

4 November 2011

Our ref: DB:SP52948  
Your ref: Simon Wicks

Principal: **David Bannerman**  
dbannerman@bannermans.com.au

The Secretary  
The Owners – Strata Plan No. 52948  
c/- Body Corporate Services - Epping  
BY-EMAIL

Dear Secretary

**MEETING WITH EXECUTIVE COMMITTEE REGARDING CONTROLLING COMMUNICATIONS  
AND RESTRICTING APPLICATIONS TO THE CONSUMER, TRADER AND TENANCY  
TRIBUNAL**

Thank you for inviting me to provide a fee proposal.

**Attachments**

Please find  
attached:

- (a) our costs agreement and disclosure as required under the *Legal Profession Act 2004*.

**General comments**

**Meeting with the  
executive committee**

Due to the numerous issues involved and the many different ways to approach the issues, I suggest that the executive committee attend my office to provide further details, obtain verbal advice and provide further instructions.

**Directions and parking**

In relation to the meeting in our office please note:

Address: *Suite 702, Level 7, 2 Elizabeth Plaza, North Sydney*

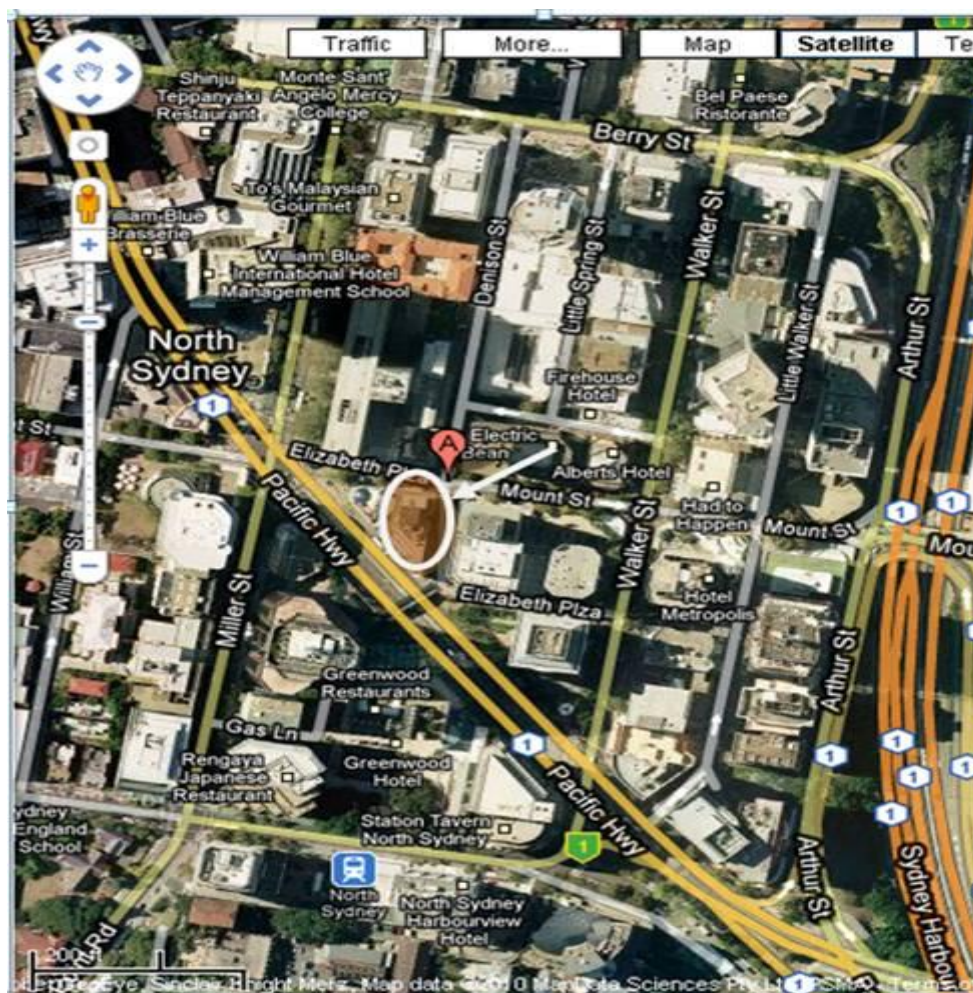
Parking: There are no complimentary visitor parking facilities in our building, there is however a Wilson Parking Station. The address of this Parking Station is **Turner House, Corner Pacific Highway, Elizabeth & Mount Streets, North Sydney**. The website for this parking facility is as follows:  
<http://www.wilsonparking.com.au/go/wilson-car-parks/nsw/elizabeth-plaza> There is also metered street parking around our building on Mount Street.

