

Section 95 of the SCRA permits the PBC to make by-laws regulating the quality of design and development within the residential zones.

They must be authorised by special resolution and take effect after the Minister has approved it and that approval is published in the gazette.

DCBLs are enforced in the Queensland Civil and Administrative Tribunal, but the PBC can permit minor noncompliance with them.

### 2.5 Residential zone activities by-laws (RZABL).

Section 96A of the SCRA permits the PBC to make by-laws for the control, management, administration, use or enjoyment of land and lots (other than the secondary thoroughfare) within the residential zones.

They must be authorised by special resolution and take effect after the Minister has approved it and that approval is published in the gazette.

The PBC can permit minor noncompliance with them.

### 2.6 Relevantly, the PBC:

- (a) can make STBLs in regulating the use of the secondary thoroughfares and residential zones;
- (b) can make RZABLs in regulating the use of the residential zones; and
- (c) under section 23 of SCRA has specific enforcement obligations and powers to take legal action for the STBLs.

### 2.7 The PTBC:

- (a) can make PTBLs in regulating the use of the primary thoroughfare; and
- (b) under section 66 of SCRA has specific enforcement obligations and powers to take legal action for the PTBLs.

## **3 Monetary by-laws**

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3.1 A monetary by-law is one which imposes a monetary liability for any breaches.

3.2 Monetary by-laws have been heavily litigated in another jurisdiction (the **Alternative Jurisdiction**). The relevant legislation for that jurisdiction provides that “A by-law (other than an exclusive use by-law) must not impose a monetary liability on the owner or occupier of a lot included in a community titles scheme.” SCRA does not provide for that same limitation.

3.3 However, in the absence of that specific limitation, it does not necessarily mean that a body corporate can enforce a monetary penalty contained in a by-law if it has one.



3.4 A claim for monetary recompense by the body corporate was dealt by the referee in the interim order decision of *Araucaria* [2008] QBCCMCmr 125 where he noted that there are fines for not complying with an adjudicator’s order.

3.5 Subsequently, in the final order in *Araucaria* [2008] QBCCMCmr 249, the referee provided (on the issue on monetary recompense):

*“Section 78 BUGTA empowers a referee to make an order requiring that a party to the dispute pay a sum not exceeding the sum of \$1000 to a person specified in the order...*

*I do not consider that this gives a referee power to make an order for costs, for example, since such a power is not inherent and must be specifically given by statute, in terms pertaining particularly to costs. However, I am of the view that this enables a party who has made legitimate disbursements to be repaid, for example, if a body corporate had had to repair a fence damaged by a respondent, a referee might order that the respondent pay for the damaged fence by recompensing the body corporate.*

*In this matter I consider that Sanctuary Cove took more than adequate steps to advise Mr Massey of its concerns and gave him more than adequate time to redress the breach. At a committee meeting on 25th February 2008 the committee was concerned about a potential hazard and decided to arrange for barriers to be installed on the Secondary Thoroughfare. Warning barriers and lights were put up on 28th February 2008. I consider that this was a sensible precaution, rendered necessary by the refusal of Mr Massey to answer his mail and/or to cause the vehicle to be put in a safe and lawful position.*

*The necessity of taking some kind of safety action might have been very much more than the \$350 now sought by Sanctuary Cove, and in the circumstances was a reasonable expense on the part of the principal body corporate which should be recompensed by Mr Massey. The cost to the body corporate (and/or Mr Massey) of a successful personal injury claim might have proved very expensive indeed.”*

3.6 Without the by-law specifically providing for the imposition of a monetary liability, a referee can only order for the reimbursement of costs that have been reasonably incurred as a result of the by-law breach. This, at least, gives scope for redress even if a monetary by-law cannot be enforced.

3.7 As a creature of statute, the PBC and PTBC can only source its powers through that statute. It cannot grant itself new powers. Relevantly, the power is to make by-laws for the:

**PBC**

- (a) purpose of the control, management, administration, use or enjoyment of the secondary thoroughfares;
- (b) control, management, administration, use or enjoyment of land and lots (other than the secondary thoroughfare) within the residential zones; and

**PTBC**

- (c) purpose of the control, management, administration, use or enjoyment of the primary thoroughfare; and

3.8 Accordingly absent a specific power to make monetary by-laws, to make a monetary penalty by-law, it must fall within what is the control, management, administration, use or enjoyment of the primary or secondary thoroughfare or the residential zones (the **Threshold Issue**).



3.9 We can see arguments both for, and against, whether the Threshold Issue is satisfied:

(a) For

- (i) Imposing the monetary liability assists with the control and management by acting as a deterrent.
- (ii) A monetary liability would also compensate the body corporate for the loss it suffers in pursuing any enforcement action, so that it assists with the administration of the thoroughfares or zones.
- (iii) The effect of a monetary liability (as a deterrent) will minimise the contraventions which then improves the use and enjoyment of the thoroughfares or zones for those other users.
- (iv) If the by-laws were not able to impose a monetary liability, the legislation would have provided for that where it restricts them from prohibiting, destroying or modifying any easement, service right or service obligation, such as that provided for in the Alternative Jurisdiction.
- (v) The definition of body corporate debt in the dictionary to SCRA uses as an example, an annual payment for parking under an exclusive use by-law made by the subsidiary body corporate, inferring that by-laws (albeit an exclusive use by-law) can impose a monetary liability.
- (vi) SCRA provides (in section 23(6)) that the PBC:

*“shall have the powers, authorities, duties and functions conferred or imposed on it by or under this Act, the development control by-laws or the residential zone activities by-laws”.*

This gives support to the notion that the PBC has power to make monetary penalty by-laws within, at least, the RZABLs.

(b) Against

- (i) Imposing a monetary liability is not specifically referred to in the SCRA. If the legislature intended for by-laws to be able to impose a monetary liability such a power would have been specifically mentioned. In the absence of that power being provided in SCRA, the power cannot be inferred to exist.
- (ii) By-laws are generally designed to regulate the use and conduct of occupiers as opposed to provide ultimatums and consequences to act in a certain way.

3.10 On balance, we prefer the argument that monetary by-laws can be imposed. This argument is stronger when considering the RZABLs separately. However it is not entirely clear as it depends on a statutory interpretation of the Threshold Issue and we can see a referee making an order that monetary penalties are unlawful in the absence of a specific power, given the legislation in the Alternative Jurisdiction.

3.11 Even if it were lawful to impose a monetary liability, there may also be a second issue with obtaining the Minister’s approval to the change. The political will for something of this nature should be considered and preferably understood before the proposal was considered by members.

#### 4 Reverse by-laws

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- 4.1 A reverse by-law made by the PBC or PTBC invests itself with powers to take action in certain circumstances (for example a by-law which provides that the PBC can remove a dog which causes an unreasonable interference, as opposed to a by-law that provides a dog must not cause an unreasonable interference).
- 4.2 In considering the Threshold Issue, the reverse by-law must fall within what is the control, management, administration, use or enjoyment of the primary or secondary thoroughfare or the residential zones.
- 4.3 Similarly to the monetary penalty by-laws, we can see arguments both for, and against, whether the Threshold Issue is satisfied for reverse by-laws.
- (a) For
- (i) Imposing the reverse by-law assists with the control and management by acting as a deterrent and by allowing the PBC to take action that does not involve commencing proceedings.
  - (ii) The effect of a reverse by-law will minimise the contraventions which then minimises the administrative burden on the PBC and PTBC and improves the use and enjoyment of the thoroughfares or zones for those other users.
  - (iii) If the by-laws were not able to impose a reverse by-law, the legislation would have provided for that where it restricts them from prohibiting, destroying or modifying any easement, service right or service obligation, such as that provided in the Alternative Jurisdiction.
  - (iv) SCRA provides (in section 23(6)) that the PBC:
 

*“shall have the powers, authorities, duties and functions conferred or imposed on it by or under this Act, the development control by-laws or the residential zone activities by-laws”.*

This gives support to the notion that the PBC can make reverse by-laws within, at least, the RZABLS.
- (b) Against
- (i) Imposing the power of a reverse by-law is not specifically referred to in the SCRA. If the legislature intended for by-laws to be able to provide such powers, it would have been specifically mentioned. In the absence of that power being provided in SCRA, the power cannot be inferred to exist.
  - (ii) By-laws are generally designed to regulate the use and conduct of occupiers as opposed to provide ultimatums and consequences to act in a certain way.
- 4.4 On balance, we prefer the argument that reverse by-laws can be imposed. This argument is stronger when considering the RZABLS separately. However it is not entirely clear as it depends on a statutory interpretation of the Threshold Issue and we can see a referee making an order that reverse by-laws are unlawful in the absence of a specific power.
- 4.5 Even if it were lawful to impose a by-law conferring such power, there may also be a second issue with obtaining the Minister’s approval to the change as mentioned above.

## **5 Enforcement procedure**

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- 5.1 As mentioned above, section 23(6) of SCRA provides the PBC with the power conferred or imposed on it by the RZABLS. SCRA does not provide for this same inherent power in making the PTBLs or STBLs.
- 5.2 However, SCRA does allow for the PBC and PTBC to take such legal action as may be necessary to enforce the PTBLs and STBLs, where that power is not expressly referred to for enforcing RZABLS.
- 5.3 *Araucaria* [2008] QBCCMCmr 125 confirmed the ability of the PBC to enforce the RZABLS against lot owners within residential bodies corporate through BUGTA as a result of section 104A of SCRA.
- 5.4 Section 104A of SCRA provides that: “*a dispute about the operation of this Act or the rights and obligations of persons under this Act may be dealt with under the Building Units and Group Titles Act 1980, part 5.*”
- 5.5 As the PBC and PTBC have obligations with respect to the STBLs, RZABLS and PTBLs, those disputes are dealt with under part 5 of the *Building Units and Group Titles Act 1980* (Qld) (**BUGTA**).
- 5.6 Section 77(1) of BUGTA provides that:
- “A referee may, pursuant to an application of a body corporate, a body corporate manager, a proprietor, a person having an estate or interest in a lot or an occupier of a lot in respect of a parcel, make an order on any person entitled to make an application under this subsection or on the chairperson, secretary or treasurer of the body corporate for the settlement of a dispute, or the rectification of a complaint, with respect to the exercise or performance of, or the failure to exercise or perform, a power, authority, duty or function conferred or imposed by this Act in connection with that parcel.”*
- 5.7 This allows the PBC or PTBC to make an application in the Commissioner’s Office against an owner or occupier of a lot in a residential body corporate for a breach of the by-laws. Section 78 of BUGTA then provides that an order can require a party to the dispute to do, or refrain from doing, a specified act and if applicable, within a particular period of time.
- 5.8 Section 113 of BUGTA then provides that a person who contravenes a referee’s order is liable for a penalty. The body corporate can enforce noncompliance with an adjudicator’s order in the Magistrate’s Court to obtain a judgement for the penalty.
- 5.9 In circumstances where the referee’s order required payment of money, it also can be enforced by the Body Corporate under section 115 of BUGTA in the Magistrate’s Court.

## **6 Application to visitors**

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- 6.1 We understand that the PBC and PTBC is concerned with the applicability of the by-laws against visitors.
- 6.2 Section 28(4) of SCRA provides that:
- “Without limiting the operation of any other provision of this Act, the secondary thoroughfare by-laws for the time being in force bind the principal body corporate, each member of the principal body corporate and each registered proprietor and any mortgagee in possession (whether by himself or herself or any other person), lessee or occupier, of a lot within a residential zone to the same extent as if those by-laws had been signed and sealed by the principal body corporate, the members of the principal body corporate and each registered*

*proprietor and each such mortgagee, lessee and occupier respectively and as if they contained mutual covenants to observe and perform all the provisions of those by-laws.”*

6.3 Section 71(4) of SCRA similarly provides that:

*“Without limiting the operation of any other provision of this Act, the primary thoroughfare by-laws for the time being in force bind the primary thoroughfare body corporate, the principal body corporate and each registered proprietor and any mortgagee in possession (whether by himself or herself or any other person), lessee or occupier, of land (including lots) within the site to the same extent as if those by-laws had been signed and sealed by the primary thoroughfare body corporate, the principal body corporate and each registered proprietor and each such mortgagee, lessee and occupier respectively and as if they contained mutual covenants to observe and perform all the provisions of those by-laws.”*

6.4 Section 96A of SCRA similarly provides that:

*“Without limiting the operation of any other provision of this Act, the residential zone activities by-laws for the time being in force bind the principal body corporate, the members of the principle body corporate and the registered proprietor and any mortgagee in possession (whether by himself or herself or any other person), lessee or occupier of a lot within the residential zones to the same extent as if those by-laws had been signed and sealed by the principal body corporate, each member and each registered proprietor and each such mortgagee, lessee and occupier respectively as if they contained mutual covenants to observe and perform all the provisions of those by-laws.”*

6.5 Accordingly, the by-laws directly extend to owners, lessees and occupiers but do not extend to visitors.

6.6 Further the jurisdiction in BUGTA in enforcing by-laws under section 77(1) only extends to applications against “a proprietor, a person having an estate or interest in a lot or an occupier of a lot”.

6.7 Accordingly, even if a by-law was made to extend to apply against a visitor, it would not be able to be enforced in the Commissioner’s Office.

6.8 However, the PBC and PTBC could consider implementing a by-law which makes occupiers of lots responsible for the conduct of their visitors. For example, a by-law could provide that:

*“An occupier of a lot must:*

*(a) comply with these by-laws; and*

*(b) take all reasonable steps to ensure their invitees, visitors and contractors comply with these by-laws.”*

6.9 Any by-law contraventions by visitors would then be enforced against the occupier of the lot.

## **7 Conclusion**

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7.1 Unfortunately it is not entirely clear whether the PBC and PTBC are able to impose monetary and reverse by-laws and depends on the interpretation of the Threshold Issue.

7.2 On balance, we think that the arguments for the PBC and PTBC being able to (and this position is stronger for RZABLs) make monetary and reverse by-laws is stronger than the PBC and PTBC not being able to.

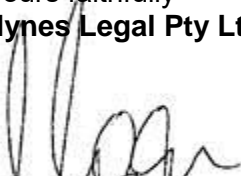
7.3 If the PBC and PTBC were not able to make monetary and reverse by-laws, it would be up to an owner to challenge the by-law by making an application in the Commissioner’s Office. A referee

has jurisdiction under section 90 of BUGTA to make an order as to whether a body corporate has the power to make a by-law and to declare it invalid.

- 7.4 Ordinarily, we do not recommend that bodies corporate record by-laws to act as a deterrent unless they are enforceable. However in circumstances where it is not clear such a by-law would be invalid, the PBC or PTBC may find there is utility in monetary or reverse by-laws.

Please contact us with any queries.

Yours faithfully  
**Hynes Legal Pty Ltd**



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# Fact Sheet

July 2022

## Private property parking and towing - information for private property owners and occupiers

In response to rising public concern about the towing of vehicles from private property parking areas, in 2017 the Queensland Government commissioned an independent investigation into the tow truck and vehicle removal industry. All 22 recommendations made by the independent investigation were accepted.

As a result of the recommendations, from 16 April 2018 the removal of vehicles from private property has been included in tow truck legislation, **now requiring all private property towing in regulated areas of Queensland to be performed by accredited drivers and assistants using licensed tow trucks**. As an owner/occupier of private property, it is vitally important that you understand the changes to your obligations in relation to private property towing. Regulated areas are detailed at [www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme](http://www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme)

### Engaging a towing operator

You can engage a towing operator to monitor and enforce the conditions of your parking area on your behalf. When engaging a towing operator, you must ensure you choose an operator who is licensed with the Department of Transport and Main Roads (TMR) and that they employ accredited drivers and assistants using licensed tow trucks. You should also consider whether their services, fees and business practices meet your needs.

You can confirm a tow truck operator is licensed by asking to see their tow truck licence, issued by TMR.

Once you have chosen a licensed tow truck operator, **you must enter into a contract** with them authorising the removal of vehicles parked on the property. Once a written contract is in place a *Towing Consent* form must also be completed. The *Towing Consent* is proof that the contract exists. A *Towing Consent* form is available from [www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme/Licence-holder](http://www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme/Licence-holder). The *Towing Consent* must be produced to a vehicle owner if they make a request to either the tow truck driver or licence holder.

