

In accordance with the Strata Schemes Management Act 2015, Schedule 1, Part 2, Section 4, SPB, owner of Lot 158, submits the following Motions for the AGM or EGM 2018 to the Secretary of the Executive Committee.

To avoid any theoretical possibility of mismanagement of the Motions, video recording of paper copy being dropped in the letterbox designed for the Secretary of the EC in the complex will be created.

**Motion: Order strata documents to be handed over by Solicitor Mr. Adrian Mueller**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- Section 192E of the Crimes Act 1900 states that a person who, by any deception, dishonestly obtains property belonging to another, or obtains any financial advantage or causes any financial disadvantage, is guilty of the offence of fraud, with maximum penalty of imprisonment for 10 years.
- Section 316 of the Crimes Act 1900 (NSW) makes the knowing concealment of information relating to a "serious indictable offence" a crime punishable by up to 2 years imprisonment.

Section 4 of that Act defines "serious indictable offence" to mean an indictable offence that is punishable by imprisonment for life or for a term of 5 years or more. Subject to certain exclusions this generally includes the fraud offences in Part 4AA of that Act as well as stealing and similar offences in Part 4.

Section 316(1) states if a person has committed a serious indictable offence and another person who knows or believes that the offence has been committed and that he or she has information which might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for it fails without reasonable excuse to bring that information to the attention of a member of the Police Force or other appropriate authority, that other person is liable to imprisonment for 2 years.

- There is currently no maximum elapsed time period for indictable offences in NSW.
- After owners corporation was forced to repay \$8,800.00 to CHU Insurance for insurance claims in first quarter of 2017 for events that occurred in 2012/2013, Fraud Report E65804633 dated 9<sup>th</sup> September 2017 was submitted, with Police investigations and interviews starting in late 2017 and continuing in 2018.

Issues in the investigations include alleged false statements by BCS Strata Management in Statutory Declaration to CTTT on 19<sup>th</sup> April 2013, four different versions of the same Standard Costs Agreement with Solicitor Mr. Adrian Mueller, secret change of the insurance policy for SP52948 and then claiming amount of \$24,919.31 (plus GST) for alleged "defense" of Lot 3 at CTTT in 2012/2013 without owners corporation full disclosure or decision at any general meeting, false written statements to CTTT by selective EC members, invoice paid for insurance premiums to Gallagher Australia on 21<sup>st</sup> September 2012 in amount of \$84,414.77, which was 74.38% higher than in September 2011, losses to Lot 158 in amount of close to \$29,000.00.

Solicitor Mr. Adrian Mueller, was actively involved in the creation of the Statutory Declaration, against the wishes of owners corporation or approval at any general meeting or disclosure, caused excessive courier costs to owners corporation in amount of \$851.56 on 19<sup>th</sup> April 2013 and was based on rushed EC meeting seven days ahead of scheduled date, without owners being able to respond, comment, or complain.

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include Motion at AGM 2017 confirm payments to Solicitor Mr. Adrian Mueller, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4):

Solicitor Mr. Adrian Mueller was engaged 14 times in period March 2012 and September 2016 without disclosure of expenses in any financial statement given to owners corporation at general meetings,

Solicitor Mr. Adrian Mueller was paid \$63,318.77 (GST included), with full details for 2017 and 2018 undisclosed to owners by Waratah Strata Management:

Creditor Name	Doc. Ref. No.	Doc. Date	Doc. Total	Chq. Date
J S MUELLER & CO SOLICITORS	78428	5/09/2016	\$1,100.00	19/09/2016
J S MUELLER & CO SOLICITORS	69179	28/10/2014	\$742.50	30/10/2014
J S MUELLER & CO SOLICITORS	67976	29/07/2014	\$484.00	31/07/2014
J S MUELLER & CO SOLICITORS	65777	6/03/2014	\$242.00	25/03/2014
J S MUELLER & CO SOLICITORS	65461	14/02/2014	\$20,624.75	05/03/2014
J S MUELLER & CO SOLICITORS	65483	18/02/2014	\$6,980.28	04/03/2014
J S MUELLER & CO SOLICITORS	64289	8/11/2013	\$484.00	19/11/2013
J S MUELLER & CO SOLICITORS	61904	24/06/2013	\$1,452.00	04/07/2013
J S MUELLER & CO SOLICITORS	61223	10/05/2013	\$11,568.72	20/05/2013
J S MUELLER & CO SOLICITORS	60252	6/03/2013	\$1,452.00	22/03/2013
J S MUELLER & CO SOLICITORS	58762	15/11/2012	\$13,986.12	27/11/2012

J S MUELLER & CO SOLICITORS	57380	10/08/2012	\$1,504.40	22/08/2012
J S MUELLER & CO SOLICITORS	56130	28/05/2012	\$198.00	31/05/2012
J S MUELLER & CO SOLICITORS	55003	13/03/2012	\$2,500.00	27/03/2012

Mr. Adrian Mueller was allegedly engaged to provide legal advice at an estimated cost of \$3,500.00 + GST and review Lot 158 owner's motions for AGM 2017 at an estimated cost of \$1,750.00 + GST (documented in the Minutes of EC meeting on 20<sup>th</sup> July 2017).

- For missing documents that are critical to proving false statements by BCS Strata Management staff in Statutory Declaration to CTTT on 19<sup>th</sup> April 2013, Police requested access to strata files from BCS Strata Management and Solicitor Mr. Adrian Mueller (separate Motion for AGM 2018 deals with Waratah Strata Management).
- Based on latest update from the Police dated 22<sup>nd</sup> August 2018, none of the parties provided copies of eight emails, with statement that Mr. Adrian Mueller attempted to find them but failed to locate them.
- Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015, under the Legal Profession Uniform Law, the following applies to legal profession:

4.1 A solicitor with designated responsibility for a client's matter, must ensure that, upon completion or termination of the law practice's engagement:

14.1.1

the client or former client, or

14.1.2

another person authorised by the client or former client, is given any client documents, (or if they are electronic documents copies of those documents), as soon as reasonably possible when requested to do so by the client, unless there is an effective lien.

14.2 A solicitor or law practice may destroy client documents after a period of 7 years has elapsed since the completion or termination of the engagement, except where there are client instructions or legislation to the contrary.

- As 7-year period expires in February 2021 (from the completion of the law practice engagement in 2014), owners corporation issues an order to Solicitor Mr. Adrian Mueller to give all SP52948 documents to current Secretary of the Executive Committee at no cost, who shall ensure that Police receives the copies of missing eight emails.
- If Solicitor Mr. Adrian Mueller fails to comply, owners corporation shall raise a complaint with the Office of the Legal Services Commissioner (OLSC), which already had a caution against Mr. Adrian Mueller for not following legal practices in SP52948 in 2013, and raise a further complaint with the Department of Fair Trading.

## Explanatory Notes

Waratah Strata Management holds all strata files currently.

**Motion: Order to Waratah Strata Management to produce eight copies of emails to Police and Lot 158**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- Fraud Report E65804633 dated 9<sup>th</sup> September 2017 initiated Police investigations and interviews in late 2017 and during 2018.

For missing documents that are critical to proving false statements by BCS Strata Management staff in Statutory Declaration to CTTT on 19<sup>th</sup> April 2013, Police requested access to strata files from Waratah Strata Management Mr. Robert Crosbie.

Waratah Strata Management provided incomplete strata files and none of the eight crucial documents (copies of emails) were included.

- Two written reports from BCS Strata Management claim that all SP52948 were provided to Waratah Strata Management before end of their contract on 30<sup>th</sup> January 2017:

Representative of Pica Group (parent company of BCS Strata Management) in email on 13<sup>th</sup> February 2018.

BCS Strata Management Licensee-in-Charge Dr. Adrian Carr in email on 20<sup>th</sup> July 2018.

- Strata Schemes Management Act 2015, Section 180 prescribes that certain records of strata plan must be retained for period of seven years, and that includes all correspondence and emails.
- In accordance with Strata Schemes Management Act 2015, Section 181, owners corporation issues a request to Waratah Strata Management to produce eight emails no later than 14 days after the notice. The emails shall then be handed over to the Police.
- Owners corporation shall hand over copies of eight missing emails (and other strata documents as listed for the members of the EC and Waratah Strata Management) that lot 158 did not get in spite of paid document search on 13<sup>th</sup> June 2017.
- Owners corporation acknowledges that refusal to provide the documents might incur additional costs at owners expense and force NCAT Tribunal's orders.

**Explanatory Notes**

Waratah Strata Management holds all strata files currently.

## **Motion: Undisclosed and poorly prepared registration of Consolidated By-Laws for SP52948 on 30<sup>th</sup> October 2017**

### **The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- On 23<sup>rd</sup> November 2017, Lot 158 requested access to latest SP52948 By-Laws. Waratah Strata Management sent a letter dated 8<sup>th</sup> December 2017, with photocopy of By-Laws that were not valid on the date of the letter (old version, which still excluded Special By-Law 4 for Lot 3).
- Mr. Robert Crosbie registered SP52948 Consolidated By-Laws on 30<sup>th</sup> October 2017, without disclosure to owners in any correspondence since that date, and failed to disclose it to Lot 158, in spite of legal obligation to provide it since 23<sup>rd</sup> November 2017.
- Screenshot of Waratah Strata website on 26<sup>th</sup> April 2018 confirms that owners were not notified about the By-Laws. Mr. Robert Crosbie, acting as Secretary of the EC, failed to comply with Strata Schemes Management Act 2015, Section 141(3).
- The Consolidated By-Laws dated 30<sup>th</sup> October 2017 contain several errors:
  - By-Law 4 Lot 3 Window on page 7 is a Special By-Law, not an ordinary one.
  - There is another Special By-Law 4, related to Satellite Dishes.
  - There are two Special By-Laws 5 for Smoking with DIFFERENT contents.
  - By-Law 13 on page 9 is invalid in its entirety as it was not approved at AGM 2017 and all reimbursements that might have been paid from common funds for private water and gas usage to selective townhouse owners since 30<sup>th</sup> October 2017 are illegal (including one member of the Executive Committee, Lot 200, Mr. John Gore who received those benefits without disclosure for several years).
- Page 9 of the Minutes of the AGM 2017 confirms that proposed Special By-Law 13 was not approved in its current form. The strata committee was to review the charges being incurred for water and gas supply by the townhouse and unit owners and amend the by-law to ensure it was equitable.
- The response from Mr. Robert Crosbie from Waratah Strata Management on 21<sup>st</sup> June 2018 did not acknowledge he had already registered Consolidated By-Laws on 30 October 2017.
- Crittenden Lawyers declined to answer how much they were paid for By-Laws reviews.
- Owners corporation issues formal warning to Waratah Strata Management for failures to comply with their SP52948 contract, SSMA 2015, and Property, Stock and Business Agents Act 2002, which resulted in providing invalid version of By-Laws to Lot 158, whilst hiding it from all other owners since 30<sup>th</sup> October 2017.
- Owners corporation issues formal request to Waratah Strata Management to provide copies of valid By-Laws of SP52948 to each and every owner within two weeks after every registered change.
- To recuperate the losses, owners corporation makes an order for Waratah Strata Management to reimburse all costs related to registration of Consolidated By-Laws on 30<sup>th</sup> October 2018, including: all legal costs related to review of By-Laws, costs for staff, registration of By-Laws, and others as applicable. The reimbursements must be paid into SP52948 Admin Fund within two weeks after the decision is made and documented in the first EC meeting after the general meeting.

### **Explanatory Notes**

Documentary evidence can be provided upon request. Strata files are also available from Waratah Strata Management.

**Motion: Reimbursements to Lot 158 for costs incurred for Consolidated By-Laws**

**The Owners Corporation SP52948 by SPECIAL RESOLUTION approves the following:**

- Due to failure by owners corporation to provide access to current By-Laws, Lot 158 was forced to get a copy at own cost on 27<sup>th</sup> April 2018.
- Owners corporation shall reimburse the owners in the amount of \$18.00 for that cost within 14 days after the decision has been made. The amount shall be credited towards future levies payable by Lot 158.

