**From:** "Daniel Rowland" <drowland66@optusnet.com.au>
**Subject: RE: Latest CRTS proposal**
**Date:** 24 August 2017 at 9:26:18 PM AEST
**To:** "'Bundagen Legal'" <bundagenlegal@gmail.com>

Hi Rejane

I'm strongly of the view that there needs to be a second opinion not just as to Nigel's latest thoughts, but also as to whether there are preferable alternatives which don't require dividing categories of members legally into "old ordinary" NRM shares and "new" RM shares, with the need for constitutional changes.

And a second opinion should consider whether there are cheaper and simpler alternatives, for example whether comprehensive insurance coverage by the cooperative could solve the problem?

But such a second opinion should go back to basics and start with the values of Bundagen and its complete membership. For example that would require interrogating whether a situation involving private title and inheritance even just of structures is counter to the "value base" of Bundagen, however beneficial it might be for a segment of the membership.

And from that consensus as to what Bundagen has been, and is, and will be, about, all choices, including this latest version of Nigel's, can be considered and compared.

And so following on from all these concerns, I'm of the view that presenting a proposal at a "forum/CM" to accept in principle the CRTS, pending all details being worked out and presented to another GM, is premature and divisive and therefore dangerous.

Please add this to my original email when you distribute your material for the meeting. And again I'm sorry to be missing the meeting, (and I think it's a shame that such short notice has been given for the meeting).

Best

Daniel

On 13 Aug 2017, at 2:12 PM, Daniel Rowland <drowland66@optusnet.com.au> wrote:

Dear Phil and Judee

I have just read in the Bundy Flyer No 88 about the latest idea of changing shares in Bundagen to Cooperative Residential Title Shares (CRTS). I am grateful for the Bundy Flyer bringing these latest thoughts to the attention of both Resident Members and Non-Resident members (NRMs).

I am an original and continuing Non-Resident Bundagen Co-op member jointly with Georgina Ligertwood. I was also involved in some of the original legal discussions and decisions way back then.

I commented earlier this year on the early thoughts about a CRTS scheme for the Co-op, which essentially involved removing NRMs from being shareholders of the Co-op. Clearly my thoughts about a divided, disenfranchised and discriminatory scheme were shared by other NRMs (and RMs).

The outcome of this early process was clear in recognising NRMs for their roles in the creation of Bundagen,

and importantly that only with NRM support would the Co-op pursue any changes.

In the end, consensus must have been lacking since the idea was ditched.

There has now been further work put into this CRTS idea, this time in a way that doesn't remove NRMs from being shareholders but rather creates two categories of shares, one for RMs and the other for NRMs.

I have looked at the content of Flyer No 88 and I have issues with the latest version of a CRTS scheme for Bundagen, which suggests at least that further legal work needs to be done **before** the idea becomes a GM proposal and before further disagreement among members.

My current comments and questions arise first from a fundamental concern that this new version of a CRTS scheme again results in two categories of shares, one for Residential Members and another for Non-Resident Members. I worry about this proposal for two categories of membership, largely for similar "value" reasons as expressed by me in the earlier version of this scheme. As I said then, "*introducing such fundamental discrimination would also be the thin end of the wedge, down the road of further systematic encroachment on, and disenfranchisement of, one group within the community while another group entrenches perceived advantages*".

This latest version of a CRTS scheme goes against the grain of Bundagen's philosophy since it smacks of the Orwellian vision that "all animals are equal but some are more equal than others", and it may lead to a watering down of some of the fundamental values behind the original (and still) continuing vision of Bundagen. Could it be a Trojan horse for notions of freehold ownership and inherited rights further down the track?

I have other reasons for concern at moving too early on a scheme which is based on uncertainties rather than on certainties, as follows:

1. "...*it is **uncertain** how the Licence to Occupy interacts with the Residential Tenancy Act. **If** we were found to be under the RTA, there would be changes to Bundagen's structure and liabilities which would fundamentally change how the community operates, not necessarily in accordance at all with our values*."

So shouldn't we first get further clear and authoritative legal advice on this fundamental point so as to remove the alleged uncertainty one way or another? All the more so given that the precedent from the final judgement of the arbitration accepts an implied Licence to Occupy. It might point to no need for the CRTS process but rather some other, lesser, actions within the current framework. After all, it is said that "*The CRTS is not the ultimate solution to all issues. It is always a good idea to look at further tweaking or additions.*"

One obvious solution to this alleged uncertainty re the RTA is actually made clear. Nigel Hill clearly states that we should "*look at exemption from the RTA if the CRTS doesn't come to fruition*", which begs the obvious question as to why the Co-op wouldn't simply seek such an exemption in the first place without the need for a CRTS process (assuming first that further advice referred to above is clear that the RTA regime does actually apply).

And what precisely does it mean "*not necessarily in accordance at all with our values*"? What values are being referred to and how are they impacted by this alleged possibility of being under the RTA? This needs to be clarified.

2. "*Also, currently, the Co-op and all its members **could** be liable for accidents and injuries caused by just one member's negligence, with potential for massive payouts.*"

Again this scenario is unclear. Under what circumstances could such possible liabilities exist for the Co-op and its members? If these circumstances are identifiable, wouldn't it simply suggest appropriate insurance coverage by the Co-op? Wouldn't that accord with our existing communal membership values? And how have other existing and long-standing Co-ops with a similar structure handled these alleged possibilities?

And Nigel Hill has not even guaranteed that under a CRTS scheme where a member is being fined for non-compliance, the Co-op would not be held responsible. He indicates that it may still bear liability in some unknown way.

So overall, I think there are still too many substantive uncertainties attached to Nigel Hill's latest version of a CRTS idea, which even he acknowledges.

In addition, the latest version could be clumsy as well as uncertain, given an acknowledged need for tweaking, further tweaking and additions etc.

All this uncertainty would go against the very rationale for more certainty and security.

So, to sum up, I think that more research is needed not just into Nigel's latest idea but into other ideas, starting with a consensus-based acceptance by all members as to what exactly is needed and why, and how it impacts on "Bundagen values".

It may well be that there are simpler (and cheaper) processes that don't distinguish between categories of membership, such as simple exemption from the RTA and/or more targeted insurance schemes.

I haven't seen any notice of the next meeting though I believe it may be imminent.

In any event I would like my views included in the discussion process.

Many thanks

Daniel Rowland

PS  Could you acknowledge receipt of this email