If you are uncertain whether you have an appropriate arrangement with the tow truck operator to remove vehicles on your behalf, you should obtain independent legal advice.

### Signs

Appropriate signage is important to provide motorists fair notice of the parking terms and conditions or that they cannot park on the property. It is recommended that you display clear signs in the parking area, before arrangements are made for unauthorised vehicles to be towed.

To assist you with how to provide clear signage, the *Private property signage guideline* is provided at [www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme](http://www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme)

### Consider other options

If you want to restrict parking you should consider erecting barriers, such as chains or bollards to stop motorists accessing the parking area. Stopping motorists from entering your parking area when your business is closed and erecting barriers that won't hinder your customers, may be a more effective and less contentious way to control parking on your property than removing unauthorised vehicles.

### Wheel clamping

You cannot use wheel clamping to enforce the conditions of your parking area. It is illegal to detain a parked or stopped vehicle using an immobilising device including wheel clamps.



## **Tow truck licence holder and driver conduct**

Tow truck drivers must take reasonable steps to locate the vehicle owner or driver **before** loading a vehicle onto the tow truck. If the owner returns while the tow truck driver is in the process of loading and securing the vehicle on the tow truck, they must release the vehicle immediately without charge. If the owner returns after the vehicle has been loaded onto the tow truck (including secured in every way necessary) but the tow truck has not yet left the property, the vehicle must be released immediately if the owner pays the on-site release fee.

If, after taking reasonable steps the vehicle owner or driver cannot be located, the vehicle may be towed by the most direct route to the tow truck licence holders nearest TMR approved holding yard.

The tow truck licence operator and driver must not directly or indirectly cause or threaten wilful injury to a person or their property; intimidate, harass, abuse, or insult a person or prevent or hinder the delivery of first aid or medical treatment. They must take all reasonable precautions to prevent loss or damage to a motor vehicle and any personal items left in the vehicle while it is being towed and while it is in the holding yard.

## **Maximum regulated fees**

Maximum charges apply under the *Tow Truck Regulation 2009* and include:

- a *standard tow* of a motor vehicle from private property **capped at \$271.25**
- the *on-site release* of a motor vehicle from private property **capped at \$162.75**
- a *daily charge* for storing a motor vehicle towed from private property to the nearest holding yard **capped at \$27.10 per day.**

A standard tow includes 60 minutes of working time at the scene, (including taking reasonable steps to locate the owner), moving the vehicle to the holding yard, and 72 hours of storage in the holding yard. The property owner must not be charged in addition to the vehicle owner.

Call-out fees and other fees such as taking steps to locate the owner, travelling to the place where the vehicle is located, allowing the vehicle owner access to the vehicle at the holding yard (within business hours) and other incidental fees cannot be charged.

Tow truck operators must not charge more than the regulated fee for a standard tow of a private property motor vehicle (including not charging the property owner in addition to the vehicle owner for towing the vehicle).

## **Notifying Police when a vehicle is towed**

The tow truck licence holder must notify the Queensland Police Service (QPS) that a vehicle has been towed as soon as practicable but no later than 1 hour after a vehicle removed from private property is stored in the holding yard. To notify, the QPS electronic *Tow Notification* must be used. The QPS electronic *Tow Notification* can be accessed via <https://www.police.qld.gov.au/online/On-Line-Reporting-and-Updates.htm>, and the QPS Policelink app (you can download the Policelink app for free from the App Store and Google Play) or via the link provided on TMR's website at [www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme/Licence-holder](http://www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme/Licence-holder)

STATEMENT OF STEPHEN ANDERSON

PTBC REPRESENTATIVE AND DIRECTOR OF

SANCTUARY COVE COMMUNITY SERVICES LIMITED AND SUBSIDIARIES (SCCSL)

1. **Introduction**

1.1 I am a director of SCCSL having been nominated by the Sanctuary Cove Primary Thoroughfare Body Corporate (**PTBC**) (in its capacity as a 50% shareholder) and validly appointed. I have held this position since 14 June 2021.

1.2 I make this statement in opposition to the Notice of Intention delivered by Mr Stuart Shakespeare (as the nominee director of the Sanctuary Cove Principal Body Corporate (**PBC**)) on 12 June 2024 seeking to call a meeting of members of SCCSL and propose a resolution to remove me as a director.

1.3 This statement is endorsed by the PTBC.

2. **Summary**

2.1 For the reasons set out in this statement I do not consider there are any grounds to validly remove me as a director.

2.2 The PTBC has a right to nominate and appoint a director of its choice and has validly done so in accordance with the procedures under the Shareholders Agreement. Despite having a right to do so, the PBC did not object to my appointment in February 2024.

2.3 Despite this valid appointment, the PBC (by its nominee director) now seeks to remove me as a Director.

2.4 I set out my credentials in Annexure A to this statement. I believe that I have the requisite qualifications and experience to provide a positive contribution to the Board and conduct of business of SCCSL.

2.5 I accept that there are past matters of governance (the subject of complaint) that could have been handled better and governance can always be improved but those matters the subject of complaint by the PBC are:

(a) objectively minor in nature and, whilst regrettable, relate to the governance matters for SCCSL. There is no suggestion (and nor could there be) that I have somehow breached my duties as a director or that I have personally been responsible for any of the matters the subject of complaint;

(b) not matters which have resulted in any prejudice or loss to SCCSL or its shareholders (and nor could there be); and

(c) matters which have now been rectified and ratified by the current SCCSL Board.

2.6 In the circumstances, the motivation of the PBC and/or its nominee director to attempt to remove me is unclear and, in my view, any objective third party observer would not consider there are any valid or reasonable grounds for my removal pursuant to the Corporations Act or otherwise.

2.7 For my part, I have always enjoyed a professional and respectful relationship with the members of the Board. I have no ill-will towards Mr Shakespeare or any other member of the Board or management and I am comfortable that we can work together and function positively for the benefit of all stakeholders of SCCSL.



### 3. **Rights of shareholders to appoint a director**

3.1 The SCCSL Shareholders Agreement provides that each of the PBC and PTBC have the right to appoint 2 directors to the SCCSL board.

3.2 Fundamentally this is not an unusual or remarkable situation. Each of the PBC and the PTBC have a right to equal representation on the SCCSL board. However, there is a process where each shareholder can object to the nominee of the other shareholder.

3.3 By way of summary, that process includes:

- (a) providing written notice to SCCSL and the other shareholder of the shareholder's nominee director (together with their resume), not less than 4 weeks prior to the intended commencement of such nominee director; and
- (b) within 3 weeks of the receipt of the notice, the non-appointing shareholder has a right to object to such nomination and appointment, with such objection notice to set out specific bona fide reasons for the objection.

3.4 Consistent with this process:

- (a) I provided a written resignation of my director position to SCCSL on 1 February 2024.
- (b) the PTBC gave written notice to SCCSL on 9 February 2024 of my nomination.
- (c) notice of my nomination was provided to the Chair of the PBC and SCCSL on 19 February 2024.
- (d) the PBC did not object to my appointment.

3.5 As set out below, the matters the subject of complaint are for a period of well before February 2024 (in some cases as long ago as June 2023) and must have been known well before my nomination was presented.

3.6 Even if the matters were not known, it does not matter as it is unlikely that any of the matters complained of would have been a valid reason to object to my nomination.

### 4. **Complaints**

4.1 The precise complaints of the PBC that are said to be relevant to the proposal to remove me are not clear. However, for the purposes of seeking to provide an explanation for the benefit of shareholders I understand that the PBC has complaints about the following matters:

- (a) Alleged frustration of the PBC Nominee Director to participate in SCCSL board activities from July 2023 to December 2023 and a suggestion that the PBC was without representation from the time of the previous chairperson's resignation in May 2023.)
  - (i) A SCCSL director pack was sent to Mr Shakespeare on 17 August 2023 in order to on-board Mr Shakespeare to the SCCSL Board. Mr Shakespeare's consent to act as a director of SCCSL was received on 8 September 2023.
  - (ii) As part of SCCSL Policy, Mr Shakespeare was asked to obtain a police clearance and provide fingerprints as part of that clearance as SCCSL was a security company. Mr Shakespeare provided his fingerprints in December 2023, and the police clearance application was provided to the Office of Fair Trading (QLD) (**OFT**).
  - (iii) Mr Shakespeare's clearance as an officer of a security company was not recognised by the OFT until February 2024.

- (iv) There is no particular example given of how the PBC was in fact prejudiced or its interests were adversely impacted - nor could there be.
- (b) Conduct of non-quorate board meetings from May – December 2023 due to the absence of a PBC Nominee Director.
  - (i) it is correct that there were a number of board meetings without an appropriate quorum however the content of those meetings and the resolutions considered:
    - A. were not of a character as to have impacted the proper functioning of SCCSL, nor caused SCCSL any loss; and
    - B. were all resolutions which were later ratified by the SCCSL board unanimously which indicates that those resolutions were uncontroversial,
  - (ii) the relevant resolutions fell into the following categories:
    - A. matters which were within the power of the CEO and did not require board approval,
    - B. resolutions which required ratification as follows resolutions remain for rectification as unauthorised resolutions:
      - 1) ratification of the contract with Employsure;
      - 2) approval of the Operating Plan for 2023/24;
      - 3) approval of SCCSL Proposed Plans - Operating for 2024;
      - 4) approval of financials for FY23 ended 31 October 2023 (which was also approved by the external auditors);
      - 5) approval of the CEOs leave.
- (c) Failure of the independent Director and PTBC Nominee Director to resign and reapply for their positions past their expiry dates:
  - (i) as set out above, this was rectified without opposition.

## 5. **Conclusion**

- 5.1 To the extent there are any other complaints about my conduct I reserve my right to respond to them
- 5.2 I confirm that I am personally prepared to work with all Board members and management of SCCSL for the benefit of all shareholders and members of each of the PTBC and PBC going forward. In my view, it is important to focus on the execution of the business of SCCSL and to move on from internal matters which take away the focus of the Board and management from the core business of SCCSL. To the extent the shareholders consider it necessary of desirable undertake a governance review and a potential reform of any SCCSL procedures, I am happy to support and participate in the process in a professional way.

## **ANNEXURE A**

I am a Chartered Accountant with over 30 years in business, predominantly in the construction and development industries.

I have been involved with Sanctuary Cove and the Body Corporates since 2010, serving on the PBC, PTBC, PTBC Executive Committee, Chair of the PTBC since 2014, and a member of the Finance Subcommittee for over 10 years. Over that time I have gained significant knowledge and background of the issues facing the community.

Perhaps my most significant contribution to the community was as a member of the Site Wide Review Committee of 2014 that was tasked with reviewing the finance, structure and governance of Sanctuary Cove. I was tasked with the Finance review and undertook significant modelling to determine a strategy for the finances of Sanctuary Cove. As part of that strategy, the largest ever asset review was undertaken in order to properly determine the future sinking funds required for the community assets. I advocated strongly within the community for the adoption of the proposed strategy and was successful in convincing the community it was the correct way for the future. For the first time the Administration and Sinking funds were considered separately, all assets were properly identified and assessed, 3 year budgeting was introduced and the community purchased a proper asset management system.,

The result of that strategy is now evident with Administration fund levies lower than 2016, and the sinking funds have been replenished even after huge asset replacement and investment in community assets over the last 9 years.

