

5 September 2023

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CHRISTCHURCH

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By email: richard@leftbank.nz

Ref: 154850-39

Without Prejudice Except As To Costs

Dear Richard,

Re: Units 1-19 at 19 Nga Mahi Road, Sockburn, Christchurch

1. We refer to earlier communications in relation to this matter and in particular the following:
 - (a) Your letter of 21 December 2022 to CBC Construction 2010 Ltd (**CBC**) and the attachments being reports from Canterbury Property Reports Ltd on Units 4, 9 and 19 at 19 Nga Mahi Road, two reports from Sika (NZ) Ltd dated 7 June and 6 December 2022, and a letter dated 25 July 2022 from Thermosash Commercial to Frame Contracting;
 - (b) Our email message to you of 24 May 2023;
 - (c) Your email message of 6 July 2023 which attached two remedial costing reports from BP Construction dated 20 and 28 June 2023.
2. In our email message of 24 May 2023 we said that CBC accepted responsibility for the sealant applicator having failed to apply sealant to the express joints of the Titan façade panels, and to the joints between the Titan panels and the pre-cast concrete, in accordance with the sealant manufacturer's specification.
3. We indicated that CBC denied liability for any of the other alleged defects referred to in the reports that you had provided. We said that CBC believed the scope for remediation of the incorrectly applied sealant in the abovementioned areas would be to rake it out and replace it with sealant that would be applied in accordance with the manufacturer's specification. We requested that your clients provide costings for this remedial work and confirm the remedial scope for that work.
4. The second BP Construction report that you provided on 6 July 2023 relates to the entry aluminium doors on the units. As mentioned, CBC denies it has any liability in relation to the entry doors. The cause of water ingress around the doors is lack of maintenance. The fabric draft strips should have been replaced as part of the buildings maintenance programme.
5. Regarding the first BP Construction report which relates to the external cladding, we note that costs estimate is not limited to the raking out and replacement of the sealant in the areas referred to above. The remedial costs referred to in that report also relate to other work which CBC disputes it has any responsibility for. We refer to the Frame Contracting quote of 21 June under the column headed "Type":

- (a) Tilt Slab (Pre cast concrete) – \$38,070. The exterior coating system on the pre-cast concrete panels is due for a maintenance cycle. It requires a full repaint. This work is not the result of defective building works. It is required whether defects were present or not. This is a body corporate cost for maintenance;
 - (b) Titan Board - \$17,830. The Titan board façade is about 10 years old and is overdue for maintenance. The façade has faded and appears chalky. Fibre cement cladding systems such as this require painting every 8 to 10 years. Maintenance work is required notwithstanding some joints were incorrectly sealed. This is a building maintenance cost;
 - (c) Repair work to Pre-cast panels and Titan boards - \$65,182. Part of this cost is said to be to grind cracks to precast panels and inject using Sikdaur 52. Cracking to the precast concrete is not the result of defective building works. It is part of the normal maintenance cycle for the building. The next item in this section is to “grind, skim 12m²”. CBC understands this is an allowance to skim coat the pre-cast concrete panels after epoxy crack injecting has been undertaken. This work is not required as a result of any defective building work. We refer to the other cost items under this head below.
 - (d) Waterblast - \$1800. This is not a cost that your clients will incur as a result of any defective building works. This is a maintenance cost that is required whether there are defective building works or not;
 - (e) Downpipes - \$1520. This is also maintenance work. Sanding downpipes and painting them is not required to remedy any defective building works;
 - (f) Access Equipment - \$6000. This cost is for a scissor lift for 4 weeks. CBC says a scissor lift would only be required for 3 weeks to remediate the sealant in the junctions and joints referred to above. The cost would be \$4500 plus GST.
 - (g) Signwriting - \$20,210. We address this item below.
6. Returning to the balance items under the repair work to pre-cast panels and Titan board referred to in paragraph 5(c) above, the Frame Contracting quote refers:
- (a) To rake out and reseal panel joints using Sika Fire 400 to approximately 256 metres.

