



**NCAT**  
**NSW Civil &**  
**Administrative Tribunal**  
Consumer and Commercial Division

The Secretary, Owners Corporation SP 81047  
C/-Andrew Norris BCS Tweed Heads  
2 / 18 Bay Street  
TWEED HEADS NSW 2485

File No: SCS 14/31418  
Quote in all enquiries

**Application to the Tribunal concerning 685-707 Casuarina Way CASUARINA NSW 2487  
Australia - SP81047**

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On 13/6/14 the Divisional Registrar received an Application for an Order. A copy of the application is attached (for the Respondent).

You may lodge a written submission in respect of the application stating whether you agree or disagree. Your written submission must be received by the Divisional Registrar by Tuesday 5/8/14. You should not include any information which you do not want disclosed to the other parties.

Copies of submissions are not forwarded to parties, however you may inspect the file at a NCAT Registry most convenient to you. Our registries are located at Hurstville, Liverpool, Sydney, Penrith, Newcastle, Tamworth and Wollongong. File inspections are available by appointment only on the Wednesday, Thursday and Friday following the close of submissions date. An appointment to inspect the file can be arranged by contacting the Registry. Any photocopies of submissions requested at the file inspection will incur a fee. You should be aware that other persons may inspect the file.

Following the close of the submission period the file will be forwarded to an Adjudicator for written decision.

The file number should be quoted on your submission.

**L Gray**  
**Team Leader**  
**02/07/14**

**Please read this information carefully**

- **Display of this Notice:** When the Owners Corporation receives this notice and a copy of the application it must put a copy on the scheme notice board immediately (unless the by laws do not require one to be maintained) and keep it there until the date for making submissions expires. The Owners Corporation must immediately serve a copy of the notice and application on each person shown on the strata roll.
- **Content of Submissions:** Written submissions should include information relevant to the order asked for including photographs, technical reports and minutes of meetings. Disputes about by-laws, should include a copy of any relevant registered by-laws. Disputes about repairs to common property or damage to a lot should include a copy of the registered strata plan. These are available from the Land Titles Office, Queens Square, Sydney.
- **Adjudicator or Hearing:** Orders under sections 138 to 170 will be referred to the Strata Schemes Adjudicator for determination. Orders under sections 182 to 192 and 202 to 204 must be referred to the Tribunal for determination. You can appeal to the Tribunal from a decision of an Adjudicator. In addition, an Adjudicator may refer an application to the Tribunal if, for example, the legal complexity or importance of the application or other good reason justifies referral. You will be notified if the application has been referred to the Tribunal.
- **Applications to the Adjudicator:** These are decided on the material in the application and submissions. There is no hearing. The decision and the reasons for that decision are made in writing.
- **Applications to the Tribunal:** There is a hearing. Witnesses may give evidence and make submissions. You may represent yourself or be represented.
- **Notice of Decision:** In all cases a notice of the final order is sent to the person who applied, the person it is against, anyone who sent in a submission and the Owners Corporation.

- **Further Inquiries:** If you need more information about your rights and responsibilities please contact Fair Trading Information Centre on 13 32 20.

7 Costa Court

Broadbeach Waters QLD 4218

26 June 2014

NSW Civil and Administrative Tribunal

PO Box 1033

TAMWORTH NSW 2340

Dear Sir/Madam

RE: SCS 14/31418

I am informed that under section 162 of the Strata Schemes Management Act 1996 you require confirmation of my acceptance of the appointment as Administrator of Strata Plan 81047 Cotton Beach.

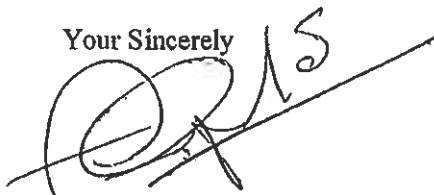
Accordingly please accept this correspondence as my willingness to accept the appointment if so offered.

My NSW Licence # is 186863 which expires on the 12th may 2015. The fees are set out in my Strata Managing Agency Agreement herewith enclosed.

I hold a number of licences under the Auctioneers and Agents Act and have been licensed in Strata since March 1994.

Should you require any further input please do not hesitate to contact me,

Your Sincerely

A handwritten signature in black ink, appearing to read 'Frank Caputo', written over a horizontal line. The signature is stylized and includes a large 'C' and 'S'.

Frank Caputo

## Strata Management Agency Agreement

Dated:

Owners Corporation		
Name	The Owners - Strata Plan No. 81047	
	ABN: 91211420105	
Address	685 Casuarina Way	
	Casuarina NSW 2487	
Owners Corporation		
Name	Frank Caputo	ABN: 37090320099
ITSM Number		
Licence Number: 186863		
Address: 7 Costa Court Broadbeach Waters QLD 4218		

Particulars		
Item 1	Term	12 months
Item 2	Commencement Date	TBA
Item 3	Expiry Date	TBA
Item 4	Review Date	annual
Item 5	Percentage Increase	% (if no figure provided 5%)
Item 6	Agreed Services Fee	\$26,400 (24,000 + GST)
Item 7	Fee Payment Method	Monthly <i>in advance</i>
Item 8	Representative / Substitute Representative	Secretary Chairman
Item 9	Manner Of Accounting	By providing trust Statement
Item 10	Frequency Of Accounting	Monthly

<b>Signatures</b>
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<b>Owners Corporation</b>
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The common seal of the owners corporation was affixed on:

Signature	Signature
Print Name	Print Name

being the person(s) authorised by section 238 of the Act to attest the affixing of the seal.

<b>Agent</b>
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Executed by ..... In accordance with Section 127 of the Corporations Act 2001 in the presence of

Signature of Director	Signature of Director/Company Secretary
Name of Director - Print Name	Name of Director/Company Secretary

being the person(s) authorised by section 238 of the Act to attest the affixing of the seal.

<b>Service of a copy of the Agreement</b>
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*The owners corporation acknowledges receipt of a copy of this agreement within 48 hours of execution by the owners corporation*

Name of Signatory - Print Name	Signature
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		<input type="checkbox"/>	No Authority
Record minutes of all meetings and circulate to all owners		X	Full Authority
		<input type="checkbox"/>	No Authority
Issue to all owners all correspondence as advised by the Executive Committee		X	Full Authority
		<input type="checkbox"/>	No Authority
Issue all correspondence received to the Executive Committee for review and advice. Respond as directed.		X	Full Authority
		<input type="checkbox"/>	No Authority
Set agenda as advised for Executive Committee meetings, Extraordinary Committee meetings and Annual General meetings and issue to all owners in a timely manner		X	Full Authority
		<input type="checkbox"/>	No Authority
Assist and advise Executive Committee in setting annual budget		X	Full Authority
		<input type="checkbox"/>	No Authority
Ensure that the By-laws of the Strata are upheld		X	Full Authority
		<input type="checkbox"/>	No Authority
Retain common seal and affix in accordance with approval as stipulated in written minutes		X	Full Authority
		<input type="checkbox"/>	No Authority
Liaise with duly appointed Executive Committee representative		X	Full Authority

	<input type="checkbox"/>	No Authority
Facilitate mediation when required	<input checked="" type="checkbox"/>	Full Authority
	<input type="checkbox"/>	No Authority
Arrange insurance cover for the Strata and maintain records	<input checked="" type="checkbox"/>	Full Authority
	<input type="checkbox"/>	No Authority
Pay disbursements and expenses incurred in connection with the management of the Strata	<input checked="" type="checkbox"/>	Full Authority
	<input type="checkbox"/>	No Authority
Issue notices to comply with a by-law	<input checked="" type="checkbox"/>	Full Authority
	<input type="checkbox"/>	No Authority
	<input type="checkbox"/>	Full Authority
	<input type="checkbox"/>	No Authority
	<input type="checkbox"/>	Full Authority
	<input type="checkbox"/>	No Authority
	<input type="checkbox"/>	Full Authority
	<input type="checkbox"/>	No Authority

### **Accounting services**

1. Establish and maintain the trust account
2. Issue up to three levy notices per annum
3. Monitor and arrange for recovery of levy arrears
4. Pay invoices on behalf of owners corporation (eg for water charges, council rates and maintenance)
5. Pay disbursements and expenses incurred in connection with agent's management of strata scheme
6. Provide monthly accounts paid summary
7. Provide statutory reconciled accounts including balance sheet, statement of income and expenditure and levy status report
8. Prepare administrative fund budget and arrange for sinking fund budget
9. Manage administrative fund and sinking fund
10. Other accounting services being: *[insert]*

### **Insurance**

11. Prepare and lodge routine insurance claims (max time/claim 15 minutes subject to insurance policies placed through insurance Aid General brokers))
12. Obtain quotes for insurance renewal
13. Submit quotes to executive committee and renew insurances (according to instructions)
14. Other insurance services being: *[insert]*

### **Secretarial**

15. Maintain strata roll and minute book
16. Maintain correspondence file
17. Record and retain notices under sections 118, 119 and 120 of the Act
18. Maintain common seal
19. Attend to routine written and oral communication
20. Other secretarial services being: *[insert]*

### **Meetings**

21. Prepare and distribute notices of Annual General Meetings
22. Attend Annual General Meetings to a maximum of ~~three~~ hours held during office hours at agent's premises
23. Prepare and distribute minutes of Annual General Meetings
24. Arrange for venue for meetings (cost of venue to be borne by owners corporation)
25. Other services being: *[insert]*

### **Executive Committee Meetings**

26. Prepare and distribute notices of executive committee meetings.
27. Attend three executive committee meetings (to a maximum of ~~three~~ hours each meeting) held during office hours during the year, additional executive committee meetings at rates specified in Schedule of Charges
28. Prepare and distribute minutes of meetings.