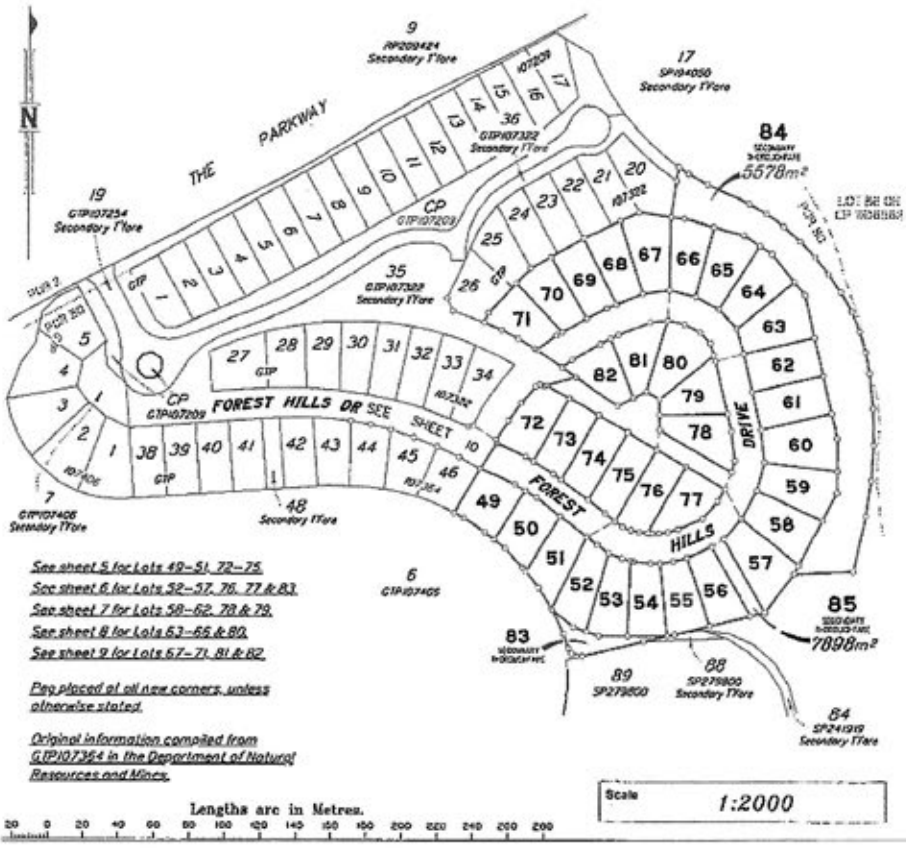
**ITEM 4**

| Legal Expenses - Itemised                                       | Date     | Firm                                | Invoice    | Detail                             | YTD Jun 24  | Jul-Oct Fcst | Budget 2024 | Surplus / (deficit) |
|---|----------|-------------------------------------|------------|------------------------------------|-------------|--------------|-------------|---------------------|
| <b>Changes to BUGTA</b>   |          |                                     |            |                                    |             |              | \$ 4,000.00 | \$ 4,000.00         |
| <b>Compliance enforcement</b>                                   |          |                                     |            |                                    |             |              |             |                     |
|   | 31.10.23 | Grace Lawyers                       | Inv 165713 | PBC v Lot 37 Adelia                | \$ (2,829)  |              |             |                     |
|   | 31.10.23 | Grace Lawyers                       | Inv 165714 | PBC v Lot 41 Schotia Island        | \$ (973)    |              |             |                     |
|   | 30.11.23 | Grace Lawyers                       | Inv 166784 | PBC v Lot 41 Schotia Island        | \$ (3,329)  |              |             |                     |
|   | 31.01.24 | Grace Lawyers                       | Inv 168312 | PBC v Lot 41 Schotia Island        | \$ (1,595)  |              |             |                     |
|   | 08.02.24 | Grace Lawyers                       | Inv 166785 | PBC v Lot 37 Adelia                | \$ (2,661)  |              |             |                     |
|   |          | <i>Grace Lawyers</i>                |            | <i>PBC v Lot 41 Schotia Island</i> |             | \$ (7,500)   |             |                     |
|   |          | <i>Grace Lawyers</i>                |            | <i>PBC v Lot 37 Adelia</i>         |             | \$ (7,500)   |             |                     |
| <b>Compliance enforcement Total</b>                             |          |                                     |            |                                    | \$ (11,386) | \$ (15,000)  | \$ 15,000   | \$ (11,386)         |
| <b>Easements</b>  |          |                                     |            |                                    |             |              | \$ 400      | \$ 400              |
| <b>Election of PBC Committee</b>                                |          |                                     |            |                                    |             |              | \$ 383      | \$ 383              |
| <b>Legal Review and standardisation of forms and procedures</b> |          |                                     |            |                                    |             |              | \$ 25,000   | \$ 25,000           |
| <b>Manit of Embankments</b>                                     |          |                                     |            |                                    |             |              | \$ 5,000    | \$ 5,000            |
| <b>Members nominees Appointments</b>                            |          |                                     |            |                                    |             |              | \$ 1,000    | \$ 1,000            |
| <b>OptiComm</b>   |          |                                     |            |                                    |             |              | \$ 20,000   | \$ 20,000           |
| <b>PBC - DCBL</b>   |          |                                     |            |                                    |             |              |             |                     |
|   | 27.06.24 | Grace Lawyers                       | Inv 173443 | PBC v Buttner                      | \$ (1,815)  |              |             |                     |
|   | 30.04.24 | Grace Lawyers                       | Inv 172100 | PBC v Buttner                      | \$ (557)    |              |             |                     |
|   | 29.02.24 | Grace Lawyers                       | Inv 169663 | PBC v Buttner                      | \$ (1,760)  |              |             |                     |
|   | 31.01.24 | Grace Lawyers                       | Inv 168284 | PBC v Buttner                      | \$ (3,520)  |              |             |                     |
|   | 30.11.23 | Grace Lawyers                       | Inv 166457 | PBC v Buttner                      | \$ (4,345)  |              |             |                     |
|   | 31.10.23 | Grace Lawyers                       | Inv 165572 | PBC v Buttner                      | \$ (935)    |              |             |                     |
|   | 31.12.23 | Grace Lawyers                       | Inv 167444 | PBC v Buttner                      | \$ (2,200)  |              |             |                     |
| <b>PBC - DCBL Total</b>   |          |                                     |            |                                    | \$ (15,132) | \$ -         | \$ 25,000   | \$ 9,868            |
| <b>PBC - Re-Zoning</b>  |          |                                     |            |                                    |             |              |             |                     |
|   | 19.04.24 | McCullough Robertson Lawyers        | Inv 853055 | S56 Amendment                      | \$ (7,589)  |              |             |                     |
|   |          | <i>McCullough Robertson Lawyers</i> |            | <i>PBC Re-Zoning Matter</i>        |             | \$ (10,000)  |             |                     |
| <b>PBC - Re-Zoning Total</b>                                    |          |                                     |            |                                    | \$ (7,589)  | \$ (10,000)  | \$ 5,000    | \$ (12,589)         |
| <b>RBC s</b>  |          |                                     |            |                                    |             |              | \$ 4,261    | \$ 4,261            |
| <b>Review Gazetted By-Laws</b>                                  |          |                                     |            |                                    |             |              | \$ 16,732   | \$ 16,732           |
| <b>SCRA</b>   |          |                                     |            |                                    |             |              | \$ 25,000   | \$ 25,000           |
| <b>Short Term Rentals</b>                                       |          |                                     |            |                                    |             |              | \$ 2,000    | \$ 2,000            |
| <b>Water Charging</b>   |          |                                     |            |                                    |             |              | \$ 1,224    | \$ 1,224            |
| <b>Unbudgeted Items:</b>  |          |                                     |            |                                    |             |              |             |                     |
| Other - Restitution claim                                       | 27.06.24 | Grace Lawyers                       | Inv 173544 | PBC v 4728                         | \$ (859)    |              |             |                     |
| <b>Unbudgeted Items Total</b>                                   |          |                                     |            |                                    | \$ (859)    | \$ -         | \$ -        | \$ (859)            |
| <b>Grand Total - Legal Expenses</b>                             |          |                                     |            |                                    | \$ (34,966) | \$ (25,000)  | \$ 150,000  | \$ 90,034           |

| Consulting Fees                                    | Firm                       | Invoice         | Detail  | YTD Jun 24         | Jul-Oct Fcst | Budget 2024      | Surplus / (deficit) |
|--|----------------------------|-----------------|---|--------------------|--------------|------------------|---------------------|
| <b>Administrative Fund</b>                         |                            |                 |   |                    |              |                  |                     |
|  | Knobel Consulting          | WO 1901         | Justicia Stage 3A   | \$ (1,250)         |              |                  |                     |
|  | Knobel Consulting          | WO 3594         | Engineering services for proposed handover of Spyglass Hill   | \$ (1,880)         |              |                  |                     |
|  | Knobel Consulting          | WO 6219         | Sanctuary Point Stage 4-City Plan review  | \$ (1,000)         |              |                  |                     |
|  | Knobel Consulting          | WO 6220         | Sanctuary Point Stage 4-Initial Pre-Start meeting   | \$ (600)           |              |                  |                     |
|  | Knobel Consulting          | WO 6225         | Sanctuary Point Stage 4-Prepare handover documentation  | \$ (2,500)         |              |                  |                     |
|  | Knobel Consulting          | WO 6226         | Sanctuary Point Stage 4-Delivery of documentation   | \$ (500)           |              |                  |                     |
|  | Knobel Consulting          | WO 6228         | Sanctuary Point Stage 3B-Initial Pre-Start meeting  | \$ (600)           |              |                  |                     |
|  | Knobel Consulting          | WO 6233         | Sanctuary Point Stage 3B-Prepare handover documentation   | \$ (1,471)         |              |                  |                     |
|  | Knobel Consulting          | WO 6234         | Sanctuary Point Stage 3B-Delivery of documentation  | \$ (500)           |              |                  |                     |
|  | Knobel Consulting          | Inv 24402       | Sanctuary Point Stage 3B-Prepare handover documentation   | \$ (1,030)         |              |                  |                     |
|  | Knobel Consulting          | Inv 24573       | Sanctuary Point Stage 4-Liaise with consultants/contractor for drawing/plans                          | \$ (1,000)         |              |                  |                     |
|  | Urban Play                 | Inv 00017499    | Jabiru Park safety inspection January 2024  | \$ (450)           |              |                  |                     |
|  | Urban Play                 | Inv 00017755    | Jabiru Park safety inspection April 2024  | \$ (625)           |              |                  |                     |
|  | Urban Play                 | WO 9572         | Jabiru Park safety inspection July 2024   | \$ (450)           |              |                  |                     |
|  | Urban Play                 | WO 9573         | Jabiru Park safety inspection October 2024  | \$ (450)           |              |                  |                     |
|  | GHD Australia              | Inv 112-0195701 | Marine Dr North water main replacement termination of agreement                                       | \$ (776)           |              |                  |                     |
|  | TTM Consulting             | Inv GCI08703    | Traffic calming review Stage 1-site visit and measurements  | \$ (3,200)         |              |                  |                     |
|  | Secure By Design           | Inv 6427        | Stage 2 CCTV Project Management Fee   | \$ (4,800)         |              |                  |                     |
| <b>Administrative Fund - Consulting Fees Total</b> |                            |                 |   | <b>\$ (23,081)</b> | <b>\$ -</b>  | <b>\$ 30,000</b> | <b>\$ 6,919</b>     |
| <b>Sinking Fund</b>                                |                            |                 |   |                    |              |                  |                     |
|  | Knobel Consulting          | WO 4201         | Sanctuary Point Stage 2B handover   | \$ (4,050)         |              |                  |                     |
|  | Pinnacle Engineering Group | WO 4803         | Pathway loops 2, 3, 4 & visitor carparks-Construction Phase 3A contract administration & supervision  | \$ (2,317)         |              |                  |                     |
|  | Pinnacle Engineering Group | WO 4804         | Pathway loops 2, 3, 4 & visitor carparks-Construction Phase 3B contract administration & supervision  | \$ (2,317)         |              |                  |                     |
|  | Pinnacle Engineering Group | WO 4805         | Pathway loops 2, 3, 4 & visitor carparks-Construction Phase 3C contract administration & supervision  | \$ (2,317)         |              |                  |                     |
|  | Pinnacle Engineering Group | WO 4806         | Pathway loops 2, 3, 4 & visitor carparks-Development approval Phase detailed civil engineering design | \$ (750)           |              |                  |                     |
| <b>Sinking Fund - Consulting Fees Total</b>        |                            |                 |   | <b>\$ (11,750)</b> | <b>\$ -</b>  | <b>\$ 30,000</b> | <b>\$ 18,250</b>    |

**CORRESPONDENCE  
FOR ACTION**

ITEM 1



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## Ficus Tree – 3011 Hillside Walk

Visible root system.

Root barrier installed. However unable to determine if any infrastructure damage underground has occurred.







## Kerb Damage

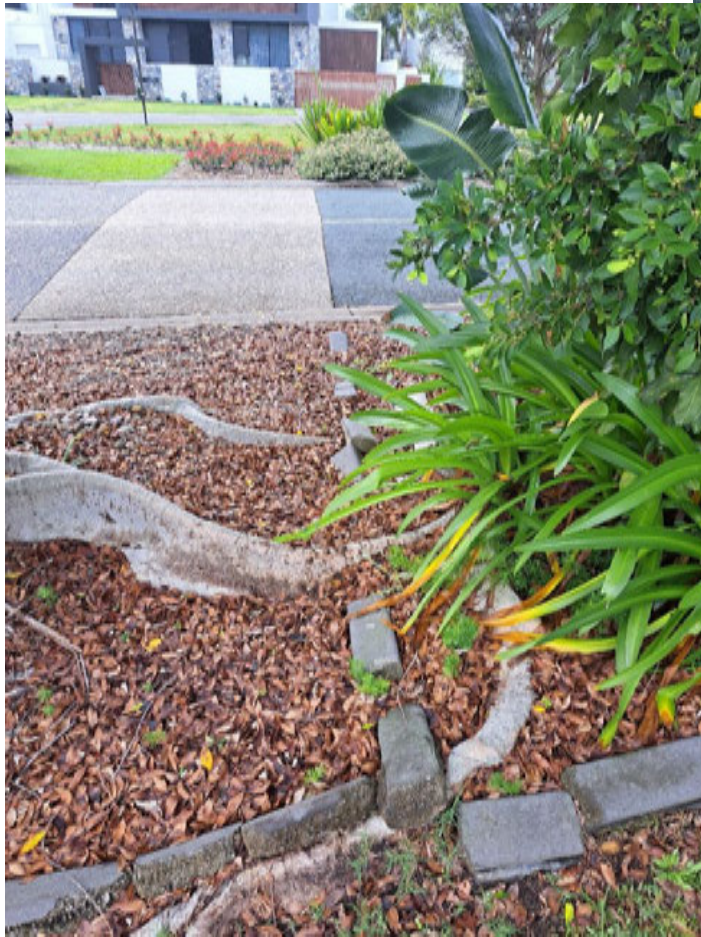
Survey may be required to determine boundary/responsibility





## Garden Edging

Visible damage evident due to garden/tree root systems.















## 3014 Hillside Walk - Post works

Trees and roots removed from common property land and within inside the lot. Repair/replacement of damaged tiles required.





Buffer Garden Area – The Parkway









## Boundary Fence (3001- 3017)

It is believed that the ownership of the rear fences/walls belongs to each individual lot owner. However, any damage caused by adjacent tree roots etc.) responsibility could fall to the the owner of the adjacent land.







## Driveways

Cracking in driveway evident, could be caused by adjacent Ficus tree roots, additionally – multiple driveways have broken tiles.







## Images of Common Property Areas

























## ITEM 2

From: [Kirchberg Poultry Farm](#)  
To: [Jodie Syrett](#)  
Subject: Fwd: 8039 The Parkway  
Date: Thursday, 11 July 2024 8:32:04 AM

---

Good morning Jodie  
Could I ask that you consider our request as set out below?  
Many thanks

Dan Coaster-Garton  
m.

Begin forwarded message:

**From:** Kirchberg Poultry Farm  
**Date:** 14 June 2024 at 11:18:20 AEST  
**To:** Harpullia@scove.com.au  
**Subject:** 8039 The Parkway

Good Morning Harpullia Committee

As new owners at Sanctuary Cove we are requesting that you install a paved car park area for visitors opposite our property please?

We understand this is not for over night parking however we do have adult children visit often and we are concerned we are damaging the grass verge opposite our property.

I note there are a number of paved areas near by however they are often taken, forcing our guests to park on the grass.

We would appreciate your consideration in this matter

Many thanks

Dan & Kym Coaster-Garton  
m.



### ITEM 3

From: [Peter Slaski](#)  
To: [PBC](#)  
Subject: Re: Decision Notice on behalf of the PBC  
Date: Monday, 17 June 2024 12:37:01 PM

---

I don't believe it ... What does it matter if the part thrown by the mower was part of the mower or not. Mower is at fault because it's inadequate guarding allowed for the part to be thrown with the great force creating serious safety hazard ! If that part hit anyone serious injury or even death could be the result, and you are throwing the issue over the fence (pardon the pun) to RBC. It's clearly not windows fault that it was broken ! - It's mower's and therefore Landscapers fault !!!

You should not walk away from the issue like this. I would like this email to be another formal complaint to be replied to by PBC.

Thanks  
Peter Slaski

On 17 Jun 2024, at 11:21, PBC <[pbcs@scove.com.au](mailto:pbcs@scove.com.au)> wrote:

Hi Peter,

For clarity, the body corporate acts on behalf of the committee and conveys their decisions. It was determined at the meeting that, upon further investigation, the window falls under RBC jurisdiction since there was insufficient evidence that the piece of metal came from a mower used by the contractor. Therefore, the Chairperson decided that a meeting wasn't necessary as this issue should be addressed by the RBC.

Kind Regards,

**JODIE SYRETT**

Manager Body Corporate

**Direct** 07 5500 3326 | [jodie.syrett@scove.com.au](mailto:jodie.syrett@scove.com.au)

**Main** 07 5500 3333 | [enquiries@scove.com.au](mailto:enquiries@scove.com.au)

**Address** PO Box 15 | Shop 1A, Building 1, Masthead Way Sanctuary Cove Q  
4212

**Web** [oursanctuarycove.com.au](http://oursanctuarycove.com.au)

<image001.png>

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---

**From:** Peter Slaski <[paterpetersl@gmail.com](mailto:paterpetersl@gmail.com)>

**Sent:** Monday, June 17, 2024 11:01 AM  
**To:** PBC <[psc@scove.com.au](mailto:psc@scove.com.au)>  
**Subject:** Re: Decision Notice on behalf of the PBC

Further you just hope that mowers used on site never injure anyone, because you have completely ignored this incident without any mower inspections or checks. These emails stay on record and in case of further incidents will be used.

On 17 Jun 2024, at 10:56, Peter Slaski wrote:

Once again Security could not provide any other explanation than mower incident, hard evidence of part with mower blade marks was found. Committee just disregards evidence without the giving the reason, does not provide any alternative explanation. You were organising the meeting with the Chairperson to supposedly get further infoirmation, this now went quiet again with no explanation. Why ? - because you can !

Now I see that numerous complaints in the Community about various actions of BC are not unfounded.

Shame...

Peter

On 17 Jun 2024, at 10:35, PBC <[psc@scove.com.au](mailto:psc@scove.com.au)> wrote:

Hi Peter,

Thank you for your email.

All the information, including the report from Security who attended the incident, was submitted to the PBC EC Committee. The committee made their decision based on the information provided, and the BC office communicates the outcome on behalf of the committee.



Kind Regards,

**JODIE SYRETT**

Manager Body Corporate

**Direct** 07 5500 3326 | [jodie.syrett@scove.com.au](mailto:jodie.syrett@scove.com.au)

**Main** 07 5500 3333 | [enquiries@scove.com.au](mailto:enquiries@scove.com.au)

**Address** PO Box 15 | Shop 1A, Building 1, Masthead  
Way Sanctuary Cove Q 4212

**Web** [oursanctuarycove.com.au](http://oursanctuarycove.com.au)

<image001.png>

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---

**From:** Peter Slaski

**Sent:** Monday, June 17, 2024 10:30 AM

**To:** PBC <[pbcc@scove.com.au](mailto:pbcc@scove.com.au)>

**Subject:** Re: Decision Notice on behalf of the PBC

Hi,

Part with clear mower blade marks was found on the roof under the broken window, and handed to the landscaper. Window was broken when they were mowing outside our property. Security attended the site straight after the incident and stated "it must have been from the mower"... What happened to the meeting you were supposedly organising with the Chairperson..? The pathetic way you have handled this issue is totally unacceptable. You have not provided even an attempt at any justification of your "decision". Sorry no offence to anyone but it is just a joke.

Peter Slaski.

On 17 Jun 2024, at 10:10, PBC

<[pbc@scove.com.au](mailto:pbc@scove.com.au)> wrote:

Good Morning Peter,

Please see the attached decision notice on behalf of the PBC regarding the broken window.

