

Melbourne Office
Our Ref: VIC073212

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The Members of Owners Corporation No. 1 Plan No. 435322B
C/- Ms Julie McLean, Owners Corporation Manager
Ace Body Corporate Consulting
PO Box 5583
MORDIALLOC VIC 3195

19 February 2018

Dear Member,

David Geoffrey Flew v Owners Corporation No. 1 Plan PS 4353225
VCAT Reference OC2731/2017

1. Our Instructions

We are instructed by the Owners Corporation to advise it and to act on its behalf. We have worked for 'Waterways' for some years now and are aware of the history and circumstances regarding the infrastructure, services and events.

The present proceeding in VCAT, *David Geoffrey Flew v Owners Corporation No. 1 Plan PS 4353225*, is a part of the continuing effort to ensure that the people of 'Waterways' still have the opportunity to maintain the services provided as part of the 'Waterways' experience.

We will be representing the Owners Corporation in the VCAT proceedings.

2. Background

By way of background, in 2016 the Owners Corporation reached agreement with the City of Kingston to end the arrangement whereby land owned by the council in 'Waterways' was being maintained by the Owners Corporation at the Owners Corporation's expense. The City of Kingston has indicated that - now it is paying for the maintenance of its own land - it will not be providing the same standards of maintenance and services (and no more events) that the people of 'Waterways' had previously enjoyed.

The committee of the Owners Corporation canvassed opinion in 'Waterways' to find out what the people of 'Waterways' wanted going forward in the way of services that the Owners Corporation could provide.

The law governing Owners Corporations sets a high hurdle in voting to provide those services and that hurdle was not cleared, meaning that the people of 'Waterways' could not authorise their own Owners Corporation to provide those services as a result of the last vote. However, there were a significant number of people who did not vote and a significant number of people who voted in favour of the provision of services. Furthermore, the infrastructure and services which are the subject of discussion have been provided in the past and affect the overall identity of and experience at the 'Waterways'.

Given the present circumstances, it has therefore been decided that this matter should be brought to VCAT so that a binding decision can be made as to whether the Owners Corporation ought to continue to provide the infrastructure and services going forward.

3. The legal position

The law governing owners corporations does allow a lot owner, such as David Flew, to apply to VCAT to seek permission to represent the Owners Corporation to resolve the matter. Therefore, although the VCAT proceeding cites "David Geoffrey Flew" as the Applicant and "Owners Corporation No. 1 Plan PS

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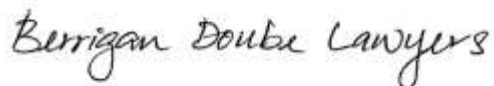
4353225" as the Respondent, the proceeding is not intended as adversarial and – given David Flew's election to the chair of the Owners Corporation – does not represent a conflict of interest.

Moving forward, the aim of this VCAT proceeding is to ensure that the Owners Corporation is legally authorised to make its case to VCAT and to obtain VCAT's decision as to what services the Owners Corporation can provide to the people of 'Waterways'.

We shall update and advise the Owners Corporation of further advancements in this case as it proceeds.

Yours faithfully,

BERRIGAN DOUBE LAWYERS

A handwritten signature in cursive script that reads 'Berrigan Doube Lawyers'.

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