### **By-Laws**

29. Answer queries from the executive committee about by-laws
30. Other services being: *[insert]*

### **Fees and Disbursements**

31. The Body Corporate will pay the Agent the following fees and disbursements:
  - (a) An administration fee in the sum of \$ 140.00 per registered lot per annum, plus GST (all payable monthly in advance) for the work performed specified in Agreed Services Schedule; and;
  - (b) Disbursements in the sum of \$ 60.00 per registered lot per annum associated with the work specified in Agreed Services Schedule, plus GST
    - i. An additional fee and disbursements for work performed by the Agent other than that specified in Agreed Services Schedule (which will be calculated and charged in accordance with Schedule of Charges hereof and be payable within one (1) month after the Owners Corporation receives a statement of account from the Agent); and



- ii. Fees received by the Owners Corporation for the provision of Certificates and other information from Owners Corporation records.
- 32. The administration, additional fees, and disbursements will be reviewed on the anniversary of the commencement date by agreement between the parties.
- 33. Notwithstanding the above Clause it is agreed that the reviewed administration fee, additional fees, and disbursements will not be an amount less than the immediately preceding period plus an amount of 5%.

\* These fees have been negotiated between the parties to the *agreement*



If you have not attempted mediation you should get advice from NSW Fair Trading  
For more information about the NSW Civil & Administrative Tribunal (NCAT) telephone 1300 006 228 or visit [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au)

880-430

**DISPUTE DETAILS**

1. Have you tried to settle this dispute through mediation?

Yes. If Yes, please attach evidence of the mediation outcome

No. If No, Why? \_\_\_\_\_

2. Address of the scheme:

- Strata Scheme  
 Community Scheme

685-707 CASUARINA WATER

CASUARINA NSW

Postcode: 2487

3. Strata Plan or Community Plan DP Number:

81047

If a Community Scheme, is your lot in a:  Community Plan  Neighbourhood Plan  Precinct Plan  Strata Corporation

If a Community Plan, how many lots are shown on the plan? \_\_\_\_\_

**APPLICANT**

4. Your Name:

Individual applicant or corporation

Full name/s:

ALLAN MOORE / BREXIE HEARD

Postal address:

9/5 RAILWAY TDB

HURSTVILLE NSW

Postcode: 2220

Contact details:

Daytime telephone: 02 95794081 / 0414979758

Email address:

litted@iinet.net.au

5. Are you:

Tick where appropriate

If Strata Scheme

Lot owner of Lot No. 74/81  Original owner  Lessor

Owners corporation  Council, public authority or statutory body  Other

If Community Plan

Owner / proprietor of Lot No. \_\_\_\_\_  Occupier

Association  Strata corporation  Manager  Other

**RESPONDENT**

6. Respondent details:

Who is the respondent?  
Individual or corporation

If more than one party attach a separate list

Full name/s:

TOM BRITON-ASCHMANN OF EC.

Postal address:

46 BCS 2/18 BAY ST

WOODHEADS NSW

Postcode: 2485

Contact details:

Daytime telephone:

Email address:

tom@justtravel.com.au

7. Who is the respondent?

Tick where appropriate

If Strata Scheme

Lot owner of Lot No. \_\_\_\_\_

Owners corporation

Tenant / occupier of Lot No. \_\_\_\_\_

Lessor  Other

If Community Plan

Owner / proprietor of Lot No. \_\_\_\_\_

Community Association

Precinct Association

Neighbourhood Association

Occupier  Other

**OFFICE USE ONLY:**

Receipt No: 1487294

Date: 13-06-2014

Fee: \$78.00

Receipt Total: \$78.00

File No: \_\_\_\_\_

Classification: \_\_\_\_\_

RECEIVED  
16 JUN 2014  
NCAT  
TAMWORTH

RECEIVED  
13 JUN 2014  
NCAT  
HURSTVILLE

**ORDER DETAILS**

**8. What orders do you want?**

Write down the section/s of the *Strata Schemes Management Act 1996* or *Community Land Management Act 1989* and the order/s you want the Adjudicator to make. Refer to the information attached for the sections of the Act and the types of orders that can be made.

Section/s	Terms of the order/s
162	TO APPOINT A MANAGING AGENT TO TAKE OVER
	- ALL DUTIES OF EXECUTIVE COMMITTEE FOR 2-12 MONTHS
	- ALL DUTIES/REPLACE CURRENT STRATA MANAGER

**9. What are your reasons for requesting the above orders?**

You must explain why you are asking for the order/s by providing as much relevant detail as possible. If the space below is insufficient, you can attach additional information to this form.

SEE ATTACHED

**10. Address of Managing Agent:**

Or Secretary of Owners Corporation / Association

ANDREW MORRIS - BCS TWEED HEADS  
 2/18 BAY ST  
 TWEED HEADS Postcode: 2485

**11. Related file numbers:**

List all previous applications involving the same or related dispute

SP 8/047. SM14/0482RG

**12. Important Information: Application fee and attachments**

Is your application fee included?

Refer to the fee schedule on the NCAT website [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au). Payment can be made by cheque or money order to 'NSW Civil and Administrative Tribunal'. Cash, credit card and eftpos payments can be made at any NCAT Registry Office, NSW Fair Trading or Service NSW Centre. Concession fee applicants must provide a photocopy of their concession card.

Have you included your attachments?

Attach any additional information to this form such as details of multiple applicants or respondents, further information about the orders you are seeking and copies of supporting documents. Keep a copy of your application and any attached information for your own records. Note: A copy of this application and any attachments will be sent to the respondent/s.

**13. Your Name/s (Please print)**

ALLAN MOORE / BROOKE HOWARD  
 Your position title (if company)

OWNERS

**Your Signature/s**

[Signature] / [Signature]  
 Date

12.06.2014

Return application with fee to: **NSW Civil and Administrative Tribunal (NCAT)**

For all NCAT Consumer & Commercial Division Registry Offices ☎ T: 1300 006 228 🌐 [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au)

<b>Sydney Registry</b> Level 12, 175 Castlereagh Street Sydney NSW 2000 GPO Box 4005, Sydney NSW 2001	<b>Hurstville Registry</b> Level 3, 4-8 Woodville Street Hurstville NSW 2220 PO Box 148, Hurstville BC NSW 1481	<b>Liverpool Registry</b> Level 3, 33 Moore Street Liverpool NSW 2170 PO Box 723, Liverpool BC NSW 1871	<b>Penrith Registry</b> Ground Floor, 2-6 Station Street Penrith NSW 2750 PO Box 888, Penrith NSW 2751
<b>Newcastle Registry</b> Level 1, 175 Scott Street Newcastle NSW 2300 PO Box 792, Newcastle NSW 2300	<b>Tamworth Registry</b> Suite 3-5, Kable Komer Complex Cnr Kable Ave & Darling St PO Box 1033, Tamworth NSW 2340	<b>Wollongong Registry</b> Level 3, 43 Burelli Street Wollongong NSW 2500 PO Box 318, Wollongong NSW 2520	 <b>NCAT</b> NSW Civil & Administrative Tribunal

## ORDERS - under the Strata Schemes Management Act 1996

An application to NCAT should request at least one of the orders below. This is a guide only and you should refer to the legislation when making your application.

### General orders for settlement of disputes or rectify complaints

Section	Orders	Who can apply?	Information or documents required
138	To resolve disputes or complaints  Note: Do not use this section of the Act for a dispute or complaint dealt with in the following specific sections	Interested person: <ul style="list-style-type: none"> <li>• Owners Corporation</li> <li>• Strata managing agent</li> <li>• Owner</li> <li>• Person having an estate or interest in lot</li> <li>• Occupier of lot</li> <li>• Other person for the time being bound by the strata management statement</li> </ul>	Note: This is the general power of an Adjudicator to settle a dispute or complaint about the operation, administration or management of a strata scheme, or functions conferred or imposed.  Examples of general disputes or complaints include : <ul style="list-style-type: none"> <li>• Management of administrative and sinking funds</li> <li>• Holding meetings in accordance with the Act</li> <li>• Interference with support of shelter or essential services</li> <li>• Repairs to common property</li> <li>• Compliance with by-laws</li> <li>• Causing a nuisance or hazard</li> <li>• Interference with the use or enjoyment of common property</li> <li>• Failure to provide documents.</li> </ul> <p>Attach evidence of attempted mediation</p>

### Orders about property

Section	Orders	Who can apply?	Information or documents required
140	To get consent to existing or proposed alterations or repair of common property  Note: Orders cannot be made under this section authorising additions to common property	<ul style="list-style-type: none"> <li>• Owner</li> <li>• Lessor of leasehold strata scheme</li> </ul>	<ul style="list-style-type: none"> <li>• Describe alterations or repairs that have been unreasonably refused</li> <li>• Give the date you asked for the approval and the date the Owners Corporation refused your proposal</li> <li>• Attach evidence of attempted mediation, any relevant registered by-laws, a copy of the minutes of the meeting, a copy of your request and the Owners Corporation's refusal.</li> </ul>
141	To direct owner to lodge documents under section 14(1) of Strata Schemes (Freehold Development) Act 1973 or section 17(1) of Strata Schemes (Leasehold Development) Act 1986	<ul style="list-style-type: none"> <li>• Owner</li> <li>• Lessor or lessee of lot of leasehold strata scheme</li> <li>• Owners corporation</li> </ul>	<ul style="list-style-type: none"> <li>• Describe alterations, demolition work, construction work and how it alters the boundaries of the lot.</li> <li>• Describe what and why property of Owners Corporation should be sold or disposed of</li> <li>• Give the date the property was bought and the cost</li> <li>• Provide details of any resolution made</li> <li>• Attach evidence of attempted mediation, any relevant registered by-law, a copy of the minutes of the meeting, a copy of your request and the Owners Corporation's request.</li> <li>• Attach copy of strata plan, plan of alterations, construction or demolition work.</li> </ul>
142	To require Owners Corporation to sell/ dispose of personal property or to prevent Owners Corporation acquiring personal property	<ul style="list-style-type: none"> <li>• Owner</li> </ul>	<ul style="list-style-type: none"> <li>• Attach copy of strata plan, plan of alterations, construction or demolition work.</li> </ul>
143	To require Owners Corporation to acquire personal property	<ul style="list-style-type: none"> <li>• Owner</li> </ul>	<ul style="list-style-type: none"> <li>• Describe why the Owners Corporation should acquire personal property</li> <li>• Give details of any resolution made and the cost of the property</li> <li>• Attach evidence of attempted mediation, a copy of your request and the Owners Corporation's response</li> </ul>
144	To use specified common property for specified purposes	<ul style="list-style-type: none"> <li>• Owner</li> </ul>	<ul style="list-style-type: none"> <li>• Describe what part of common property is involved and why you require use of common property</li> <li>• Attach evidence of attempted mediation, a copy of your request and the Owners Corporation's response</li> </ul>
145	To require occupier of lot to allow Owners Corporation to enter lot	<ul style="list-style-type: none"> <li>• Owners Corporation</li> </ul>	<ul style="list-style-type: none"> <li>• Describe why entry to lot is required and if consent has been refused. Note: Entry must be required to do work that the Owners Corporation is obliged to carry out, to see if such work is necessary, or to carry out inspections in accordance with the Act.</li> <li>• Attach evidence of attempted mediation</li> <li>• Provide a copy of strata plan, minutes of relevant meetings, relevant registered by-laws.</li> </ul>

