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### **Questions on Notice for RDA (NSW) 2020 AGM**

Attached please find two questions received by the Board of RDA (NSW) and Board responses to those questions

The questions are intended to be addressed at the 2020 RDA (NSW) AGM scheduled for 25 July 2020.

As this AGM is to be held via teleconference, and it is the first time that this has been done by our organisation, the Board of RDA (NSW) considered it appropriate that the questions and responses be available, prior to the AGM, to all who are eligible to attend the AGM.

Also because of the logistics involved in holding an AGM by teleconference, the Board has suggested that these questions and responses be provided at this time so that they can be considered by the attendees without the need for the replies to be conveyed at the AGM unless specifically requested by the attendees at the AGM.

For:  
RDA (NSW) Board



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**Question to the RDA (NSW) Board for response at the RDA (NSW) 2020 AGM:**  
**From RDA (NSW) Box Hill (Tall Timbers) Centre**

**Question:**

After having read the Yearly Report I can see that there is a large sum of funds tied up across 4 different Term Deposits and a variety of Share portfolios. I understand that these are ostensibly seen to be income raisers for the Association. If the Association is in such a dire financial situation as to be unable to even fund the employment of sufficient administrative staff which has resulted in overloaded Board Members, is this actually the most appropriate distribution of funds or should we be looking at redirecting these funds into different forms of revenue raising.? Is in fact the income disproportionately low, and therefore, increasingly insufficient to enable the Board to offer greater financial and administrative support to Centres if and when needed?

Kind regards

Kirsty Hardman

**Board Response:**

The Board of RDA (NSW) thanks Kirsty for raising such important questions, as the issues raised potentially affect RDA (NSW) and all of its Centres.

The issue of finances is an extremely important issue as without sufficient funds, RDA (NSW) and its Centres would not be able to survive and continue to provide the benefits of therapy, sport and recreation to those who have a disability and can benefit from horse-related activities.

The Board's response to Kirsty's questions is contained below.

**Additional work for Board**

- As stated, the reference was to additional work for the Board, this can be seen as a positive.
  - While most issues from Centres should first be raised directly with the Centre's Regional Representative, some matters needed to be addressed

- directly by the Board, particularly where the issue directly related to the portfolio of a Director.
  - As a result, questions about what was required in particular circumstances, requests for advice in particular circumstances, etc came direct to the Board member or via State Office.
  - This allows the Board to be aware of what issues or concerns were affecting Centres and allowed Directors to have a direct link to Centres.
- The position referred to in the question, namely that of the Project Manager, was funded by a specific-purpose grant for that position, therefore there was no cost to RDA (NSW) for that role. However, that grant funding ceased. When the Project Manager resigned to take up employment elsewhere, the Board decided that the position would not be filled by a permanent employee but to seek contract employment on a case-by-case basis as the need arose.

#### **Under-utilisation of RDA (NSW) assets**

- The Board understands the present under-utilisation of its assets to generate income. That is largely, but not always (as indicated later in this response) the result of current economic factors, particularly low interest rates. However, it is, with respect, very short-sighted to look at the funds as an amount which should be spent. The Board has a responsibility to look, and plan for, the long term, not at just the here-and-now. Factors that the Board needs to consider include such things as:
  - It costs RDA (NSW) and its Centres in the vicinity of \$2million per year in total to operate.
  - Some of the larger Centres have good reserves of funds, most others do not.
  - In the event of a downturn in income (as is happening right now), these fund reserves can become the only thing that can save RDA (NSW) and many of its Centres.
  - Wise commercial practice for an organisation such as RDA (NSW) and its Centres should have at least 18months' reserve funds, and preferably up to two years' worth of funds. This means that, ideally, RDA (NSW) should have between \$3million and \$4million in reserve funds and investments.
  - As Centres are part of RDA (NSW), it is essential that the Board takes an "all of organisation" approach, not just the direct income and expenses of the company. The financial viability of all Centres must be considered.