Kind Regards,

**JODIE SYRETT**

Manager Body Corporate

**Direct** 07 5500 3326

| [jodie.syrett@scove.com.au](mailto:jodie.syrett@scove.com.au)

**Main** 07 5500 3333 |

[enquiries@scove.com.au](mailto:enquiries@scove.com.au)

**Address** PO Box 15 | Shop 1A, Building 1, Masthead Way Sanctuary Cove Q 4212

**Web** [oursanctuarycove.com.au](http://oursanctuarycove.com.au)

<image001.png>

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<4686 Decision Notice .pdf>

# ITEM 4

From: [Jodie Sweet](#)  
To: [Jodie Sweet](#)  
Subject: FW: SC, OURLINE  
Date: Monday, 24 June 2024 10:01:31 AM  
Attachments: [image001.png](#)

G'day Kira / Jodie

Nice to meet you both yesterday

JODIE

To reiterate, set quayline distances are the maximum envelope the mooring structure (pontoon) can occupy. This is separate to the actual "vessel envelope" that sits off the allocated "mooring face" – the general rule of thumb is that finger pontoons (perpendicular to the revetment wall) are specified where boundary prolongations are narrow or converge significantly (such as internal bends, cul-de-sac ends, etc). In some instances (such as ALYXIA) this may also be a preference to permit larger vessels to be moored where the distance between canal banks is spacious but the Lots themselves are wide enough. T-Head pontoons are generally applicable everywhere else.

Pontoons must be sized and positioned such that there is to be a min 3.0m offset to boundary prolongations on both sides. The actual vessel envelope is therefore an amalgamation of what can then fit in several collateral constraints such as the prolongation width at the quayline, distance to opposing structures, etc – there is a bit more to consider and this is why the predominance of quayline plans for SC – with a few, more recent, exceptions – don't also specify the "mooring / vessel envelope" along with the quayline distance.

Insofar as Richard O'Ferrall is concerned, his actual vessel moored at 4713 The Parkway is too large for permanent mooring (he was forewarned) and in any event, is incorrectly moored, causing undue annoyance to others in the area and is therefore a "navigation hazard", to be removed.



If you have any questions or we can assist you further, please don't hesitate to contact me.

**Steve Belyea**  
B Eng, M.I.E. Aust, RPEQ 6204  
For and on behalf of  
**SRB CONSULTING ENGINEERS**  
0400 37 9908

## ITEM 5

From: [Wayne Kirby](#)  
To: [PBC](#)  
Cc: [Derek Glinka](#); [David Francis](#); [David Dyer](#)  
Subject: Future dog park considerations.  
Date: Wednesday, 3 July 2024 1:28:58 PM

---

To the committee,

It is apparent that getting a recognised off leash dog park within the existing SC residential areas is unlikely to happen. This is despite the majority of residents voting for that motion in the past.

In that light, I would like the PBC to consider approaching Mulpha to get them to allow for a dog off leash area in one of the remaining undeveloped RBC areas or on some existing Mulpha controlled land within the community.

Dog parks add value to the community and for some elderly residents it is the only way that they can get to socialise their dogs. It also provides a valued social gathering for the owners themselves.

99% percent of the perceived issues with off leash dogs can be addressed by having a suitable sized fenced area for exercise. This facility would also help educate the dogs to socialise and as such they will behave better elsewhere in the community.

As the PBC is aware these ongoing issues are not going away and failing to act to provide an off-leash area ultimately reflects on the PBC executive and the community as a whole.

Please raise this item at your next meetings and advise what actions will come from it.

Kind Regards,

Wayne Kirby  
Washingtonia Resident

# **REPORTS FOR INFORMATION**

# ITEM 1

## OPERATIONS REPORT – JUNE 2024

### Key Performance Indicators

The PBC and PTBC are currently in arrears of Budget and all stakeholders should be mindful of the effects of the January storms and the Water Loss shortfall. Although we have seen a dramatic fall in the number of water main bursts, we are only halfway through the complete investigation of the network to ensure that we have discovered or attempted to discover all possible avenues of water loss.

Progressing towards the end of the financial year on 31 October 2024, there is a need to be watchful of any expenditure other than those contracted services already in place.

### Sanctuary Cove Community Services Limited and its wholly owned subsidiaries

#### June 2024 year to date results with full year forecast

| Net Expenditure Statement           | Security         | Security         | Community & Others | Community & Others | Resort Body Corporate | Resort Body Corporate | Combined Annual  | Combined Annual  |
|-------------------------------------|------------------|------------------|--------------------|--------------------|-----------------------|-----------------------|------------------|------------------|
|                                     | YTD              | Budget YTD       | YTD                | Budget YTD         | YTD                   | Budget YTD            | FYF              | Budget           |
| <b>Income</b>                       |                  |                  |                    |                    |                       |                       |                  |                  |
| Management Fees                     | 2,847,211        | 2,844,461        | 2,012,525          | 2,012,521          | 52,849                | 0                     | 6,126,048        | 6,126,048        |
| Other services & interest           | 72,764           | 58,217           | 59,318             | 16,825             | 0                     | 0                     | 188,585          | 112,429          |
| <b>Total Income</b>                 | <b>2,919,975</b> | <b>2,902,679</b> | <b>2,071,842</b>   | <b>2,029,346</b>   | <b>52,849</b>         | <b>0</b>              | <b>6,314,633</b> | <b>6,238,477</b> |
|                                     |                  |                  |                    |                    |                       |                       |                  |                  |
| <b>Expenditure</b>                  |                  |                  |                    |                    |                       |                       |                  |                  |
| Employee expenses                   | 2,085,351        | 2,135,818        | 1,584,959          | 1,476,146          | 0                     | 0                     | 5,505,192        | 5,433,438        |
| Other                               | 393,135          | 441,525          | 323,511            | 298,010            | 46,830                | 0                     | 896,971          | 805,039          |
| <b>Total Expenses</b>               | <b>2,478,486</b> | <b>2,577,343</b> | <b>1,908,470</b>   | <b>1,774,156</b>   | <b>46,830</b>         | <b>0</b>              | <b>6,402,163</b> | <b>6,238,478</b> |
|                                     |                  |                  |                    |                    |                       |                       |                  |                  |
| Net operating Saving / (Cost)       | 441,490          | 325,336          | 163,373            | 255,190            | 6,019                 | 0                     | (87,530)         | -                |
|                                     |                  |                  |                    |                    |                       |                       |                  |                  |
| YTD +/- movement compared to budget |                  | 116,153          |                    | (91,817)           |                       | 6,019                 |                  | (87,530)         |

#### June 2024 year to date results

| Net Expenditure Statement           | Security         | Security         | Community & Others | Community & Others | Resort Body Corporate | Resort Body Corporate | Combined Annual  | Combined Annual  |
|-------------------------------------|------------------|------------------|--------------------|--------------------|-----------------------|-----------------------|------------------|------------------|
|                                     | YTD              | Budget YTD       | YTD                | Budget YTD         | YTD                   | Budget YTD            | YTD              | Budget YTD       |
| <b>Income</b>                       |                  |                  |                    |                    |                       |                       |                  |                  |
| Management Fees                     | 2,847,211        | 2,844,461        | 2,012,525          | 2,012,521          | 52,849                | 0                     | 4,663,934        | 4,661,180        |
| Other services & interest           | 72,764           | 58,217           | 59,318             | 16,825             | 0                     | 0                     | 139,536          | 75,042           |
| <b>Total Income</b>                 | <b>2,919,975</b> | <b>2,902,679</b> | <b>2,071,842</b>   | <b>2,029,346</b>   | <b>52,849</b>         | <b>0</b>              | <b>4,803,470</b> | <b>4,736,223</b> |
|                                     |                  |                  |                    |                    |                       |                       |                  |                  |
| <b>Expenditure</b>                  |                  |                  |                    |                    |                       |                       |                  |                  |
| Employee expenses                   | 2,085,351        | 2,135,818        | 1,584,959          | 1,476,146          | 0                     | 0                     | 3,670,310        | 3,611,964        |
| Other                               | 393,135          | 441,525          | 323,511            | 298,010            | 46,830                | 0                     | 522,279          | 543,733          |
| <b>Total Expenses</b>               | <b>2,478,486</b> | <b>2,577,343</b> | <b>1,908,470</b>   | <b>1,774,156</b>   | <b>46,830</b>         | <b>0</b>              | <b>4,192,589</b> | <b>4,155,697</b> |
|                                     |                  |                  |                    |                    |                       |                       |                  |                  |
| Net operating Saving / (Cost)       | 441,490          | 325,336          | 163,373            | 255,190            | 6,019                 | 0                     | 610,881          | 580,526          |
|                                     |                  |                  |                    |                    |                       |                       |                  |                  |
| YTD +/- movement compared to budget |                  | 116,153          |                    | (91,817)           |                       | 6,019                 |                  | 30,355           |

Security YTD is tracking well above budget.

Community Services YTD is \$91.8k (36.0%) unfavourable to budget at 30 June 2024.

Resort Body Corporate YTD is tracking at \$6k profit.

Consolidated YTD result is holding above budget at \$30.4k.

Consolidated FYF is projected to be \$87.5k unfavourable, the increase is driven by the following:

- EBA negotiations including projected wage related increases, other wage related costs, bargaining agent fee, drafting and lodgement of the new Single Enterprise Agreement with Fair Work.
- Employee expenses arising from unbudgeted headcount increase, wage rate increases and unbudgeted Long Service Leave milestone accruals.

#### Principal Body Corporate (Expense Variances)

| Principal Body Corporate<br>(YTD Expenditure Variances) | FY2024 YTD<br>Actual | FY2024 YTD<br>Budget | Variance \$ | Variance % | Note |
|---|----------------------|----------------------|-------------|------------|------|
| Admin - bank charges                                    | 3,221                | 6,676                | 3,454       | 51.7%      |      |
| Admin - software licence costs                          | 31,456               | 21,852               | (9,604)     | (44.0)%    | 1    |
| Admin - meetings  | 500                  | 480                  | (20)        | (4.1)%     | 2    |
| Admin - IT Monthly Maintenance                          | 19,390               | 21,553               | 2,162       | 10.0%      |      |
| Admin - postage   | 25,892               | 24,435               | (1,458)     | (6.0)%     | 3    |
| Admin - print/copy costs                                | 4,753                | 8,000                | 3,247       | 40.6%      |      |
| PTBC Levy - Administration Fund                         | 466,500              | 466,500              | -           | -          |      |
| PTBC Levy - Sinking Fund                                | 335,700              | 335,700              | -           | -          |      |
| Management Fees   | 1,009,685            | 1,009,685            | -           | -          |      |
| Security services                                       | 2,654,460            | 2,654,460            | -           | -          |      |
| Admin - Filing Fee                                      | (655)                | 667                  | 1,322       | 198.3%     |      |
| Network Manager Service Fees                            | 352,894              | 236,639              | (116,256)   | (49.1)%    | 4    |
| Consultants   | 11,881               | 20,000               | 8,120       | 40.6%      |      |
| Legal Services  | 34,966               | 100,000              | 65,034      | 65.0%      |      |
| Cleaning  | 11,094               | 13,333               | 2,239       | 16.8%      |      |
| Electrical - contract                                   | 73,155               | 83,929               | 10,774      | 12.8%      |      |
| Electrical - Materials/Machinery                        | 25,023               | 26,667               | 1,644       | 6.2%       |      |
| Gross Pollutant Trap - Mtce                             | 12,451               | 18,728               | 6,278       | 33.5%      |      |
| Grounds & Garden - contract                             | 561,203              | 620,725              | 59,522      | 9.6%       |      |
| Grounds & Garden - other                                | 41,245               | 33,333               | (7,911)     | (23.7)%    | 5    |
| Grounds & Garden - mulching                             | 23,375               | 16,667               | (6,708)     | (40.3)%    | 6    |
| Grounds & Garden - tree management                      | 85,993               | 16,667               | (69,326)    | (416.0)%   | 7    |
| Hire/Rental- Facilities Compound                        | 46,667               | 63,333               | 16,667      | 26.3%      |      |
| Insurance - Brokerage                                   | 7,945                | 8,475                | 530         | 6.3%       |      |
| Insurance Excess  | 18,510               | 5,000                | (13,510)    | (270.2)%   | 8    |
| Insurance Premiums                                      | 117,511              | 134,529              | 17,019      | 12.7%      |      |
| Irrigation - contract                                   | 58,133               | 74,849               | 16,716      | 22.3%      |      |
| Irrigation - materials/machinery                        | 17,815               | 25,000               | 7,185       | 28.7%      |      |
| Irrigation - Golf Lakes Maintenance                     | 37,433               | 6,667                | (30,766)    | (461.5)%   | 9    |
| Irrigation - A class water usage                        | 20,079               | 91,980               | 71,901      | 78.2%      |      |
| Pest control  | 880                  | 7,113                | 6,233       | 87.6%      |      |
| Plumbing - contract                                     | 78,749               | 91,622               | 12,873      | 14.1%      |      |
| Plumbing - materials/machinery                          | 82,677               | 83,333               | 656         | 0.8%       |      |
| Motor Vehicle / Buggy Expenses                          | 4,816                | 10,000               | 5,184       | 51.8%      |      |
| Repairs & Maintenance                                   | 13,526               | 23,333               | 9,808       | 42.0%      |      |
| R&M - Harbour   | 6,800                | 13,333               | 6,533       | 49.0%      |      |

|                             |                  |                  |                 |               |    |
|-----------------------------|------------------|------------------|-----------------|---------------|----|
| R&M - CCTV                  | 387              | 3,333            | 2,946           | 88.4%         |    |
| Roads                       | 27,431           | 30,000           | 2,569           | 8.6%          |    |
| Road Sanding                | -                | 30,000           | 30,000          | 100.0%        |    |
| Road sweeping               | 47,250           | 43,870           | (3,381)         | (7.7)%        | 10 |
| Signage                     | 2,520            | 2,667            | 146             | 5.5%          |    |
| Waste Removal - contract    | 559,727          | 571,785          | 12,058          | 2.1%          |    |
| Waste Removal - other       | 6,560            | 20,000           | 13,440          | 67.2%         |    |
| Land Holding - rates        | 7,443            | 7,251            | (192)           | (2.6)%        | 11 |
| Utilities - electricity/gas | 107,703          | 101,435          | (6,268)         | (6.2)%        | 12 |
| Water Charges               | 261,633          | 63,750           | (197,883)       | (310.4)%      | 13 |
| Water Billing               | 7,607            | 7,480            | (127)           | (1.7)%        | 14 |
| Water Meter Reads           | 7,213            | 10,000           | 2,787           | 27.9%         |    |
| <b>Total Expenditure</b>    | <b>7,332,047</b> | <b>7,267,684</b> | <b>(64,362)</b> | <b>(0.9)%</b> |    |

#### Notes:

1. Admin – software licence costs: AssetFinda update costs requiring server upgrade and implementation costs of \$18.8k, monthly fee has been negotiated down to minimise total cost impact.
2. Admin – Meetings: Meeting and communication related costs – timing variance
3. Admin – Postage: Postage costs including water billing – timing variance.
4. Network Manager Fees: Repairs of FTTH cables including The Address, other repairs and asbestos testing of Fibre pits, multiple FTTH installations and materials held, purchase of 50 x ONU at \$61.7k to ensure sufficient stock as the manufacturer is ceasing production whilst an alternative solution is determined.
5. Grounds & Garden Other: Turf installation at Woodsia, Olympic Dr, pruning and garden upgrade – timing variance. Storm damage insurance settlement \$5.4k finalised
6. Grounds & Garden Mulching: Marine Drive North buffer garden – timing variance – no change from prior month
7. Grounds & Garden Tree Management: Tree pruning 5722, 5926, Colvillia Park storm damage works, other emergency works in clearing storm damage, Edgecliff Pruning and palm shaping. Storm damage insurance settlement \$7.1k finalised
8. Insurance excess: Excess charged in water leak repair claim and storm damage claims.
9. Irrigation – Golf Lakes Maintenance: Budget assumed A Class water usage. A water management plan was introduced which is offset by the savings in A class water.
10. Roads: Muirfield PI footpath and road, Cypress Point Road and Schotia Island Bridge works, pressure clean, paving repairs, road markings.
11. Land Holding – rates: Actual rates higher than the projected budget.
12. Utilities – Electricity/gas: Electricity rates increases
13. Water Charges – Water billing variance for potable and waste attributed to PBC based on proportion of water usage per meter reads and cost of credits applied for water leak relief to residents



14. Water Billing: Water billing costs increased marginally higher than the projected budget, further variances due to timing issues with changed billing frequency from supplier.