**ORDERS - under the Strata Schemes Management Act 1996**

**Orders about insurance**

Section	Orders	Who can apply?	Information or documents required
146	To require person to make or pursue insurance claim	<ul style="list-style-type: none"> <li>Owner</li> <li>Lessor of leasehold strata scheme</li> <li>Sublessee in a leasehold strata scheme</li> <li>Person in whom is vested estate in fee simple or a leasehold estate (in case where part of building is included in stratum parcel)</li> <li>or part of building not included in stratum parcel</li> </ul>	<ul style="list-style-type: none"> <li>Describe what you want the person to lodge a claim for.</li> <li>Describe when and why the person unreasonably refused to make or pursue the claim</li> <li>Attach evidence of attempted mediation, a copy of the insurance policy (if possible)</li> </ul>
147	To require insurance to be taken out	<ul style="list-style-type: none"> <li>Owner</li> <li>Enrolled mortgagee or person having interest in lot</li> <li>Lessor of leasehold strata scheme</li> <li>Sublessee of common property or lot in a leasehold strata scheme</li> <li>Person in whom is vested an estate in fee simple or a leasehold estate (in case part of building is included in stratum parcel) of part of building not included in stratum parcel</li> <li>Authority having benefit of a positive covenant affecting building or site</li> </ul>	<p>This section is about an order to take out insurance for a specified amount or the proportions in which the premiums should be paid.</p> <ul style="list-style-type: none"> <li>Specify by whom the insurance is to be taken out or varied</li> <li>If the building concerned contains a stratum parcel, specify the proportion in which the premium is to be paid</li> <li>Provide as much detail as possible</li> <li>Provide copies of any relevant policies, minutes and correspondence</li> </ul> <p>Attach evidence of attempted mediation</p>
86	To be exempted from the requirement to insure a building	<ul style="list-style-type: none"> <li>Owners Corporation with unanimous resolution</li> <li>A person required to insure a building</li> </ul>	<ul style="list-style-type: none"> <li>Provide as much detail as possible</li> <li>Provide copies of any minutes and correspondence</li> <li>Attach evidence of attempted mediation</li> </ul>

**Orders about adjoining strata schemes**

139	To resolve a dispute between adjoining strata schemes	<ul style="list-style-type: none"> <li>Owners Corporation</li> </ul>	<ul style="list-style-type: none"> <li>Note: An order cannot be made unless the Owners Corporation for the other strata scheme involved consents to the making of the application</li> <li>Attach evidence of attempted mediation</li> </ul>
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**Orders appointing a strata managing agent**

Section	Orders	Who can apply?	Information or documents required
162	To appoint a strata managing agent	<ul style="list-style-type: none"> <li>Person who obtained an order under this Act that imposed a duty on the</li> <li>Owners Corporation or office holder of executive committee that has not been complied with</li> <li>Person having estate or interest in lot or, in the case of leasehold strata scheme, lease of lot</li> <li>Authority having benefit of positive covenant that imposes duty on Owners Corporation</li> </ul>	<ul style="list-style-type: none"> <li>Describe how the management structure is not functioning satisfactorily</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>Provide evidence of the Owners Corporation's failure to comply with an NCAT order, <u>failure to perform one of more of its duties</u></li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>Provide evidence of the Owners Corporation's judgement.</li> <li>What functions do you want the agent to have and exercise?</li> <li>Attach the written consent from a managing agent listing their terms, conditions, fee and licence under the <i>Property, Stock and Business Agents Act 2002</i>.</li> </ul>

## ORDERS - under the Strata Schemes Management Act 1996

### Orders about contributions (levies)

Section	Orders	Who can apply?	Information or documents required
148	To prevent the Owners Corporation charging interest for late payment of contributions	<ul style="list-style-type: none"> <li>Owner</li> </ul>	<ul style="list-style-type: none"> <li>Describe why the Owners Corporation should reasonably have determined not to charge interest</li> <li>Attach evidence of attempted mediation, copies of levy notices, details of interest</li> </ul>
149	To alter amount of contributions or alter manner of payment of contributions	<ul style="list-style-type: none"> <li>Owners Corporation</li> <li>Lessor of leasehold strata scheme</li> <li>Owner</li> <li>Mortgagee in possession</li> </ul>	<ul style="list-style-type: none"> <li>Describe why the levy should be a different amount and what the amount should be</li> <li>Provide the date the levy was decided and the last day for payment</li> <li>Include the estimates and minutes of meetings where the levy was decided</li> <li>Describe how the levy should be paid (you should provide sufficient detail to enable an understanding of your budgets and levies)</li> </ul> <p>Attach evidence of attempted mediation</p>

### Orders about keeping animals

150(1)	To require the removal of an animal wrongly kept on the lot	<ul style="list-style-type: none"> <li>Owners Corporation</li> <li>Strata managing agent</li> <li>Lessor of leasehold strata scheme</li> <li>Owner</li> <li>Person having estate or interest in lot</li> <li>Occupier of lot</li> </ul>	<ul style="list-style-type: none"> <li>Provide dates and details of the resolution of the Owners Corporation for the animal to be removed (if this happened) and whether the person keeping the animal was told about the resolution</li> <li>Provide a copy of any registered by-law</li> <li>Attach evidence of attempted mediation</li> </ul>
150(4)	To allow a person to keep an animal on the lot	<ul style="list-style-type: none"> <li>Owner</li> <li>Occupant of lot with consent of owner</li> </ul>	<ul style="list-style-type: none"> <li>Provide a copy of your request to the Owners Corporation</li> <li>Provide copies of any documents you provided to the Owners Corporation and any minutes of a meeting / or correspondence where the Owners Corporation refused to approve keeping the animal.</li> <li>Attach evidence of attempted mediation</li> </ul>
151	To remove an animal causing a nuisance or hazard or unreasonably interferes with the use and enjoyment of another lot or of the common property	<ul style="list-style-type: none"> <li>Owners Corporation</li> <li>Lessor of leasehold strata scheme</li> <li>Strata managing agent</li> <li>Owner</li> <li>Person having estate or interest in lot</li> <li>Occupier of lot</li> </ul>	<ul style="list-style-type: none"> <li>Provide dates and details of the resolution of the Owners Corporation approving the keeping of the animal</li> <li>Provide details of how the animal is causing a nuisance, danger or interference with the use and enjoyment of another lot or common property</li> <li>Provide copies of any registered by-law about keeping animals and minutes of the meeting where the Owners Corporation approved keeping the animal</li> </ul>
151	To stop a nuisance, hazard or unreasonable interference with the use and enjoyment of another lot or property caused by animal	<ul style="list-style-type: none"> <li>Person having estate or interest in lot</li> <li>Occupier of lot</li> </ul>	

### Orders about meetings and decisions of Owners Corporation

152	To vary the time at which the annual general meeting is required to be held	<ul style="list-style-type: none"> <li>Owners Corporation</li> <li>Strata managing agent</li> <li>Owner</li> </ul>	<ul style="list-style-type: none"> <li>Provide details of the date proposed and the reasons for requesting the change</li> <li>Provide copies of relevant documents</li> <li>Attach evidence of attempted mediation</li> </ul>
153	To invalidate a resolution of the Owners Corporation	<ul style="list-style-type: none"> <li>Owner or first mortgagee of a lot</li> </ul>	<ul style="list-style-type: none"> <li>Describe what resolutions you want invalidated and why</li> <li>Describe why an election should be invalidated</li> <li>Provide copies of relevant minutes</li> <li>Attach evidence of attempted mediation</li> </ul>
154	To nullify resolution of Owners Corporation on ground that person was denied vote or notice was not given	<ul style="list-style-type: none"> <li>A person entitled to vote on a resolution</li> </ul>	<ul style="list-style-type: none"> <li>Describe the circumstances which led to you being improperly denied a vote on the motion, or not being given due notice of the item of business and your entitlement to vote for or against the motion. Give the number of votes for and against the motion</li> <li>Provide copies of the resolution you want nullified and copies of minutes of meetings</li> <li>Attach evidence of attempted mediation</li> </ul>

## ORDERS - under the Strata Schemes Management Act 1996

### Orders about records of Owners Corporation

Section	Orders	Who can apply?	Information or documents required
155	To allow the Owners Corporation to enter information on the strata roll	<ul style="list-style-type: none"> <li>• Owners Corporation</li> <li>• Strata managing agent</li> <li>• Owner</li> <li>• A person having or acquiring an estate or interest in lot</li> </ul>	<ul style="list-style-type: none"> <li>• Provide details of information you want on the strata roll</li> <li>• Provide copies of any requisition given by the Secretary and any reply to the requisition</li> <li>• Attach evidence of attempted mediation</li> </ul>
158	To require the Owners Corporation, strata managing agent or office holder of executive committee to supply records or documents for inspection	<ul style="list-style-type: none"> <li>• A person entitled to inspect records or documents</li> </ul>	<ul style="list-style-type: none"> <li>• Provide details of the information you require and your entitlement to the information</li> <li>• Provide copies of your request for the supply of information and the refusal</li> <li>• Attach evidence of attempted mediation</li> </ul>