**Explanatory Notes**

Standard costs at Land and Property NSW.

**Motion: Reimbursements to Lot 158 for discrimination, failure to maintain common property, and lack of equal rights in strata plan SP52948**

**The Owners Corporation SP52948 by SPECIAL RESOLUTION confirms and approves the following:**

- Notice of levies was not sent to Lot 158 in May 2017, almost causing owners to miss the payment on time. The complaint to Waratah Strata Management and EC members was ignored.
- 59 Motions from Lot 158 for AGM 2017 were disallowed without cause by Waratah Strata Management. Secretary of the EC Mrs. Lorna Zelenzuk failed to comply with Strata Schemes Management Act 2015, Schedule 1, Section 4.
- Three Motions from Lot 158 for AGM 2017 were misquoted and Explanatory Notes excluded by Waratah Strata Management. Secretary of the EC Mrs. Lorna Zelenzuk failed to comply with Strata Schemes Management Act 2015, Schedule 1, Section 4. The defeat of the Motions disallow owners who pay levies early to save 10% as prescribed in SSMA 2015 Section 85, and cause losses in Admin Fund of around \$14,000.00 plus GST, with 10% yearly interest rate applicable from November 2013 due to overpayment to Universal Property Services in FY 2013/2014.
- Lot 158 did not receive agenda from Waratah Strata Management seven days before the Annual General Meeting on 24<sup>th</sup> October. Secretary of the EC Mrs. Lorna Zelenzuk failed to comply with SSMA 2015, Schedule 1, c7 (2).
- Lot 158 did not receive agenda from Waratah Strata Management three days before the EC meetings held on June 2017 which allegedly approved Liftronics contract. Secretary of the EC Mrs. Lorna Zelenzuk failed to comply with SSMA 2015, Schedule 2, c4 (1).
- Lot 158 did not receive agenda from Waratah Strata Management three days before the EC meetings held on 15<sup>th</sup> February 2018. Secretary of the EC failed to comply with SSMA 2015, Schedule 2, c4 (1).
- Lot 158 did not receive agenda from Waratah Strata Management three days before the EC meetings held on 12<sup>th</sup> April 2018. Secretary of the EC failed to comply with SSMA 2015, Schedule 2, c4 (1).
- Lot 158 did not receive agenda from Waratah Strata Management three days before the EC meetings held on 13<sup>th</sup> September 2018. Secretary of the EC failed to comply with SSMA 2015, Schedule 2, c4 (1).
- Lot 158 did not receive minutes from Waratah Strata Management for EC meetings held on 15<sup>th</sup> February 2018 and 12<sup>th</sup> April 2018. Secretary of the EC failed to comply with SSMA 2015, Schedule 2, c17 (3).
- Waratah Strata Management and EC members failed to respond to Lot 158, notify owners, record details in the Minutes of meetings, or take actions in regards to problem reports and complaints 17 times since 1<sup>st</sup> February 2017 when Waratah Strata Management took office.
- Waratah Strata Management, Uniqueco Building Manager, and EC members, facilitated creation of safe location for smoking outside Fire Door 2 at the back of Block A, causing Health & Safety risks and acting in non-compliance with SSMA 2015, Section 158.
- Fire Exit lights on second floor of Block A, where Lot 158 lives, was faulty for 48 days without repair.
- Failure to protect female owner of Lot 158 from persistent stalking and intimidation for four years, in spite of pleas for her safety and right to live in peace.
- Since late May 2018, faulty ventilation in Block A is generating foul smell, poor air flow, and even after the alleged repairs it is not in proper operational order. Waratah Strata Management and Uniqueco Building Manager refuse to attend to the problem of poor ventilation in the laundry and one bathroom of Lot 158.
- Due to failure by owners corporation to provide access to strata files, overpaid strata file search on 13<sup>th</sup> June 2017 without access to all requested files, refusal by Secretary of the EC and Waratah Strata Management to respond to complaints and inquiries, incomplete management of the common property, and directly discriminating owners of Lot 158 by not sending agenda and minutes of the meetings:

owners corporation shall reimburse Lot 158 owners in the amount of \$3,500.00 for financial year 2018 and shall continue to do so until such time when the Lot 158 owners are given equal rights and privileges as all other owners.

The amount shall be credited to Lot 158 future levies 14 days after the decision is made.

## **Explanatory Notes**

Strata files held at Waratah Strata Management.



**Motion: Australia Post found no problems with letter deliveries to Lot 158 as implied by Waratah Strata Management**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- Director of Waratah Strata Management, in his rare response on 17<sup>th</sup> June 2018 suggested that agenda and minutes of meetings were missing for Lot 158 due to problems with Australia Post.
- Lot 158 initiated two investigations with Australia Post and so far, no fault was found on their side.
- Only letters from Waratah Strata Management are having delivery problems and Australia Post found no records of any deliveries by Waratah Strata Management in period 2018 till now.

## **Motion: Quorum miscalculation and undisclosed SSMA 2015 legal requirements at AGM 2017**

### **The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- Official Minutes of the AGM 2017 list owners of 54 lots as present at the meeting on 24<sup>th</sup> October 2017 in person or via proxy.
- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie did not provide any evidence for calculation of persons entitled to vote on the motions at AGM (financial owners), which directly affected the quorum calculation as per Strata Schemes Management Act 2015, Schedule 1, c17(2)(a) and c17(2)(b).
- Secretary of the EC Mrs. Lorna Zelenzuk and Chairperson Mr. Robert Crosbie failed to document that unfinancial owner cannot vote at a meeting on a motion (except a motion requiring an unanimous resolution) if the owner of the lot was an unfinancial owner at the date notice of the meeting was given and did not pay the amounts owing before the meeting, as per Strata Schemes Management Act 2015, Schedule 1, c23(8).
- Secretary of the EC Mrs. Lorna Zelenzuk and Chairperson Mr. Robert Crosbie failed to inform owners corporation that Strata Schemes Management Act 2015, Schedule 2, c9(4) states: voting rights cannot be exercised if contributions not paid - member of the strata committee is not entitled to vote on any motion put or proposed to be put to the strata committee if the member was, or was nominated as a member by a member who was, an unfinancial owner of a lot in the strata scheme at the date notice of the meeting was given and the amounts owed by the unfinancial owner were not paid before the meeting.
- Secretary of the EC Mrs. Lorna Zelenzuk and Chairperson Mr. Robert Crosbie failed to document that a proxy cannot be used by a building manager, strata managing agent, or an on-site residential property manager for a financial or material benefit, as per Strata Schemes Management Act 2015, Schedule 1, c25(7) and c25(8). Material benefits include: extending their term of appointment, increasing their remuneration, deciding not to pursue, or to delay, legal proceedings involving the proxy holder.
- Secretary of the EC Mrs. Lorna Zelenzuk and Chairperson Mr. Robert Crosbie failed to inform owners corporation that Strata Schemes Management Act 2015 defines an "unfinancial owner" as an owner of a lot in a strata scheme who has not paid all contributions levied on the owner that are due and payable, and any other amounts recoverable from the owner, in relation to the lot.
- Lot 5 was misquoted in two places with different names on page 1 and 2.
- Seven proxy votes were given to Lot 3 Mrs. Lorna Zelenzuk, Ex EC Chairperson, member of the EC, and Secretary of the EC at the time of AGM 2017, unfinancial owner due to unpaid full levies for second gas connection since 1997. Counting own presence at the AGM 2017 makes eight votes carried by Lot 3.
- Seven proxy votes were given to Chairperson, Mr. Robert Crosbie - Director of Waratah Strata Management, who won the contract without tender and increased his own remuneration the same evening as AGM 2017, with the commencement date of the new contract was six months later on 1<sup>st</sup> April 2018.
- Three proxy votes were given to Lot 147 Mr. Moses Levitt (EC member), unfinancial owner due to unpaid full levies for second gas connection since year 2001. Counting own presence at the AGM 2017, that is four votes carried by Lot 147.
- Four proxy votes were given to Lot 181 Mr. Stan Pogorelsky, EC Chairperson, member of the EC, unfinancial owner due to unpaid full levies for second gas connection since year 1999. Counting his own presence at the AGM 2017, that is five votes carried by Lot 181.
- Lot 62 Mr. Upali Aranwela, previous Treasurer of the EC, unfinancial owner due to unpaid full levies for second gas connection since year 1999.
- Lot 163, unfinancial owner due to unpaid full levies for second gas connection since at least 2012.
- Lot 167, unfinancial owner due to unpaid full levies for second gas connection since at least year 2012.
- Lot 182, unfinancial owner due to unpaid full levies for second gas connection since at least year 2012.
- Lot 194, unfinancial owner due to unpaid full levies for second gas connection since year 2011.

- Total number of votes (including proxies) carried by owners who did not pay their full levies for second gas connection and failed to disclose it to owners corporation: 22  
Total number of listed votes at AGM 2017: 54  
22 votes out of 54 makes 40.74%

#### **Explanatory Notes**

- Strata Schemes Management Act 2015.
- Minutes of EC meeting dated 21<sup>st</sup> July 1999, setting second gas connection levies at \$200.00.
- Minutes of EC meeting dated 17<sup>th</sup> November 1999, confirming second gas connection levies at \$200.00,
- Minutes of EC meeting dated 24<sup>th</sup> May 2000, adding GST to all costs.
- Audited financial statements for SP52948.
- Email from Mr. Robert Crosbie to Mr. Stan Pogorelsky and Mr. Moses Levitt dated 26<sup>th</sup> April 2017.
- Email from Mr. Stan Pogorelsky to Mr. Robert Crosbie dated 27<sup>th</sup> April 2017.

**Motion: Secretary of the EC failed to declare requirements for members of the strata committee and announce disclosures at AGM 2017 and other meetings during 2017 and 2018**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION, confirm the following:**

- Previous Secretary of the EC Mrs. Lorna Zelenzuk from Lot 3 and acting Secretary of the EC Mr. Robert Crosbie failed to inform owners corporation in any oral or written communication that:

Members of the strata committee must disclose any direct or indirect financial interest the member has in a matter to be considered by the strata committee where that interest appears to raise a conflict with the member's duties (Strata Schemes Management Act 2015, Schedule 2, c18(1)).

The member must not be present during the deliberation of the matter or take part in a decision, unless the strata committee otherwise determines (Strata Schemes Management Act 2015, Schedule 2, clause 18(4)).

An owner of a lot in a strata scheme who was an unfinancial owner at the date notice was given of the meeting at which the election of a strata committee is to be held and who did not pay the amounts owing by the owner before the meeting is not eligible for appointment or election to the strata committee (Strata Schemes Management Act, Section 32(2)).

Strata Schemes Management Act 2015, Section 260 makes members of the strata committee and officers of an owners corporation personally liable for their actions unless they acted in good faith. They are personally responsible for actions such as: dishonest, fraudulent, or dishonest acts, acts in conflict of interest, acts outside the scope of EC's authority, acts causing death, personal injury or damage, or loss to property.

- The following current and previous EC members failed to comply with these legal requirements in 2017 and 2018:

Lot 3, Mrs. Lorna Zelenzuk, (unpaid full levies for second gas connection, non-compliance with special By-Law 4)

Lot 88, Mrs. Marianna Paltikian (undeclared gas connection)

Lot 147, Mr. Moses Levitt (unpaid full levies for second gas connection, special privilege for electricity supply in garage)

Lot 151, Mrs. Maureen McDonald (special privilege for lighting in garage - the only owner with four fluorescent tubes in garage, two times higher number than any other owner, without reimbursing owners corporation for extra electricity usage)

Lot 181, Mr. Stan Pogorelsky (unpaid full levies for second gas connection)

Lot 200, Mr. John Gore (undeclared reimbursements for personal water and gas usage)

**Explanatory Notes**

- Strata Schemes Management Act 2015.
- SP542948 By-Laws and Minutes of meetings.
- Audited financial statements for SP52948.
- Documentary evidence can be provided upon request. Strata files are also available from Waratah Strata Management.

