

JOHN TANNER REAL ESTATE PTY. LTD.

LICENSED AGENTS

PROPERTY CONSULTANTS, VALUERS, STOCK, STATION AND REAL ESTATE AGENTS

33 AINSLIE AVENUE, CIVIC SQUARE, A.C.T. 2608

TELEPHONE: 49 7900  
P.O. BOX 1  
CIVIC SQUARE, A.C.T. 2608  
CABLES: JANNER CANBERRA

M179

3rd July, 1978.

Mrs. M. Powall,  
Secretary,  
Urambi Village Body Corporate,  
Unit 13,  
Crozier Circuit,  
KAMBAH ACT 2902

*HP 7/7. Chris, could you please attend to  
Mrs. Powall*

Dear Madam,

We act as managing agents for Miss S.J.D. Boyd the owner of Unit 47, Crozier Circuit. The tenant in the property is Miss R. Lawson.

I note from the Minutes of the Second Annual General Meeting in 2.1 in relation to maintenance that it should be forwarded to a Chris Lang. It would be appreciated if you would bring to Mr. Lang's attention correspondence we have had with Miss Boyd's solicitors, Mr. J. Foulks of Higgins, Foulks & Martin in relation to a number of outstanding maintenance items which have not yet been attended to.

Perhaps Mr. Lang could bring pressure to bear on Stocks and Holdings to have this work completed as soon as possible.

Yours faithfully,

JOHN R.C. TANNER.

Unit 47, Urambi Village,  
Crozier Circuit,  
Kambah. ACT 2902

10 May 1981

Dear ~~Sir/Madam~~, *Jenny*,

I am writing formally to request permission from the Body Corporate to have erected a skylight similar to that erected in the roof of unit 46. It would be inserted in the roof on the side of the building nearest Crozier Circuit.

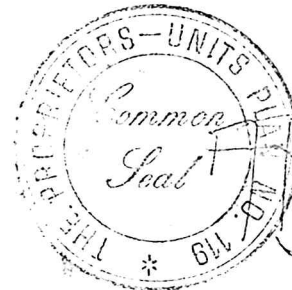
Yours sincerely,

*Susan Boyd*

(Susan Boyd)

The Secretary,  
Body Corporate Committee,  
Urambi Village.

(attn: Ms J. Noyce, House 36)



*Provisional approval 21/6/81*

*1 copy pls.*

Aminel

*Copy as requested.*

*Sue Boyd*

47 Urambi Village,  
Crozier Circuit,  
Kambah CT 2902

6 August 1981

Dear Arminel,

As you know, I have been posted to New York for three years and for the period of my absence, my house here at Urambi will be let. The agents, who can be contacted in case of emergency and to whom any correspondence in connection with the unit should be addressed, are John Tanner Real Estate Pty Ltd, Ainslie Avenue, Canberra City.\*

I am giving my proxy vote, during my absence, to Bob Hodge of Unit 42.

If there is any need to correspond with me directly, my address will be:

c/o Department of Foreign Affairs,  
(UN New York Bag)  
Canberra. ACT 2600

Yours sincerely,

Sue

(Susan Boyd)

The Secretary,  
Body Corporate Committee,  
Urambi Village,  
Crozier Circuit,  
Kambah ACT 2902.

\* I am also letting  
Allen Curtis know.



c/- Department of Foreign Affairs  
CANBERRA, A.C.T. 2600  
(UN NEW YORK BAG)

119

CABLE ADDRESS  
AUSTUNAT. NEW YORK

TELEPHONE  
212-421-6910

AUSTRALIAN MISSION TO THE UNITED NATIONS  
885 SECOND AVENUE  
NEW YORK, N.Y. 10017

11 July 1983

Allen Curtis and Partners,  
P.O. Box 1933,  
CANBERRA CITY, A.C.T. 2601.

Dear Sir,

I enclose the note concerning payment of urambi levies which was forwarded to me by my tenant at 47 Urambi Village. I am currently posted away from Australia, and Peter Roden Real Estate, P.O. Box 599, Canberra City, A.C.T. 2601 is handling all matters connected with the property during my absence. The Body Corporate Committee was advised of this before my departure, on 6 August 1981.

Could you please forward all future levy notices relating to 47 Urambi Village to Peter Roden, please, who will take action on my behalf.