CBC understands this to be a reference to remediate the sealant junctions between the pre-cast panels and the Titan façade panels. If so, it is remedial work that CBC accepts it is responsible for. However, Maynard Marks has calculated these junctions to be 152 LM not 256 LM which your clients cost estimate has been based on. The rate quoted by WPC in its pricing proposal which forms part of the BP Construction cost estimate for this work is \$45 LM (45 x 256 = \$11,520). Using this rate for 152 LM, the remedial cost of this work is \$6,840 plus GST.
 - (b) To rake out and reseal fibre cement joints using Sika AT façade on PEF backing rod, approximately 55m².

CBC understands this to be a reference to remediate the sealant at the express joints of the Titan façade panels. If so, then CBC accepts responsibility for this remedial work. However, Maynard Marks has measured the joints where this sealant needs to be replaced to be 475 LM not 552 LM as claimed in the Frame Contracting quote. The rate for this work in the WPC pricing proposal is \$35 LM ($35 \times 552 = \$19,320$). Applying the WPC rate to the Maynard Marks measurement of 475 LM the cost of this remedial work is \$16,625 plus GST.

7. Regarding the signwriting, CBC accepts that some of the ACM signs need to be removed to remediate the incorrectly applied sealant in the express joints of the Titan façade panels. But these signs would also have to be removed as part of the maintenance cycle for the Titan panels (as referred to above) which is overdue. Notwithstanding this CBC is willing to share the cost of this work equally with the Body Corporate based on the sum referred to in paragraph 8 below. Most of the ACM signs have been attached with mechanical fixings only. They can be removed and reinstated. Only one sign appeared to have been glued. It will need to be replaced. We refer to the signage on each unit as follows:
 - (a) Unit 1 – CBC does not accept remedial work is required to the sign on this unit. The Titan façade panels have been recently decorated and no damage was observed to the sealant joints;
 - (b) Units 2, 5, 6, 7, 8, 9, 13 and 18 – The ACM signs appear to be mechanically fixed on these units so they should be able to be removed and reinstated;
 - (c) Units 3, 10, 11, 12, 14, 15, 17 and 19 – There was no ACM sign present on these units on Maynard Marks inspection;
 - (d) Units 4, – The ACM sign appears to have been glued so it will need to be removed and replaced;
 - (e) Unit 16 – The ACM sign had already been removed on Maynard Marks inspection.
8. Maynard Marks has assessed the cost of removing and re-fixing the ACM signs that have been mechanically fixed at \$380 per sign plus GST. These are for the signs listed in paragraph 7(b) above. Maynard Marks has assessed the cost of removing and replacing the ACM sign on Unit 4 at \$2580 plus GST. CBC offers to share these costs equally with the Body Corporate. CBC's share would be \$2810 plus GST.

Summary of Settlement Offer

9. On a Calderbank basis, CBC offers a payment of \$40,095 plus GST to Body Corporates BC463208 and BC467074 and to each of the owners of Units 1-19 at 19 Nga Mahi Road. This offer is one lump sum payment which would be shared amongst both Body Corporates and the individual unit owners as they agree between themselves. The offer is a full and final settlement of all claims of any kind that the Body Corporates and each of the owners of Units 1-19 of the properties at 19 Nga Mahi Road may have, or any one or more of them may have, against CBC arising in any way, directly or indirectly, from the design and construction of Units 1-19 at 19 Nga Mahi Road.
10. The offer is made up as follows:

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|---------------------|-------------|
| (a) Sealant repairs | \$23,465.00 |
|---------------------|-------------|

(b)	Access equipment	\$ 4,500.00
(c)	Signage contribution	\$ 2,810.00
(d)	P&G (3 week programme)	\$ 5,695.00
(e)	Contractor's margin (10%)	\$ 3,645.00
Total		<u>\$40,095.00 plus GST</u>

11. Payment can be made within 14 days of acceptance. It is a condition of this offer that the parties (which includes each of the owners of all 19 units) enter into a settlement deed to record the terms of settlement. If this offer is acceptable to your clients please provide us with a draft deed for our approval. This offer is open for acceptance for a period of 21 days.

Yours faithfully

COONEY LEES MORGAN



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Partner

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