### Orders about by-laws

157	To revoke amendment to by-laws, revive repealed by-law or repeal new by-law	<ul style="list-style-type: none"> <li>• Person entitled to vote on motion relating to by-law</li> <li>• Lessor of leasehold strata scheme</li> </ul>	<ul style="list-style-type: none"> <li>• Describe why, in the interests of all lot owners, the Owners Corporation should not have changed or repealed an existing by-law or made a new by-law</li> <li>• Attach evidence of attempted mediation and copies (as relevant) of strata plan; by-laws, minutes of meetings; documents in support of request for by-law / repeal / amendment; owner's/lessor's consent to the making of the by-law.</li> </ul>
158	To make, amend or repeal a by-law conferring exclusive rights or privileges over common property	<ul style="list-style-type: none"> <li>• Owner</li> <li>• Owners Corporation</li> <li>• Interested person</li> </ul>	<ul style="list-style-type: none"> <li>• If Owner: Provide details of your request to the Owners Corporation to make exclusive use of the by-law; the response from the owners corporation; minutes of the meeting where the motion was lost; why the Owners Corporation refusal was unreasonable.</li> <li>• If Owner or Owners Corporation: Provide details of your request to an owner/lessor of a leasehold strata scheme to consent to a proposed by-law or proposed changes to repeal of a by-law; the response from owner/lessor and why the refusal to consent is unreasonable.</li> <li>• If Interested person: Provide details of what is unjust in the by-law about the maintenance or upkeep of any common property.</li> <li>• Attach evidence of attempted mediation and copies (as relevant) of the strata plan; by-laws, minutes of meetings; documents in support of request for by-law/repeal/amendment; owner's/lessor's consent to making of the by-law</li> </ul>
159	To invalidate a by-law because the Owners Corporation did not have power to make it	<ul style="list-style-type: none"> <li>• Person entitled to vote on motion relating to by-law</li> <li>• Lessor of leasehold strata scheme</li> </ul>	<ul style="list-style-type: none"> <li>• Describe why the Owners Corporation did not have power to make the by-law. Has the by-law been registered?</li> <li>• Does the by-law conflict with the legislation?</li> <li>• Attach evidence of attempted mediation</li> </ul>

### Orders about covenants and other restrictions

160	To comply with an obligation imposed by a positive covenant	<ul style="list-style-type: none"> <li>• An authority having benefit of positive covenant</li> </ul>	<ul style="list-style-type: none"> <li>• What positive covenant applies? Describe how the Owners Corporation has failed to comply with the obligations. State if you have been refused an Injunction under section 88H of the Conveyancing Act 1919</li> <li>• Attach evidence of attempted mediation and positive covenant</li> </ul>
161(1)	To refrain from breaching a restriction on the use of a utility lot	<ul style="list-style-type: none"> <li>• Owners Corporation</li> <li>• Lessor of leasehold strata scheme</li> <li>• Owner</li> <li>• Occupier of lot</li> </ul>	<ul style="list-style-type: none"> <li>• Give details of the restriction imposed on the use of the lot</li> <li>• Describe how the restriction has been breached</li> <li>• Attach evidence of attempted mediation and a copy of the relevant restriction</li> </ul>
161(3)	To refrain from breaching a restriction of the use of a utility lot within the area of a local council	<ul style="list-style-type: none"> <li>• Relevant local council</li> </ul>	

## ORDERS - under the Community Land Management 1989

### General orders for settlement of disputes

Section	Orders	Who can apply?	Information of documents required
62 63 71	To allow the Owners Corporation to enter information on the strata roll	<ul style="list-style-type: none"> <li>• Owners Corporation</li> <li>• Strata managing agent</li> <li>• Owner</li> <li>• A person having or acquiring an estate or interest in lot</li> </ul>	<ul style="list-style-type: none"> <li>• Provide details of information you want on the strata roll</li> <li>• Provide copies of any requisition given by the Secretary and any reply to the requisition</li> <li>• Attach evidence of attempted mediation</li> </ul>

## GENERAL INFORMATION ABOUT STRATA & COMMUNITY SCHEMES ADJUDICATIONS

### About NCAT

The NSW Civil and Administrative Tribunal (NCAT) is an independent, specialised and accessible service for the fair and timely resolution of disputes according to law.

Under the *Strata Schemes Management Act 1996* and the *Community Schemes Management Act 1989*, an Adjudicator can make decisions on disputes or complaints which have not been resolved by mediation.

### Making an application

Any party who was involved in the mediation process can make an application for an order. It does not have to be the person who applied for mediation. If you are an owner you must have paid your levies otherwise your application may be dismissed.

An application may be lodged at any time up to 12 months after the mediation process. Attach a copy of the letter advising the result of mediation.

However there are some types of applications which do not require mediation. Seek advice from NSW Fair Trading about mediation requirements before lodging your application.

**If you have not attempted mediation you should get advice before completing this form.**

Do not include any confidential information with your application. A copy of your application and any attached documents will be sent to the other party. The Owners Corporation or Association also has an obligation to provide a copy of the application to all parties on the strata roll.

### How is an Adjudicator's decision made?

Applications to an Adjudicator do not require parties to appear in person at NCAT.

When applying for an order by an Adjudicator you need to submit all relevant documents to prove your case. If possible, attach a copy of the strata plan, minutes of relevant meetings, resolutions and by-laws.

A letter is then sent by NCAT to interested parties asking for submissions (the comments of anyone involved). One month is usually allowed for submissions to be lodged. Once the submissions period closes, the Adjudicator considers the application and all submissions received. The Adjudicator's decision and the reasons for it, are then given in writing.

Notice of the order is sent out to the people involved (the person who applied, the person it is against, anyone who sent in a submission and the owners corporation). An Adjudicator's order is binding and carries a penalty for failure to comply.

### How long does the whole process take?

You can expect the matter to be finalised within three months after lodging an application with NCAT.

### How do I enforce an Adjudicator's order?

A decision made by an Adjudicator is binding. It is an offence to wilfully contravene or fail to comply with a decision of an Adjudicator. A party can apply to NCAT to impose a penalty order on anyone who does not comply with an Adjudicator's orders. You should get advice before pursuing this option.

### What if I am unhappy with the decision?

An Adjudicator's decision can be appealed to NCAT.

- An appeal against an order dismissing an application must be lodged within 21 days after the order takes effect. The time limit may only be extended in limited circumstances.
- An appeal against any other order must be lodged within 21 days after the order takes effect. That time limit can be extended but only up to 90 days after the orders take effect.

If you are lodging an appeal out of time, you will need to provide reasons why you have not lodged within the time limit.

### Privacy of personal information

All information contained in an application is provided to all parties, including home/business addresses, phone and email details. The privacy of personal information is important to NCAT. NCAT collects personal information to register applications and to make decisions about disputes. NCAT may give personal information to another person or agency (e.g. NSW Fair Trading) as required or authorised by law. A person has a right to access their personal information and may request that NCAT correct any inaccuracies.

### Information and assistance

Before lodging an application contact NSW Fair Trading on 13 32 20.

After lodging an application contact NCAT on 1300 006 228.

If you need an interpreter, please call the Translating and Interpreting Service (TIS National) on 131 450 and ask them to telephone the NSW Civil and Administrative Tribunal (NCAT) on 1300 006 228. Our business hours are 8:30am to 4:30pm.



Cotton Beach SP 81047

NCAT Application:

8. Orders

Section 162.

Appointment of a Managing agent to take over

- All duties of the executive committee for a period of 4 to 12 months
- All duties/replace the current strata manager BCS

More information on point 8. Orders is below

9. Reasons:

Impact of Management Rights returned to Strata,

1. Major dysfunctional Committee such that they cannot act effectively
2. Budget has major shortfalls the EC has not fixed – across a broad range of areas – including gas billing, caretaker expenses, planter box repairs and general underfunding
3. Gas Billing – changed from individual billing to by entitlements and the additional \$45,000+ has never been quantified, and no increase in levies.
4. BCS mis-management of accounts has resulted in an overpayment that has not been reclaimed
5. Sinking Fund – EC have refused to collect the Special Levy. BCS are fully aware of this motion and have allowed this to occur
6. Planter box expenditure was \$98,800 and not approved by owners. The Committee have proceeded without approval, part payment has been made for approximately \$25,000. This needs to be rescinded, it is an outstanding liability
7. BCS have acknowledge in the minutes it was not approved – they proposed revising the minutes
8. Failure to professionally manage the relationship with the Caretaker – resulting in the Caretaker threatening to sue the Owners Corporation, and extensive complaints on their performance, and multiple residents breaking their lease due to the caretakers conduct
9. Committee have failed to notify owners of the state of the major remedial repairs for water penetration – some apartments have not been repaired, Brookfield Multiplex have left the premises and there is still no status report from the Committee.
10. Appointment of Committee members without due process

Point 8. Orders ... continued

Managing Agent Terms and Conditions have been discussed and agreed to include:

- A. Replacing the Strata Manager: normal contract, sample attached with conditions.
- B. Replacing the dysfunctional executive committee:

For Executive Committee role - there is significant work involved and we believe Frank Caputo will be required full time between the two roles for at least 4 months to sort the situation.

Administrator: Frank Caputo (strata manger)

Term – min 4 months to maximum 12 months

To perform all duties of the Executive Committee with full powers

## Cotton Beach SP 81047

A consultative committee of 2 owners to assist Frank Caputo.

1 months' notice to be provided in writing by these 2 people - Richard King and Di Pitchford unanimously

Present on site 5 hrs per day 5 days per week (or on strata committee duties)

Payment - \$1250 + gst per week (equivalent of \$50 ph + gst)

This is in addition to the strata managers role \$24,000 + gst, and retain insurance commission.

Given the size of the problem an Administrator is needed to prepare an accurate budget and reclaim some of the funds from external parties and from previous committee members who have had personal costs paid and the Committee has not issued them an invoice to reclaim the costs.

Consultative Committee - two people are:

Richard King: with extensive relevant background to sort out the personal agendas and legal issues. His experience includes a period as an Industrial officer with the Victorian Department of Labour, then Executive Director of an employer association, until establishing own consultancy company in 2003 to assist those organisations undergoing significant change to more effectively link their human resources management practices with their corporate governance and strategic planning objectives.

Qualifications include: Master of Industrial Relations and Employee Relations, Monash University. Graduate Diploma in Industrial and Employee Relations, Monash University. Associate Diploma of Applied Science (OH&S), Victoria University. Practitioners Certificate of Mediation, Institute of Arbitrators and Mediators Australia.

Di Pitchfork: intimate knowledge on Cotton Beach accounts and history. With a high attention to detail Di was previously Treasurer and managed the account on a tight basis. Her background is in accounts and she has a proven track record with clearly / transparently / thoroughly handling all Treasurer functions for Cotton Beach.