#### **Return on RDA (NSW) investments**

- While income on investments is very important, the most important part is not so much the income (which, of course, is very important) but the financial security that the investments provide. As would be seen from the Annual Report, the emphasis is on the importance of financial security. Income on those investments is a bonus, adding to that financial security.
  - If income was the primary objective, the first item on the agenda would be an urgent review of the RDA (NSW) Box Hill (Tall Timbers) Centre's lease fee of

\$10 per year over a multi-million-dollar property that is one of RDA (NSW)'s assets (ie, one of RDA (NSW)'s "investments").

- If income was the primary objective, that extremely low lease fee is clearly a totally unjustifiable waste of resources, the results of which is indirectly being borne by all Centres, some of which pay considerably more, even close to that amount per day, every day of the year.
- The \$10 per year represents an income return of approximately 0.0000002% based on current "book value" of the property.
- This return does not include the more than \$1m spent by RDA (NSW) in setting up the infrastructure for the Centre at the current location.

### **Solution to increase return on RDA (NSW) investments**

- The Board was approached by Vodafone with the aim of Vodafone leasing an area of six metres by ten metres for the construction of a telecommunications tower. The CPI-adjusted lease fees that the Board was expected to receive from the arrangement was to average approximately \$20,000 per year over the proposed term of the lease to Vodafone. However,
  - The Box Hill (Tall Timbers) Centre challenged the Board's ability to enter into the lease arrangement as the Centre would have lost up to three car parking spaces. The Board offered to pay for the construction of a much larger car park in an area of the property that was on land at the Box Hill site (but which was not being used) by way of compensation to the Centre. The Centre's Committee rejected the offer.
  - The Centre had concerns about the possibility of electromagnetic radiation. In response, the Board supplied current reports by the World Health Organisation and the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) on the issue of electromagnetic radiation. Those reports did not support the assertions of the Centre.
  - The Centre's Committee rejected those scientific works, but the Board understands that the Centre uses Wi-Fi and does not prohibit the use of mobile phones on the site although both rely on the use of, and emit, electromagnetic radiation.

### **Possible effects of Centre's rejection of Vodafone offer**

- Based on the above, some small RDA (NSW) Centres that do not have the advantage that the RDA (NSW) Box Hill (Tall Timbers) Centre has could argue that they are potentially being disadvantaged as a result of the benefits that the Centre enjoys due to such a low lease cost and could justifiably question why the Centre is being treated so favourably for so long. Such Centres would be justified in suggesting that a more equitable use of RDA (NSW)'s funds would be that the RDA (NSW)'s holding at Box Hill should be subdivided and part of the land that is not used for RDA purposes sold. The resultant funds could then be used to purchase properties in much lower-cost regions of NSW.

- This would be expected to release more by way of funds than the value that the Box Hill property is held at on the RDA (NSW) books.
- Should it become possible for RDA (NSW) to use existing funds to purchase a low-cost property (relative to Sydney prices) for use by a Centre, the Board of RDA (NSW) would give it serious consideration, provided that the RDA (NSW) retains sufficient funds to ensure that RDA (NSW) does not find itself with the need to either borrow or sell other assets to keep RDA (NSW) and its Centres financially viable in the event of an extended downturn in activity, and therefore funding.

It is trusted that the above fully addresses the concerns expressed in the questions raised.

(RDA (NSW) Board of Directors)



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**Question to the RDA (NSW) Board for response at the RDA (NSW) 2020 AGM:**  
**From RDA (NSW) Tumut Centre**

**Question:**

Our committee held a meeting today and discussions took place re: the motions put forward by Box Hill regarding the incorporation of centres. If these motions are adjourned until legal advice is received and the matter is postponed to a Special Meeting at a later date we feel that a solid timeline for this would be in order so these matters get resolved as quickly as possible.