Train station: If you are catching the train, alight at North Sydney station and when you exit the station turn left onto Blue Street, turn right onto Miller Street, cross the Pacific Highway, proceed down Mount Street (pedestrian only at this point) and then right into Elizabeth Plaza (pedestrian only). You will find us on the right hand side, the building is clearly marked **2 Elizabeth Plaza**.

Security access:

The front doors to the building will remain locked prior to 7.30 am and after 7 pm. The elevator will require a security pass for access prior to 8am and after 5pm. If your meeting falls outside of these times please telephone (02) 9929 0226 and someone will meet you and escort you to our office.

Map:



## Steps going forward

Circulation and approval

The *Strata Schemes Management Act 1996*:

- (a) requires the scheme to circulate the attached costs agreement and disclosure (not this cover letter) to all owners and executive committee members within 7 days of receipt;
- (b) provides that it may be approved at a general meeting; and
- (c) provides that it may be approved at an executive committee meeting if:
  - (i) the general meeting has not restricted the executive from approving such a fee proposal; and

- (ii) the secretary of the owners corporation has not received written notice from owners whose unit entitlements comprise 25% or more opposing the approval by the executive committee.
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**Suggested motions**

I suggest the following motions be inserted in the notice for approval by either the executive committee or general meeting:

1. The owners corporation/executive committee resolves to engage Bannermans, Lawyers in accordance with its fee proposal dated 4 November 2011 to meet with the executive committee to discuss issues in relation to controlling communications and restricting applications to the Consumer, Trader and Tenancy Tribunal.
  2. The owners corporation/executive committee resolves to appoint //insert name// as the executive committee's point of contact to provide the executive's instructions to Bannermans, Lawyers.
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**Engagement documents  
required**

In order to engage our services please provide a copy of any of the readily available information:

- (a) signed costs agreement;
  - (b) minutes resolving the suggested motions above;
  - (c) strata plan;
  - (d) common property certificate of title or title search;
  - (e) any registered by-laws; and
  - (f) any additional documents that you believe are relevant.
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If you have any queries please contact me.

Yours faithfully  
**BANNERMANS**



**David Bannerman**  
dbannerman@bannermans.com.au  
Acc. Spec. (Prop.)  
Principal

# COSTS AGREEMENT

BANNERMANS, LAWYERS

DATE	4 November 2011
TO	The Owners – Strata Plan No. 52948
ADDRESS	c/- Body Corporate Services - Epping

A.	This document is an offer to enter into a costs agreement with you.
B.	<p>The work I have been instructed to do is:</p> <ul style="list-style-type: none"><li>○ Meet with the executive committee to advise on controlling communications and restricting application the Consumers, Trader and Tenancy Tribunal.</li><li>○ Report to the owners corporation on the outcome of the meeting.</li></ul> <p>Note: The works will be charged on an hourly rates basis with total costs will be capped at \$800 plus GST and disbursements.</p> <p><b>Note – limited scope – possibility of further fees:</b></p> <p>Please note that the above scope of works is a limited scope of works and does not cover all of the possible services that may need to be provided in this matter, such as, dealing with issues as addressed in my advice. It is not practical at this stage to estimate the fees for further works because the attitude, position, the extent of the issues and the conduct of the other parties is not known.</p>
C.	The disclosure requirements which I am required to provide you under the <i>Legal Profession Act 2004</i> are contained in the attached Costs Disclosure which forms part of this document.

D.

### Acceptance of Offer

If you accept this offer you will be regarded as having entered into a costs agreement. This means you will be bound by the terms and conditions set out in this document, including being billed in accordance with it. Acceptance may be by any one of the following ways:

- a) signing and returning a copy of this document;
- b) giving us instructions after receiving this document; and/or
- c) oral acceptance.

Failure to accept my offer within 7 days of dispatch of this document can result in the immediate withdrawal of my offer to act on your behalf.