Both of these people have indicated they have the time available to commit to assist turning around the complex and bringing it to an AGM/EGM in the near future.

Nominal payment be offered to Richard King and Di Pitchfork when work is completed above and beyond normal time commitments as Owners – when acting in official capacity, and/or for stationary and other consumables.

The aim is to elect new committee with minimum 7 members – hopefully in November/December 2014 if possible.

Excluding anyone who has served during the past 2 terms starting from (elections November 2012) and their partners in applying for committee positions in the next AGM/EGM.

Guidelines be set for membership to the Executive Committee before the AGM/EGM including – expected time commitment, professional approach, consultative, and open and transparent.

Frank Caputo has agreed all information to be readily available to all owners – the normal Strata system like the Hub is cumbersome and not filed in rent easy to find method – the information needs to be posted in a easily accessible format - eg broadcast email with all receipts and/or via website (with or without a secure password).

## Cotton Beach SP 81047

Include update for Residents – as people living on site want to know what's happening, Renters have a vested interest too.

Reclaim over paid monies / investigate contracts including (but not limited too) –

- Kleenheat overpayments – investigate and negotiate short term resolution
- Silver Asset Services (SAS) funds owed – claim outstanding funds, using a legal process if not immediately resolved if owed more than \$10,000 ... to report to Di and Richard as to the approach in claiming outstanding's
- Rec Club – investigate a settlement to this excessive contract cost
- BCS accounting methods – organise a forensic accountant or thorough investigation (use a Forensic Accountant) of the accounting on Kleenheat and all bills. Also on BCS's use of a combination of cash and accrual accounting that has caused issues.
- Initial updated budget be prepared within 6 weeks
- Prepare a budget to show the real shortage – including the approximately \$50,000 for Gas billing
- Unit 61 – locksmith paid by Strata but not claimed from owner, Invoice be sent to owner within 14 days for payment
- Air-conditioner replacement apt 40 paid by Strata but not reclaimed from owner, Investigate invoice be sent to owner within 14 days with demand for payment after consultation with consultative committee
- Invoice signed/approved by WALK for Heat Pump work – funds reclaimed, and breach notices be investigated
- Electricity Invoice for Walk be Issued within 14 days and collected within normal terms
- Respond to legal letter from WALK – as owners have provided information to the EC but the EC has not officially responded to the legal letter. This is a serious situation.
- Origin Energy – investigate billing as significant variance to contract price
- Lift Contract – Investigate contract as BCS did not put full contract on display and it has increased by over 4% in 6 months and potentially over 10% increase pa
- Multiplex leaving site – Scott's report – provide progress update. Letter to all owners.
- Identify an office space to host the strata records on site
- A website be used with security to host information for owners, contracts, pet policy, By-Laws and updates – this is not to include correspondence, it will be held on file in the office. People wishing to view correspondence will need to complete a strata search at the office.

23 April 2014

"Private and Confidential"

The Chairman,  
Cotton Beach Executive Committee.  
Tony Briton and EC.

— PRIVATE REQUEST TO ~~MEDIATE~~  
DISCUSS.

— THIS WAS ~~DECLINED~~

Dear Tony and EC,

We request a mediation meeting with the Cotton Beach Executive Committee to discuss the following points:

- Budget – with presentation by Treasurer
- Gas shortfall in payments from SAS, and their continued payment
- EC management of relationship with Walk Management
- Walks performance and contract conditions that were awarded
- Air conditioning repair
- Pet policy

We expect you will want to add range of points here:

➤

Outcome you are seeking:

➤

Outcome we are seeking:

1. The EC resign immediately and commit not to stand for re-election until 2 AGM's have passed. and
2. Administrator be appointed to manage Cotton Beach at least until November 2014 – on a monthly contract with 3 months notice.
3. Alternatively – The EC members undertake:
  - To address the above issues clearly, transparently and within 4 weeks
  - Each member commit to contribute at least 20 hrs per week for the next period to turn the situation around – or stand down
  - You agree to post information on a weekly basis to all owners and residents v/a email (or similar means) to show progress
  - You agree to use external professional assistance to manage the Walk relationship – and benchmark their performance. If this is not up to scratch – then the EC must take remedial action – particularly now Walk are threatening to sue the EC/Body Corporate.
  - At the next AGM to increase the EC to 7 members

Undertaking of the meeting:

1/2

1. If the EC stand down (for an administrator) and undertake not to stand again (or partners – or previous committee members from the past 2 years) for a set period – we will abide by the same agreement
2. This mediation meeting will be “in camera”. We undertake that no information will be distributed to the website or via email to any 3<sup>rd</sup> party.
3. The EC will abide by the same agreement
4. As there are 5 on the committee – we would bring the same number of people – being those named in legal letters as they have a right to be involved.
5. BCS do not attend this meeting. Their knowledge may be required at subsequent meetings but not at this meeting

**Mediator:**

One of the Cotton Beach Owners is a professional mediator – of extremely high caliber. We recommend Richard King be used for his expertise. We believe he will volunteer his time as long as there is a clear agenda and outcomes to be achieved.

If you would like to proceed with this please let us know via email – preferably within 7 days.

Regards

Allan Moore and Bruce Howard.

2nd Request to Mediate NCAT Mediation Application needed THIS INFORMATION.

Date	Event 1	Complainant	"Offender"	Desired Remedy	Email attachment
30 March 2014	<p>EC and BCS committed to release an updated budget during March</p> <p>They were elected early November 2013 and aware of the issues - this is 5 months to prepare. <i>NOOO 7-8 MONTHS</i></p> <p>Originally Cotton Beach was held on Cash accounting and ran successfully and within budget.</p> <p>Last year the previous treasurer has partial cash partial accrual - this has not worked.</p> <p>Now there is discussion of changing to accrual. We are seriously concerned this will not make things clearer - (see the Gas Billing where no invoice paid for 14 months)</p>	Allan Moore (AM) & Bruce Howard (BH)	Executive Committee (EC)	<p><b>Desired Remedy:</b></p> <p>The EC be replaced by an Administrator We have a firm who have agreed to take on the role.</p> <p><b>Less preferred remedy:</b></p> <p>The EC have had excessive time to prepare a budget. They are not competent to time effectively deal with paying invoices.</p> <p>They are spending significantly more than the income.</p> <p>They were aware of this the day they were elected.</p> <p>They continue to delay in dealing with the budget.</p> <p>EC instruct BCS that accounting must be on a cash basis.</p> <p>Release a current set of accounts within 14 days</p> <p>Release a projected cashflow (budget) in 28 days, showing a monthly expected cashflow.</p> <p>Include all of the major items addressed in this NCAT mediation</p> <p>If levy increase is needed of then call an EGM within 30 days</p>	Most evidence is listed on the website Cotton Beach Owners .com.au

Date	Event 2	Complainant	"Offender"	Desired Remedy	Email attachment
Nov 2013	<p><b>Gas Hot Water</b> Read Boxes declared DEFUNCT with Amended EC Motion at AGM.</p> <p>Effect – transfer the annual cost of Gas onto owners via entitlements.</p> <p>Issues –</p> <ol style="list-style-type: none"> <li>1. Budget includes income of \$35,000 from SAS reclaiming Gas costs – the EC have been deficient in claiming any of this.</li> <li>2. The net budget for BULK GAS is \$5,000. Estimated invoicing based on last year settlement is \$50,000. Additional potential additional Levies \$45,000.</li> <li>3. Kleenheat Gas had not billed Cotton Beach complex for 14 Months. No attempt by EC or BCS to notify Kleenheat. Monies were being provisioned, and a settlement agreed, but not shared with owners. We have no Actual last year comparison to measure the impact of payment by Levies.</li> <li>4. The Motion voted on was not presented to Owners – it was unreadable when put on a overhead slide at the AGM</li> </ol>	AM & BH	<p>EC/ BCS</p> <p>EC/ BCS</p> <p>EC/ Walk</p> <p>EC/ BCS</p> <p>EC/ BCS</p>	<p><b>Desired Remedy</b> The EC knew the costs were going up by \$45,000 because it occurred at the meeting they were elected. They are financially reckless in not adjusting the budget or claiming the outstanding money from SAS. The EC stand down and be replaced by an Administrator. We have a firm that has agreed This would be the best business solution for Cotton Beach</p> <p><b>Less preferred solution:</b> Current EC and BCS be allowed to continue and provide the following: Quantify the amount owned by SAS – then claim this as a priority Quantify for owners in an easy to read table the bulk gas cost for past 2 years and monthly expense. Call an EGM to update the budget for the significant amount When owners tried in the past to project the outcome of Entitlement Payment of Gas they were refused the history by Peter Robertson (Treasurer) and BCS were instructed not to give numbers. Desired outcome – a Monthly Budget be updated on Cash accounting basis.</p>	

Date	Event 3	Complainant	"Offender"	Desired Remedy	Email attachment
12 April	<p><b>Sinking Fund Repayment not Budgeted.</b></p> <p>A Special Levy was approved by Owners at the 2012 AGM</p> <p>\$26,000 pa over three Years</p> <p>To replace funds borrowed from the Sinking Fund to pay for the purchase of the Office from Brookfield</p> <p>The previous EC has not replaced these funds. The current EC has not budgeted for them.</p> <p>A number of the committee members are the same (or family members)</p>	BH	EC/ BCS	<p>This is placed on the Hub monthly with the updated actual vs budgeted figures.</p> <p>When an owner rang Kleenheat to see if there was a problem. Kleenheat discovered there was no billing for 14 months. The EC spent money/asked Grace Lawyers to investigate suing an owner for damages.</p> <p>Desired remedy - Legal action against owners should be a last resort after mediation.</p> <p>Latest Kleenheat invoicing suggests an increase in charges.</p> <p>Preferred option: The EC (and previous EC) are not fiscally responsible and should be replaced by an Administrator/ Strata Manager</p> <p>We have one ready to takeover.</p> <p>Least preferred option: The current EC immediately make good on this – with the first \$26,000 pa to be repaid before the next AGM. Spreading the cost over 3 years.</p>	Email attachment