Yours faithfully,

Susan Boyd  
Susan Boyd

S/C } 20/7/83  
S/R } com.  
I send A/c to his agent

Urambi Village (Units Plan 119)  
79-87 Crozier Circuit  
KAMBAH ACT 2902

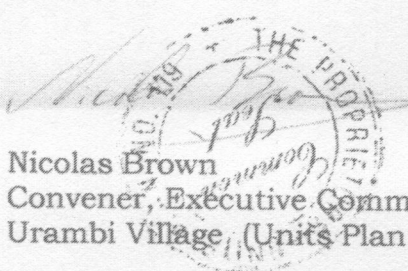
12 August 2008

**To the Owner(s) or Prospective Buyers of Urambi House 47.**

The Executive Committee of the Urambi Village (Units Plan 119) acknowledges that in the allocation of Titled Car Spaces by the original Executive Committee, it allocated a car space to House 47 that is occupied by a mature Yellow Box tree, thereby rendering the car space unusable.

In recognition of this deficiency, successive Executive Committees have provided House 47 with one of Urambi Village's rentable car spaces at no charge.

The present Executive Committee confirms that this arrangement should continue until it can transfer the Title of House 47's car space to a space currently owned by the Body Corporate.



Nicolas Brown  
Convener, Executive Committee  
Urambi Village (Units Plan 119)

**From:** David Keightley <david@dara.com.au>  
**Subject:** Car park E parking space  
**Date:** 19 February 2009 8:29:36 AM  
**To:** Sylvia Tobler <sylvia.tobler@wilderness.org.au>  
**Cc:** Nicolas Brown <nic.k.a.brown@home.netspeed.com.au>

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Hi Sylvia

Following our conversation last night it seems to me there are three options that have been looked at.

1. You can elect to do as Alastair did for years and have the free use of a body corporate space in that car park. This will cost you nothing. Over the many years Alastair exercised this option there was never any thought by the many Executive Committees that existed that the agreement should be terminated. I can't imagine any future EC deciding to take such a space from you. In any case, we could always put a motion to the next AGM to help firm up this arrangement.

2. We proceed as quickly as possible with the title swap. In this case the cost of this will be shared between you and the body corporate.

3. The tree is removed, which will involve considerable expense to us all as the car park will have to be resealed afterwards.

If you wish to discuss any of this I would be glad to meet you. And, of course, you are always welcome to simply drop into our house for a cup of tea or something more substantial.

All the best.

David

-----  
David Keightley  
55 Urambi Village  
Crozier Circuit  
Kambah ACT 2902  
Phone: 02-6296.1092  
Mobile: 0414-927.591  
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## UNIT TITLE SWAP in CAR PARK E

### The MAJORITY VIEW of the URAMBI EXECUTIVE COMMITTEE

There was lively discussion at the March 3<sup>rd</sup> meeting of the Executive Committee on the motion supporting cost sharing for the title swap that was passed at the Committee's February meeting. Background to, and arguments about, this title swap were provided in the March Urambi News.

This note is to let you know why the majority of the EC continue to support the 50% cost sharing arrangement agreed at its February meeting.

- The motion passed by the Annual General Meeting did not state that the body corporate must "pay" the costs of the title swap, but rather "support" it. The EC believes that it has already supported the title swap by not opposing it, by facilitating it with a Special General Meeting, by encouraging owners to vote in favour of the resolution, and by helping to push through the necessary paperwork.
- The amount involved in the cost sharing is modest, but could still set an uncomfortable precedent costing the body corporate large amounts of money if others were to make claims for previous body corporate mistakes. This was acknowledged at the last EC meeting. Paying 100% could be even more problematic.
- Many residents do not accept that they should be responsible for costs from past body corporate mistakes. If a precedent is set and substantial liabilities are accepted, our property prices could fall significantly, across the board.
- The price agreed for the sale of house 47 should have taken into account all of its features, including limitations on access to car parking.
- The tree in question is valued by many in the village, including regular users of car park E. In agreeing to the title swap, the body corporate is taking on any liability associated with this tree, as well as the costs of looking after it.
- The decision of the EC is a compromise position, taking into account its responsibilities regarding community funds, and to protect the interests of residents.

At last Tuesday week's EC meeting, Alastair Swain (an EC member and seller of Unit 47) tabled a legal opinion supporting the body corporate paying all costs for the title swap. However, we remain unpersuaded; the legal opinion states only that there is "an arguable case" for full payment, with which we already agree. But there is also a very commendable case for the body corporate paying none of the costs, and we are aware that there are many residents who strongly disagree with paying the full costs of the title swap. We contend that the 50% cost sharing arrangement agreed at the February EC meeting balances the views of all in the Village.