**Motion: Retrospective payments into common funds as per Special By-Law 12 “Control of common gas supply”**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017 and declare conflict of interest by EC members, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- BCS Strata Management, Waratah Strata Management, and EC members failed to provide evidence of compliance with Special By-Law 12 “Control of common gas supply” in regards to properly applied retrospective charges to building owners who failed to declare second gas supply connections,
- Minutes of EC meeting on 21<sup>th</sup> July 1999 set annual fee of \$200.00 for second gas connection.
- Minutes of EC meeting held on 17<sup>th</sup> November 1999 confirmed levies for the second gas connection applied to units in buildings and townhouses and payable in advance in December of the current financial year and be subject to annual review.
- Minutes of EC meeting held on 24<sup>th</sup> May 2000 introduced GST to all levies.
- The yearly review of the levies for the second gas connection and disclosure of conflict of interest when it applied to members of the EC never happened.
- Levies for second gas connection until EC meeting on 6<sup>th</sup> May 2013 when the Special By-Law 12 was registered, the levies were struck at \$200.00 per year,
- Minutes of EC meeting on 28<sup>th</sup> August 2013 (EC meeting) set applicable gas levies to \$55.00 per year.
- Letter from BCS Strata Management sent to owners on 14<sup>th</sup> April 2014 confirmed gas levies at \$220.00 per year, number of owners having such connections without approval or payments to Admin Fund, and including retrospective charges of maximum one year for voluntary disclosures.

BCS Strata Management and EC members failed in their duties to disclose that number of previous and current EC members were involved in that scheme.

- Secret report dated 13<sup>th</sup> May 2014 lists only three owners who voluntarily reported gas connections, of which one, Lot 62, previous Treasurer of the EC, failed to provide the date of the installation of the second gas connection.

Lot 3, Mrs. Lorna Zelenzuk, who had second gas connection well before 1999, and acted as Chairperson, Secretary, and ordinary EC member in various years, failed to uphold the By-Laws and apply them in her own case.

- At EC meeting on 16<sup>th</sup> March 2017, the gas levies were again confirmed as \$220.00 per year.
- Audited financial statements for SP52948 until 2017 confirm that no owner paid \$200.00 or \$220.00 for second gas connection per year before 2017, causing loses to owners corporation funds and forcing other owners to carry out costs for private use.
- EC Member Lot 181, Mr. Stan Pogorelsky, issued secret and undisclosed request to BCS Strata Management on 10 June 2015, confirming that BCS Strata Management had neglected to raise invoices, and asking for them as a matter of urgency.
- BCS Strata Management, Waratah Strata Management, and EC members failed to disclose to owners that BCS Strata Management issued secret debt recovery without applying correct interest for gas line charges for 2012 and 2013 to the following owners, payable on 1 August 2016:

Lots 3, 59, 62, 68, 102, 127,144, 147, 148, 163, 167, 181

- EC members with second gas connection but failed to disclose for how many years they did not pay the levies:

Mrs. Lorna Zelenzuk, Lot 3  
Mr. Upali Aranwela, Lot 62 (ex-EC member)  
Mr. Stephen Luxmoore, Lot 144  
Mr. Moses Levitt, Lot 147

Mr. Stan Pogorelsky, Lot 181

- Townhouses that have second gas connections but were receiving reimbursements for private gas usage for many years:

Lots 194, 199, 206, and 209

- EC meeting 17<sup>th</sup> May 1998 reported application by owner of townhouse 213 and the EC approval that all future gas costs were to be met by the owner, so this owners should have never received reimbursements for personal gas usage that they claimed for 19 years.
- All EC members failed to declare the special interest in this issue and abstain from voting.

A member of the strata committee must disclose any direct or indirect financial interest the member has in a matter to be considered by the strata committee where that interest appears to raise a conflict with the member's duties (SSMA 2015 Clause 18(1) of Schedule 2). The member must not be present during the deliberation of the matter or take part in a decision, unless the strata committee otherwise determines (SSMA 2015 Clause 18(4) of Schedule 2).

- Addendum to notice for AGM 2016 contained unexplained accounting details for gas charges that differ in their amounts, did not provide details for period they applied, and confirmation if these owners were allowed to vote at previous general meetings.
- BCS Strata Management, Waratah Strata Management, and EC members failed to provide evidence of owners who did not pay relevant levies for second gas connection but declared them to be financial.
- Owners corporation acknowledges that unpaid levies cannot expire or be waived unless decision is made at the general meeting, without owners who have conflict of interest in the matter being allowed to vote.
- As already approved in Special By-Law 12, owners corporation requests that Secretary of the EC, within 30 days audit unpaid levies for second gas connection to owners, applying amounts as applicable for all relevant years, and issue invoices to owners for unpaid levies for previous years, and report it at the first applicable EC meeting.
- Owners corporations acknowledges that it is possible to commence a recovery action in the NCAT Tribunal, or go through the Local Court if full payments for levies for second gas connections are not recovered from owners.
- Owners corporation acknowledges that some levies cannot be recovered from deceased owners and owners who sold their properties before paying, making the rest of the owners bear the losses incurred by failed actions of BCS Strata Management and Waratah Strata Management.

### **Explanatory Notes**

Documentary evidence can be provided upon request. Strata files are also available from Waratah Strata Management.

**Motion: Owners corporation failed to ensure safety of female owner of Lot 158 and supported stalking, intimidation, bullying and fear**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017 and declare conflict of interest by EC members, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- Waratah Strata Management, Director of Uniqueco Mr. Steve Carbone, and EC members failed to protect S.P..B. after numerous complaints about bullying, stalking, and attempts of intimidation by Uniqueco staff and EC members, including:

Personal meeting with EC member on 27<sup>th</sup> February 2017.

Meeting with Director of Waratah Strata Management Mr. Robert Crosbie and Director of Uniqueco Mr. Steve Carbone on 1<sup>st</sup> March 2017.

Personal meeting with EC member on 1<sup>st</sup> March 2017.

Email to EC members on 5<sup>th</sup> March 2017.

14<sup>th</sup> March 2017 at 07:17 hours: SMS to Mr. Steve Carbone after she was intercepted by his staff silently again.

- Director of Uniqueco Pty Ltd failed to comply with Sections 6.4 of the contract with SP52948, which requires proper conduct of its officers, employees, and agents whilst engaged to provide services on the premises.
- EC members failed to comply with Section 6.3 of Uniqueco contract with SP52948, failed to conduct a review of complaint against stalking and bullying, thus causing serious health issues to Lot 158 female owner, stress, and fear.
- In one incident, Uniqueco staff member deliberately stood behind SPB, without any space between them, while she was washing the car in carwash bay. When she turned around, frightened and stressed, he slightly stepped back and continued to snoop on her activities in clear act of intimidation and looked over her shoulder into the contents of the booth. Then he moved towards the side of bay and continued to watch for a while.
- In another instance, while SPB was in the garage, Uniqueco staff member stood opposite herself uninvited, and in a defiant manner with his hands on his hips, told two EC members (Mrs. Maureen MacDonald and Mrs. Sandy Quick) that "he was there to protect them", directly and unambiguously implying that it was addressed against SPB and her husband. Both EC members laughed loudly and made her very upset and uncomfortable.

Mrs. Sandy Quick, was herself involved in intimidation of SPB on 20<sup>th</sup> November 2011. She held SPB literally locked in Lot 158 garage (prevented SPB from leaving) for almost an hour. Police in March 2018 acknowledged that they had failed to act upon the complaint and offered full apology for it. The event was witnessed by staff member of Universal Strata Services, who tried to help but was silently removed from working in the complex soon afterwards.

- In another incident, Uniqueco staff member again suddenly showed up in front of SPB while she was walking around the complex, and when she told him that "she had a feeling that he was always close to her wherever she went" his response was "it was his job".
- Several Uniqueco staff members would come very close to SPB, sometimes at no-gap closeness. Usually, they would do it when there were no witnesses or cameras (in casement of the buildings, around the complex, and in the carwash area).
- On 18<sup>th</sup> February 2018, SPB sent a plea to Waratah Strata Management Director Mr. Robert Crosbie, requesting that Uniqueco staff stop harassing, stalking, and following her in the complex and that this information be tabled in the minutes of the EC meeting, the same way her name was mentioned in agenda of EC meeting sent to owners on 7<sup>th</sup> February 2018 for alleged video recordings of Uniqueco staff, which was actually recommended by the Police.
- Repeated requests for EC members to deal with complaints of stalking and intimidation were ignored and not disclosed to owners throughout 2018.
- The lack of actions by Waratah Strata Management and EC members resulted in the following Police Events they failed to report to owners:

Verbal attack and assault in lift area by EC member Mr. Moses Levitt on SPB. E115593702 on 31<sup>st</sup> October 2015. Among the other things, Mr. Moses Levitt issued false statements about common property, wrongly accused my husband of taking common property, and his wife calling SPB and her husband "non-believers" on several occasions.

H64596706 on 15<sup>th</sup> May 2017, where Uniqueco staff member unsuccessfully tried to charge SPB's husband of assault. This event was briefly revealed in letter to all owners by three EC members Mrs. Lorna Zelenzuk, Mr. Stan Pogorelsky, and Mrs. Moses Levitt on 21<sup>st</sup> July 2017 stating that SPB's husband was facing a charge against Uniqueco staff member, without disclosing that it was simply an effort to talk. Video evidence helped the assault charge be dismissed on 13<sup>th</sup> March 2018 at Burwood Local Court, which was attended by Mr. Stan Pogorelsky, Mr. Moses Levitt, Mr. Steve Carbone, and the Uniqueco staff member in question.

E66107079 on 31<sup>st</sup> August 2017 in regards to continuous stalking of SPB by Uniqueco staff. Stalking was repeated, unwanted contact that caused fear, anxiety, and stress. It included around dozen video recordings of staff systematically being close to SPB at time when it was known she would be in garage. It also included an unwelcome and unsolicited WhatsApp message from Mr. Steve Carbone on 2<sup>nd</sup> September 2017.

E244254697 on 26<sup>th</sup> March 2018. A member of Uniqueco staff followed SPB in the garage area in close proximity but did not expect to see an accidental witness. Due to high stress, SPB was taken to emergency with blood pressure of 218/107, which can cause her immediate death due to previous well-known serious condition which prevents her from even being on the Jury duty.

- According to Police statements, Uniqueco staff declined to provide all CCTV recordings that Lot 158 proposed as evidence in 2017 and 2018, effectively hindering the investigations.
- Owners corporation issues a stern warning to all staff employed by SP52948 that any act of intimidation, stalking, harassment, and false accusations would be dealt with promptly and that such information must be reported to all owners.
- Owners corporation takes full responsibility to ensure that all owners, regardless of background, feel safe, protected, and with equal rights in the complex.
- To ensure proper actions in the future, owners corporation instructs all staff employed by SP52948 to provide CCTV recordings to Police if requested for investigations.

### **Explanatory Notes**

Documentary evidence can be provided upon request. Strata files available from Waratah Strata Management.



