

## Minutes of the Vote Outside Committee Meeting

Body Corporate for PBC EC CTS PBC EC 202

<b>Meeting Date</b>	14 Apr 2025		
<b>Date Notices Sent</b>	10 Apr 2025		
<b>Due by Date</b>	14 Apr 2025		
<b>Committee Members</b>	Lot 1712	Brian Earp	Electronic vote
	Lot 107045	Paul Kernaghan	Electronic vote
	Lot 107209	Dianne Taylor	Electronic vote
	Lot 107217	Mark Winfield	Electronic vote
	Lot 107442	Cheryl McBride	Electronic vote

## Motion 1

### Entry into Deed of Settlement and Release with Hydro Vision

### Ordinary Resolution

**RESOLVED** that the PBC authorises entry into the Deed of Settlement and Release to settle the dispute with Hydro Vision Pty Ltd, generally on the terms set out in the document circulated with the agenda. And that any two Executive Committee members are authorised to sign the Deed of Settlement and Release.

#### Background

On 8 September 2022, the Sanctuary Cove Principal Body Corporate (PBC) and the Sanctuary Primary Thoroughfare Body Corporate (PTBC) entered into a fixed price contract with Hydro Vision Pty Ltd (HV) for the performance of certain work relating to the supply of A Class Water to the Resort (Stage 1). The value of that contract was significant, being \$5,352,758.26.

The work achieved practical completion on 22 November 2023.

On 4 March 2023, after the contract was at end and without notice to the PBC and the PTBC, HV issued an invoice in the amount of \$240,000 (plus GST) which they said was for "out-of-scope" tank sub-base work necessary to ensure the suitability of the ground to support the water tanks.

At an EGM held on 27 June 2024, the PBC and PTBC agreed to the engagement of a lawyer to advise on the potential liability for the additional invoice and the settlement offer made by HV. The advice from Colin Biggers & Paisley Lawyers (CBP) was that it was unlikely HV's claim would be successful, but it was not impossible. Since that time, CBP has been working closely with the Chairpersons of the PBC and PTBC, Shany Fox and Brogan Watling exchanging correspondence with HV in an attempt to bring this matter to a resolution.

#### Next steps

Although the Chairpersons of the PBC and PTBC are confident with their position in this dispute, the reality is that there is no certainty in litigation. They hold significant concerns around a protracted and expensive court proceeding and the impact it may have on the progress of the A Class Water project and the levies required to meet the legal expenses that will be incurred.

After spending considerable time weighing up what path would be in the best interests of its members, the Chairperson of the PBC (with the support of the Executive Committee) now seeks your support to reach a commercial settlement with HV by way of a Deed of Settlement and Release.

The Chairperson of the PTBC will be seeking the same from its members.

A copy of the proposed Deed of Settlement and Release has been circulated with the agenda. A summary of its key terms include:

- PBC and PTBC to pay HV \$153,437.34 (the PBC's contribution to be 70%, \$107,406.14)
  - This amount consists of:
    - \$75,000 towards the additional invoice of HV (\$240,000 plus GST); and
    - \$78,437.34 of retention monies (out of \$120,591.09) that the PBC and PTBC have held under the contract and not yet returned to HV.
- The PBC and PTBC will retain \$20,000 of retention monies for addressing two significant defects.
- The PBC and PTBC will retain \$22,153.75 of retention monies to take into account money it already paid to HV as a deposit for Stage 2 of the A Class Water project. The PBC and PTBC are already in negotiations with an alternate contractor to complete Stage 2.
- The PBC and PTBC will only attend to payment to HV once it receives the pumps and equipment that are being held by HV and delivery of design documentation and warranties from HV for the Stage 1 contract.

There is no intention to raise a special levy to meet the costs of paying HV the settlement sum.

There is money set aside for this project that can be used for this amount. At this stage, the money

set aside for this project is also intended to meet the costs of engaging a different contractor to perform the Stage 2 work in place of HV. However, a scope of work has not yet been provided to the contractor and a quote obtained, so the Executive Committee will keep you updated on these anticipated costs.

The Executive Committee recommends that you vote in favour of this motion.

**Motion CARRIED.**

**VOTES**

Yes: 5

No: 0

Abs: 0

Inv: 0

Chairperson: Mr Stuart Shakespeare X.....