The matter will be discussed at the **next EC meeting**. Please feel free to come along. It is to be held in the Community Centre, on **Tuesday 17<sup>th</sup> March, starting at 8.30 pm**.

In the meantime, your comments are welcome. You can send them to Nic Brown (the convener of the EC) - [nkabrown@hotmail.com](mailto:nkabrown@hotmail.com) - or just put them in Nic's letter box – Unit 36, car park D.

Nic Brown, David Keightley, Geoff Pryor, Mark Lewington, Rob Riley (Urambi EC members in favour of the 50% cost split)

12<sup>th</sup> March 2009

From: "Brian Candler" <libri@homeemail.com.au>  
Subject: **Your email of 17 April 2009 conveying the EC's motion of 14 April 2009**  
Date: 20 April 2009 6:42:43 AM  
To: "David Keightley" <david@dara.com.au>  
Cc: "Nic Brown" <nic.k.a.brown@home.netspeed.com.au>, "Geoff Pryor" <pryorknowledge@netspeed.com.au>, "Mark Lewington" <mark.lewington@nba.gov.au>, "Rob Riley" <smileyriley@netspeed.com.au>, "Alastair Swayn" <ASwayn@djas.com.au>, "Craig Bowditch" <Craig.bowditch@actstrata.com.au>, <"Michelle1"@grapevine.com.au>

David

I will response to your email in two parts - the EC resolution and your additional comments.

*The EC resolution*

If the EC "has no problem providing reasons to" me, but considers it "inappropriate to reply to (my) request in its current form", I am happy to put the request in a form which meets the EC's needs provided that that form provides a suitable statement of reasons. Can you, please, advise me what that suitable form might be?

To simply state that the EC "understands" that the AD(JR) ACT does not apply to EC decisions without providing any explanation for that view is unhelpful. What is the basis of the EC's "understanding"? I consider the case law is clear. The EC's decision was clearly "administrative" and, as the only authority for the decision was an exercise of the EC's powers under the Units Titles Act, it was clearly a decision under an enactment. The authority for the decision is the relevant determinant, not the nature of the decision-maker.

The fact that the ACAT may have jurisdiction, which I consider doubtful in this case, is irrelevant. The availability of merits review does not of itself exclude judicial review. I would be prepare, however, to consider an ACAT dispute resolution if the EC were prepared to give an undertaking that it will submit to and not challenge the ACAT's jurisdiction. Is the EC prepared to give such an undertaking?

*Your additional comments*

I too would hope that this matter could be settled within the Village, but the EC seems particularly resistant to this. It has reneged on undertakings given, ignored the wishes of the community expressed at AGM, published propaganda sheets purporting to be "Urambi News", ignored the views of an absolute majority of the members of the corporation presented by petition and rejected two requests for a Special General Meeting. In relation to my request for a SGM at the 17 March EC meeting, I understand particular members even wanted that request excluded from the minutes of that meeting.

I also note that you and Nic Brown undertook to take my proposal for a plebiscite to the EC. Was that undertaking honoured? Your email provides no response to that proposal.

To allow this matter to fester for six months to be dealt with in the context of an AGM, where either there will be insufficient time to give it proper consideration or the normal annual business of the corporation will not get proper consideration, is totally unacceptable to me. Why is the EC so frightened of seeking the community's views on this issue?

*The way forward as I see it*

If the EC persists in refusing to provide reasons, I could apply to the Supreme Court for an order that the EC provide reasons. As I said to you and Nic, I consider this a very winnable application.

If the EC consents to the ACAT having jurisdiction, I could lodge a dispute with the Tribunal.

The EC could call a SGM or hold a plebiscite. Either of these would be my preferred option.

The EC, however, can be assured I will not let this matter lie. It is not now a matter of a tree in a carpark, but a matter of the proper governance of the corporation.

Brian



## **History of the car park E title swap issue in the minutes of Urambi EC meetings the 2008 AGM, and the 2008 SGM**

### **21 January 2008 (EC Meeting)**

1. **Alastair Swayn** plans to sell house 47, and desires a formal arrangement for its car space in car park E. As the parking space on house 47's title has a large tree growing in it, the owner of this house has free use of a nearby body corporate space. The EC will discuss its options. As an immediate action the EC could provide a letter of agreement that the current parking arrangement with house 47 remain in place.