## **Motion: Undisclosed competitive quotes and undisclosed contact details with 11.5% increase for Waratah Strata Management**

### **The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- Competitive bid by Ryan Strata was not allowed to be presented to owners in the agenda for the AGM 2016.
- Competitive bid by Complete Building Management Group was not allowed to be presented to owners in the agenda for the AGM 2017.
- BCS Strata Management and EC members did not disclose prior relationship between Director at Waratah Strata Management Mr. Robert Crosbie and BCS Strata Management at AGM 2016.
- BCS Strata Management and EC members failed to disclose to owners that Director of Waratah Strata Management was interviewed by members of the Executive Committee prior to Waratah Strata Management being nominated as the new strata managers at the AGM 2016. During that interview it was discussed that Mr. Simon Wicks was one of their employees who had managed SP52948 with poor performance in 2011.
- BCS Strata Management and EC members failed to disclose to owners that Mr. Simon Wicks was planned to be Strata Manager for SP52948 in the event that Waratah Strata Management wins the contract at AGM 2016.
- BCS Strata Management staff confirmed in email on 23<sup>rd</sup> December 2016 that new Strata Managing Agent for SP52948 was Mr. Simon Wicks, who was an employee of BCS Strata Management and removed from managing SP52948 due to unsatisfactory performance after around six-month period before AGM 2011.
- Since 1 February 2017, without owners corporation approval, or knowledge, base contract value for Waratah Strata Management was raised by around 11.5%:

Base value of \$21,800.00 (GST inclusive) as approved Motion 28.1 at AGM on 14 November 2016, whilst preventing superior quote by Ryan Strata to be included in the agenda for the meeting.

Base value \$23,110.00 (GST inclusive) plus rebates, discounts, and commissions in Disclosure Schedule, signed by EC members Mr. Moses Levitt and Mr. Stan Pogorelsky without evidence that they settled unpaid levies for second gas connections on 14 December 2016.

Base value \$24,310.00 (GST inclusive) plus rebates, discounts, and commissions in Disclosure Schedule C1 and C2, signed by EC members Mr. Moses Levitt and Stan Pogorelsky without evidence that they settled unpaid levies for second gas connections straight after AGM on 24 October 2017.

- Default yearly increase of contract with Waratah Strata Management is 5% (more than three times the official CPI), or as agreed at each AGM,
- Waratah Strata Management reserves the right to earn all rebates, discounts and commissions in Disclosure Schedule from the following providers:

CHU Underwriting Agencies Pty Ltd	20% of base premium
Strata Unit Underwriters Pty Ltd	20% of base premium
Strata Community Insurance	20% of base premium
Finn Foster & Associates	15% of base premium or as agreed
Whitbread Insurance Brokers	20% of base premium
Driessen Insurance Brokers	15% of base premium
Austbrokers Sydney	20% of base premium
CRM Insurance Brokers	50% of all commissions
Honan Insurance Brokers	20% of base premium
BCB Insurance Brokers	75% of policy commission

- Section 7 of the contract with Waratah Strata Management provides avenue for strata agency to transfer the agreement to another agency or related persons upon approval by owners corporation which must provide a response to Waratah Strata Management within 28 days after receiving such notice from the agent, and owners corporation must notify new agent of its decision within 28 days after receiving a request from new agent to enter into

a new agency agreement.

**Motion: Repeal Special By-Law 12 “Control of common gas supply”**

**The Owners Corporation SP52948 by SPECIAL RESOLUTION, pursuant to Section 141 of the Strata Schemes Management Act 2015, approves the following changes to the Special By-Laws:**

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017 and declare conflict of interest by EC members.
- Repeal Special By-Law 12 “Control of common gas supply” as it fails to satisfy Strata Schemes Management Act 2015, Section 139 “Restrictions on by-laws”.
- The Special By-Law 12 was not applied in equitable manner since its registration.
- The Special By-Law did not take into account townhouse owners with second gas connections of whom some claimed reimbursements in spite of decisions at EC meetings.
- Strata Managing Agent shall lodge a notification with the Registrar-General in the manner approved by the Registrar-General within one month from the date the change of the By-Laws is approved by owners corporation,
- To the extent of any inconsistency with previous by-laws, this by-law prevails.

**Motion: Repeal Special By-Law 13 “Sharing of water and gas costs”**

**The Owners Corporation SP52948 by SPECIAL RESOLUTION, pursuant to Section 141 of the Strata Schemes Management Act 2015, approves the following changes to the Special By-Laws:**

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017 and declare conflict of interest by EC members.
- Repeal Special By-Law 13 “Sharing of water and gas costs” as it fails to satisfy Strata Schemes Management Act 2015, Section 139 “Restrictions on by-laws” that states:
  - (1) By-law cannot be unjust, must not be harsh, unconscionable or oppressive.  
Any such by-law may be invalidated by the Tribunal (see section 150).
- Strata Managing Agent shall lodge a notification with the Registrar-General in the manner approved by the Registrar-General within one month from the date the change of the By-Laws is approved by owners corporation.
- To the extent of any inconsistency with previous by-laws, this by-law prevails.

## **Motion: Equitable Sharing of Gas Usage Costs for Townhouse Owners**

**The Owners Corporation SP52948 by SPECIAL RESOLUTION pursuant to Section 141 of the Strata Schemes Management Act 2015, after any amendments, makes an additional By-Law in the following terms:**

SPECIAL BY-LAW: "Equitable sharing of gas usage costs for townhouse owners"

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017 and declare conflict of interest by EC members.
- After each billing quarter, all 26 townhouse owners shall receive a refund from the Administration Fund that is equal to gas usage incurred by an average owner in Blocks A, B, C, and D. The formula for a refund to townhouse owners shall be:
  - a) Add subtotal charges before GST for common gas supply in Blocks A, B, C, and D (invoice for pool area gas meter must not be included), as issued by utility provider for four gas meters at the end of each billing quarter.
  - b) Calculate the sum of per-quarter levies (1/4 of yearly levies) that designated lot owners in Blocks A, B, C, and D pay for additional gas appliances as per Special By-Law 12 "Control of common gas supply".
  - c) Subtract b) from a).
  - d) Divide figure obtained in Step c) by 192 (total number of lots in Blocks A, B, C, and D).
- Strata Managing Agent shall make prompt payment to each of 26 townhouse owners in amount obtained in Step d) at the end of every gas billing quarter;
- The Treasurer of the Executive Committee shall monitor these payments and report the progress every quarter;
- A new accounting code shall be introduced in the bookkeeping to keep records of the gas usage refunds for townhouse owners.
- Individual townhouse owners shall have the choice to opt-out of the gas usage refunds.
- Strata Managing Agent shall keep a register of townhouse owners who wish not to receive the gas usage refunds and shall make it public knowledge for all owners. Townhouse owners can only issue such requests in written form. These requests become enforceable as of date of the application.
- A townhouse owner who submits request not to receive the gas usage refunds, and then decides differently at other time, shall not be entitled to receive these benefits retrospectively;
- To the extent of any inconsistency with previous by-laws, this by-law prevails.
- Strata Managing Agent shall lodge a notification with the Registrar-General in the manner approved by the Registrar-General within one month from the date the Special By-Law is approved by owners corporation.

## **Motion: Equitable sharing of water usage costs for townhouse owners**

**The Owners Corporation SP52948 by SPECIAL RESOLUTION pursuant to Section 141 of the Strata Schemes Management Act 2015, after any amendments, makes an additional By-Law in the following terms:**

SPECIAL BY-LAW: "Equitable sharing of water usage costs for townhouse owners"

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017 and declare conflict of interest by EC members.
- After each billing quarter, all 26 townhouse owners shall receive a refund from the Administration Fund that is equal to 0.5% of water usage invoiced through shared water meter HDTC0039 (all buildings, gardens, pool area, and other common property). The formula for a refund to townhouse owners shall be:
  - a) Obtain figure from invoice for common water meter HDTC0039, as issued by the utility provider at the end of each billing quarter.
  - b) Reasonable estimate for water in the swimming pool and the spa (with combined volume capacity of around 95.000 liters) is changed several times a year, frequent usage of garden sprinklers, cleaning of all foyers, floors, basement, and garbage bins give calculation of 95.5% of total water usage, leaving around 0.5% for private use of owners in the four buildings.
  - c) Multiply figure obtained in step a) by 0.005 and divide by 192 (total number of lots in Blocks A, B, C, and D).
- Strata Managing Agent shall make prompt payment to each of 26 townhouse owners in amount obtained in step c) at the end of every water billing quarter,
- The Treasurer of the Executive Committee shall monitor these payments and report the progress every quarter.
- A new accounting code shall be introduced in the bookkeeping to keep records of the water usage refunds for townhouse owners.
- The decision to alter the water reimbursement percentage in step b) for townhouse owners shall only be made at a general meeting.
- Individual townhouse owners shall have the choice to opt-out of the water usage refunds.
- Strata Managing Agent shall keep a register of townhouse owners who wish not to receive the refunds and shall make it public knowledge for all owners. Townhouse owners can only issue such requests in written form. These requests become enforceable as of date of the application.
- A townhouse owner who submits request not to receive the water refunds, and then decides differently at other time, shall not be entitled to receive these benefits retrospectively.
- To the extent of any inconsistency with previous by-laws, this by-law prevails.
- Strata Managing Agent shall lodge a notification with the Registrar-General in the manner approved by the Registrar-General within one month from the date the Special By-Law is approved by owners corporation.

**Motion: Repeal Special By-Law 9 “Control of excessive water usage”**

**The Owners Corporation SP52948 by SPECIAL RESOLUTION, pursuant to Section 141 of the Strata Schemes Management Act 2015, repeals Special By-Law 9 “Control of excessive water usage”:**

- It fails to satisfy Strata Schemes Management Act 2015, Section 139(1) “Restrictions on by-laws” that states:  
By-law cannot be unjust, must not be harsh, unconscionable or oppressive.  
Any such by-law may be invalidated by the Tribunal (see section 150).
- The following clause is unenforceable and discriminates against owner’s rights in their home:  
Not keep more than one washing machine within their lot space.
- The By-Law fails to satisfy SSMA 2015 Section 122(4) which states:  
In a case that is not an emergency, the owners corporation may enter any part of the parcel for those purposes with the consent of any occupier of that part of the parcel or, if the occupier does not consent, in accordance with an order of the Tribunal under this Division.
- The following clause is unenforceable:  
Not use the washing machine in their lot space for any purpose other than to wash clothing, towels, bedding etc. used by residents of that lot.  
More appropriate clause would be:  
Not use common water supply in their lots for any commercial purposes.
- Strata Managing Agent shall lodge a notification with the Registrar-General in the manner approved by the Registrar-General within one month from the date the change of the By-Laws is approved by owners corporation,
- To the extent of any inconsistency with previous by-laws, this by-law prevails.

**Motion: Amend Special By-Law 6 “Telecommunications Infrastructure”**

**The Owners Corporation SP52948 by SPECIAL RESOLUTION, pursuant to Section 141 of the Strata Schemes Management Act 2015, approves the following changes to the Special By-Law 6:**

- Add the following paragraph:

Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017.

- Replace the second paragraph:

The Executive Committee shall be granted the power to review the services available and enter into a contract on behalf of the owners corporation.

with the following:

The decision to enter into any telecommunications contract shall be approved at general meetings only.

- To the extent of any inconsistency with previous by-laws or motions, this motion prevails,
- Strata Managing Agent shall lodge a notification with the Registrar-General in the manner approved by the Registrar-General within one month from the date the Special By-Law is approved by owners corporation.



**Motion: Confirm lack of quorum at two Extraordinary General Meetings on 4<sup>th</sup> December 2013 and 20<sup>th</sup> December 2013, and invalidate decisions made at them unless full disclosure provided to all owners**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- BCS Strata Management, Waratah Strata Management, and EC members failed to declare their conflict of interest in regard to lack of quorum and deliberate miscalculation of quorum at all general meetings in period 1999 to 2017.
- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this information at AGM 2017 and declare conflict of interest by EC members.

- BCS Strata Management, Waratah Strata Management, and EC members failed to declare that by Australian laws:

The ratification of a lawful contract has a retrospective effect, and binds the principal from its date, and not only from the time of the ratification, for the ratification is equivalent to an original authority, according to the maxim, that omnis rati habitio mandata aequiparatur (ratification is equivalent to express command).

The owners have the right to elect whether they will adopt the unauthorized act or not only upon a full knowledge of all the material circumstances.

The ratification must be voluntary, deliberate, and intelligent, and the party must know that without it, they would not be bound.