Primary Thoroughfare Body Corporate (Expense Variances)

| Primary Thoroughfare Body Corporate (YTD Expenditure Variances) | FY2024 YTD Actual | FY2024 YTD Budget | Variance \$ | Variance % | Notes |
|---|-------------------|-------------------|-------------|------------|-------|
| Accounting - audit  | 1,676             | 1,676             | -           | -          |       |
| Admin - bank charges  | 91                | 139               | 48          | 34.6%      |       |
| Admin - software licence costs                                  | 13,917            | 6,812             | (7,105)     | (104.3)%   | 1     |
| Admin - meetings  | 262               | 243               | (18)        | (7.6)%     | 2     |
| Admin - IT Monthly Maintenance                                  | 7,073             | 7,333             | 261         | 3.6%       |       |
| Admin - postage   | 93                | 160               | 67          | 42.1%      |       |
| Admin - print/copy costs  | 849               | 800               | (49)        | (6.1)%     | 3     |
| Management Fees   | 306,460           | 306,460           | -           | -          |       |
| Security services   | 59,741            | 59,741            | -           | -          |       |
| Admin - Filing Fee  | 96                | -                 | (96)        |            | 4     |
| Consultants   | -                 | 6,667             | 6,667       | 100.0%     |       |
| Legal Services  | -                 | 6,667             | 6,667       | 100.0%     |       |
| Bad Debt Expense  | 1,815             | -                 | (1,815)     |            | 5     |
| Cleaning  | 3,400             | -                 | (3,400)     |            | 6     |
| Debt Collection Fees  | -                 | 333               | 333         | 100.0%     |       |
| Electrical - contract   | 18,847            | 18,031            | (815)       | (4.5)%     | 7     |
| Electrical - Materials/Machinery                                | 12,378            | 10,800            | (1,578)     | (14.6)%    | 8     |
| Fire Protection - audit/inspect                                 | 3,183             | 2,233             | (950)       | (42.5)%    | 9     |
| Fire Protection - R&M   | 1,593             | -                 | (1,593)     |            | 10    |
| Gross Pollutant Trap- mtce                                      | 1,169             | 786               | (383)       | (48.7)%    | 11    |
| Grounds & Garden - contract                                     | 129,137           | 123,697           | (5,439)     | (4.4)%     | 12    |
| Grounds & Garden - other  | 33,397            | 30,000            | (3,397)     | (11.3)%    | 13    |
| Grounds & Garden - mulching                                     | 15,033            | 26,667            | 11,634      | 43.6%      |       |
| Grounds & Garden - tree management                              | 40,412            | 20,000            | (20,412)    | (102.1)%   | 14    |
| Insurance - Brokerage   | 687               | 2,243             | 1,556       | 69.4%      |       |
| Insurance Excess  | 1,990             | -                 | (1,990)     |            | 15    |
| Insurance Premiums  | 55,175            | 86,187            | 31,011      | 36.0%      |       |
| Irrigation - contract   | 24,698            | 32,594            | 7,896       | 24.2%      |       |
| Irrigation - materials/machinery                                | 4,063             | 13,333            | 9,270       | 69.5%      |       |
| Irrigation - Golf Lakes Mtce                                    | 40,452            | 20,800            | (19,652)    | (94.5)%    | 16    |
| Irrigation - A class water                                      | 6,693             | 30,660            | 23,967      | 78.2%      |       |

|                                   |                  |                  |                  |               |    |
|-----------------------------------|------------------|------------------|------------------|---------------|----|
| Pest Control                      | 2,140            | 1,467            | (673)            | (45.9)%       | 17 |
| Plumbing - contract               | 9,706            | 8,754            | (951)            | (10.9)%       | 18 |
| Plumbing - materials/machinery    | 6,730            | 10,667           | 3,936            | 36.9%         |    |
| Mtce - animal management          | 103,343          | 66,667           | (36,677)         | (55.0)%       | 19 |
| Repairs & Maintenance             | 8,709            | 10,000           | 1,291            | 12.9%         |    |
| Repairs & Mtce - air conditioning | 2,280            | 3,667            | 1,387            | 37.8%         |    |
| Repairs & Mtce - electrical       | 4,086            | 3,333            | (753)            | (22.6)%       | 20 |
| Repairs & Mtce - fences           | 1,800            | 4,667            | 2,867            | 61.4%         |    |
| Repairs & Mtce - gates            | 33,071           | 30,000           | (3,071)          | (10.2)%       | 21 |
| Repairs & Mtce - CCTV             | -                | 3,333            | 3,333            | 100.0%        |    |
| Roads                             | 8,633            | 20,000           | 11,367           | 56.8%         |    |
| Road Sanding                      | 19,765           | 21,218           | 1,453            | 6.8%          |    |
| Road sweeping                     | 15,796           | 14,197           | (1,599)          | (11.3)%       | 22 |
| Signage                           | 759              | 1,750            | 991              | 56.6%         |    |
| Waste Removal - other             | 696              | 2,000            | 1,304            | 65.2%         |    |
| Land Holding - land tax           | 13,751           | -                | (13,751)         |               | 23 |
| Land Holding - rates              | 3,560            | 3,610            | 49               | 1.4%          |    |
| Utilities - electricity/gas       | 81,275           | 59,497           | (21,778)         | (36.6)%       | 24 |
| Utilities - water                 | 79,510           | -                | (79,510)         |               | 25 |
| Water Meter Reads                 | -                | 77               | 77               | 100.0%        |    |
| <b>Total Expenditure</b>          | <b>1,179,990</b> | <b>1,079,968</b> | <b>(100,023)</b> | <b>(9.3)%</b> |    |

**Notes:**

1. Admin – software licence costs: AssetFinda update costs requiring server upgrade and implementation costs of \$7,118, monthly fee has been negotiated down to minimise total cost impact.
2. Admin – meetings – Annual fee recognised in January – timing variance.
3. Admin – print/copy costs – Printing costs incurred – timing variance.
4. Admin – filing fee – Titles search – no change from prior month.
5. Bad Debt Expense – relating to unrecoverable gate repair costs.
6. Cleaning – Contractor’s compound cleaning fees unbudgeted due to completion of the compound in late 2023.
7. Electrical contract – minor variance billing cycles are fortnightly, and additional work due to storms.
8. Electrical – Materials/Machinery – Purchase of materials for the Address works, Parkway entry and street lighting, thermographic inspection, Calibration/Testing equipment
9. Fire Protection – audit/inspect: Fire evacuation diagrams, installation of cabinets & training Facilities Compound, fire equipment servicing at facilities compound.

10. Fire Protection – R&M – Smoke alarm service and replacement, replace emergency lights at Security Roundhouse
11. Gross Pollutant Trap – Mtce – Maintenance works – timing variance
12. Grounds & Garden Contract – Landscape solutions monthly contract increase from 1 Nov 2023 was higher than projected budget.
13. Grounds & Garden – Other – Slashing, Address Gates, Entry mound turf – timing variance
14. Grounds & Garden Tree management – Palm cleaning, Village to Security, Washingtonia bridge entrance and other locations (Buddeh St, and Entry Blvd) Royal Palms and Buddeh St pruning, Storm damage costs.
15. Insurance Excess – Christmas Day storm claim excess.
16. Irrigation Golf Lakes Maintenance – Bathymetric Survey costs, Water management plan offset by savings in Irrigation-A class water.
17. Pest Control – Termite bait – Sickle Bridge – timing variance
18. Plumbing Contract – minor variance billing cycles are fortnightly – timing variance
19. Mtce – animal management – Corella program commenced in March, Kangaroo Management, Ibis, Fox programs. Additional attendance for removal of wildlife costs as incurred.
20. R&M electrical – Load testing performed in January, and generator service.
21. R&M gates – Maintenance/Cleaning of Main, North and Vardon Lane gates, Address Gate damage repairs
22. Road Sweeping: Contract price effective from November was higher than the projected budget.
23. Land Holding – Land tax – annual fee budgeted in October, recognised monthly.
24. Utilities – electricity/gas: Large volume 3-year fixed pricing agreement ended, the accumulated year on year increases and present market conditions resulted in a significant increase against budgeted expenditure. Further increases in electricity expected from 1 July 2024.
25. Utilities – water: Water billing variance for potable and waste attributed to PTBC based on proportion of water usage per meter reads.

Aged Debtors (excluding intercompany balances)

| Company                                  | Total | Current | 30 days | Over 30 days |
|--|-------|---------|---------|--------------|
| Sanctuary Cove Community Services Ltd    | 45.4k | 45.4k   | 0       | 0            |
| Sanctuary Cove Security Services Pty Ltd | 20.1k | 6.8k    | 13.3k   | 0            |

Staff Numbers

| Department     | Budgeted | Actual |
|----------------|----------|--------|
| Body Corporate | 16.5     | 17.1   |
| Security       | 33.0     | 31.2   |
| <b>Total</b>   | 49.5     | 50.3   |

Staff turnover YTD (17.87%) – essentially related to Security Officers.

Cash Positions

| Account                          | Bank      | Actual Holding | Interest Rate % | Interest Received YTD |
|----------------------------------|-----------|----------------|-----------------|-----------------------|
| PBC – Administration Fund        | BOQ       | 18,615         |                 | -                     |
| ARC - Administration Fund        | MBL       | 416,000        |                 | -                     |
| PBC – Sinking Fund (at call)     | Macquarie | 1,673,147      | 2.90%           | 33,013                |
| PBC – Sinking Fund (at call)     | BOQ       | 966            | 0.00%           | -                     |
| PBC – Sinking Fund Term Deposit  | Macquarie | 500,000        | 4.70%           | 14,223                |
| PBC – Sinking Fund Term Deposit  | Macquarie | 1,000,000      | 4.70%           | 30,911                |
| PBC – Sinking Fund Term Deposit  | Macquarie | 250,000        | 2.90%           | 7,825                 |
| PBC – Sinking Fund Term Deposit  | Macquarie | 500,000        | 4.70%           | 15,446                |
| PBC – Sinking Fund Term Deposit  | Macquarie | 500,000        | 4.70%           | 13,008                |
| PBC – Sinking Fund Term Deposit  | Macquarie | 500,000        | 2.90%           | 10,699                |
| PBC – Sinking Fund Term Deposit  | BOQ       | 3,500,000      | 4.80%           | 109,999               |
|                                  |           |                |                 |                       |
| PTBC – Administration Fund       | BOQ       | 7,188          |                 | -                     |
| PTBC – Sinking Fund (at call)    | Macquarie | 1,283,909      | 2.90%           | 27,944                |
| PTBC – Sinking Fund (at call)    | BOQ       | 1,007          | 0.00%           | -                     |
| PTBC – Sinking Fund Term Deposit | BOQ       | 500,000        | 4.70%           | 15,480                |
|                                  |           |                |                 |                       |
| SCCSL                            | Macquarie | 482,184        | 2.90%           | 7,896                 |
| SCCSL                            | Macquarie | 10,030         | NA              |                       |
| SCCSL                            | Macquarie | 491,500        | NA              |                       |
| SCCSL                            | CBA       | -              | NA              |                       |
|                                  |           |                |                 |                       |
| Security                         | Macquarie | 856,228        | 2.90%           | 15,915                |
| Security                         | Macquarie | 200,000        | 4.70%           | 6,365                 |
| Security                         | CBA       | -              |                 |                       |
| Security                         | CBA       | 2,911          |                 |                       |
|                                  |           |                |                 |                       |

Term deposit rates compared at each rollover and terms considered to maximize return on investment with combined use of at call accounts providing current interest returns of 2.9%.

#### Finance Team Activities

- Periodic review of current finance policies and associated procedures and controls. Ongoing
- Company auditor review and appointment for FY2023-24 Financial Statement audit complete.
- Preparation of Interim Audit information for PBC, PTBC and RBCs which have requested audits to be performed.
- Continue preparation of RBC budget drafts for FY2024-25
- Preparation activities for annual reporting obligations – Income Tax, Payroll Tax, Workcover
- Stratamax Invoice Hub to be reviewed and considered for streamlining invoice approvals. On going

#### Efficiencies

- Currently reviewing accounting platform with consideration of upgrading to the next version which allows consolidation for the companies without the need to log in and out of each company, minimising duplication of tasks, increasing efficiencies and mitigating manual errors. Ongoing – reviewing implementation timing.
- A new time and attendance and payroll application will be implemented with a target Go Live date of 1 November 2025. Project work commenced in Mid June.



## SECURITY SERVICES

### Security Statistics (from the 1st of Nov 2023)

| Period   | Alarm Activations |         |       |       | Medical | Incidents | Keys Issued | Infringe Notices | Accesses |
|----------|-------------------|---------|-------|-------|---------|-----------|-------------|------------------|----------|
|          | Fire              | General | Panic | Total |         |           |             |                  |          |
| YTD 2024 | 467               | 1366    | 396   | 2229  | 111     | 178       | 800         | 1611             | 211      |
| YTD 2023 | 383               | 1181    | 454   | 2018  | 134     | 208       | 1253        | 1126             | 132      |

### Valet Services (June 2024 – YTD 2024)

|                      | June 2024 |                  | June 2023 |                   | Year to Date 2024 |                    |
|----------------------|-----------|------------------|-----------|-------------------|-------------------|--------------------|
|                      | Number    | \$ Charge        | Number    | \$ Charge         | Number            | \$ Charge          |
| Key Pick-Up          | 21        | \$168.00         | 12        | \$96.00           | 110               | \$880.00           |
| Long Term Rental     | 6         | \$800.00         | 13        | \$1,500.00        | 47                | \$6,550.00         |
| Short Term Rental    | 0         | \$0.00           | 0         | \$0.00            | 0                 | \$0.00             |
| Access Re arm        | 4         | \$173.00         | 6         | \$228.00          | 39                | \$1,566.00         |
| Other                | 5         | \$253.00         | 3         | \$114.00          | 27                | \$1,173.00         |
| Rental Breaches      | 0         | \$0.00           | 0         | \$0.00            | 0                 | \$0.00             |
| Commercial Call Outs | 0         | \$0.00           | 0         | \$0.00            | 24                | \$6,600.00         |
| <b>Total</b>         | <b>36</b> | <b>\$1394.00</b> | <b>34</b> | <b>\$1,938.00</b> | <b>247</b>        | <b>\$16,769.00</b> |

### Key Performance Indicators based on approved Operating Plan 2023/2024

|  |  |
|--|--|
| <p><b>Specific Monthly KPO's:</b></p> <ul style="list-style-type: none"> <li>➤ Review CCTV cameras approved for Stage 2 Security Technology.</li> <li>➤ Obtain costings for Hybrid Electric Vehicles to replace Security vehicles (3) in February 2025</li> <li>➤ Review Emergency Management Plan</li> </ul> <p><b>Ongoing Monthly KPOs:</b></p> <ul style="list-style-type: none"> <li>➤ Provide 24hr Emergency Medical support through First Aid, Defibrillation and Medical Oxygen for an estimated 174 Medical Incidents per annum at an average of 14 Medicals per month.</li> <li>➤ Provide 24hr Mobile, Marine and Golf Course (night) patrolling subject to Incident Response. Complete building/gate checks and patrols of relevant stakeholder areas. Marine Patrols, subject to boat maintenance and staffing levels.</li> </ul> | <p>Stage 3 CCTV – C-Cure Systems engaged, and to meet at end of July. Trade in quotes to be obtained and prepare proposal.</p> <p>In progress and assist with Resident's Emergency, Disaster &amp; Outage Guide</p> <p>Items Actioned – refer to statistics.</p> |
|--|--|

- Attend to estimate 2,899 alarms per annum at an average of 241 per month; attend to estimate 314 phone or camera activated security/emergency incidents at an average of 26 per month; and when safe to do so respond within 4 minutes.
- Provide Gate access at a monthly average of 27,359 based on a yearly access of 328,315.
- Follow up on Late to Test (LTT) alarm panels not reporting within 24hrs. Forward FTTH matters to the Network Manager, troubleshoot alarm panel faults and liaise with owners to rectify, forward non-compliance to Body Corporate
- By-Law enforcement – maintain or reduce the current Reminder Notice average of 175 per month, report underage drivers and serious nuisance activity by way of Incident Report. Provide a monthly statistic in Security Report.
- Complete a daily Watercraft Register check of residential jetty and pontoon; file completed form at Roundhouse for inspection.
- Speed Camera deployment on the secondary thoroughfare and location rotated twice monthly. Provide photo evidence as basis to issue/enforce Speed Offence Notice. Provide monthly statistic in Security Report.
- Short and Long Term Rental checks.
- Parks and open space checks.
- Review of Operational procedures.
- Measure LPR and Visitor Management uptake and access, provide monthly statistic in Security Report.
- Measure Valet Services and provide monthly statistic in Security Report.
- Risk and Compliance – Conduct risk assessments as required operationally, review Security Risk Register, monitor and review Compliance Calendar to ensure Licence and qualifications are compliant.
- Attend and contribute to senior management meetings and planning.

