

On 30 Oct 2017, at 3:53 PM, Daniel Rowland wrote: (...)

I have voiced concerns about this process leading to a CRTS scheme, in particular in my email of 13 August, and those concerns remain. Just to refer to my main concerns, these are, briefly, as follows:

(1) There needs to be a proper second opinion leading to full information, before such a substantive structural change to Bundagen's legal status can be properly considered and voted on. This has been recognised within Bundagen and I know there was a 2 hour meeting with Angus at MBT solicitors back in June. Phil informed Bundagen that he expected an interim report by the end of that week (23 June). Was that interim report circulated and if so where can it be found and what did it recommend? If it is an "interim report", what was the process leading to a "final report" and has that been followed? But, importantly, later in Bundagen Legal's reply to me on 25 August, Rejane indicated that after that 2 hour meeting, MBT "refused to take the job on". When and why did they refuse? Surely we have the right to know these details. In any event it is all very confusing and the outcome mentioned by Rejane in that email, namely that Nigel is our default solicitor with knowledge of Bundagen, so we'll default to his advice, doesn't appear to satisfy the requirement for a full and frank second opinion.

To clarify about the second opinion we asked from MBT solicitors: we (Phil, Alan and Rejane) had a two-hour meeting with Angus. A few days later Angus contacted Phil to say he was not willing to take this work on. He gave no reason for not wanting to give a second opinion on the CRTS.

At the last forum, a proposal was put to the members present to put a proposal at this coming GM to find someone else and pay for a second opinion. The meeting decided against it, the main reason being that it would be better to wait till we get all the information as to how the CRTS would work (i.e. if this proposal this Saturday is passed and more work is done) before deciding if we want a second opinion or not. Furthermore, we believe that if the community decides to pay for a second opinion, it would be better done by a barrister or someone with the necessary expertise to comment on such a scheme as the CRTS.

(2) There could be a simpler and cheaper alternative, namely comprehensive insurance coverage, which doesn't require structural changes like a CRTS scheme with attendant legal and other costs. Rejane says in her email that the search for such coverage is "still current". Such insurance should exist and indeed the solicitor probably can advise on that. Meantime what is the latest on that search, or has it been dropped as part of adopting a default CRTS proposal? But Nigel's advice appears to be that where a member is being fined for non-compliance, it can't be guaranteed under a CRTS scheme that the Co-op would not be held responsible. It may, he says, still bear liability in some unknown way. Again, this requires clarification.

The search for a comprehensive insurance cover has been going on for a few years now. Unfortunately, Bundagen is such a special case that doesn't fit in any

of the pigeon holes, and so far all brokers and companies consulted have declined. There are a couple of possibilities that may come to something. One is from a broker who arranges cover for a lot of mobile homes parks in Australia. It is over a year ago now since he visited Bundagen and other communities and then went to Lloyds of London to discuss this. I have enquired recently and was told we should hear from him by the end of this year. The other possibility might be through the current company that covers Bundagen for public liability. However, it seems that it would require every residential member to agree to gradually (over 5 years? 10 years?) bring their buildings to council compliancy. With the nature of Bundagen members, this may present some serious challenges.

Even if we could get a cover for all structures as well as communal structures, it wouldn't change anything as far as the Residential Tenancy Act.

As far as fines for non-compliancy, for example, as Nigel explained, although the CRTS wouldn't guarantee that the Coop would not be held responsible, it would be less likely that the Coop would be held responsible and, if it is, the proportion of responsibility would likely to be less. If the community is willing to continue the research on the CRTS (i.e. to spend the rest of the money already allocated to this), we might be able to have more information about this before there is a proposal for a final approval for the CRTS.

(3) Then there's the uncertainty of how the Licence to Occupy interacts with the Residential Tenancy Act. Wouldn't it be sensible to consider whether Bundagen should consider and move for an exemption from the RTA before considering the need for a CRTS scheme? An affirmative answer to this might impact on and indeed, remove the need for a CRTS change.

As explained previously, applying for an exemption from the RTA isn't a simple matter. It is about mounting a case. So far, there aren't many individual organisations that do have an exemption (they are named in the act). Mounting a case to present to the RTA would cost about the same as setting up the CRTS. It seems that it is logical to go for the CRTS which would have more benefits. Nigel is of the view that the CRTS would fall within the definition of Company Title, which is a category which is already exempted from the RTA.

(4) Proper answers to all the above questions (and to other questions raised by other members) would then and only then give members full information to be able to consider such a motion as the one before next Sunday's meeting. My view is that the motion is premature, and that it is no response to say that "well, the motion is not about deciding on the CRTS in principle, but only to put a proposal at a GM that the CRTS scheme be accepted in principle." CRTS becomes a *fait accompli* if the motion is put and accepted on Sunday.

The proposal for this coming GM is indeed only to accept the CRTS 'in principle', i.e. not to accept the CRTS in a final way yet. It is an interim proposal to see if there is enough support from the community to continue spending money and

energy on setting the details of how it would work. This is money to be spent on the solicitor, plus time and energy from a small group of members to work closely with Nigel (for RFW i.e. \$15/hour or even voluntarily), and possibly extra money that could be spent on a second opinion (if the community wishes to do so).

Once we know exactly how the CRTS will work and what it will look like, then another proposal will be presented at another GM (this could be a special GM to deal exclusively with this issue).

The money for the research has been already allocated at a previous GM.

However, this proposal now is to make sure the community is in favour of the idea of CRTS with the information we have so far, before we spend any more of that allocated money and further energy on it. Therefore, before spending more of the money allocated and doing hours of work on this, we would like to know if the community is in favour of it or not.

(5) There is a serious undertone to this proposed change which does in fact raise deep and important issues around Bundagen “values”. And I think there needs to be full and frank discussion about a scheme which could subsequently lead to further monetisation and privatisation of significant elements of Bundagen’s communal and community values before any move to a CRTS scheme. Is this a discussion that has been had fully among resident and non-resident members? I think that should precede any discussion of an appropriate “ownership” scheme.

There has been a number of meetings, forums, workgroups, etc about this. We have had hours of discussion. Members have been invited to participate all along. All the material we have so far, including reports, letters, etc has been made available to all members. It is not clear what you mean when you say this could “lead to further monetisation and privatisation” as the valuation of buildings will remain the same as it currently is if we adopt the CRTS. It is not clear either what you mean by your request of a ‘full and frank discussion’. We consider this is exactly what is being done through this process.

Could this email be distributed to members for Sunday’s meeting? Unfortunately I am unable to be present.

Yes, sure.