Date	Event 4	Complainant	"Offender"	Desired Remedy	Email attachment
Invoice 20 Nov 2013	<p><b>The EC paid \$1575.20 for repairs to Air conditioner Condenser on common property.</b></p> <p>When asked why - they would not provide evidence.</p> <p>Owner of Apt 40 were EC members up to just before this time</p> <p>Owner of Apt 40 has emailed their version of the event - email will be provided. They claim storm damage.</p> <p>The complainant asked the Air Con Mechanic to email a statement to EC and himself - In the mechanics own words "Looks like the lid was left off or the screws were not fitted"</p> <p>No other storm damage in the vicinity or at the complex</p> <p>No screw damage / no torn metal in the holes, no screws still in place. E.g. the screws were not ripped out of the holes by strong winds</p> <p>On pushing recently the EC quoted By-Law 35 that is OC is responsible if damaged on common property</p> <p>The EC had not asked the Air Con Mechanic</p>	AM	<p>EC for accepting a claim without evidence.</p> <p>EC for not lodging a claim.</p> <p>EC for not gathering evidence for the Air Cond Mechanic.</p> <p>EC for paying the Mechanic 5 months after the invoice date</p>	<ol style="list-style-type: none"> <li>1. Owners of Apt 40 be advised there is not enough evidence this is body corporate responsibility to lodge an insurance claim. They will need to reimburse the BC for the cost of the invoice. OR</li> <li>2. The owners be instructed to repay the full cost immediately - until the insurance claim is lodged, approved and paid. If the insurance claim is accepted by the insurance company and paid for in full (except the \$250 excess). They receive payment for the full amount within 14 days. Or</li> <li>3. All owners except Apt 40 receive a reduction in next Levies of the same amount being \$1,575.20 to make this equitable</li> </ol> <p>and</p> <p>EC confirm the date the claim was lodged</p> <p>EC immediately display the Claim form on the Hub</p> <p>The receipt for payment (by Owners or insurer) be displayed on BCS Hub within 14 days of receipt as positive evidence of the outcome</p> <p>The Complainant is happy to send a brief positive email thanking the EC for cost effective solution if they would like it.</p>	<p>Most evidence is listed on the website</p> <p>Cotton Beach Owners .com.au</p>

	to email a statement of fact				
<b>Date</b>	<p>The EC has not lodged an insurance claim after almost 5 months</p> <p><b>Event 5</b></p>	<b>Complainant</b>	<b>"Offender"</b>	<b>Desired Remedy</b>	<b>Email attachment</b>
	<p>Caretaker gained illegal entry to two apartments on separate occasions.</p> <p>Caretaker has admitted to the accusation on both occasions.</p> <p>An owner has sent Caretaker a legal letter (available on request)</p>	AM & BH	EC did not issue a Breach Notice on either occasion	<p>Immediate and fair and equitable investigation of incidents.</p> <p>Confirm the keys have been removed from their possession giving entry to owners apartments or notify owners to change their locks</p> <p>Individual Breach Notices to be issued for every offence for which the Caretaker is found to be at fault.</p> <p>All Breach Notices to be posted on the Hub to notify all owners.</p> <p>Obtain an undertaking from the Caretaker they will not enter any apartment without authorisation</p> <p><b>Desired Remedy</b></p>	
<b>Date</b>	<b>Event 6</b>	<b>Complainant</b>	<b>"Offender"</b>	<b>Desired Remedy</b>	<b>Email attachment</b>
	<p><b>PLANTER BOX REFURBISHMENT.</b></p> <p>Quote accepted from Walk Management for \$98,800.</p> <p>May 2013 EC meeting approved this work.</p> <p>Minutes 20.2</p> <p>"Amended and resolved that Walk Management prioritise in consultation with the Executive Representative the repair and refurbishment of the ground floor planter</p>	BH	BCS / EC  BCS / EC	<p>Owners rejected a Special Levy for these works at the 2012 AGM.</p> <p>Authorised without EC Motion and owner approval.</p> <p>The EC acted beyond its scope</p> <p>The original Project was Refurbishment, filling Boxes with mulch, and lifting existing plants. We ask that the Planter boxes remain as purchased, however topped up with mulch. Any additional landscaping or planting must be authorised by the owners.</p>	Email attachment

	<p>boxes"</p> <p>BCS reply; "The minutes may not be have been specific enough, however, as this has not been raised previously the minutes weren't corrected. I've spoken to the strata Manager who conducted the meeting he confirms this An amendment can be arranged to correct this anomaly"</p> <p>The project is Landscaping, altering the structure of the ground floor boxes. It puts at risk the Waterproof liability of Brookfield.</p> <p>WALK Management clearly state -- they will not be held liable for any water leaks into apartments</p>	BCS/ EC	<p>No further work on planter box's be undertaken effective immediately</p> <p>The EC committed to these works knowing it was not approved by owners, nor budgeted in the operating year, leaving a liability in this budget year. This Project must be cancelled, submitted for approval to general meeting funded by Special Levy</p> <p>Project to be reconsidered with new specifications. The Walk Quote states:</p> <p>"Whilst all care will be taken no responsibility can be taken in regard to water proofing" Liability for "make good" repairs may now transfer to the Strata, from Brookfield.</p> <p>Desired Remedy – no refurbishments be undertaken unless water penetration is included in the responsibility or Brookfield have completed working on the adjacent apartments</p>	
Date	Event 7	"Offender"	Desired Remedy	Email attachment
	<p>Caretaker behaviour towards owners and tenants.</p> <p>Several complaint letters have been received from owners and tenants regarding incidents of abuse and misconduct by the Caretaker.</p> <p>Letters available at cottonbeachowners.com.au and more on request.</p> <p>No mediation was done between the complainant and the Caretaker on any occasion.</p>	<p>EC did not address complaints but dismissed them by labelling the complainant as "unstable, only a tenant, whinger, stooge for a 3rd party".</p>	<p>Evidence is in writing of this Executive Committee to address all letters of complaint in a fair and equitable manner.</p> <p>If Caretaker found to be at fault a breach notice to be issued for each offence.</p> <p>All Breach Notices to be posted on The Hub to notify all owners.</p> <p>The EC is responsible for managing this relationship – but seem ineffective in doing this.</p>	

	<p>The tenants with concerns are all leasing through agencies external to Walk Management.</p> <p>Walk now sent legal letter threatening to sue the committee – because they have not handled the complaints professionally!</p>			<p>They need to be replaced by an Administrator of our choice – who can professionally handle this.</p> <p>Less preferred solution Employ a professional to handle this in a fair and equitable manner.</p>	
<b>Date</b>	<b>Event 8</b>	<b>Complainant</b>	<b>“Offender”</b>	<b>Desired Remedy</b>	<b>Email attachment</b>
	<p><b>Uncollected Levies</b> In the past these have been kept at around \$20,000</p> <p>During the past 2 years they have not been controlled or closely managed</p> <p>Result is they are now approximately \$60,000</p> <p>Involve legal action to claim some of the funds – but potentially losing a lot due to bankruptcy</p>	AM & BH	EC & BCS	<p>They had a duty to manage these</p> <p>Not to allow them to get to 7% to gross income</p> <p>The EC commit to return this to below \$30,000 within a short period of time.</p> <p>EC should instruct BCS to action this if the EC are not willing to put in the time themselves</p>	
<b>Date</b>	<b>Event 9</b>	<b>Complainant</b>	<b>“Offender”</b>	<b>Desired Remedy</b>	<b>Email attachment</b>
	<p>Several tenants have broken their leases due to intimidation by the Caretaker.</p> <p>Caretaker has recently threatened a partially disabled long term owner/resident</p> <p>Documentation available on request.</p> <p>Executive Committee did not address</p>	BH	EC	<p>EC are costing Owners money by not managing the Caretaker in a professional capacity.</p> <p>If a tenant leaves this is very costly</p> <p>All tenants are leasing through agencies external to Walk Management.</p> <p>Desired Remedy – as above + instruct Caretaker to assist</p>	

	complaints when notified and Caretaker not managed re issues. This greatly impacts on the investment owners who are losing income from tenants.			offsite agents in friendly professional manor	
<b>Date</b>	<b>Event 10</b>	<b>Complainant</b>	<b>"Offender"</b>	<b>Desired Remedy</b>	<b>Email attachment</b>
	<p>Caretaker is not passing all invoices for payment for external contractors in a timely manner.</p> <p>Several invoices have been signed off and dated months after the invoice date.</p> <p>EC has not enforced management or compliance of accounts with the Caretaker.</p> <p>There is no monitoring of expenses.</p> <p>Incorrect financial figures advised by Body Corporate Services due to withheld information.</p> <p>Shows lack of commitment to the position of Treasurer</p>	AM & BH		<p>EC &amp; BCS to take a more professional and managerial approach with the Caretaker</p> <p>Caretaker – until recently (and still happening?) has been one of 2 signatories signing off on payments to themselves and extended related party companies and family members.</p> <p>All invoices that require signatures must be signed before posting on the hub</p> <p>Caretaker/Onsite manager cannot sign off on their own invoices or payments to any related company</p> <p>All related companies to be disclosed by Caretaker/onsite manager</p> <p>All invoices be presented in a timely manor</p>	
<b>Date</b>	<b>Event 11</b>	<b>Complainant</b>	<b>"Offender"</b>	<b>Desired Remedy</b>	<b>Email attachment</b>

	<p><b>Insurance coverage not completed.</b></p> <p>The Statement of Financial Affairs produced for the Committee meeting Feb. 22 2014.</p> <p>Insurance end January \$100,871.</p> <p>The Budget was \$80,000. Last Year \$85,661.38</p> <p>The Complex was revalued at a much lower figure so Insurance should be cheaper year on year.</p> <p>However larger electric motors remain uninsured.</p> <p>The committee approved Walk Management to hire a tradesperson to provide detail.</p> <p>This request has been ongoing.</p>	BH	EC	<p>The EC to organise a trade person to provide the detail on larger electric motors</p> <p>Insure these as a priority</p> <p>The Budget is set at \$80,000. The spend has been \$100,000 without covering the motors!</p> <p>Advise owners of the additional cost above budget</p>	
<p><b>Date</b></p>	<p><b>Event 12</b></p> <p>Insufficient details on expense claims.</p> <p>The Caretaker has passed invoices for payment which have insufficient detail, supporting documentation or addressed correctly to the Strata Plan.</p> <p>Executive Committee for not ensuring compliance to accepted business practice.</p> <p>The treasurer is accepting these for payment without question.</p>	AM	EC	<p><b>Desired Remedy</b></p> <p>Executive Committee to monitor and manage appropriately all expenditure relating to the building.</p> <p>Ensure we adopt accepted business practice.</p> <p>As above with signatures and timing</p>	<p><b>Email attachment</b></p>