### **18 February 2008 (EC Meeting)**

- a. **House 47 parking space.** After discussion, it was agreed that Nic Brown would draft a revised letter to Alastair Swayn and distribute it to EC members for comment. Matters discussed included remarking the car spaces in car park E, removing that part of a garden bed that intrudes onto a parking space, and facilitating a title swap between a body corporate car space and that for house 47.

### **17 March 2008 (EC Meeting)**

1. Letter for #47 about parking arrangements in car park E to be finalised.

### **21 April 2008 (EC Meeting)**

2. **Car space for house 47.** Alastair Swayn requested EC action to restore to house 47 its parking space that is occupied by a large yellow box. In the short term it was agreed that the EC would write a letter to the new owners confirming the present arrangement of a car space swap with an adjacent body corporate space. Rob Riley will look into the costs of removing the tree and resealing the space. A title swap will be considered.

### **26 May 2008 (EC Meeting)**

- a. **Car space for house 47.** Nic Brown has drafted a letter confirming the current arrangements are supported by the EC. Brian Candler pointed out he could not support the letter, and that a realignment of line markings is required to conform to titles.

### **23 June 2008 (EC Meeting)**

- b. **Car space for house 47.** The EC accepted the proposed statement from Alastair Swayn about removal of a tree from his title in car park E. After discussion it was proposed to allow the next AGM to decide on the removal of this tree, and the necessary refurbishment of the car park and realignment of parking spaces.

### **17 August 2008 (Annual General Meeting)**

**Tree in Carspace 105:** Mr Candler **moved** "that, to ensure the owner of Unit 47 has useable access to the subsidiary to their title, this AGM instructs the incoming EC to remove the tree in carpark space number 105 and realign carpark E."

**Seconded** Mr Robbins.

The meeting discussed this motion and subsequently the motion was amended (with the consent of Mr Candler and Mr Robbins) to read as follows:

"That this AGM supports a title swap of carpark space 105 for one at the west end of carpark E before the end of 2008 and should this not be possible, it instructs the incoming EC to put in place the necessary process for the removal of the tree in carpark space 105 and realign carpark E at the Owners Corporation's expense."

The amended motion was put. **Carried (without dissent).**

Mr Candler **moved** that “That the Owners Corporation indemnify the owner of Unit 47 by way of paying the public liability insurance premium regarding the tree in car space 105 until such time as the title swap is completed or the tree removed.”

**Seconded** Mr Robbins.

**Carried (without dissent).**

### **16 September 2008 (EC Meeting)**

The following motion was passed at the Urambi Village AGM on 17 August 2008:

*That this AGM supports a title swap of carspace 105 for one at the west end of carpark E before the end of 2008 and should this not be possible, it instructs the incoming EC to put in place the necessary process for removal of the tree in car park 105 and realign carpark E at the Owners Corporation expense.’*

and

*‘That the Owners Corporation indemnify the owner of unit 47 by way of paying the public liability insurance premium regarding the tree in carspace 105 until such time as the title swap is completed or the tree removed.’*

The previous EC had written to Sylvia Tobler, the new owner of #47 granting her free access to car space 102 until the issue is resolved. The committee agreed the convenor should send a similar letter on behalf of the new EC.

### **Timetable**

Following the EC’s informal meeting on 19 August, Michael Robbins moved swiftly to progress these matters. An email detailing progress was circulated prior to this meeting. His proposed timetable encompasses:

- o A public meeting to discuss the title swap issues on 27 September;
- o EC members to doorknock residents in their immediate areas to discuss the issues prior to the meeting;
- o ACT Strata Management Services to contact absentee owners on the issue.

Michael circulated documents covering these issues and said the issue should be covered in Urambi News.

### **16 October 2008 (EC Meeting)**

The owners of houses 43 and 26 object to the proposed swap of car space 105 for 100. There is no objection if the swap is for car space 106, and as the owner of house 47 is happy with this, the EC supported commencement of this title swap.

### **20 November 2008 (EC Meeting)**

A solicitor’s letter was received stating that a new owner has moved into house 47.