- At Extraordinary General Meeting on 4<sup>th</sup> December 2013, of 43 proxies, 41 were given to a single EC member, who, along with a selective group of 19 (out of 26) townhouse owners (including one other Ex-member of the Executive Committee) received reimbursements for personal water and gas usage without Special Resolution or registered Special By-Law in every period from 1999 to 6<sup>th</sup> May 2013, and applied in non-compliance with new Special By-Law since 6<sup>th</sup> May 2013, hence directly decreasing their voting entitlements and being unfinancial. These secret and undeclared reimbursements were not recorded at general meetings.

At Extraordinary General Meeting on 4<sup>th</sup> December 2013, 13 owners, including few EC members, did not pay levies for second gas connection in FY 2012 and 2013 and proper levies as prescribed since 1999.

- Another Extraordinary General Meeting, only two weeks after the previous one, and only two months after the annual general meeting.

Agenda rushed to approve BCS Strata Management BCS action to engage Solicitor at CTTT and District Court cases retrospectively (without prior approval of the EC or owners corporation at any meeting).

The original meeting on 20<sup>th</sup> December 2013 failed due to lack of quorum.

The Adjourned meeting on 8<sup>th</sup> of January 2014 was attended by three owners (of which one was EC member himself). 45 proxy votes were given to EC member, who, along with a selective group of 20 (out of 26) townhouse owners (including one other member of the Executive Committee) received reimbursements for personal water and gas usage without Special Resolution or registered By-Law in period before 6<sup>th</sup> May 2013, and applied in non-compliance with new Special By-Law since 6<sup>th</sup> May 2013, hence directly decreasing their voting entitlements and being unfinancial.

At Extraordinary General Meeting on 20<sup>th</sup> December 2013, number of owners, including few EC members, did not pay levies for second gas connection in FY 2012 and 2013 and proper levies as prescribed since 1999.

One proxy voted counted from owner who sold his property on 20<sup>th</sup> of December 2013.

- Both EGMs were non-compliant with SSMA 1996 Schedule 2 Section 12 2 (a) and (b), SSMA 1996 Schedule 2 Section 10 (8), and SSMA 1996 Section 183.
- Owners corporation confirms that all decisions made at EGMs in 2013 were invalid and designed to protect primarily BCS Strata Management and EC members, at significant costs to owners corporation and without disclosure of conflicts of interest.

**Explanatory Notes**

Strata files held by Waratah Strata Management.

**Motion: Confirm inequitable, excessive and unapproved water and gas reimbursements to selective townhouse owners**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- According to available audited financial statements and information presented for general meetings (files for many years are still undisclosed by BCS Strata Management and Waratah Strata Management) \$121,266.07 was paid for private water and gas reimbursements to selective townhouse owners in period 1997 to 2017 without disclosure:

FY 2003 paid \$4,714.98 to 15 townhouse owners for their private water and gas usage, without disclosure, without Special By-Law, and without Special Resolution

FY 2004 paid \$5,959.95 to 19 townhouse owners for their private water and gas usage, without disclosure, without Special By-Law, and without Special Resolution

FY 2007 paid \$6,973.47 to 16 townhouse owners for their private water and gas usage, without disclosure, without Special By-Law, and without Special Resolution

FY 2008 paid \$7,510.97 to 17 townhouse owners for their private water and gas usage, without disclosure, without Special By-Law, and without Special Resolution

FY 2009 paid \$6,686.64 to 18 townhouse owners for their private water and gas usage, without disclosure, without Special By-Law, and without Special Resolution

FY 2010 paid \$10,636.99 to 20 townhouse owners for their private water and gas usage, without disclosure, without Special By-Law, and without Special Resolution

FY 2011 paid \$6,435.25 to 14 townhouse owners for their private water and gas usage, without disclosure, without Special By-Law, and without Special Resolution

FY 2012 paid \$10,831.66 to 18 townhouse owners for their private water and gas usage, without disclosure, without Special By-Law, and without Special Resolution

FY 2013 paid \$13,656.27 to 18 townhouse owners for their private water and gas usage, without disclosure, without Special By-Law, and without Special Resolution

FY 2014 paid \$12,034.47 to 18 townhouse owners for their private water and gas usage, without disclosure of improperly applied Special By-Law 13

FY 2015 paid \$12,083.36 to 17 townhouse owners for their private water and gas usage, without disclosure of improperly applied Special By-Law 13

FY 2016 paid \$11,742.06 to 14 townhouse owners for their private water and gas usage, without disclosure of improperly applied Special By-Law 13

FY 2017 paid \$12,000.00 to undisclosed number of townhouse owners, without details of how the reimbursements applied

- An example of inequitable benefits to selective townhouse owners from FY 2015:

Lot 198	\$1,823.09
Lot 194	\$1,108.84
Lot 217	\$1,003.26
Lot 205	\$868.29
Lot 197	\$862.40
Lot 206	\$842.06
Lot 204	\$749.86
Lot 199	\$736.31
Lot 209	\$704.44
Lot 202	\$697.04
Lot 200	\$624.64
Lot 201	\$445.25
Lot 196	\$422.84
Lot 215	\$401.03

Lot 210	\$369.27
Lot 213	\$218.65
Lot 203	\$206.09

- An example of inequitable benefits to selective townhouse owners from FY 2016:

Lot 217	\$1,336.61
Lot 198	\$1,158.73
Lot 194	\$1,135.19
Lot 197	\$990.99
Lot 213	\$931.91
Lot 205	\$874.24
Lot 206	\$808.50
Lot 201	\$777.73
Lot 199	\$724.38
Lot 202	\$547.05
Lot 210	\$494.35
Lot 200	\$482.38
Lot 209	\$254.90
Lot 196	\$101.50

- EC meeting on 28<sup>th</sup> March 2011 reported that townhouse 194 requested new gas boiler and separate gas meter that audit of the lots did not confirm.
- EC meeting on 17<sup>th</sup> May 1998 reported application by owner of Townhouse 213 and the EC approval that all future gas costs were to be met by the owner.
- EC meeting on 14<sup>th</sup> February 2001 reported application by owner of Townhouse 210 and EC decision for gas connection not to pay for future connection (service) fees.
- BCS Strata Management and Waratah Strata Management failed to notify owners corporation that Lot 209 claimed reimbursements for private gas usage, and that the owner stopped claiming it since 25<sup>th</sup> September 2014 since when an incumbent tenant pays for full gas charges.
- Years 1997 to 2000: All gas and water reimbursements to selective townhouse owners were illegal without a Special Resolution or Registered By-Law; owners who claimed these expenses were unfinancial; AGMs were void and invalid due to lack of quorum.
- Years 2001 to 6<sup>th</sup> May 2013: All gas and water reimbursements to selective townhouse owners were illegal without a Special Resolution or Registered By-Law; GST and Service Charges claimed by owners for gas usage as well; owners who claimed these expenses were unfinancial; AGM were void and invalid due to lack of quorum; owners corporation made illegal GST claims from the Australian Taxation Office for private expenses paid to townhouses from common funds.
- 6<sup>th</sup> May 2013 till November 2015: GST and Service Charges claimed by owners for gas usage in non-compliance with Special By-Law 13. Owners who claimed these expenses were unfinancial at AGM 2013, AGM 2014, AGM 2015. AGM 2013 and two following General Meetings were void and invalid due to lack of quorum; owners corporation made illegal GST claims from the Australian Taxation Office for private expenses paid to townhouses from common funds.
- November 2015 till 30<sup>th</sup> October 2017: GST and Service Charges claimed by some owners for gas usage. Some reimbursements paid in non-compliance with Special By-Law 13 for old invoices.
- 24<sup>th</sup> October 2017 to AGM 2018: all payments for private water and gas usage are illegal, as per decision made at AGM 2017.

## Explanatory Notes

Strata files held by Waratah Strata Management.

**Motion: Undisclosed Motion - reimbursements of 192 owners in buildings for excessive levies at AGM 2015, AGM 2016, and AGM 2017**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- BCS Strata Management and EC members failed to include this Motion in the agenda for AGM 2015 without due notice to the requestor of the Motion, and owners corporation denied a vote on the Motion.
- BCS Strata Management and EC members failed to include this Motion in the agenda for AGM 2016 without due notice to the requestor of the Motion, and owners corporation denied a vote on the Motion.
- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, and owners corporation denied a vote on the Motion.

**Explanatory Notes**

Strata files held by Waratah Strata Management.

**Motion: Reimbursements to Lot 158 for overpaid levies used for private water and gas usage without Special By-Law and Special Resolution**

**The Owners Corporation SP52948 by SPECIAL RESOLUTION confirms and approves the following:**

- For all years in which Lot 158 paid for private water and gas usage to selective townhouse owners without Special Resolution and Special By-Law in period 1999 to 6<sup>th</sup> May 2013, owners corporation shall reimburse the owners in the amount of \$329.38. The amount shall be credited to future levies payable by Lot 158 within 14 days after the decision is made.
- The amount is calculated based on Lot 158 entitlements of 48 out of 10000 for the whole complex and the available invoices for payments to townhouses for private water and gas usage to selective townhouse owners without Special Resolution or Special By-Law in period 1999 to 6<sup>th</sup> May 2013: \$68,622.35.
- Lot 158 reserves the right to issue further claims for reimbursements when the missing financial information for years 1999 to 2002 inclusive, 2005, and 2006 becomes available.

**Explanatory Notes**

Strata files held by Waratah Strata Management.

## **Motion: Eliminate racial profiling of Asian community**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- BCS Strata Management, Building Manager Uniqueco Pty Ltd, and EC members submitted specific Asian community to unnecessary racial profiling by displaying messages on notice boards exclusively in their language three times in period 2015/2016.
- Strata Managing Agent, Building Manager, and EC members shall not approve or publish any communication on behalf of SP52948 in other languages unless the same note is displayed in English for the duration of the display.
- Owners and/or tenants of non-English speaking background shall be approached privately by Strata Managing Agent, Building Manager, and EC members, and appropriate communication established if required.
- Owners corporation condemns every attempt to racially or in any other way discriminate or profile owners, their community, nationality, or religion.

## **Explanatory Notes**

Photo evidence and original Motions for AGM 2017 can be provided upon request. They are also kept in strata files by Waratah Strata Management.

**Motion: Levy increases and its growth pattern undisclosed to owners**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- Owners corporation approved increase of 6.12% in levies for FY 2017 at general meeting held on 19<sup>th</sup> October 2016.
- BCS Strata Management and EC members misconstrued statements in the agenda and minutes of the general meetings in regards to compound levy growth for the first 18 years – their figure of 3.5% is in fact 5.5% over 19 years.
- Annual percent growth rate for levies spread over period of 19 years when financial period is taken into account (1<sup>st</sup> September to 31<sup>st</sup> August) is 9.42%.

**Motion: Better financial reporting with enforcement of all payments in prescribed timeframes**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION approves the following:**

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- To ensure simpler accounting, efficient calculations, and avoid misuse of accrual accounting, owners corporation shall introduce more transparent financial reporting with full access to ALL owners free of charge via strata management's website:

Debtor Financial Status

Cash Book Receipts

Cash Book Payments

Bank Reconciliation

Detailed Expenses (Transaction Records) for Admin and Capital Works Funds

Cash Management

Statement of Financial Position

- Strata Managing Agent and EC members must enforce payments of all invoices within timeframes defined on invoices in order to avoid false accounting for the financial year.