E.

### Termination of Agreement

**E1.** I will not continue to do the work: if you fail to pay my bills; if you fail to provide me with adequate instructions within a reasonable time; if you give instructions that are deliberately false or intentionally misleading; if you fail to accept an offer of settlement which I think is reasonable; if you fail to accept advice I (or counsel) give you; if you engage another law practice to advise you on this matter without my consent; if I have a conflict of interest, or if you indicate to me that I have lost your confidence; or for other just cause.

I will give you at least fourteen (14) days' notice of my intention to terminate our agreement, and of the grounds on which the notice is based.

**E2.** You may terminate this agreement at any time in writing.

**E3. If the agreement is terminated by me:**

You will be required to pay my professional fees and charges for work done, and for expenses and disbursements incurred, up to the date of termination subject to your right to a cost assessment.

For lump sum fee matters, you must pay the part of my lump sum fee that I reasonably estimate has been incurred in respect of the legal services provided to you up to the date of termination, plus charges, expenses and disbursements, subject to your right to a costs assessment.

You will be liable to pay my costs, charges, expenses and disbursements whether or not any other party has to pay your costs or the other party to any court proceedings has to pay your costs of the proceedings.

**E4. If the agreement is terminated by you:**

You will be required to pay my professional fees and charges for work done, and for expenses and disbursements incurred, up to the date of termination.

For lump sum fee matters, you must pay the part of my lump sum fee that I reasonably estimate has been incurred in respect of the legal services provided to you up to the date of termination, plus charges, expenses and disbursements, subject to your right to a costs assessment.

You will also be required to pay my professional fees and charges for work done, and for expenses and disbursements incurred, after the date of termination, incurred in reviewing, organising and transferring the papers and documents to which you are entitled to you or your authorised representative including any costs of making photocopies, scanning and handling copies of papers and documents for retention by me for prudent commercial and professional

reasons.

You will be liable to pay my costs whether or not the other party to any court proceedings has to pay your costs of the proceedings.

**E5. If the agreement is terminated by either you or me:**

On termination, subject to the *Revised Professional Conduct and Practice Rules 1995*, I am entitled to retain possession of your papers and documents while there is money owing to me for my charges, disbursements and expenses, until my costs are paid or until satisfactory security for my costs is made.

**F.**

**Retention of your documents**

**F1. On completion of your retainer**

I will forward original deeds, reports, folio identifiers and contracts to you at the completion of the work.

I will convert any papers or documents to which you are entitled, but leave in my possession, into electronic format unless you direct me otherwise in writing within 21 days of the date of the final bill rendered by me in this matter.

Except as stated below, I will destroy the papers and documents to which you are entitled by using a secure document destruction method once the electronic copy is completed unless you direct me otherwise in writing within 21 days of the date of the final bill rendered by me in this matter.

I will retain the electronic file(s) for at least seven (7) years on the undertaking that I have your authority to destroy the electronic file seven years after the date of the final bill rendered by me in this matter.

**F2. On termination of the agreement by me:**

Subject to the provisions of **Clauses E3. and E5.**, I will retain any papers and documents to which you are entitled until you authorise me in writing to release the papers and documents to you or your authorised representative.

In the event you do not authorise me in writing within 28 days of the date of termination of this agreement by me, I will deal with any papers or documents to which you are entitled in accordance with the provisions of **Clause F1.**

**F3. On termination of the agreement by you:**

Subject to the provisions of **Clauses E4. and E5.**, I will retain any papers and documents to which you are entitled until you authorise me in writing to release the papers and documents to you or your authorised representative.

In the event you do not authorise me in writing within 28 days of the date of termination of this agreement by you, I will deal with any papers or documents to which you are entitled in accordance with the provisions of **Clause F1.**