### **16 December 2009 (Special General Meeting)**

The following resolution was put:

“The owners of Units Plan 119 unanimously agree that:

- (i) Unit 47 can exchange its parking space (S47(1)), number 105 with the Units Plan 119 parking space immediately to the east, number 106, and Units Plan 119 will exchange its parking space 106 with Unit 47 (see attached copy of the sheet showing parking are P3 (known as car park E) of Units Plan 119, and the survey of parking area P3 showing common property space 106 and the tree occupying space 47), and
- (ii) Space 106 will be the subsidiary of Unit 47, and the equivalent area, space 105, will be common property of Units Plan 119.

The votes from each of the ballot papers were noted with the result being as follows:

For 71  
Abstention 1  
Against 0

Therefore the unanimous resolution was **carried**.

### **20 January 2009 (EC Meeting)**

- a. **Treasurer.** ... There was discussion about responsibility for payment of costs associated with the title swap in car park E – this discussion will continue after review of the 2008 AGM minutes.

### **17 February 2009 (EC Meeting)**

- a. Brian Candler said that the time limit for the title swap would expire within a month. Mike Robbins said there had been limited progress on the swap. The survey and valuer's report required for an application to be submitted to ACTPLA have yet to be obtained. There was considerable discussion about who should be responsible for the costs (estimated at about \$2,000) of the title swap. The motion (Candler / Robbins) that "The Body Corporate should pay all costs of the proposed title swap" was lost. The motion (Keightley / Riley) that "The Body Corporate pay 50% of the costs of the title swap, and the owner of house 47 the remaining 50%" was passed. This motion expressed the feeling of the meeting that the Body Corporate was not responsible for the tree on unit 47's car space, and that having agreed unanimously to take over title for the tree it was taking on a potential liability for all residents, at a cost to all residents, to benefit the owner of only one house. The EC had done all it could to organise the Special General Meeting that approved the title swap.
- b. After David Keightley's motion was carried, Brian Candler resigned from the EC. Mike Robbins then also resigned. They left the meeting.
- c. At this stage it was agreed that the formal part of the meeting should be concluded. The remainder of the meeting was informal discussion.

### **3 March 2009 (EC Meeting)**

- a. There are only two weeks to go to complete the title swap.
- b. Alastair Swayn and Nic Brown are working with Sylvia Tobler (house 47) to get the title swap through in time.
- c. There was considerable discussion within the committee and from those in attendance about the funding of the title swap, mostly reiterating arguments that have been made already, and are in the March Urambi News.
- d. Alastair Swayn tabled a petition signed by 31 houses expressing support for the body corporate making full payment for the title swap. He also tabled a letter from his solicitor who did the conveyancing of house 47, in which the solicitor stated there was an 'arguable case' for the body corporate paying full costs of the title swap. A third document is a letter from Nic Brown (from the previous EC) to the owner of house 47.
- e. Those in attendance at the meeting, and who are not on the EC, expressed a strong feeling that the body corporate should pay all of the costs of the title swap. Within the EC, Alastair Swayn, Michelle Macaulay and Pamela Jane also are of this view.
- f. It was agreed to hold any further voting on this matter to the next meeting. David Keightley is to circulate the documents tabled by Alastair Swayn.

### **17 March 2009 (EC Meeting - minutes not approved)**

The meeting noted with thanks the work of those involved in facilitating a smooth application for the title swap. Alastair reported that the application for the title swap was lodged with ACTPLA on Friday, 13 March. Nic noted that some payments for the transfer had already been made. Alastair noted there are further expected payments to be made for the title transfer fee (\$60) and the surveyor's report (\$330). *Further issues in relation to this item were discussed under Item 9 Other Business.*

1. *Unit 47 Title Swap* – Alastair formally tabled the Petition signed by 38 owners (a majority of owners in the Village) expressing support for the body corporate making full payment for the title swap. (It was noted that the petition was shown to the EC meeting of 3 March with 31 signatures.) There was robust discussion within the committee and those in attendance about the arguments for and against full and / or partial payment for the title swap. Owners of Unit 39 wished it formally noted that the Body Corporate should take responsibility for the transfer, including making full payment for the title swap, and that the EC's decisions in relation to this matter had been poorly executed. Brian Candler (#15) noted that in light of the response to the petition, and that the discussion on this matter has revealed a strong division within the Community, it is open for the EC to call a Special General Meeting to reopen and resolve the issue. This suggestion was rejected. Alastair urged the Committee to consider the final petition to the EC which asks the Committee to rescind its decision of 16 February that the Body Corporate will share the costs of the title transfer application of car spaces 105 and 106 with the owner of Unit 47 and further asks the Body Corporate to pay the full costs involved in the title transfer. The motion was put that the Committee reaffirm the EC's decision of 16 February that it would share 50% of the costs of the unit title swap with the owner of Unit 47. (Moved: Brown; Seconded: Riley / Pryor - check). The motion was carried 5 (Nic Brown, David Keightley, Geoff Pryor, Mark Lewington, Rob Riley) – 3 (Alastair Swayn, Pamela Jane, Michelle Macaulay). David Keightley noted that matters of policy, such as this, could be properly addressed in the forum of the AGM.