## **Motion: Lack of proper 10-Year Sinking Fund - now Capital Works Fund**

### **The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- BCS Strata Management and EC members failed to maintain and update 10-Year Sinking Fund that matches real capital works in the complex since 1999.
- BCS Strata Management and EC members provided a copy of alleged 10-Year Sinking Fund, dated 31<sup>st</sup> of August 2010 in agenda for AGM 2016 for the first time to owners.
- BCS Strata Management and EC members had obligation to plan how they would repair and maintain common property and raise sufficient funds to cover the costs, and submit the 10-year Sinking Fund Plan for approval by owners at an annual general meeting (AGM) and be reviewed and adjusted, if required, in the first five years, which did not happen in SP52948.
- BCS Strata Management staff admitted they did not have copy of 10-Year Sinking Fund Plan in email to EC member on 11<sup>th</sup> April 2014.
- Agenda for AGM 2014 contained misconstrued and misleading statement that 10-Year Sinking Fund was reviewed in 2014 and every five-years beforehand.
- BCS Strata Management and EC members failed to provide even relatively accurate predictions for major repairs and failed to attend to most of the alleged planned activities.
- BCS Strata Management and EC members failed to disclose major professional building reports that highlighted needs for repairs since year 2000.
- Without evidence of tender, or its disclosure to owners, Biv Reports Pty Ltd was commissioned to prepare new 10-Year Capital Works Fund assessment in late March 2017. It failed to address major works in proper manner:

Comprehensive risk and hazard assessment in line with Australian Elevator Association guidelines.

Comprehensive lifecycle report, so its findings can be factored in to the fund forecast.

- In spite of major elevator repairs and upgrades not being listed for another six years in current 10-Year Capital Works Fund, owners corporation recognizes the need to do them in 2019, proving that the capital works plan and levy schedules are flawed, with high risk of special levies in the future.

Another major work requiring immediate action are roof membranes. 10-Year Capital Works Fund Forecast, commissioned in 2017 without consultation with owners corporation, does not even list roof repairs until 2023, against all professional reports and Kintyre's own invoices for roof in Block B and D, stating that only five-year warranty was applicable due to long-term neglect.

- Owners corporation issues order to the Secretary of the EC to revisit the 10-Year Capital Works Fund within 60 days after the general meeting in 2018 and present to all owners at the first EC meeting that follows.

**Motion: Motion 15 for supervision of painting contract at AGM 2016 failed to disclose evidence of poor project delivery in 2004-2006**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- BCS Strata Management, Waratah Strata Management, and EC members failed to inform owners that Mr. Brian Thompson, through his resignation in 2005, left owners corporation with additional costs for unprofessional painting of the buildings, and unsightly appearance within five years after completion of work, with costs growing more than 24% above projected value, without owners corporation approval at any general meeting, and around \$43,000.00 still unaccounted for.
- BCS Strata Management, Waratah Strata Management, and EC members failed to inform owners the building painting that started in 2004 forced Dulux consultant Mr. Brian Thompson to resign after several months due to his belief of poor quality of the works.

**Motion: Undisclosed costs and warranties, work not completed in complex painting project in 2017, and unexplained alleged costs for townhouses in amount of \$92,950.00**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- AGM 2016 on 19<sup>th</sup> October 2016, which approved expenditure for the painting project in 2017, failed to satisfy quorum:

20 owners (one owns two lots) were present in person and 50 via proxy.

50 proxies were registered in the minutes of the meeting, of which 10 must be declared as invalid because owners were present at the meeting in person. BCS Strata Management did not document it for owners and Waratah Strata Management failed to inform the owners during 2017 and 2018.

Three proxy votes were counted as valid from long-serving EC member Mr. Jeffery Wang who never attends meetings, and received special privileges not to pay legal fees for outstanding levies at the Executive Committee meeting held on 22<sup>nd</sup> March 2000. The same owner was in arrears with levies and received warning by Strata Manager on 20<sup>th</sup> October 2014. The amount owing was \$1,450.40. In spite of owner's request to view this payment as per SSMA 1996 S108, BCS Strata Management refused to provide it and Waratah Strata Management did the same at document search on 13<sup>th</sup> June 2017. There was no proof that this owner was financial at the time of AGM on 26<sup>th</sup> November 2014.

41 proxies given to EC member Mr. Stan Pogorelsky (Lot 181) who failed to provide evidence that he paid full levies for second gas connection in all years since 2001.

Seven proxies were counted as valid from townhouse owners who received reimbursements for personal water and gas usage without Special Resolution or registered Special By-Law in any period before 6<sup>th</sup> May 2013, and applied in non-compliance with Special By-Law since 6<sup>th</sup> May 2013, directly decreasing their voting entitlements and being unfinancial.

- Townhouses were repainted in 2011 at cost of \$61,490.00 without tender or decision at a general meeting.
- Over 20 years, townhouses were fully repainted three times.

In the same period, building blocks were fully repainted two times.

- BCS Strata Management and EC members failed to respond to enquiries about scope of work for painting of buildings, townhouses, swimming pool, and other structures duly submitted to Secretary of the EC before AGM 2016.
- The Agenda and Minutes of the AGM 2016 held on 4<sup>th</sup> November 2016 confirm that the tender from Townview Australia Pty Ltd quoted total value for four buildings, townhouses, swimming pool, and other structures at \$572,498.00 + GST.
- The Agenda and Minutes of the AGM 2016 held on 4<sup>th</sup> November 2016 confirm that the estimated value of the painting contract with Townview Australia Pty Ltd was between \$600,000.00 and \$650,000.00 (inclusive of GST as it was not specifically listed).
- BCS Strata Management and Waratah Strata Management failed to disclose to owners that the full contract with Townview Australia Pty Ltd was in amount of \$630,846.00 (including GST).
- Waratah Strata Management failed to disclose to owners the following breakdown of expenses for the painting project that they were aware of as early as 3<sup>rd</sup> March 2017:

Block A: \$117,700.00 (including GST)  
Block B: \$117,700.00 (including GST)  
Block C: \$117,700.00 (including GST)  
Block D: \$117,700.00 (including GST)  
Various Structures: \$66,000.00 (including GST)  
Townhouses: \$92,950.00 (including GST)

Total cost: \$629,750.00 (including GST).

- Motion 3 in the Minutes of EC meeting held on 20<sup>th</sup> July 2017 shows that around half of the project cost having been paid to date. Allegedly three quotes from RJ Bird Services to carry out remedial repairs required prior to painting were accepted at a total cost of \$27,580.00. No details of the "remedial repairs", and no evidence or statements about multiple quotes being sought from different providers were provided to any owner.
- Motion 3 in the Minutes of EC meeting held on 28<sup>th</sup> September 2017 shows that the painting project was complete and all accounts had been paid except the 5% retention amounts totaling \$28,187.00 + GST.
- Agenda for the AGM 2017 sent to owners contained information that the total costs for the painting project were \$646,200.00 plus GST (totaling \$710,820.000).
- Waratah Strata Management listed total costs in the Agenda for AGM 2017 on page 25 (Capital Works Fund) as \$610,357,26 (plus GST). If one adds figure of \$28,187.00 (retention amount of 5% as per Motion 3 in Minutes of EC meeting held on 28 September 2017), it totals \$638,544.00 (plus GST).
- The costs listed in the approved Minutes of the AGM 2016 differ from costs listed in the payment schedules dated 3<sup>rd</sup> March 2017, and also differ from what Waratah Strata Management listed in the agenda for AGM 2017.
- Request to Waratah Strata Management to provide details of the warranties that apply to the painting work has been declined so far.
- Waratah Strata Management failed to provide full details of the tenders for painting work at paid document search of strata files on 13<sup>th</sup> June 2017.
- BCS Strata Management and EC members failed to provide details of what would be considered for painting on "townhouses, swimming pool, and other structures", as per their agenda and minutes of the AGM 2016 (Director of Waratah Strata and Caretaker Mr. Steve Carbone stated on 1<sup>st</sup> of March 2017 that these costs were additional to approved figure at AGM 2016, although owners corporation was not notified and did not verify the amount of these costs or scope of the works).
- BCS Strata Management, Waratah Strata Management, and EC members failed to provide evidence lattices in front of townhouses 194, 197, 199, 202, and 216 were common property, making them out-of-scope.
- Some parts of the work is still not complete (louvres in the basement of the buildings from the inside), and some parts of the garden beds already show signs of cracks requiring repairs in the near future.
- If Waratah Strata Management and EC members cannot provide documentary evidence (with photos) of the alleged work done on townhouses in 2017, it means owners corporation exceeded legal limit of expenditure above 10% for any single budget item, as per SSMA 1996 Section 80A and approved decision at AGM 2016 in Motion 6.1 and 6.2, because total cost for painting would have to exclude \$92,950.00 (including GST).
- BCS Strata Management, Waratah Strata Management, and EC members failed to disclose details of the warranties.

### **Explanatory Notes**

Photo evidence provided to Waratah Strata Management, The other documents are kept at Waratah Strata Management.

**Motion: Fire services maintenance contract and undisclosed increase in cost of around 57% in 2016**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- Owners corporation pays quarterly fee for fire services maintenance, without ongoing contract since early 2013.
- Pay-by-the-quarter is more expensive to the owners corporation, currently costing \$2,681.25 per quarter (GST exclusive) in FY 2016.
- Eagle Fire invoiced amounts of \$1,699.75 (GST exclusive) per quarter in FY 2011, 2012, 2013, 2014, and 2015.
- Eagle Fire increased their quarterly fees by 57.75% in FY 2016 without tender or any competitive quotes.
- Owners corporation shall seek tenders for fire services maintenance and make a final decision at a general meeting.

**Explanatory Notes**

Strata files held at Waratah Strata Management.

**Motion: Roof membranes on Block A and C overdue for repairs and undisclosed second tender in 2014 with savings of around \$30,000.00 per single building**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- Without tender, Kintyre Bulding Services was paid \$28,892.00 for basic roof repairs in Block A, B, C, D and all townhouses (re-bed and re-point all ridge cappings, new sadning mix, new tiles replacing chipped ones) as per invoice dated 27<sup>th</sup> March 2012.
- Napier & Blakeley's professional report in July 2012, costing owners corporation \$12,500.00 without disclosure to owners, documented poor maintenance of the roofs and risks due to negligence.
- On 9<sup>th</sup> June 2014, Dural Building Services (DBS) submitted the quote DBS Q14-048 for SP52948 roof repairs on Block B to BCS Strata Management. That information was known to building manager staff, including Mr. Steve Carbone, as employee of Universal Strata Services.
- BCS Strata Management paid their invoice in amount of \$385.00 six months after it was submitted.
- DBS quote reported that complete roof of Block B (above unit 47) would be properly waterproofed and repaired at cost of \$74,800.00 (GST inclusive).

That quote was never presented to owners and was not even included at General Meeting on 26<sup>th</sup> November 2014.

The only competitor was Kintyre Building Services, which won the contract through misleading Motion at the General Meeting, without stating that their quote for HALF ROOF repairs on lock B would cost \$53,960.00 plus GST, which would make that quote MUCH MORE EXPENSIVE THAN DBS.

- Kintyre's quote dated 27<sup>th</sup> February 2015 provided only five year material warranty for the work due to excessive cracking, and water ponding on the existing concrete substrate.
- BCS Strata Management and EC members withheld crucial information that the work order was secretly signed off with Kintyre on 17<sup>th</sup> September 2014, two months before the approval happened at the General Meeting on 26<sup>th</sup> of November 2014.

After work was completed in Block B, there was a complaint about the quality and urgent additional repairs had to be done in March 2015.

- Without any further bids or requests for quotes, Kintyre Building Services won project for one other building. Paid roof repairs without tender to them since 2014 (prices include GST):

\$7,785.00 Block D: roof membrane - fourth part  
\$25,000.00 Block D: roof membrane - third part  
\$32,786.00 Block D: roof membrane - second part  
\$43,714.00 Block D: roof membrane - first part  
\$35,613.60 Block B: roof membrane - second part  
\$23,742.40 Block B: roof membrane - first part

- Waterproofing one whole roof in a building cost SP52948 around \$107,000.00 (GST inclusive). The same work, by DBS would cost around \$74,800.00 (GST inclusive).
- Waratah Strata Management and Uniqueco Building Manager were contacted to submit this information to owners in February 2018, which they declined.
- Half of Blocks B and whole Block D costs amounted to 171,006.00 (GST inclusive).
- BCS Strata Management and EC members failed to notify owners corporation of audit in 1999 that stated membranes would last around 10 years.
- BCS Strata Management and EC members failed to provide Napier & Blakely building report commissioned in 2012 which listed roof membranes as one of the items with serious priority: "The surfaces require preparing and recovering

with a liquid applied waterproof membrane within the short to medium term (1-5 years)".