Residential Zone Activity By-Laws – Issue of Vehicle Parking Reminder Notices

In June there were 296 Parking Infringement "Reminder Notices" issued, compared to 100 during the same period the previous year. The table below provides a breakdown of these notices by Body Corporate location.

| RBC            | No of Breaches | Previous Year | RBC           | No of Breaches | Previous Year |
|----------------|----------------|---------------|---------------|----------------|---------------|
| Ardisia        | 96             | 10            | Alpinia       | 6              | 2             |
| Cassia         | 33             | 2             | Araucaria     | 6              | 12            |
| Zieria         | 28             | 13            | Acacia        | 4              | 1             |
| Washingtonia   | 17             | 5             | Caladenia     | 3              | 0             |
| Tristania      | 13             | 3             | Adelia        | 2              | 1             |
| Bauhinia       | 12             | 2             | Alyxia        | 1              | 0             |
| Harpullia      | 12             | 10            | Banksia Lakes | 1              | 2             |
| Schotia Island | 12             | 3             | Darwinia      | 1              | 2             |
| Molinia        | 11             | 6             | Felicia       | 1              | 4             |
| Colvillia      | 10             | 0             | Fuschia       | 1              | 1             |
| Plumeria       | 10             | 14            |               |                |               |
| Admin          | 9              | 4             |               |                |               |
| Roystonia      | 7              | 3             |               |                |               |
|                | <b>270</b>     | <b>75</b>     |               | <b>26</b>      | <b>25</b>     |

Speed Sign/Camera

In June, 12 instances of speeding were detected, and notices are being prepared for identifiable vehicles.

Fixed Speed Radar Reading

| Speed         | <40 km/h | 41-45 km/h | 46- 49 km/h | 50-59 | 60- 69 km/h | 70 + km/h | Total Stats |
|---------------|----------|------------|-------------|-------|-------------|-----------|-------------|
| YTD 2022      | 267,787  | 54,985     | 11,143      | 2,191 | 381         | 111       | 336,598     |
| YTD 2023      | 367,576  | 83,587     | 15,758      | 2,788 | 495         | 95        | 470,299     |
| YTD 2024      | 252,650  | 60,123     | 10,460      | 1,915 | 286         | 68        | 325,502     |
| Total         | 888,013  | 198,695    | 37,361      | 6,894 | 1,162       | 274       | 1,095,716   |
| % Current YTD | 77.62%   | 18.47%     | 3.21%       | 0.59% | 0.09%       | 0.02%     | 100.0%      |
| Apr 2024      | 29,295   | 6,707      | 1,234       | 277   | 46          | 9         | 37,568      |
| May 2024      | 35,343   | 7,426      | 1,329       | 218   | 32          | 11        | 44,359      |
| June 2024     | 29,369   | 6,135      | 980         | 171   | 27          | 1         | 36,683      |
| % Current MM  | 80.06%   | 16.72%     | 2.67%       | 0.47% | 0.07%       | 0.01%     | 100.0%      |

### Highest Speed

| Location         | Speed km/h | Date     | Time     |
|------------------|------------|----------|----------|
| 1019 Edgecliff   | 63         | 10.06.24 | 1300 hrs |
| 2204 The Parkway | 82         | 26.06.24 | 1630 hrs |

### Operational

Security attended to 33 incidents for the month - 21 General and 12 Medical.

Twenty one (21) General Incidents:

- a) Eight (8) were Person related including:
  1. The sudden death of an 82yo male on The Palms course from a cardiac arrest
  2. A suspected self -harm incident attended to by Police
  3. A domestic dispute attended to by Police
  4. 3 for intoxication at the Marina, Village and Main Gate
  5. 1 for fishing on a Marina pier
  6. A vehicle that hit a kangaroo
  
- b) Nine (9) were Vehicle related including:
  1. 4 for Damage to a res gate or boom
  2. A Hope Island Resort buggy that caught fire on the Boulevard
  3. A buggy that rolled over at the Olympic roundabout
  4. A trailer with a tinny that flipped over while turning
  5. A submerged tinny that drifted into a private harbour
  6. A resident issued a rental breach for repeat parking notices
  
- c) Four (4) were Property related including:
  1. 3 for PIR alarms in the Village
  2. 1 for a Fire alarm in the Village

There were twelve (12) Medical incidents with 9 of them involving residents. Out of these incidents, 5 patients required transportation to the hospital by QAS for further treatment. The incidents included a contractor with a suspected heart attack, a contractor who suffered a mild electrocution shock and a resident that required a gall bladder operation.

32 Complaints were received:

|                     | June 2024 | May 2024  | Apr 2024  | Mar 2024  |
|---------------------|-----------|-----------|-----------|-----------|
| Residents           | 23        | 38        | 33        | 28        |
| Subject not located | 2         | 9         | 10        | 12        |
| Rentals             | 5         | 4         | 14        | 9         |
| PBC/Village/Hotel   | 2         | 6         | 10        | 6         |
| <b>TOTAL</b>        | <b>32</b> | <b>57</b> | <b>67</b> | <b>51</b> |

Marine Patrols

There were 535 patrols of Marine Zones 1-5 by Haven and Eden (including transit between zones).

- a) Haven was deployed on 15 dayshifts and 15 nightshifts.
- b) Eden was deployed on 10 dayshifts and 7 night shifts.

| June 2024            | Haven      | Eden       | Totals     |
|----------------------|------------|------------|------------|
| Zone1/Harbour 1      | 126        | 54         | 180        |
| Zone 2/Harbour 2     | 76         | 40         | 116        |
| Zone 3/Harbour 3     | 61         | 35         | 96         |
| Zone 4/Harbour 4     | 45         | 28         | 73         |
| Zone 5/Roystonia     | 51         | 19         | 70         |
| <b>Total Patrols</b> | <b>359</b> | <b>176</b> | <b>535</b> |
|                      |            |            |            |
| Day Patrols          | 15         | 10         | 25         |
| Night Patrols        | 15         | 7          | 22         |

There were 10 incidents of unauthorised access in Private Harbours, lakes and Marina Piers:

- a) They were all fishing related with 8 of them found on a Marina Pier. All 10 groups were moved on without incident.

Visitor Management System and License Plate Recognition

|                                   | 05.06.24      | 05.06.24      |
|-----------------------------------|---------------|---------------|
| Residents registered with LPR     | 1,128         | 1,122         |
| Total not registered with LPR     | 298           | 276           |
| <b>Total Lots</b>                 | <b>1,426</b>  | <b>1,398</b>  |
|                                   |               |               |
| Resident vehicles/buggies LPR     | 5,694         | 5,596         |
| Permanent visitor vehicles LPR    | 4,560         | 4,639         |
| <b>Total Vehicles</b>             | <b>10,254</b> | <b>10,235</b> |
|                                   |               |               |
| Residents registered VMS Portal   | 443           | 448           |
| Res/Builder/multi user same house | 147           | 147           |
| <b>Number of VMS entries</b>      | <b>2,807</b>  | <b>2,748</b>  |



**Total Number of Body Corporate Owners:** 1426 (as at 8.04.24).

**LPR (License Plate Recognition) Registration by Residents:** Decreased by 6 to 1122 or 79% of resident homes.

**VMS (Visitor Management System) Portal Registration:** Increased by 5 to 448.

**Active Users on VMS Portal:** Remains unchanged at 147 residents and builders actively using the portal.

**Number of VMS Entries for Current Residents and Builders:** Decreased by 59 to 2748.

### LPR Technology Update

The current LPR fault criteria are the vehicle is LPR registered, it stopped correctly at the read point however the plate was not read. The faults are reported daily to the service provider for review.

Only 6 LPR issues reported. Village Gate has had an intermittent LPR camera issue that SAS has resolved due to read issues with the Milestone LPR program.

### Workplace Health and Safety

A WHS meeting was held 18 June 2024:

- Workplace inspections completed for Security, Community and Facilities Compound.
- Facilities is reviewing suitable timers to operate with overnight and weekend charging at the Facilities Compound.
- Still awaiting delivery of Beware Pedestrian signage for the Security Roundabout.
- Bimonthly topic for Flu Season to be issued to staff.
- Security Officer Michael Graham on extended Workcover and to be reviewed in July.
- CRA Lorrae Smith has returned to full duties following a Workcover injury to her neck.
- Security Officer Vanja Kovacic resigned while still being treated for a Workcover injury.
- Fire Response and Evacuation Training completed for all employees.
- Resident site management plan refers to City of Gold Coast and Energex for information as updates to reduce volume of calls to Security allow vital calls to get through.
- The SMS Broadcast spreadsheet to be updated with new employee details.

The next meeting is scheduled 6 August 2024.

### Scheduled Works

C-Cure Systems has been contracted to conduct a Stage 3 CCTV review. Their initial meeting is planned for the end of July due to existing commitments.

The update of Resident details for Access Control and other databases began in June prior to the reset of gate access on July 1. In the Gallagher program alone, there were up to 13,900-line items to be updated, and Control Room staff have processed 80% of these entries.

## BODY CORPORATE SERVICES

### Monthly Action Key Performance Indicators

| Month   | Description   | Actioned |
|---------|---|----------|
| Monthly | ➤ General Meeting agenda issue min 10 days prior to each meeting with minutes drafted and issued to Chairperson within 10 business days                           | Complete |
|         | ➤ Committee meeting agenda issue min 7 days prior to each committee meeting with minutes drafted and issued to Chairperson within 10 business days post meeting.  | Complete |
|         | ➤ Extranet / portal content management  | Complete |
|         | ➤ Monthly communications to residents – newsletter / email / Facebook   | Complete |
|         | ➤ Minimum 3 site compliance inspections each week to inc real estate and building compliance  | Complete |
|         | ➤ Compliance breach case management – max period for open case being no more than 6 months. Any case closure correspondence to be issued within 7 days of remedy. | Complete |
|         | ➤ DCBL non-compliance report to be issued to Snr Body Corporate Manager monthly   | Complete |
|         | ➤ Site maintenance matters to be issued to Facilities Team following each site inspection – AssetFinda software to be used  | Complete |
|         | ➤ Bi – Monthly Body Corporate Manager site inspection with Compliance Officer.  | Complete |
|         | ➤ Body Corporate Manager site BUP inspection with member of Facilities team   | Complete |
|         | ➤ Change of Ownership, Address and Appt of Nominee forms processed within 48hrs of receipt and ack of same issued to resident                                     | Complete |

### Additional BCS Operations

1. Building Works – Inspections undertaken two times per week by BCS and seven days per week by Security Services Team.
2. Compliance – Inspections are conducted weekly, with reports forwarded to PBC EC for further action on matters with three or more breaches. In June 2024, thirty-six breach letters were dispatched.
3. Website Formulation – Is live.
4. Policy and Procedure review: Continues to be underway.
5. StrataVote Implementation: Working well. Compared to last year, the June RBC EGMs were down by 3 reconvened meetings.
6. June EGMs are all completed, working on the RBCs budgets for August EGMs.

## Insurance

| Insured Name       | Date of Loss | Incident Description   | Update   |
|--------------------|--------------|--|--|
| Sanctuary Cove PBC | 07/08/2021   | Notification Only  | Notification Only – Resident – Walking her dogs along the path of Harbour Terraces and fell.<br>No Movement on claim   |
| Sanctuary Cove PBC | 30/11/2021   | Claim for Legal expenses – Owner suing another owner and PBC as respondent | Harbour Terraces matter. PBC named as respondent as PBC allowed renovation to proceed.<br>Claim still ongoing  |
| Sanctuary Cove PBC | 05/01/2022   | Third Party Hit Street Lamp – Masthead Way                                 | Third party hit streetlamp on Masthead Way.<br>SUU is awaiting repair report from Crawford and Company to progress the claim.  |
| Sanctuary Cove PBC | 16/01/2022   | Resident – Twisted ankle on footpath                                       | Notification Only – Resident twisted ankle on footpath at the Parkway near the golf driveway entrance.<br>Settlement of claim paid to Claimant- \$14,000<br>Defence Costs- \$10,935.25                                     |
| Sanctuary Cove PBC | 02/04/2022   | Resident – Cycling and fell  | Resident riding push bike along road moved over for car and has fallen off when tyre come off road.<br>No further approach has occurred from claimant file closed, can be re-opened if further information comes to light. |
| Sanctuary Cove PBC | 21/04/2022   | Notification Only- Motorbike Rider fell off bike                           | Notification Only<br>No Movement on claim  |
| Sanctuary Cove PBC | 24/04/2022   | Slip & Fall – The Boulevard  | Notification Only<br>No Movement on claim  |
| Sanctuary Cove PBC | 27/05/2022   | Machinery Breakdown - Pump   | Machinery Breakdown – Masthead Way. Claim with Insurer and it is their intention to decline claim.   |
| Sanctuary Cove PBC | 12/05/2023   | Infrastructure Damage to pipes and lost water                              | Claim has been finalised in the amount of \$28,316.64  |

## Legal Expenses

| Sanctuary Cove Principal Body Corporate |          |                    | Budget  |            |
|---|----------|--------------------|---------|------------|
|   |          |                    |         | 150,000.00 |
| Grace Lawyers                           | 26.09.23 | Schotia compliance |         | 15.00      |
| Grace Lawyers                           | 26.09.23 | Adelia compliance  |         | 1,212.50   |
| Grace Lawyers                           | 31.10.23 | Bauhinia           |         | 935.00     |
| Grace Lawyers                           | 31.10.23 | Schotia compliance |         | 973.00     |
| Grace Lawyers                           | 31.10.23 | Adelia compliance  |         | 2,829.00   |
| Grace Lawyers                           | 30.11.23 | Bauhinia           |         | 4,345.00   |
| Grace Lawyers                           | 30.11.23 | Schotia compliance |         | 3,328.50   |
| Grace Lawyers                           | 31.12.23 | Bauhinia           |         | 2,200.00   |
|   |          |                    |         | 15,838.00  |
|   |          |                    | Balance | 134,162.00 |

## FACILITIES SERVICES

### After Hours Call Outs

| Date       | PBC Emergency Repair                 |
|------------|--------------------------------------|
| 07/06/2024 | Pump station (PBC)- Electrical fault |
| 09/06/2024 | Pump station 1 – Plumbing Fault      |
| 16/06/2024 | Pump station 1 – Plumbing Fault      |
| 23/06/2024 | Pump Station 22 – Plumbing fault     |


| Date | PTBC Emergency Repair |
|------|-----------------------|
|      | N/A                   |