Australian  
Capital Territory  
Government

Planning and Land  
Management

## Unit Titles Act 2001 - Form 2

# Application for a Boundary Authority

### When should you use this form?

This form should be completed when applying for a minor internal boundary change of a Units Plan.

Please supply the following with your application:

- the original plus four (4) paper copies of the relevant forms being amended which have been prepared by a registered surveyor;
- surveyor's checklist;
- certification of the Unit Entitlement by a Member of the Institute of Valuers;
- copy of the unanimous resolution of the owners corporation dated within 3 months of submitting this application;
- copies of the written agreement of each interested non-voter where applicable;
- the application fee;
- if you are an agent: authority to act on behalf of the owners corporation;
- any additional information necessary to finalise your application.

**Privacy Notice:** The personal information on this form is being collected to enable processing of your application. Collection of personal information is authorised by Part 15 of the Unit Titles Act 2001.

### Part 1: Lease/Site details

Block 1  
 Section 149  
 Suburb KAMBAH  
 Units Plan No. 119  
 Street address 79-87 CROZIER CCT

### Part 2: Applicant details

Surname or Company name TOBLER  
 Title / First Name / Initials or Australian Company Number (ACN) SYLVIA  
 If a company Name of contact person \_\_\_\_\_  
 Postal address 47/87 CROZIER CCT  
 Suburb KAMBAH  
 State/Territory ACT  
 Postcode 2902  
 Phone number (business hours) (02) 6112 0340  
 Fax number (02) 6249 1002  
 Email syvia.tobler@yahoo.com

#### OFFICE USE ONLY

Fees


Date received

/ /
-----

Receipt number

--

Receiving officer

--

### Part 3: Applicant's declaration

I/we the undersigned, being the applicant(s) nominated in this application, hereby apply for approval for a minor internal boundary change(s) described in this application on the land specified in this application.

I/we hereby authorise ACT Government Officers to access the subject property(s) for the purpose of evaluating the proposal.

I/we understand that payment of additional fees may be required.

I/we declare that all the information I/we have given on this form and its attachments is true and complete.

Signature(s)



If a company, capacity/authority

Date

22/02/2009

### Part 4: Owners corporation details

1st Executive Member's details (if the same as applicant, write 'see applicant')

Surname or Company name

URAMBI VILLAGE UNITS PLAN 119

Title / First Name / Initials or Australian Company Number (ACN)

EXECUTIVE COMMITTEE MEMBER / CHAIR / CONVENOR of all EC meetings in 2008-09.

If a company Name of contact person

NICOLAUS BROWN

Postal address

36 URAMBI VILLAGE, CROZIER CIRC.

Suburb

KAMBAH

State/Territory

ACT

Postcode

2902

Phone number (business hours)

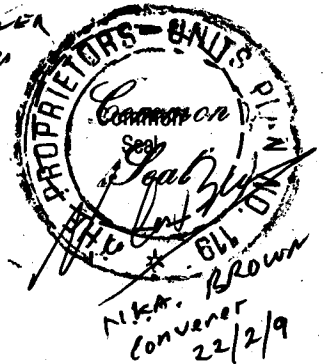
6261 3551

Fax number

-


Email

nkabrown@hotmail.com or daveybrown@netspeed.com.au



#### Executive Member's Signature

Signature



#### 2nd Executive Member's details

Surname or Company name

URAMBI VILLAGE UNITS PLAN 119

Title / First Name / Initials or Australian Company Number (ACN)

SECRETARY, EXECUTIVE COMMITTEE MEMBER

If a company Name of contact person

DAVID KEIGHTLEY

Postal address

55 URAMBI VILLAGE, CROZIER CIRC.

Suburb

KAMBAH

State/Territory

ACT

Postcode

2902

Phone number (business hours)

6296 1092

Fax number

-

Email

david@dava.com.au

#### 2nd Executive Member's Signature

Signature