- Roof membranes on Blocks A and C are overdue for full repairs.
- Owners corporation orders Secretary of the EC to seek three quotes for roof membranes on half of Block B and whole roof areas in Block A and C within one months after the decision is made, and present them in full detail for vote at extraordinary general meeting in early 2019.

#### **Explanatory Notes**

Strata files kept at Waratah Strata Management and photos taken of roofs.

**Motion: Non-Compliance with Motion 17 carried at AGM 2014 and huge losses due to lack of actions by strata managers and EC members for managing Wireless ISP WHome and BigAir**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- BCS Strata Management and EC members prevented this Motion from being listed in the agenda of the AGM 2014 and 2016 in spite of advance warnings about their misconduct, without due notice to the requestor, and owners corporation being denied a vote on the Motion on 19<sup>th</sup> October 2016.
- In period 2004 to 31<sup>st</sup> January 2014, when Grace Lawyers issued orders to evict ISP BigAir from the complex, owners corporation failed to earn income as per BigAir contract, and failed to recuperate any money for electricity costs or rent of the roof area.
- BCS Strata Management and EC members refused to approve complaint formally lodged with Telecommunications Industry Ombudsman by Lot 158 in 2014 (case number 2014/10/0358).
- BCS Strata Management and EC members acted in non-compliance with Motion 17 at AGM 2014 for removing wireless ISP business BigAir running in the complex without authorization and contract since 31<sup>st</sup> January 2014 until mid-2018.
- Since 31<sup>st</sup> of January 2014, BigAir did not have valid contract with SP52948 and was running the business illegally but BCS Strata management and Waratah Strata Management refused to act in compliance with Motion 17 at AGM 2014.
- Expenses paid to Grace Lawyers who were approved to deal with removal of BigAir in 2013/2014 without decision at a general meeting, then failed to meet the expected duties and caused expenses in amount of \$4,171.95 (GST inclusive).
- At Extraordinary General Meeting on 16<sup>th</sup> August 2010, owners corporation rejected similar request from Optus for renting roof area in amount of \$22,000.00 (GST inclusive) per year.
- By Executive Committee's own admission in correspondence on 1<sup>st</sup> September 2013, the annual fee payable by BigAir should be at least \$20,000.00.
- As soon as Waratah Strata Management took office on 1<sup>st</sup> February 2017, Mr. Robert Crosbie and EC members engaged in effort to sign a new contract with BigAir and disregard the decision by the owners corporation at AGM 2014:

Minutes of EC meeting on 16<sup>th</sup> March 2017

Minutes of EC meeting on 20<sup>th</sup> April 2017

Minutes of EC meeting on 20<sup>th</sup> July 2017

Minutes of EC meeting on 28<sup>th</sup> September 2017

- Minutes of EC meeting on 12<sup>th</sup> April 2018 confirmed that BigAir should compensate owners corporation in amount of at least \$20,000.00.
- EC meeting on 21<sup>st</sup> June 2018 proved that owners suffered significant losses and removal of BigAir was negotiated without consultation, asking BigAir to repay only \$12,000.00 (\$7,000.00 for the 5% income as per original WHOME contract, and \$5,000.00 for electricity and other costs).
- In late 2014, the photos were taken on roof on Block C, during regular checks of the management of the complex showed country of origin on the antennae system.
- During visit to the roof area on 1<sup>st</sup> March 2017, done jointly with Mr. Steve Carbone and Mr. Robert Crosbie, it was apparent that somebody (can only happen with direct knowledge or approval by Mr. Carbone and Uniqueco staff) deliberately removed the label with country of origin on one of the antennae.



- Waratah Strata Management and Uniqueco Building Manager refused to notify the owners corporation about this event.
- Owners corporation acknowledges the fact that the only reason for removal of BigAir in June 2018 was Lot 158 Motion at AGM 2017 which Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie from Waratah Strata Management prevented to be listed in the agenda.
- Owners corporation acknowledges that SP52948 suffered significant losses in hundreds of thousands of dollars due to lack of proper actions by BCS Strata Management, Waratah Strata Management, and EC members.

### **Explanatory Notes**

Strata files and photos held at Waratah Strata Management.

## **Motion: Confirm lack of details of tenders for elevator maintenance contract in 2005, 2010, and 2017**

### **The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- Elevator maintenance contract was renewed with Liftronics in 2005 without consultation with EC members, without additional quotes, and without decision at a general meeting. By Chairperson's own admission, it turned out to be very expensive for period of five years.
- Elevator maintenance contract was secretly approved and signed off by BCS Strata Management and a single EC member with ThyssenKrupp in 2010 for seven years under unfavorable conditions.

ThyssenKrupp Elevator original quote was based on THREE-YEAR contract through two types of services:

Platinum Full Comprehensive Agreement (\$22,200.00 per year, plus GST)

Gold Partial Comprehensive Agreement (\$16,400.00 per year, plus GST)

ThyssenKrupp Elevator's quote for the lift maintenance contract was kept undisclosed from the members of the Executive Committee for two months before BCS Strata Management and the single EC member negotiated and approved it alone, increasing it to SEVEN-YEAR CONTRACT (expired on 30<sup>th</sup> June 2017), with difficult conditions for cancellation by the owners corporation:

Limited-Scope Agreement (\$20,000.00 per year, plus GST, with automatic increases matching CPI after the first two years)

- The real expenses for lift maintenance in 2010 exceeded \$161,000.00 when two phases in Block A power supply were short-circuited and Strata Manager forced owners corporation to urgently upgrade electrical switchboard with main goal to provide additional power capacity for Optus mobile phone antennae.
- Minutes of EC meeting on 20<sup>th</sup> July 2017 stated the following:

Resolved that the minutes of the previous strata committee meeting were amended to record a voting paper being provided by Genelle Godbee and then confirmed as a true record of the proceedings of that meeting. It is noted that the agenda for the previous "voting-paper-only" committee meeting was not sent to all owners due to the urgency of confirming the appointment of the new lift contractors prior to the termination date of the previous lift contract on 30<sup>th</sup> June 2017.

Resolved that the lift maintenance contract provided by Liftronics was tabled and the strata manager is authorised to sign the contract on behalf of the Owners Corporation after any amendments recommended by Thomson Elevators. The current status of the lift maintenance work required to be carried out by ThyssenKrupp Elevators was discussed. Resolved that Thomson Elevator Services quote to conduct a further inspection of the lifts to confirm all defect items in their original report have been attended to by ThyssenKrupp was accepted at a cost of \$1,300 plus GST.

- Paid document search on 13<sup>th</sup> June 2017 failed to receive copies of the elevator tender from Waratah Strata Management.
- Waratah Strata Management declined to provide copy of the Liftronics contract to Lot 158 on 27<sup>th</sup> November 2017.
- Owners corporation acknowledges that, in spite of advance notices from Lot 158, and well-known fact that the elevator contract was due for renewal on 30<sup>th</sup> June 2017, Waratah Strata Management failed to send agenda of the paper EC meeting and confirm its date, failed to send the minutes to owners or list them in strata files, and did not publish them on notice boards, in non-compliance with SSMA 2015.

## **Motion: Register of items excluded from common-property listing**

### **The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- BCS Strata Management, and EC members failed to include this Motion in the agenda for AGM 2016 without due notice to the requestor of the Motion, and owners corporation denied a vote on the Motion.
- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- BCS Strata Management and EC members failed to provide evidence of Register of Property that is not on common-property listing any longer. Some of the items that are not common property include:

External window and structure, as Special By-Law 4 for exclusive rights to common property granted to Lot 3 in January 2003.

Wall between Lots 136 and 137, for exclusive rights to common property as per Special By-Law 10.

Five private lattices in front of townhouses Lot 194, Lot 197, Lot 199, Lot 202, and Lot 216 (not approved at any meeting).

EC meeting 15<sup>th</sup> August 2007: Lot 135 application for solar film on windows.

28<sup>th</sup> March 2011: Townhouse 194 requested new gas boiler and separate gas meter.

EC meeting 4<sup>th</sup> February 1998: Lots 177 and 183 approved to install double-glaze windows (By-Law planned to be approved at General Meeting but never eventuated).

EC meeting 17<sup>th</sup> March 1998: Lot 62 approved to install double-glaze windows (By-Law planned to be approved at general meeting but never eventuated).

EC meeting 17<sup>th</sup> March 1998: Townhouse 219 approved to install polycarbonate sheeting as pergola cover and installation of air-conditioning unit.

EC meeting 17<sup>th</sup> May 1998: Application by owner of Townhouse 213 and the EC approval that all future gas costs were to be met by the owner.

EC meeting 19<sup>th</sup> August 1998: Townhouse 206 approved to install polycarbonate sheeting as pergola cover.

EC meeting 14<sup>th</sup> February 2001: Application by owner of Townhouse 210 and EC decision for gas connection not to pay for future connection (service) fees.

EC meeting 4<sup>th</sup> March 2015: Two townhouse connections from their courtyards to common storm water drain (acquisition of common property without Special Resolution or registered By-Law).

Lot 193: double-glaze windows in 2017.

Lot 114: Special casing for lights in the garage.

Lot 151: Four florescent lights in garage (the only owner with such privilege)

Second gas connections in townhouses and building lots.

### **Motion: Undisclosed pending major water leak repairs in Block A**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- BCS Strata Management and EC members failed to include this Motion in the agenda for AGM 2016 without due notice to the requestor of the Motion, and owners corporation denied a vote on the Motion.
- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- Repeated repairs, without any warranties continue to plague the complex. 24 documented water-related repairs in one unit alone (Lot 191) since late 2011 at cost above \$20,000.00 that generated almost two days of cumulative water supply shutdown to all owners in Block A. Since Waratah Strata Management took office on 1<sup>st</sup> February 2017, six repairs were done in Lot 191.
- BCS Strata Management, Waratah Strata Management, and EC members hide information about seriousness of the water leak problems in Block A, which was listed in NCB Plumbing warning dated 24<sup>th</sup> February 2016, in which they state to fix all these ongoing water leaks throughout units 189, 190, 191, and 192 would be a very big job, as all the ceilings would need to be pulled down throughout all the kitchens, bathrooms and possibly hallways and bedrooms to access all the piping.
- To avoid repetitive repairs without long-term benefits, owners corporation requests that Secretary of the EC seeks three quotes for proper repairs on top floor of Block A, and information provided to all owners at the first EC meeting for planning the approval at extraordinary general meeting in early 2019.

### **Explanatory Notes**

Invoice number 35299 by NCB Plumbing dated 24<sup>th</sup> February 2016.

**Motion: Owners corporation regularly failed to display Minutes and Agendas of Executive Committee meetings on Notice Boards**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- Notice Boards failed to display agenda and minutes of meetings of SP52948 six times since 1<sup>st</sup> February 2017, in non-compliance with SSMA 2015, Schedule 2, c4 (2).
- Owners corporation cautions the Secretary of the EC and issues order to comply with SSMA 2015 from AGM 2018 onwards.

**Motion: Insurance and safety risk with night shift duties attended by unlicensed Uniqueco security guards, cut working hours of security guards, and periods without staff on site in early morning**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- On 3<sup>rd</sup> March 2018, a request was sent to Waratah Strata Management for Uniqueco to report license details of the security guards in the night shift.

The request was silently denied and not reported for owners at any meeting.