<b>G.</b>	<p><b>Privacy Protection</b></p> <p>Personal information about you, provided by you and other sources, is protected under the <i>Privacy Amendment (Private Sector) Act 2000</i>. Disclosure of such information may be compelled by law (e.g. under the <i>Social Security Act</i>). You also authorise me to disclose such information where necessary to others in furtherance of your claim/matter (e.g. within the law practice, to the Court, the other party or parties to litigation, to valuers, experts, barristers etc).</p>
<b>H.</b>	<p><b>Payment / Money on Account</b></p> <p><b>Either:</b></p> <p>I may ask you to pay me, in advance, some money on account of payments which will be made to others and our costs.</p> <p><b>OR</b></p> <p>I will ask you to repay the money paid on your behalf in clause 2[3] as and when I send you bills for these payments.</p>
<b>I.</b>	<p><b>Email Communications</b></p> <p>You consent to receiving all correspondence by email including accounts at the following email address – <a href="mailto:simonw@bcms.com.au">simonw@bcms.com.au</a></p>

<b>SIGNED</b>	
<b>DATED</b>	

(CLIENT)

# COSTS DISCLOSURE

BANNERMANS, LAWYERS

DATE	4 November 2011
TO	The Owners – Strata Plan No. 52948
ADDRESS	c/- Body Corporate Services - Epping

This document and the form attached disclose information about the costs of my legal services, and your rights, as required by the *Legal Profession Act 2004* NSW (the Act). You may negotiate and enter into a costs agreement with me based on the information contained in this document. A standard costs agreement is attached.

1.	<p><b>GST</b></p> <p>All rates, charges, expenses etc in this document are GST exclusive unless otherwise stated. Where the service provided is subject to GST, GST of 10% will be added and charged to you.</p>
2.	<p><b>Costs – how calculated</b></p> <p><b>2.1 Professional Fees</b></p> <p>I will charge you professional fees for the work I do at:</p> <ul style="list-style-type: none"> <li>(a) an hourly rate of : \$400.00 (plus 10% GST) for the principal.</li> <li>(b) an hourly rate of : \$350.00 (plus 10% GST) for a senior lawyer.</li> <li>(c) an hourly rate of : \$300.00 (plus 10% GST) for an intermediate lawyer.</li> <li>(d) an hourly rate of : \$260.00 (plus 10% GST) for a lawyer.</li> <li>(e) an hourly rate of : \$240.00 (plus 10% GST) for a senior paralegal.</li> <li>(f) an hourly rate of : \$210.00 (plus 10% GST) for a graduate.</li> <li>(g) an hourly rate of : \$180.00 (plus 10% GST) for a law clerk.</li> </ul> <p>These rates will be proportionately charged for work involving shorter periods less than an hour. My charges are structured in 6 minutes units. For example, the time charged for an attendance of up to 6 minutes will be 6 minutes and the time charged for an attendance</p>



between 6 and 12 minutes will be 12 minutes.

## 2.2 Charges

I will charge you for services I use or supply. Our rates are:

2.2.1	black & white photocopying & printing :	\$.35 per page (plus 10% GST)
2.2.2	colour photocopying & printing :	\$.55 per page (plus 10% GST)
2.2.3	faxes & scanning :	\$.35 per page (plus 10% GST)

## 2.3 Expenses & Disbursements

I will incur expenses and disbursements (being money which I pay or am liable to pay) to others on your behalf. These may include:

Search fees, enquiry fees, court filing fees, process servers, courier fees, external copying fee, witness expenses, travel expenses, transcripts, and barrister's fees.

I will inform you of these expenses and disbursements as well as any other payments required to be made, as soon as is reasonably practicable.

## 2.4 Costs and Charges after Termination of Agreement

**If you terminate this agreement with me** you will also be required to pay my reasonable professional fees and charges for work done, and for expenses and disbursements incurred, after the date of termination, in reviewing, organising and transferring the papers and documents to which you or your authorised representative are entitled to, including any costs of making photocopies, scanning and handling copies of papers and documents for retention by me for prudent commercial and professional reasons.

2.4.1 I will charge you for the work done after termination of the agreement in accordance with the fees, charges, expenses and disbursements set out in paragraph 2 of this disclosure.

2.5 All rates, charges, expenses etc (**the costs**) in this document may be reviewed on each anniversary of this costs disclosure and all or some the costs may increase to reflect changes in the legal profession commercial market rates, fees and charges applicable at the time of the review. In the event that, after an annual review, I propose to increase any or all of **the costs**, I will advise you in writing of any proposed increases in **the costs** in accordance with the provisions of clause 8 of this agreement.

## 3. Estimate of Costs

The following estimate is based on the information available to me to date. It is an **estimate, not a quotation** and subject to change.