### Contracts Subcommittee

N/A

### Maintenance Contracts - Tenders

| <b>CR</b>           | Contract Review   |     |     |     |     |     |     |     |      |      |       |     |
|---------------------|---|-----|-----|-----|-----|-----|-----|-----|------|------|-------|-----|
| <b>CSC</b>          | Contract Sub Committee review of Contract/Tender documentation                                  |     |     |     |     |     |     |     |      |      |       |     |
| <b>EOI</b>          | Invitation for “Expressions of Interest”  |     |     |     |     |     |     |     |      |      |       |     |
| <b>RFT</b>          | “Request for Tender” invite Contractors to submit a bid for the provision of goods or services. |     |     |     |     |     |     |     |      |      |       |     |
| <b>Evaluation</b>   | Undertake evaluation of received tenders  |     |     |     |     |     |     |     |      |      |       |     |
| <b>Approval</b>     | Seek/Obtain necessary approvals   |     |     |     |     |     |     |     |      |      |       |     |
| <b>Award</b>        | Award contract works to successful Tenderer   |     |     |     |     |     |     |     |      |      |       |     |
| Tender              | Nov   | Dec | Jan | Feb | Mar | Apr | May | Jun | Jul  | Aug  | Sep   | Oct |
| FTTH                |   |     |     |     | CR  | CSC | EOI | RFT | Eval | Appr | Award |     |
| Street Sweeping     |   |     |     |     | CR  | CSC | EOI | RFT | Eval | Appr | Award |     |
| Landscaping         |   |     |     |     | CR  | CSC | EOI | RFT | Eval | Appr | Award |     |
| Waste and Recycling |   |     |     |     | CR  | CSC | EOI | RFT | Eval | Appr | Award |     |

|             |   |
|-------------|---|
| Complete    |  |
| In progress |  |

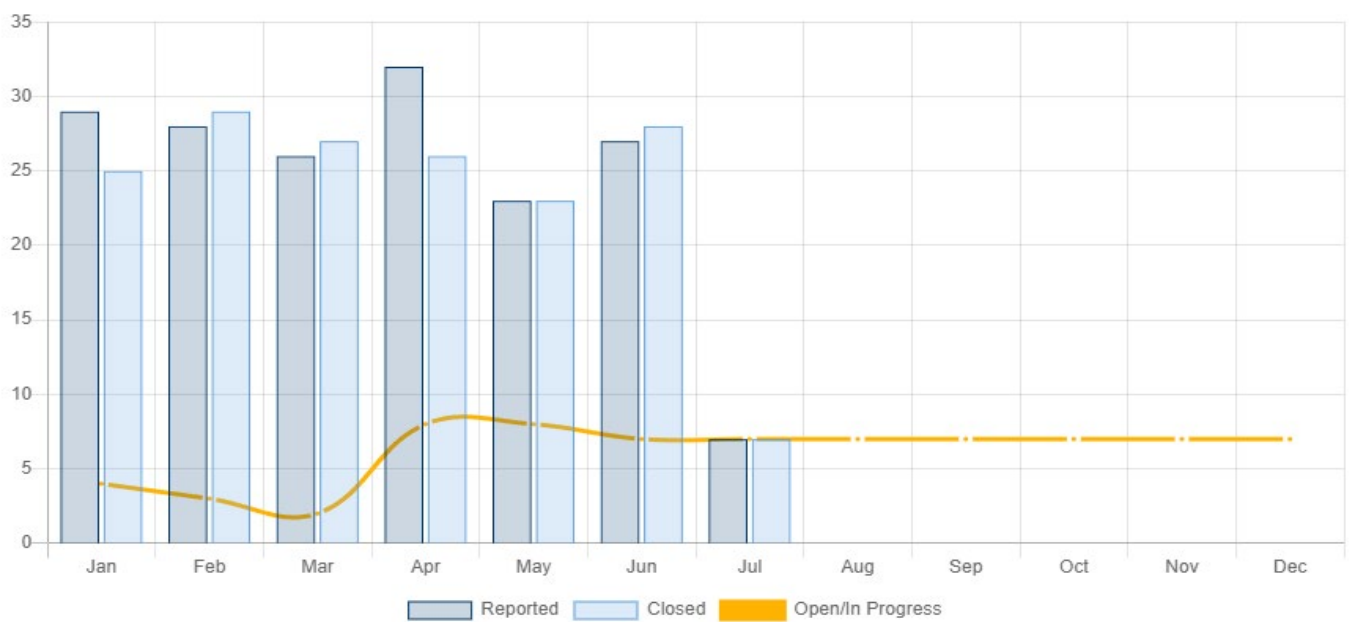
Contractor Six (6) Monthly Review

| Contract Review     | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct |
|---------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| FTTH                |     |     |     |     |     |     |     |     |     |     |     |     |
| Street Sweeping     |     |     | ✓   |     |     |     |     |     |     |     |     |     |
| Landscaping         |     |     | ✓   |     |     |     |     |     |     |     |     |     |
| Waste and Recycling |     |     | ✓   |     |     |     |     |     |     |     |     |     |

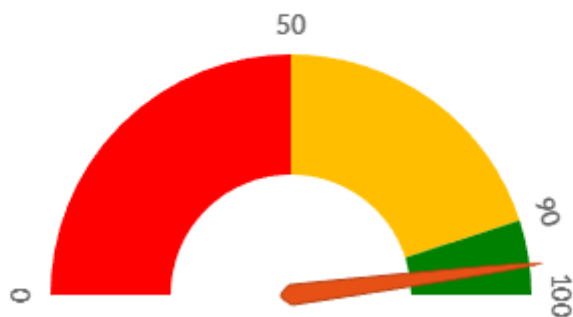
Hazard Identification/Reporting

The graph highlights an increase in reported hazards during June. Of the 27 hazards reported, 26 originated from the Facilities Services Team. All 26 hazards raised by the Facilities Team were resolved within the month. The primary control measure used was hazard elimination.

**Summary by Month**



**96 % Active Tasks within Deadline**





Sinking Fund Major Projects

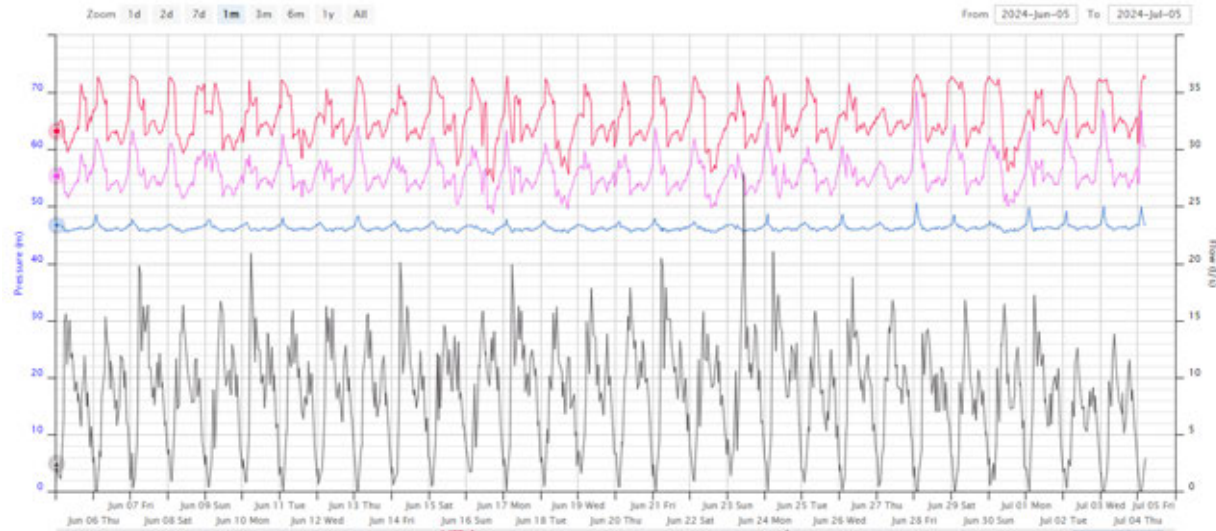
|             |  |
|-------------|--|
| In progress |  |
| Complete    |  |
| Confirmed   |  |
| Estimate    |  |

| Project   | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct |
|---|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Asset management system review                                    |     |     |     |     |     |     |     |     |     |     |     |     |
| MDN Potable water - Consultant/Reports                            |     |     |     |     |     |     |     |     |     |     |     |     |
| Tulip Lighting Year 2   |     |     |     |     |     |     |     |     |     |     |     |     |
| Electrical lighting - Butcherbird park bollard lighting (inhouse) |     |     |     |     |     |     |     |     |     |     |     |     |
| Revetment Wall  |     |     |     |     |     |     |     |     |     |     |     |     |
| Irrigation - Class A  |     |     |     |     |     |     |     |     |     |     |     |     |
| The Parkway - Silky Oak removal/replacement                       |     |     |     |     |     |     |     |     |     |     |     |     |
| Landscaping - Year 2, 3 and 4 (PBC/PTBC)                          |     |     |     |     |     |     |     |     |     |     |     |     |
| Park Signage  |     |     |     |     |     |     |     |     |     |     |     |     |
| Building management system  |     |     |     |     |     |     |     |     |     |     |     |     |
| Access systems  |     |     |     |     |     |     |     |     |     |     |     |     |
| Check/Isolation valves  |     |     |     |     |     |     |     |     |     |     |     |     |
| Village Gates - Paving  |     |     |     |     |     |     |     |     |     |     |     |     |
| Road - Parking Bays   |     |     |     |     |     |     |     |     |     |     |     |     |
| Olympic Road - Repave   |     |     |     |     |     |     |     |     |     |     |     |     |
| Muirfield Lane - Repave   |     |     |     |     |     |     |     |     |     |     |     |     |
| Kerb Year 4 (Cassia, Araucaria)                                   |     |     |     |     |     |     |     |     |     |     |     |     |
| Village Gates - Kerbing   |     |     |     |     |     |     |     |     |     |     |     |     |
| Switchboard upgrade   |     |     |     |     |     |     |     |     |     |     |     |     |
| Water meters x 230  |     |     |     |     |     |     |     |     |     |     |     |     |
| Pressure Management System  |     |     |     |     |     |     |     |     |     |     |     |     |

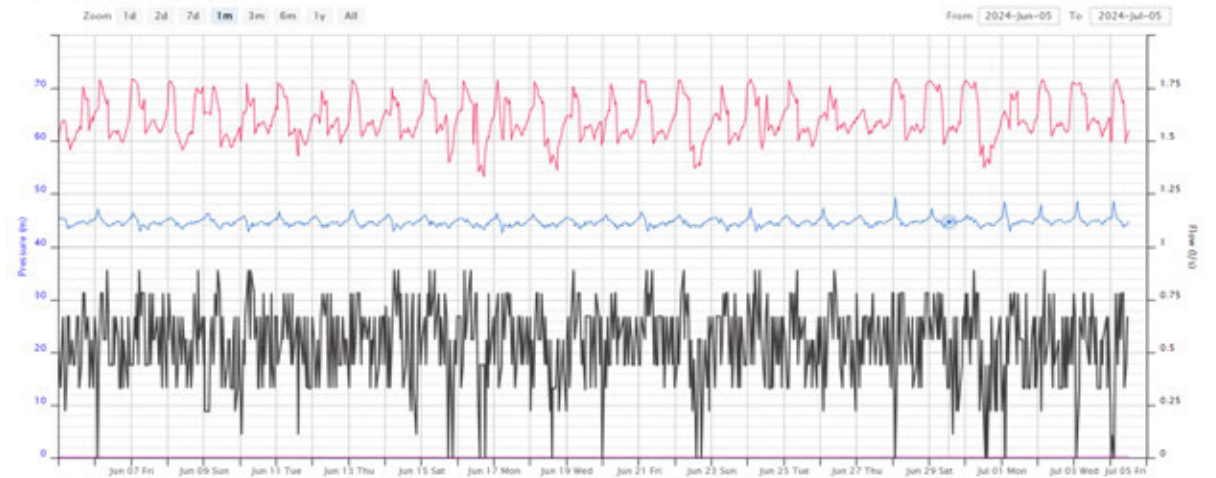


| Project                                       | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct |
|---|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Bridge - Entry boulevard bridge paint         |     |     | █   |     |     |     |     |     |     |     |     |     |
| Entrance boulevard lighting - Tulip/Up lights |     |     |     |     |     |     | █   |     |     |     |     |     |
| Electrical lighting - Bridge Lighting         |     |     | █   |     |     |     |     |     |     |     |     |     |
| Electrical lighting - Bollards                |     |     | █   |     |     |     |     |     |     |     |     |     |
| Irrigation - Class A                          | █   |     |     |     |     |     |     |     |     |     |     |     |
| Landscaping - Year 2, 3 and 4 (PBC/PTBC)      | █   |     |     |     |     |     |     |     |     |     |     |     |
| Landscaping - The Address Gates               |     |     |     |     | █   |     |     |     |     |     |     |     |
| Village Gates - Kerbing                       |     |     |     |     |     |     |     |     |     |     | █   |     |
| Village Gates - Paving                        |     |     |     |     |     |     |     |     |     |     |     |     |
| Switchboard - Upgrade/replacement             |     |     |     |     |     |     |     |     |     | █   |     |     |
| The Address Gates/Fence upgrade               |     |     | █   |     |     |     |     |     |     |     |     |     |
| Gates/Fences - Vardon Lane                    |     |     |     |     |     |     |     |     |     |     | █   |     |
| Pressure Management System                    | █   |     |     |     |     |     |     |     |     |     |     |     |

© Parkway PRV 1 Outside Gate



© Parkway PRV 2 Inside Gate



The Pressure Reduction Valves (PRVs), part of the Pressure Management Systems, were commissioned on January 15th, with set points compliant with Australian Standards AS/NZS 3500. Immediate reductions in pressure levels and fluctuations in the internal water network supply to Sanctuary Cove have been observed. The Pressure Management System will dynamically adjust network pressures to maintain a more consistent and reduced level across the potable network

Please refer to the adjacent graphs/data illustrating significant fluctuations in the incoming supply pressure from GCCC compared to the current supply pressures at Sanctuary Cove.

*The Red/Pink axis represents the GCCC supply pressure. The Blue axis represents the supply pressure to the Sanctuary Cove site from the PRVs.*

We conducted a review of the same period last year (prior to commissioning) and observed a significant reduction in leaks across the site:

**15th Jan to 7th June 2023: Total of 12 leaks**

**15th Jan to 7th June 2024: Total of 3 leaks**

Key Performance Indicators

| FACILITIES SERVICES   | Nov-23 | Dec-23 | Jan-24 | Feb-24 | Mar-24 | Apr-24 | May-24 | Achieved |
|---|--------|--------|--------|--------|--------|--------|--------|----------|
| <b>LEADERSHIP/CUSTOMER SERVICE (WORK REQUESTS/PREVENTATIVE MAINTENANCE)</b> |        |        |        |        |        |        |        |          |
| PM - (MO) Percentage closed for month - Target 75%                          | 81%    | 100%   | 75%    | 33%    | 25%    | 87%    | 84%    | 63%      |
| Total % (Open vs Closed) Target 80%   | 82%    | 76%    | 75%    | 84%    | 84%    | 85%    | 80%    | 100%     |
| Greater > 60 Days (Target <25)  | 7      | 10     | 14     | 8      | 16     | 11     | 0      | 100%     |
| Total Outstanding <100  | 39     | 55     | 69     | 37     | 55     | 35     | 32     | 100%     |
| Plumber jobs remaining > 30 days 2 average                                  | 0      | 2      | 2      | 0      | 1      | 0      | 0      | 100%     |
| Electrician jobs remaining > 30 days 6 average                              | 0      | 8      | 9      | 1      | 5      | 5      | 4      | 100%     |
| Irrigation Jobs remaining > 30 days 5 average                               | 5      | 6      | 1      | 0      | 1      | 0      | 1      | 100%     |
| Priority 1 - Target >100 %  | 100%   | 100%   | 100%   | 100%   | 100%   | 100%   | 100%   | 100%     |
| Priority 2 - Target >77.5 %   | 96%    | 100%   | 80%    | 100%   | 100%   | 100%   | 95%    | 100%     |
| Priority 3 - Target >75 %   | 76%    | 76%    | 75%    | 78%    | 79%    | 66%    | 77%    | 75%      |
| <b>GOVERNANCE / COMPLIANCE</b>  |        |        |        |        |        |        |        |          |
|   | Nov-23 | Dec-23 | Jan-24 | Feb-24 | Mar-24 | Apr-24 | May-24 | Total    |
| FM - Monthly Site Inspection  | ✓      | ✓      | ✓      | ✓      | ✓      | ✓      |        | 100%     |
| Facilities Services WHS Training - Manual Handling, Ladder                  | 44.44% | 44.44% | 44.44% | 44.44% | 44.44% | 44.44% | 100%   |          |
| Contractor Induction - Annual target 75%                                    | 78%    | 77%    | 76%    | 76%    | 78%    | 77%    | 77%    | 100%     |
| Hazard identification - Target 2 each / 16 per month                        | 17     | 16     | 24     | 26     | 21     | 21     | 22     | 100%     |
| Risk Assessments - Target 2 each (Annual)                                   |        |        |        |        |        |        |        | 100%     |
| Department Procedures - Target 1 (per month) 12 required for year           | ✓      | ✓      | ✓      | ✓      | ✓      | ✓      | ✓      | 100%     |
| FM Departmental Audit - Risk Management - 6 Total                           |        |        | N/A    |        |        | N/A    |        | 100%     |
| <b>FINANCIAL PERFORMANCE</b>  |        |        |        |        |        |        |        |          |
| Administration Fund – Spend vs Budget                                       | ✓      | ✓      | ✓      | ✓      | ✓      | ✓      | ✓      | 100%     |
| Sinking Fund Projects - Project Tracker                                     | ✓      | ✓      | ✓      | ✓      | ✓      | ✓      | ✓      | 100%     |
| Asset Management System - Sinking Fund Update                               | ✓      | ✓      | ✓      | ✓      | ✓      | ✓      | ✓      | 100%     |
| Asset Management Report to CEO  |        |        |        | ✓      |        | ✓      |        | 100%     |
| Water Billing - Review zero/low reads                                       | ✓      |        |        | ✓      |        |        | ✓      | 100%     |

Note: The total open vs closed and P3 targets decreased slightly due to the transfer to the new Assetfinda Fields application.