Date	Event 13	Complainant	"Offender"	Desired Remedy	Email attachment
	<p>Payment of essential invoices.</p> <p>These payments are consistently not being made on time.</p> <p>Most of the payments for Electricity and Gas in the last 12 months have been paid for on Breach and Overdue notices.</p> <p>No details for the charges made. Kleenheat invoices were not paid for 14 months.</p> <p>Telephones in the lifts were not paid for several months resulting in lines being disconnected. Result - 4 new phone lines had to be installed at a further cost to the building.</p> <p>EC does not have a system in place to monitor when payments are due. This goes to show a lack of due diligence.</p> <p>There are duplicate payments and overpayments on accounts to which the treasurer and executive committee seem oblivious, even ignoring advice from others that this is a fact.</p> <p>BCS is not monitoring this correctly.</p>			<p>Desired Remedy:            Replace the EC with an Administrator            We have a firm in place who have accepted this offer</p> <p>We do not believe BCS long term inefficient managing of this accounts and the long term embedded committee are able to do this professionally and in the best financial interest of all owners</p> <p>Less Preferred:            Treasurer to set up a procedure to monitor all regular payments and when they are due.            BCS to be more diligent in keying in correct information.            e.g. one invoice was paid twice because it was input using the account number as the invoice number and then re-entered 3 weeks later using the correct invoice number.            Both were paid.</p> <p>Later invoices have since been paid by the 'New Charges' ignoring the credit balance on the account.</p> <p>No signature on these invoices approving the amounts for payment. Require all invoices processed for payment to show the signature of the person submitting them and the person authorising payment</p>	

Date	Event 14	Complainant	"Offender"	Desired Remedy	Email attachment
	<p>Alteration to Caretaker Contract after the Owners Corporation voted.</p> <p>Executive Committee and Grace Lawyers amended Clause 4.2 (b) after the Caretaker Contract had been voted in by the Owners Corporation. This clause relates to right of refusal at the end of the term of the contract.</p>			<p>Amend the contract to the one that the Owners Corporation voted for at the AGM.</p>	
Date	<p><b>Event 15</b></p> <p>Inappropriate use of Administrative Fund. Caretaker caused damage to the building by spraying the roof of the car park and damaging TV cabling. Invoicing quotes water damage.</p> <p>Executive Committee did not enforce the Caretaker Contract. Ref: Caretaker Agreement Clause 5.2 (b) Caretaker must pay for all repairs to the building which have been caused by the Caretaker's negligence. This was expensed to and paid for by the Owners Corporation.</p>	Complainant	"Offender"	<p><b>Desired Remedy</b></p> <p>Executive Committee to monitor and manage appropriately all expenditure relating to the building.</p>	Email attachment
Date	<p><b>Event 16</b></p> <p>Pet Policy</p> <p>The By-Law states NO PETS</p> <p>The EC continues to break their own By-Law</p>	Complainant	"Offender"	<p><b>Desired Remedy</b></p> <p>Issues EC broke own by-Laws Believe this has been done twice now</p>	Email attachment



	<p>The EC gave permission to ex Committee Member from Apartment 40 (again) to have a Dog in early November 2013</p> <p>This was not under any special exemption – in the owners own words.</p> <p>This was breached again with a purchaser forcing the issue as part of buying an apartment.</p> <p>Our issue is:</p> <ol style="list-style-type: none"> <li>1. The current EC hid the approval from Owners for Apt 40</li> <li>2. The EC broke their own By-Law</li> <li>3. We have ask for personal approval but they show favouritism by not given us approval</li> <li>4. They do not answer requests even after 3 requests and 2 committee meetings</li> <li>5. We asked for a formal pet policy – but they only come out with a poorly worded Dog Policy – what about Birds / Cats etc.</li> <li>6. The On-site manager is aggressive in dealing with owners with Dogs</li> </ol>		<p>They will not enter into correspondence about this</p> <p>They will not answer other requests – either yes or no Until it was listed on a public website – where they felt they needed to do something.</p> <p>It is for a previous Committee member</p> <p>Evidence available from owners themselves</p> <p>Cats and Birds – currently illegal. The EC need to create a PET POLICY</p> <p>There is a Dog policy recently released – it is poorly worded. This should be corrected as per the industry standard example.</p> <p>It is not official until passed at an AGM or EGM. Hold a EGM to confirm or deny this.</p> <p>Owners want a fast decision when applying for a pet – the EC should commit to reply within 7 days to any pet request</p>		
<b>Date</b>	<b>Event 17</b>	<b>Complainant</b> AM & BH	<b>“Offender”</b> EC	<b>Desired Remedy</b>  Desired Remedy There is no such website! The research they undertook is totally wrong/incorrect/inaccurate	<b>Email attachment</b>
	<p><b>Legal Cost</b> Legal &amp; Debt recovery fee (265) Last Year actual \$19,688 This Year budget \$10,000 (265) Actual to 31/01/2014 \$6,041.90</p>				

Date	Event 18	Complainant	"Offender"	Desired Remedy	Email attachment
	<p>The EC has engaged Leverage Lawyers, apparently replacing Grace lawyers, and has commenced Legal Action against the Complainants and other owners and residents.</p> <p>One legal threat by Leveraged Lawyers is totally wrong – it says "research undertaken by this firm reveals .." about the website ownersofcottonbeach.com.au</p> <p>The EC has instructed Leverage Lawyers to act against Cotton Beach owners and tenants, giving claims made by Bell Legal Group credibility. Walk Management claim is against the Owners committee, owners and tenants.</p> <p>Debt recovery costs with Kemp's Peterson (Division of BCS) will continue to grow as uncollected Levies move toward \$60,000. Both Legal and Debt recovery fees with be far more the Budget provisioned.</p>	BH & AM		<p>Specifically how much the cost was for this useless letter, or was the cost absorbed elsewhere?</p> <p>The EC confirm the cost to date this financial year for Leverage Lawyers including all recent work and pending invoices.</p> <p>The EC be removed as they are incompetent of taking any criticism or feedback</p> <p>Not once have the EC called to discuss any issue.</p> <p>This leads to shows their unwillingness to commit significant time to turn around the situation.</p>	
	<p><b>Stephen Waite - Building Report Claim</b></p> <p>We allege that the report has not been used, tabled, and intent unclear.</p> <p>We want to see the original report.</p> <p>The concern – major repairs may be needed</p>			<p><b>Desired Remedy</b></p> <p>Andrew Norris has said the report is present on the Hub. We have been unable to locate it and requested it be sent to us in this 1 case.</p> <p>Andrew Norris has not answered</p> <p>That the EC table and clarify the intent of the report and answer the question,</p>	

Date	to the roof or there are other major structural issues.	Complainant	"Offender"	"do we have a problem with the roof that needs to be dealt with"?	Email attachment
	<p>It took too long, cost too much, with owners and Tenants suffering potential health hazards. Investors leasing lost income with Tenants leaving or seeking rent reductions.</p> <p>Charged to SINKING FUND. \$13,005.45</p> <p>Stephan Waite Building Report, further Work in Progress and Scotts Schedule preparation. Charged to ADMINISTRATION FUND. \$4,830.91</p> <p>The total Cost of Stephen Waite Building Report to owners \$17,835.</p> <p><b>Event 19</b></p>	AM and BH	Margaret Kelly and EC		
	<p><b>Lift Contract</b></p> <p>Your lift was built by Kone. They have always serviced on a fixed price contract - and provided quality local support.</p> <p>Walk/EC decided to review this contract. Walk have a history of changing all the contractors</p> <p>One of your owner's was asked for his input/advice. He was the Sales and Marketing Manager for Schindler NSW and held a similar position with Kone. He retired from Thyssen Krupp as Brand Manager for</p>		<p>Margaret Kelly / Judith Hands / Peter Robertson / Sandra Nilsen / Tony Briton are responsible for IGNORING EXPERT ADVICE.</p> <p>The EC have a track record of not taking professional advice – even from an eminently qualified Owner.</p> <p>Desired Remedy: The EC be replaced by an Administrator</p> <p>The full contract with CPI increase and terms and condition be listed on the hub – not just the partial contract</p> <p>An acknowledgement/thankyou be sent to the Owner for his time and input</p>		

ACT. These were one of the world's largest Lift makers.

He recommended staying with Kone.

- for supply of parts when needed
- fixed price contract - no large increases like below
- excellent service from local technician

Walk Management / Tammy Williams organised the documentation to change to Schindler and it was signed by Margaret Kelly on EC

Now your Lift is serviced by the opposition, who must get their parts from overseas, and the EC with Walk agreed to this.

They agreed to a contract that increases with CPI on a quarterly basis.

**So far this year the cost has gone up = 4.29% in 6 months !!! - Thank you Margaret Kelly (signatory as Secretary) and partner of current Executive Committee member Brendan Kelly.**

Then the Lift broke down !!!!!  
It took weeks to source the part and have it operational again. Residents were extremely inconvenienced; at least 1 resident used this as reason to break their

Date	lease. Event 20	Complainant	"Offender"	Desired Remedy	Email attachment
	<p><b>Offer to Mediate</b></p> <p><b>No Response from EC at time of lodging this request</b></p> <p>We have offered to meet with the EC in a Mediation meeting</p> <p>The mediator is an Owner with a Masters in Industrial Relations and Employee Relations</p> <p>He has his own business and works full time in this exact field, and volunteered his time for free to mediate</p> <p>The current EC – declined to respond to our request</p> <p>They have served 2 legal letters on us in the past 6 weeks – and BCS have sent one of their own.</p> <p>We do not believe the EC are competent to manage the complex for the betterment of all owners, or fiscally responsible, or able to manage the Caretaker/onsite rental agent (being the same people)</p>	AM and BH	Tony Briton and EC	<p>Desired Remedy: We believe they should be forced to mediate given the significant \$ at stake for all owners.</p> <p>If this fails we will be applying for their removal as a matter of urgency.</p> <p>The EC need to commit significant personal time to turn around our complex – we have email confirming at least 1 does not have and cannot commit the time.</p> <p>The EC needs to be replaced by an Administrator We have agreement from a firm to take on the role</p> <p>We have a good core of support</p> <p>Discussions with the Administrator for Cotton Beach – it would be run with: Open regular communication Transparent accounting – meeting our requests above input appreciated from all – as its important to rely on the knowledge base among owners Professional – assistance in managing the Caretaker relationship and legal threat</p>	



**Fair  
Trading**

**Strata Mediation, Customer Services**

PO Box A805

Sydney South NSW 1235

Tel: 13 32 20 Fax: 02 9641 6565

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

Mr Allan Moore & Mr Bruce Howard  
9/5 Railway Parade  
HURSTVILLE NSW 2220

Phone: 9641-6564  
rebecca.gleeson@finance.nsw.gov.au  
28 May, 2014

Dear Mr Moore & Mr Howard

**Application for Mediation. SP: 81047. File No: SM14/0482RG  
685-707 Casuarina Way CASUARINA**

I refer to your application for mediation concerning various issues relating to the management of the scheme.