We would like to ask that the motion put forward by the Board of RDA (NSW) be amended and that a date should be specified for a Special Meeting to occur by to allow these matters to be resolved expeditiously.

Our committee feels that the 31<sup>st</sup> October, 2020, would be a reasonable timeframe for legal advice to be received and actioned.

We await your reply on regards to this matter.

Kind Regards

*Belinda Harris*

Secretary  
RDANSW Tumut

**Board Response:**

The Board supports the suggestion which has been put as it ensures that the matter is given a date for actioning while still ensuring that the decision is based on proper legal advice.

The current Motion states:

"That the motions as put by the RDA (NSW) Box Hill (Tall Timbers) Centre relating to the incorporation of Centres be adjourned to the Extraordinary General Meeting of RDA (NSW) until after a legal opinion on the issue is received from the RDA (NSW) solicitors."

Accordingly, the Board will, at the AGM, put forward a motion to amend the “deferral” motion as originally proposed by the Board to state:

“That the motions as put by the RDA (NSW) Box Hill (Tall Timbers) Centre relating to the incorporation of Centres be adjourned to a Special Meeting of RDA (NSW) to be held after a legal opinion on the issue is received from the RDA (NSW) solicitors with that Special Meeting being held as soon as practical after the receipt of the final advice from the solicitors on the issue of incorporation of Centres with a proposed date being on or before 31 October 2020.”

This helps give some guidance on a proposed date for the Special Meeting. It is noted that the legal advice being sought from an independent firm of solicitors covers a number of matters which need to be addressed as part of the incorporation advice. These include such things as:

- How the process can be achieved in order to ensure that the structure of RDA (NSW) and its Centres is not compromised.
- Ensuring that the incorporation of Centres does not result in additional work or problems for Centres.
  - For example, failure to comply with their legal requirements under the Associations Incorporation Act once a Centre is incorporated could result in penalties against the Centre and/or the management group of the Centre, etc.
  - Penalties currently range from \$50 for minor infringements of the provisions of the Act to \$6,600 and up to 2 years imprisonment for the more severe breaches.
  - At present, Centres are protected because all of those matters are attended to by RDA (NSW).
- Whether RDA (NSW) may need to be restructured in order to comply with current commercial and legal practices which have changed considerably over the years.
- This review of the current structure of RDA (NSW) also needs to be considered in relation to the proposal for the incorporation of Centres to ensure that the appropriate structure is achieved given the relationship between RDA (NSW) and its Centres (which it is understood differs from RDA Centres in other States relative to their State body).
- Whether the restructure of RDA (NSW) is best done as part of the whole process of incorporation of Centres and what the potential implications may be if the two processes are done separately.
- Whether the RDA (NSW) Constitution needs to be amended – for example to include “Incorporated Centre” as a category of “Member” as while the relationship between Centres and RDA (NSW) will continue to exist, an incorporated Centre is, at law, a separate legal entity from RDA (NSW).
- Whether the Associations Incorporation Act is the appropriate method which should be used or whether it is the Corporations Act as the Associations Incorporation Act initially appears better suited to “stand alone” associations such as the situation with RDA

Centres in other States, which is different to what we have in RDA (NSW) where Centres are part of RDA (NSW).

- Centre Constitutions need to be amended to allow for incorporated Centres. The draft version in the Associations Incorporations Act will need to be amended to meet RDA (NSW)-specific requirements. The draft is not a “one size fits all” document. Legal advice will need to be obtained for this as well.

The above are only some of the factors which need to be considered in relation to the incorporation of Centres and it is why the Board considers that it is extremely important that no decision is made to change the structure of the organisation and its Centres until all factors and legal issues involved are considered with the assistance and benefit of the legal advice which has been sought by RDA (NSW) in relation to the above matters.

It is trusted that the above fully complies with the intent of the proposal suggested by the RDA (NSW) Tumut Centre.

(RDA (NSW) Board of Directors)