3.1 I estimate the cost of work to be:

Professional fees:	\$	Hourly rates
Charges:	\$	Hourly rates
Expenses & Disbursements subject to GST:	\$	Hourly rates
<b>SUBTOTAL:</b>	\$	Hourly rates
GST:	\$	Hourly rates
<b>TOTAL (GST inclusive):</b>	\$	<b>Hourly rates*</b>

\* **Note:** Total costs will be capped at \$800 plus GST and disbursements.

**NOTE: – limited scope of works – possibility of further fees:**

Please note that the above estimate refers to a limited scope of works and may not cover all of the possible services that may need to be provided in this matter, such as, dealing with issues as addressed in my advice. It is not practical at this stage to estimate the fees for further works because the attitude, position, the extent of the issues and the conduct of the other parties is not known.

**3.2** These estimates are made on the information available to me at this time. They may, and probably will, change when more information is available to me. The major factors which will affect these estimates are:

**3.2.1** the volume and quality of the information supplied by the managing agent;

**3.2.2** attendances performing works related to variations on instructions; and

**3.2.3** attendances answering numerous related or unrelated queries.

**4. Billing arrangements**

I will send you a bill of costs containing information of my professional fees and charges, disbursements and expenses, including GST, **either** after completion of the work, **or** monthly, or at other times as agreed with you, when the work is in progress.

**5. Interest on unpaid costs**

If my costs are not paid within 30 days of receipt by you of my bill of costs, I may charge you interest on the unpaid amount at the rate of 2% above the rate specified by the Reserve Bank of Australia from time to time as the cash rate target.

**6. Dispute as to legal costs**

In addition to the rights set out in the accompanying Form you also have the right to have the costs mediated if the dispute is less than \$10,000 (referral for mediation must be made before an application for assessment is accepted by the Manager, Costs Assessment).

**7. Persons responsible for the Work**

David Bannerman will be responsible for the work described in Clause B of the Costs Agreement. You may contact him regarding your matter and your legal costs. Other persons may assist the above-named solicitor from time to time with the conduct of your matter. Please see our disclosed charge out rates.

**8. Substantial changes to disclosure**

You will be informed, as soon as is reasonably practicable, of any substantial changes to anything contained in this disclosure document.

**9. Engagement of another law practice (e.g. barrister)**

It may be necessary for me to engage, on your behalf, the services of another law practice to provide specialist advice or services, including advocacy services, or to act as my agent. I will consult you as to the terms of that law practice's engagement, but you may be asked to enter into a costs agreement directly with that law practice. The law practice engaged by me will disclose costs in a similar manner

	and I will disclose those costs to you.
10.	<b>Incorporation</b>  During the term of this agreement, I may incorporate Bannermans Lawyers and trade under the name Bannermans Lawyers Pty Ltd ACN 143 604 933. The provisions of this costs disclosure and costs agreement will remain the same except as advised and agreed by the parties. I will advise you prior to the incorporation and advise you of any changes in accordance with Clause 8 of this agreement. You may be asked to enter into a costs disclosure and costs agreement with Bannermans Lawyers Pty Ltd.
11.	<b>Progress reports</b>  You are entitled to request, at reasonable intervals, written progress reports on your matter. My normal charge-out rates will apply for this service. You are entitled to request a written report on the legal costs incurred to date since the last bill of costs was given to you, free of charge.
12.	<b>Applicable law</b>  The law of NSW applies to legal costs regarding this matter.

## Form of disclosure of costs to clients

(Clause 109A *Legal Profession Regulation 2005* - Form 2)

### Legal costs—your right to know

You have the right to:

- Negotiate a costs agreement with us.
- Receive a bill of costs from us.
- Request an itemised bill of costs after you receive a lump sum bill from us.
- Request written reports about the progress of your matter and the costs incurred in your matter.
- Apply for costs to be assessed within 12 months if you are unhappy with our costs.
- Apply for the costs agreement to be set aside.
- Accept or reject any offer we make for an interstate costs law to apply to your matter.
- Notify us that you require an interstate costs law to apply to your matter.

For more information about your rights, please read the fact sheet titled *Legal Costs—your right to know*. You can ask us for a copy, or obtain it from your local law society or law institute (or download it from their website).