The *Strata Schemes Management Act 1996* sets out specific provisions for the resolution of disputes, the first step being mediation. If mediation is declined by the respondent party, adjudication of the dispute is the next step in the dispute resolution process.

In this instance, mediation has been declined by the Owners Corporation.

If the issues you described in your mediation application remain unresolved, you have the option to apply for an order from a Strata Schemes Adjudicator. If you choose this option, I suggest you contact the Fair Trading Information Centre on 13 32 20 to ensure the issues you have raised are matters that can be resolved by an Adjudicator's order.

Should you decide to proceed with an application for an Adjudicator's order, you will be required to indicate on your application form that mediation has been attempted, by attaching a copy of this letter to the application.

I have enclosed information about the resolution of strata disputes and an application form.

Yours sincerely

Rebecca Gleeson  
Mediator  
for the Deputy Commissioner for Fair Trading

## Strata Management Agency Agreement

Dated:

<b>Owners Corporation</b>		
Name	The Owners - Strata Plan No. 81047	
	ABN: 91211420105	
Address	685 Casuarina Way	
	Casuarina NSW 2487	
<b>Owners Corporation</b>		
Name	Frank Caputo	ABN: 37090320099
ITSM Number		
Licence Number:	186863	
Address:	7 Costa Court Broadbeach Waters QLD 4218	

<b>Particulars</b>		
Item 1	Term	12 months
Item 2	Commencement Date	TBA
Item 3	Expiry Date	TBA
Item 4	Review Date	annual
Item 5	Percentage Increase	% annual CPI to a maximum of 5%
Item 6	Agreed Services Fee	\$26,400 (24,000 + GST)
Item 7	Fee Payment Method	Monthly <i>in advance</i>
Item 8	Representative / Substitute Representative	Secretary Chairman
Item 9	Manner Of Accounting	By providing trust Statement
Item 10	Frequency Of Accounting	Monthly

**Signatures**

**Owners Corporation**

The common seal of the owners corporation was affixed on:

Signature	Signature
Print Name	Print Name

being the person(s) authorised by section 238 of the Act to attest the affixing of the seal.

**Agent**

Executed by ..... In accordance with Section 127 of the Corporations Act 2001 in the presence of

Signature of Director	Signature of Director/Company Secretary
Name of Director - Print Name	Name of Director/Company Secretary

being the person(s) authorised by section 238 of the Act to attest the affixing of the seal.

**Service of a copy of the Agreement**

*The owners corporation acknowledges receipt of a copy of this agreement within 48 hours of execution by the owners corporation*

Name of Signatory - Print Name	Signature
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### Accounting services

1. Establish and maintain the trust account
2. Issue up to three levy notices per annum
3. Monitor and arrange for recovery of levy arrears
4. Pay invoices on behalf of owners corporation (eg for water charges, council rates and maintenance)
5. Pay disbursements and expenses incurred in connection with agent's management of strata scheme
6. Provide monthly accounts paid summary
7. Provide statutory reconciled accounts including balance sheet, statement of income and expenditure and levy status report
8. Prepare administrative fund budget and arrange for sinking fund budget
9. Manage administrative fund and sinking fund
10. Other accounting services being: [insert]

### Insurance

11. Prepare and lodge routine insurance claims (max time/claim 15 minutes subject to insurance policies placed through Insurance Aid General brokers)
12. Obtain quotes for Insurance renewal
13. Submit quotes to executive committee and renew insurances (according to instructions)
14. Other insurance services being: [insert]

### Secretarial

15. Maintain strata roll and minute book
16. Maintain correspondence file
17. Record and retain notices under sections 118, 119 and 120 of the Act
18. Maintain common seal
19. Attend to routine written and oral communication
20. Other secretarial services being: [insert]

### Meetings

21. Prepare and distribute notices of Annual General Meetings
22. Attend Annual General Meetings to a maximum of ~~three~~ hours held during office hours at agent's premises
23. Prepare and distribute minutes of Annual General Meetings
24. Arrange for venue for meetings (cost of venue to be borne by owners corporation)
25. Other services being: [insert]

### Executive Committee Meetings

26. Prepare and distribute notices of executive committee meetings.
27. Attend three executive committee meetings (to a maximum of ~~three~~ hours each meeting) held during office hours during the year, additional executive committee meetings at rates specified in Schedule of Charges
28. Prepare and distribute minutes of meetings.

### By-Laws

29. Answer queries from the executive committee about by-laws
30. Other services being: [insert]

### Fees and Disbursements

31. The Body Corporate will pay the Agent the following fees and disbursements:
  - (a) An administration fee in the sum of \$ 140.00 per registered lot per annum, plus GST (all payable monthly in advance) for the work performed specified in Agreed Services Schedule; and;
  - (b) Disbursements in the sum of \$ 60.00 per registered lot per annum associated with the work specified in Agreed Services Schedule, plus GST
    - i. An additional fee and disbursements for work performed by the Agent other than that specified in Agreed Services Schedule (which will be calculated and charged in accordance with Schedule of Charges hereof and be payable within one (1) month after the Owners Corporation receives a statement of account from the Agent); and

**ii. Fees received by the Owners Corporation for the provision of Certificates and other information from Owners Corporation records.**

**32. The administration, additional fees, and disbursements will be reviewed on the anniversary of the commencement date by agreement between the parties.**

**33. Notwithstanding the above Clause it is agreed that the reviewed administration fee, additional fees, and disbursements will not be an amount less than the immediately preceding period plus an amount of 5%.**

**\* These fees have been negotiated between the parties to the agreement**

**Schedule of Duties and Functions**

Duties And Functions	Extent Of Authority	
Manage all funds and books of account	X	Full Authority
	<input type="checkbox"/>	No Authority
Manage the Administration and Sinking funds	X	Full Authority
	<input type="checkbox"/>	No Authority
Issue Levy Notices to all owners in a timely manner	X	Full Authority
	<input type="checkbox"/>	No Authority
Maintain all records pertaining to the Strata -i.e. Strata Roll, Asset Register	X	Full Authority
	<input type="checkbox"/>	No Authority
Arrange and facilitate all formal meetings ensuring that they are conducted in a true and proper manner	X	Full Authority
	<input type="checkbox"/>	No Authority
Maintain a record of all contracts pertaining to the Strata and advise imminent expiration	X	Full Authority
	<input type="checkbox"/>	No Authority
Advise the Executive Committee on all matters pertaining to Strata Law	X	Full Authority
	<input type="checkbox"/>	No Authority
Implement and execute debt recovery procedure as adopted by the Executive Committee and advise the Executive Committee	X	Full Authority
	<input type="checkbox"/>	No Authority

		<input type="checkbox"/>	No Authority
Record minutes of all meetings and circulate to all owners		X	Full Authority
		<input type="checkbox"/>	No Authority
Issue to all owners all correspondence as advised by the Executive Committee		X	Full Authority
		<input type="checkbox"/>	No Authority
Issue all correspondence received to the Executive Committee for review and advice. Respond as directed		X	Full Authority
		<input type="checkbox"/>	No Authority
Set agenda as advised for Executive Committee meetings, Extraordinary Committee meetings and Annual General meetings and issue to all owners in a timely manner		X	Full Authority
		<input type="checkbox"/>	No Authority
Assist and advise Executive Committee in setting annual budget		X	Full Authority
		<input type="checkbox"/>	No Authority
Ensure that the By-laws of the Strata are upheld		X	Full Authority
		<input type="checkbox"/>	No Authority
Retain common seal and affix in accordance with approval as stipulated in written minutes		X	Full Authority
		<input type="checkbox"/>	No Authority
Liaise with duly appointed Executive Committee representative		X	Full Authority

		<input type="checkbox"/>	No Authority
Facilitate mediation when required		X	Full Authority
		<input type="checkbox"/>	No Authority
Arrange insurance cover for the Strata and maintain records		X	Full Authority
		<input type="checkbox"/>	No Authority
Pay disbursements and expenses incurred in connection with the management of the Strata		X	Full Authority
		<input type="checkbox"/>	No Authority
Issue notices to comply with a by-law		X	Full Authority
		<input type="checkbox"/>	No Authority
		<input type="checkbox"/>	Full Authority
		<input type="checkbox"/>	No Authority
		<input type="checkbox"/>	Full Authority
		<input type="checkbox"/>	No Authority
		<input type="checkbox"/>	Full Authority
		<input type="checkbox"/>	No Authority

**Allan Moore**

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**Subject:** FW: Contract  
**Attachments:** Cotton Beach - Managing Agency Agreement Part 2.docx; Cotton Beach - Managing Agency Agreement.docx

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**From:** Frank Caputo [[mailto:frank\\_caputo@yahoo.com.au](mailto:frank_caputo@yahoo.com.au)]  
**Sent:** Saturday, 7 June 2014 6:55 PM  
**To:** Allan Moore  
**Subject:** Re: Contract

Dear Allan

Please find attached duly completed Managing Agency Agreement. Should you require any alterations or additions please do so with my permission.

In respect of ISTM they have now changed their name to Strata Community Australia. I was a former member of ISTM and will join again upon appointment.

Regards

Frank