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Centre Secretary
RDA (NSW) Centre.

Incorporation of RDA (NSW) Centres

A few years ago, the Board of RDA (NSW) sought legal advice on the issue of incorporation of Centres but the advice, which was received in 2017, was not positive towards the concept.

However, despite that earlier advice, the Board of RDA (NSW) has remained committed to the process of incorporating Centres.

As a result, the Board is in the process of obtaining fresh advice based on different criteria to what was considered by the solicitors in the 2017 opinion. Initial discussions with the solicitors in relation to the current request for advice have been positive and the Board is now looking forward to finalising this issue, with the Centres finally becoming incorporated, as soon as possible.

There are two viable options for incorporations of Centres. These options are that Centres become incorporated either under the Corporations Act 2001 (Cth) or under the Associations Incorporations Act 2009 (NSW). From a practical point of view, there is not much difference between the two options, but there are differences that need to be considered in order to determine which would be the more appropriate for RDA (NSW) and RDA (NSW) Centres. However, regardless of which of the two options may be settled upon, in certain circumstances they could impose further duties and responsibilities onto Centre Committee Members in relation to the management of Centres than under the current structure.

The preference of the Board is for incorporation under the Associations Incorporation Act as it would appear to be better suited to Centres. However the Board does not want to pre-empt the opinion of the RDA (NSW) solicitors.

As part of the process of seeking advice on the incorporation of Centres, the Board has also asked the solicitors for advice on whether the current structure of RDA (NSW) needs to be amended.

While the current structure of RDA (NSW) was suitable for the time, over the years circumstances, as well as both legal and commercial practices, have changed considerably. Therefore, as part of the process of seeking legal advice on the incorporation of Centres, that request for advice has been extended to also seek advice on the restructure of RDA (NSW) itself. In other words, the request for advice in relation to the incorporation of Centres is to also cover a review of the structure for the whole organisation.

It is suggested that should the solicitors recommend the restructure of the whole organisation – the restructure of RDA (NSW) and the incorporation of Centres – that this process should be done at the same time as a matter of efficiency and ensuring that the best possible structure is achieved.

While it would be possible to incorporate Centres independently of the review of the structure of RDA (NSW), the more appropriate course of action is to attend to both issues simultaneously. This will allow for a better, overall faster and more efficient process. It may also avoid some duplication of activities and therefore reduces costs – which, across all of RDA (NSW), could be substantial if the process is not handled properly.

As part of the process, the Centre Constitutions will also need to be updated to cater for the new Centre structure. This should not be a difficult or extended process.

The current Centre Constitutions have many provisions which are consistent, in principle, with the draft sample constitution contained in the Associations Incorporation Act. It is envisaged that only minor changes will need to be made to much of the current Centre Constitution in order for it to comply with the requirements of the Associations Incorporations Act.

Many Centres would be aware that the Box Hill (Tall Timbers) Centre has lodged Notices of Motion on the issue of incorporation of Centres and related issues. These will be circulated soon as part of the process of preparation for the RDA (NSW) 2020 AGM.

In the event that the advice from the solicitors is received in time for that advice to be available for the upcoming AGM, Centres will have the benefit of that advice for voting on the issue. However, if the advice is not ready by the time of the AGM, the Board suggests that the voting on the Notices of Motion be deferred until an Extraordinary General Meeting can be held for the purposes of considering, and voting on, the issue with the benefit of the legal advice on all aspects of the restructure of RDA (NSW) and its Centres.

The Board undertakes to inform Centres of the advice when it is received.



(Joseph Orland)

Honorary Director, Finance Officer, Company Secretary