Service Providers

| <b>Landscape Solutions</b>        | <b>Nov-23</b> | <b>Dec-23</b> | <b>Jan-24</b> | <b>Feb-24</b> | <b>Mar-24</b> | <b>Apr-24</b> | <b>May-24</b> | <b>Jun-24</b> | <b>Jul-24</b> | <b>Aug-24</b> | <b>Sep-24</b> | <b>Oct-24</b> |
|-----------------------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| 1.1 Maximum number of failures P2 | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          |               |               |               |               |
| 1.2 Response & Repair Timeframe   | 44%           | 55%           | 41%           | 50%           | 58%           | 15%           | 9%            | 25%           |               |               |               |               |
| 1.3 Preventative Maintenance      | 68%           | 62%           | 64%           | 65%           | 66%           | 67%           | 72%           | 73%           |               |               |               |               |
| 1.4 Document Compliance           | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          |               |               |               |               |
| 1.5 Reporting                     | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          |               |               |               |               |
| <b>SPS</b>                        | <b>Nov-23</b> | <b>Dec-23</b> | <b>Jan-24</b> | <b>Feb-24</b> | <b>Mar-24</b> | <b>Apr-24</b> | <b>May-24</b> | <b>Jun-24</b> | <b>Jul-24</b> | <b>Aug-24</b> | <b>Sep-24</b> | <b>Oct-24</b> |
| 1.1 Maximum number of failures P2 | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          |               |               |               |               |
| 1.2 Response & Repair Timeframe   | N/A           | N/A           | N/A           | N/A           | N/A           | N/A           | N/A           | N/A           |               |               |               |               |
| 1.3 Preventative Maintenance      | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          |               |               |               |               |
| 1.4 Document Compliance           | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          |               |               |               |               |
| 1.5 Reporting                     | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          |               |               |               |               |
| <b>Cleanaway</b>                  | <b>Nov-23</b> | <b>Dec-23</b> | <b>Jan-24</b> | <b>Feb-24</b> | <b>Mar-24</b> | <b>Apr-24</b> | <b>May-24</b> | <b>Jun-24</b> | <b>Jul-24</b> | <b>Aug-24</b> | <b>Sep-24</b> | <b>Oct-24</b> |
| 1.1 Missed calls                  | 2             | 2             | 4             | 1             | 0             | 3             | 3             | 1             |               |               |               |               |
| 1.2 Missed Bins                   | 12            | 6             | 3             | 7             | 5             | 7             | 14            | 5             |               |               |               |               |
| 1.3 Complaints <5                 | 0             | 0             | 6             | 3             | 1             | 0             | 0             | 0             |               |               |               |               |
| 1.4 Document Compliance           | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          | 100%          |               |               |               |               |
| 1.5 Reporting                     | 0%            | 0%            | 0%            | 0%            | 0%            | 0%            | 0%            | 0             |               |               |               |               |





#### New Business:

The tender box was unlocked in the presence of the committee, for each contract (Waste & Recycling, Landscaping and Street Sweeping) the tenders were opened in the presence of the committee and the pricing summary page initialled by the Chair.

Refer following page for further information.

With the tenders having been received and noted, they will now be analysed and evaluated according to established procedure. The results of the analysis will be the subject of a further CSC Meeting before the recommendations on best value bidders for each contract are made to the RBCs to consider and approve at future EGMs. A data room will be established before the analyses are presented to the CSC to allow committee members the opportunity to scrutinise the detail of the tender submissions.

#### General Business:

- The appointment of new members was raised by SC, ideal candidates (possibly 1 or 2 committee members) to have Financial or IT skills.



| Tenderer - Landscaping               | EOI Received                | RFT Sent  | Site Inspection | Declined to quote | Opening Date | Fixed price PBC | Fixed price PTBC |
|--------------------------------------|-----------------------------|-----------|-----------------|-------------------|--------------|-----------------|------------------|
| BLC Landscapes                       | 30/05/2024                  | 7/06/2024 | YES             | 4/07/2024         |              |                 |                  |
| Green by Nature                      | 31/05/2024                  | 7/06/2024 | YES             |                   | 09/07/2024   | \$1,832,938.27  | \$261,848.32     |
| Landscape Solutions                  | 31/05/2024                  | 7/06/2024 | YES             |                   | 09/07/2024   | \$1,482,339.86  | \$221,244.76     |
| LD Total                             | 30/05/2024                  | 7/06/2024 |                 | 20/06/2024        |              |                 |                  |
| Marsupial Landscape Management       | 29/05/2024                  | 7/06/2024 |                 |                   | 09/07/2024   | \$2,489,760.00  | \$276,640.00     |
| Martin Brothers                      | 31/05/2024                  | 7/06/2024 | YES             |                   | 09/07/2024   | \$1,748,895.47  | \$249,842.21     |
| Now Landscapes                       | 31/05/2024                  | 7/06/2024 | YES             |                   | 09/07/2024   | \$2,726,752.00  | \$389,044.00     |
| Programmed                           | 31/05/2024                  | 7/06/2024 | YES             |                   | 09/07/2024   | \$2,310,126.59  | \$318,638.15     |
| Regal Innovations                    | 29/05/2024                  | 7/06/2024 | YES             |                   | 09/07/2024   | \$2,124,061.80  | \$312,261.10     |
| The Advanced Group                   | 31/05/2024                  | 7/06/2024 |                 |                   | 09/07/2024   | \$1,369,500.00  | \$267,268.10     |
| The Plant Management Company         | 28/05/2024                  | 7/06/2024 | YES             |                   | 09/07/2024   | \$2,021,250.00  | \$288,750.00     |
| <b>Current Contract Price - PBC</b>  | <b>\$925,803.78 Inc GST</b> |           |                 |                   |              |                 |                  |
| <b>Current Contract Price - PTBC</b> | <b>\$212,939.10 Inc GST</b> |           |                 |                   |              |                 |                  |

| Tenderer – Street Sweeping                               | EOI Received | RFT Sent  | Opening Date | Fixed price PBC | Fixed price PTBC |
|--|--------------|-----------|--------------|-----------------|------------------|
| Hasslefree Recycling                                     | 23/05/2024   | 7/06/2024 | 09/07/2024   | \$93,436.20     | \$20,763.60      |
| Specialised Pavement Services                            | 21/05/2024   | 7/06/2024 | 09/07/2024   | \$102,567.47    | \$34,189.38      |
| <b>Current Contract Price - PBC</b> \$77,781.81 Inc GST  |              |           |              |                 |                  |
| <b>Current Contract Price - PTBC</b> \$25,927.27 Inc GST |              |           |              |                 |                  |

| Tenderer – Waste & Recycling  | EOI Received | RFT Sent  | Opening Date | Fixed price PBC |
|---|--------------|-----------|--------------|-----------------|
| Cleanaway   | 29/05/2024   | 7/06/2024 |              | *\$994,693.70   |
| JJ Richards   | 31/05/2024   | 7/06/2024 |              | \$1,493,041.01  |
| <b>Current Contract Price - PBC</b> \$992,835.58 Inc GST – Based on 1289 bins |              |           |              |                 |

\*Pricing does not include the purchase of new waste/recycling bins

**MINUTES OF THE  
FINANCE SUB COMMITTEE MEETING  
OF THE PBC**

**Body Corporate Committee** Sanctuary Cove Principal Body Corporate GTP 202 Finance Sub-Committee  
**Location of Meeting:** Meeting Room 1 - Sanctuary Cove Body Corporate Services  
**Date and Time of meeting** Friday, 21 June 2024  
**Meeting Chaired by:** Mr Stephen Anderson  
**Meeting start time:** 10.00am **Meeting finish time:** 10.15am

ATTENDANCE

**The following Committee members attended the meeting In Person:**

Chairperson Mr Stephen Anderson (SA)  
 Ordinary Mr Robert Hare (RH)  
 Ordinary Mr Tony McGinty (TM)

PRESENT BY PROXY

Mr Mick McDonald proxy to Mr Stephen Anderson  
 Mr Paul Kernaghan proxy to Mr Stephen Anderson

APOLOGIES

N/A

BY INVITATION

CEO Mr Dale St George (DSTG)  
 EA to CEO Mrs Tamara Jones (minute taker)

QUORUM

The Chairperson declared that a Quorum was present.

MOTIONS

**1 Approval of Previous Minutes CARRIED**

Proposed by: The Chairperson

**RESOLVED** That the Minutes of the Finance Sub-Committee Meeting held on 17 May 2024 be accepted as a true and correct record of the proceedings of the meeting.

|         |   |
|---------|---|
| Yes     | 5 |
| No      | 0 |
| Abstain | 0 |

| MEMBER              | Yes | No | Abstain |
|---------------------|-----|----|---------|
| Mr Stephen Anderson | ✓   |    |         |
| Mr Mick McDonald    | ✓   |    |         |
| Mr Robert Hare      | ✓   |    |         |
| Mr Tony McGinty     | ✓   |    |         |
| Mr Paul Kernaghan   | ✓   |    |         |



**2 Action Items CARRIED**

Proposed by: The Chairperson

|         |   |
|---------|---|
| Yes     | 5 |
| No      | 0 |
| Abstain | 0 |

**RESOLVED** That the FSC notes and accepts the Action Items for June 2024 as tabled.

Note:

- FTTH: Paper put up to the PBC EC with recommendation to sell. Further investigation to be undertaken with suggestion to engage an expert to guide us through the sale process.
- Purchasing Policy: To be tabled at next meeting.
- Budgets: All RBCs have now voted (2 voted no). Up to the PBC next to vote.

| MEMBER              | Yes | No | Abstain |
|---------------------|-----|----|---------|
| Mr Stephen Anderson | ✓   |    |         |
| Mr Mick McDonald    | ✓   |    |         |
| Mr Robert Hare      | ✓   |    |         |
| Mr Tony McGinty     | ✓   |    |         |
| Mr Paul Kernaghan   | ✓   |    |         |

**3 Selective Review CARRIED**

Proposed by: The Chairperson

|         |   |
|---------|---|
| Yes     | 5 |
| No      | 0 |
| Abstain | 0 |

**RESOLVED** That the FSC notes and accepts the Selective Review items for the PBC for May 2024 as tabled.

Note:

- Invoice from Mass Products Pty Ltd was selected for this month's Selective Review for the Sewage Pump Station Refurbishment.
- Confirmed correct procedures were followed as per Purchasing Policy.

| MEMBER              | Yes | No | Abstain |
|---------------------|-----|----|---------|
| Mr Stephen Anderson | ✓   |    |         |
| Mr Mick McDonald    | ✓   |    |         |
| Mr Robert Hare      | ✓   |    |         |
| Mr Tony McGinty     | ✓   |    |         |
| Mr Paul Kernaghan   | ✓   |    |         |

**4 PBC Financial Statements CARRIED**

Proposed by: The Chairperson

|         |   |
|---------|---|
| Yes     | 5 |
| No      | 0 |
| Abstain | 0 |

**RESOLVED** That the FSC notes and recommends to the PBC the approval of the PBC Financial Statements as at 31 May 2024 as tabled.

Note:

- We did not get as much from the insurance claim payout from the damage caused by the tornado on Christmas night as initially thought.
- Water over budget. System in place is working (12 leaks this time last year vs 3 leaks this year). Billing to be brought into line with City of Gold Coast billing cycle.

| MEMBER              | Yes | No | Abstain |
|---------------------|-----|----|---------|
| Mr Stephen Anderson | ✓   |    |         |
| Mr Mick McDonald    | ✓   |    |         |
| Mr Robert Hare      | ✓   |    |         |
| Mr Tony McGinty     | ✓   |    |         |
| Mr Paul Kernaghan   | ✓   |    |         |

**5 PBC Actual v Budget Analysis CARRIED**

Proposed by: The Chairperson

|         |   |
|---------|---|
| Yes     | 5 |
| No      | 0 |
| Abstain | 0 |

**RESOLVED** That the FSC notes and recommends to the PBC the approval of the PBC Actual v Budget Analysis as of 31 May 2024 as tabled.

Note:

- Software/Licence costs were queried as they are above budget. This is due to the AssetFinda upgrade where the server was upgraded combined with implementation costs which totalled \$18.8k. The monthly fee was negotiated down to minimise total cost impact.

| MEMBER              | Yes | No | Abstain |
|---------------------|-----|----|---------|
| Mr Stephen Anderson | ✓   |    |         |
| Mr Mick McDonald    | ✓   |    |         |
| Mr Robert Hare      | ✓   |    |         |
| Mr Tony McGinty     | ✓   |    |         |
| Mr Paul Kernaghan   | ✓   |    |         |

**6 PBC Detailed Transaction Lists CARRIED**

Proposed by: The Chairperson

|         |   |
|---------|---|
| Yes     | 5 |
| No      | 0 |
| Abstain | 0 |

**RESOLVED** That the FSC notes and recommends to the PBC the approval of the PBC Detailed Transaction Lists as of 31 May 2024 as tabled.

| MEMBER              | Yes | No | Abstain |
|---------------------|-----|----|---------|
| Mr Stephen Anderson | ✓   |    |         |
| Mr Mick McDonald    | ✓   |    |         |
| Mr Robert Hare      | ✓   |    |         |
| Mr Tony McGinty     | ✓   |    |         |
| Mr Paul Kernaghan   | ✓   |    |         |

**7 PBC Cash Flow CARRIED**

Proposed by: The Chairperson

|         |   |
|---------|---|
| Yes     | 5 |
| No      | 0 |
| Abstain | 0 |

**RESOLVED** That the FSC notes and recommends to the PBC the approval of the PBC Cash Flow as of 31 May 2024 as tabled.

| MEMBER              | Yes | No | Abstain |
|---------------------|-----|----|---------|
| Mr Stephen Anderson | ✓   |    |         |
| Mr Mick McDonald    | ✓   |    |         |
| Mr Robert Hare      | ✓   |    |         |
| Mr Tony McGinty     | ✓   |    |         |
| Mr Paul Kernaghan   | ✓   |    |         |

**8 Date of Next Meeting CARRIED**

Proposed by: The Chairperson

|         |   |
|---------|---|
| Yes     | 5 |
| No      | 0 |
| Abstain | 0 |

**RESOLVED** That the date of the next FSC Meeting will be Friday, 19 July 2024 at 10:00am.

| MEMBER              | Yes | No | Abstain |
|---------------------|-----|----|---------|
| Mr Stephen Anderson | ✓   |    |         |
| Mr Mick McDonald    | ✓   |    |         |
| Mr Robert Hare      | ✓   |    |         |
| Mr Tony McGinty     | ✓   |    |         |
| Mr Paul Kernaghan   | ✓   |    |         |

GENERAL BUSINESS

N/A

Chairperson: .....