- During FY 2018, there were two documented examples of Uniqueco staff who worked in night shift without proof of security license:

17<sup>th</sup> December 2017

3<sup>rd</sup> May 2018

- This was reported to Mr. Steve Carbone in phone conversation on 23<sup>rd</sup> March 2018 at 07:41 hours, who admitted it and tried to justify that shortage of staff in emergency case caused it. He declined to notify owners corporation about it, and again, two months later repeated the same practice.
- Reported in October 2017 without any response from Mr. Steve Carbone, Waratah Strata Management, and EC members that Uniqueco was granted contract with SP52948 at AGM in 2014 without proper tender, at increased price of around 16% per year in comparison to the previous year, further increase of 1% in 2016 without any tender, and undisclosed contract details and costs for renewal without tender at AGM 2017. Owners were not advised that the increased value decreased working hours of the security guard by two hours.

Previous building management contracts covered hours between 5:00pm and 7:00pm for security guards, but not in case of Uniqueco.

For three year period 2014-2017 alone, owners overpaid for security services:

1,030 days x 2 hours/day = 2,060 hours of security guard not working in SP52948

- Due to special night work on 3<sup>rd</sup> July 2018, evidence was collected that a security guard left premises well before 5:00am (dash camera showing that the security guard car spot was occupied at 02:30am and empty at 04:13am).

Request to Waratah Strata Management and Uniqueco to explain it was not answered or reported to owners.

- Further risks were created by Uniqueco who was switching off security lights in part of the complex for almost two months whilst still complete darkness, as reported in June 2017.

Again, for more than a month, whole area towards carwash, covering most of townhouses, and rear of Block A was kept in total dark in early mornings for more than a month, until a complaint was submitted to Uniqueco Director Mr. Steve Carbone in March 2018.

Parts of complex towards townhouses and carwash area area again kept in the dark in late June 2018:

Considering the fact that we had number of security incidents in the complex in the past, including an attempt of rape, stalking, break-ins in multiple garages, and "Spider-style" scaling of Block C to steal only a laptop from level 3, it is very dangerous to keep the lights off before daylight in any part of the complex.

In spite of latest report to Waratah Strata Management and Uniqueco on 8<sup>th</sup> July 2018, they continued with the practice of unsafe lighting towards townhouses as proven by video recordings on 11<sup>th</sup> July 2018 and 28<sup>th</sup> July 2018.

- Owners corporation issues order to Secretary of the EC to clarify working hours of security guards and conditions of employment, document full costs for building maintenance contract with Uniqueco at the first EC meeting, properly manage all lightings in the complex, and ensure that owners corporation is not at risk for employing unlicensed staff in any position that is paid from owners corporation funds.

- Owners corporation acknowledges the losses to common funds due to 2,060 hours of services not delivered by licensed security staff in period 2015, 2016, and 2017, with additional figures for 2018 undisclosed by Waratah Strata Management and Uniqueco.

**Motion: Health and Safety hazard – faulty ventilation in Block A and incomplete repairs since May 2018 and evidence of exhaust fans secretly repaired for selective owners from common funds**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- Since late May 2018, faulty ventilation in Block A is generating foul smell, poor air flow, and even after the alleged repairs it is not in proper operational order. Mr. Robert Crosbie acts as Secretary of the Executive Committee – directly representing owners corporation and hence acting in non-compliance with Strata Schemes Management Act 2015, Section 106.
- Director of Waratah Strata Management Mr. Robert Crosbie refused to even look at evidence about health risk with poor ventilation in one bathroom and laundry provided to him and Strata Manager Mr. Simon Wicks on 21<sup>st</sup> June 2018.
- They failed to show evidence of the complaint being included in the agenda for the Executive Committee meeting on 21<sup>st</sup> June 2018. This is non-compliance with Strata Schemes Management Act 2015, Section 43.
- Uniqueco failed to manage common property in accordance with their contract with SP52948. Video evidence on 20 June 2018 and 25 August 2018 is ignored.
- Selective owners' grills (exhaust vents) were cleaned up at owners corporation expense in the past but undisclosed to all owners. Some examples:

Mr. Simon Wicks made an order to secure exhaust vent for Lot 33 on 20<sup>th</sup> September 2011 (before he was removed from managing SP52948 whilst employed by BCS Strata Management).

Mr. Gary Webb from BCS Strata Management made an order to repair exhaust vent for Lot 179 on 22<sup>nd</sup> February 2012.

HR & FL West repaired and refitted exhaust fans in Lot 67 on 19<sup>th</sup> June 2013.

Electron Management charged \$512.00 (GST inclusive) in August and October 2012 for exhaust fans in Lot 88.

- Owners corporation issues immediate order to the Secretary of the EC and Uniqueco to rectify the poor air flow for ventilation in Block A immediately and report it at the first EC meeting.
- Owners Corporation acknowledges the duty to maintain and repair the common property and if it breaches that duty any Lot owner may recover damages from the owners corporation.

**Motion: Uniqueco staff failed to comply with Motion 24 at AGM 2017 - window washing still outstanding**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- In spite of owners' decision in Motion 24 at AGM on 24 October 2017, window cleaning in the complex has not been organized (two to three competitive quotes) or completed by Uniqueco staff.
- Owners corporation issues order to the Secretary of the EC to comply with Motion 24 at AGM 2017 within two months after the general meeting 2018, and orders that all quotes for the work be disclosed to owners in agenda of the first applicable EC meeting.
- Owners corporation cautions EC members, Waratah Strata Management, and Uniqueco for not complying with Motion 24 during FY 2018.



## **Motion: Undisclosed reports and lack of maintenance as recommended by Professional Assessors**

### **The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- BCS Strata Management and EC members failed to include this Motion in the agenda for AGM 2016 without due notice to the requestor of the Motion, and owners corporation denied a vote on the Motion.
- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- BCS Strata Management, Waratah Strata Management, and EC members failed to disclose full details of the following professional building and plant reports, and failed to maintain common property as recommended:
- Leary and Partners Sinking Fund forecast (EC meeting 17<sup>th</sup> November 1999),
- McMillan, Britton and Kell report dated 21<sup>st</sup> March 2000 in regards to wall cracks. Cost undisclosed to owners.
- Napier & Blakeley in July 2012. Total cost of the report (GST inclusive) was \$12,144.00. They warned about roof status and many other problems in the complex. This report was hidden from CTTT and Department of Fair Trading,
- Murdocca & Associates report on Block D internal cracking in April 2010. Total cost of the report (GST inclusive) was \$792.00,
- ThyssenKrupp Elevators report on elevators in December 2013,
- Vertical Transport Management Services report on elevators in February 2014. Total cost of the report (GST inclusive) was \$1,430.00,
- Building roof water penetration testing in mid-2014,
- Integrated Consultancy Group on 4<sup>th</sup> November 2014. Total cost of the report (GST inclusive) was \$1,815.00. The report includes warnings about concrete cancer.
- Elevator assessments in 2017.

**Motion: Electricity supply contract signed three months before its expiration without evidence of tender and without disclosure to owners corporation in 2015 and undisclosed electricity supply conditions since July 2018**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- BCS Strata Management and EC members failed to include this Motion in the agenda for AGM 2016 without due notice to the requestor of the Motion, and owners corporation denied a vote on the Motion.
- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- Strata Managing Agent Mr. Gary Mills, without official decision at General Meeting, or decision at any legally-convened meeting by the Executive Committee, signed the electricity supply contract for three-year period on 8<sup>th</sup> of July 2015, almost three months before the expiration of the contract.
- BCS Strata Management and EC members acted in non-compliance with SSMA 1996 Section 108 for strata document search in 2012, 2015 and 2016 that failed to provide proof of electricity supply tender.
- BCS Strata Management and EC members failed to disclose if any rebates and/or commissions were received by Pica Group (parent company of BCS) or BCS Strata Management for this contract.
- The electricity supply contract expired in July 2018, without owners corporation getting any details of the tender for the new one or costs and conditions for the renewal.
- Owners corporation cautions the Secretary of the EC for failing to comply with SSMA 2015 and issues order to notify owners with full details of the electricity contract at the first EC meeting, confirming if it was renewed without legally-convened EC meeting.

## **Motion: Regular fire safety reports show SP52948 non-compliant with Australian Standards**

### **The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- BCS Strata Management and EC members failed to include this Motion in the agenda for AGM 2016 without due notice to the requestor of the Motion, and owners corporation denied a vote on the Motion.
- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- BCS Strata Management, Building Manager, and EC members failed to maintain common property in compliance with AS1905.1 and AS1530.4 for more than 12 years in regards to external fire door on Unit 158 and number of other lots (undisclosed issues), potentially endangering safety and lives.
- BCS Strata Management submitted fire safety reports to Ryde City Council without satisfying compliance requirements.
- On 12<sup>th</sup> April 2016 Lot 158 submitted complaint about fire safety to City of Ryde Council.

Uniqueco was forced to replace external door on Lot 158 which was non-compliant with fire safety regulations for 12 years.

- Ryde City Council sent letter to BCS Strata Management on 9<sup>th</sup> August 2016.
- Ryde City Council did not get any response for three months and initiated another request to BCS Strata Management on 3<sup>rd</sup> November 2016.
- BCS Strata Management responded on 15<sup>th</sup> November 2016, asking for delay of repairs until January 2017.
- Fire inspection report on 20<sup>th</sup> March 2017 confirmed that at least one unit (lot 160), which had fire safety non-compliance problem in 2016, had it again.
- During 2017 and 2018, Waratah Strata Management and Uniqueco continued to poorly manage fire safety issues and occasionally acted when directly provided evidence of faults.

Fire door problems in basement of the complex is one example - non-compliance with the Environmental Planning Assessment Amendment (Fire Safety and Building Certification) Regulation 2017.

- Owners corporation cautions Secretary of the EC and Uniqueco to comply with stringent fire safety issues and attend to all faults promptly.
- Owners corporation orders Secretary of the EC to provide owners with results of all fire safety tests and certificates, and itemized listing of rectifications and costs before each general meeting.

**Motion: Owners corporation had no official Office Bearers for four months in FY 2018**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

Owners corporation had not announced or officially elected Chairperson, Secretary, and Treasurer of the EC in period from AGM held on 24<sup>th</sup> October 2017 until Lot 158 warned Waratah Strata Management and new Office Bearers were announced at EC meeting on 15<sup>th</sup> February 2018.

**Motion: Five townhouse owners occupy common property without owners corporation approval**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- BCS Strata Management and EC members failed to include this Motion in the agenda for AGM 2016 without due notice to the requestor of the Motion, and owners corporation denied a vote on the Motion.
- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- BCS Strata Management and EC members did not provide any evidence of approval for the following townhouse owners to erect lattices on common property, making such actions illegal and occupying common property without any rights:

Lot 194

Lot 197

Lot 199

Lot 202

Lot 216

- BCS Strata Management failed to provide any evidence that the five townhouse owners used own funds for erecting lattices.
- Owners corporation shall not maintain those lattices and no expense is allowed from common funds.
- Owners corporation shall keep record of lattices under no-common-property items.

**Motion: Non-compliance with SSMA 1996 S108 and SSMA 2015 S182 for paid document searches**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- BCS Strata Management and EC members failed to include this Motion in the agenda for AGM 2016 without due notice to the requestor of the Motion, and owners corporation denied a vote on the Motion.
- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- BCS Strata Management acted in non-compliance with SSMA 1996 Section 108 for document searches in 2014 and 2015, paid by Lot 158 and on behalf of the proxy votes vested in them, amounting to around \$400.00.
- BCS Strata Management failed to comply with Strata Community Australia Code of Conduct, 2.1 Section G.
- Waratah Strata Management acted in non-compliance with SSMA 2015 Section 182 for document search on 13<sup>th</sup> June 2017.
- Lot 158 spent more than \$2,500.00 for document searches including years 2011, 2012, 2013, 2015, and 2017, without being provided access to majority of strata documents.
- BCS Strata Management, Waratah Strata Management, and EC members failed to inform owners corporation about their persistent refusal to provide access to owners corporation documents.

**Motion: Illegal usage of city council land for parking with high insurance risks and attempts to reuse again**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- BCS Strata Management and EC members failed to include this Motion in the agenda for AGM 2016 without due notice to the requestor of the Motion, and owners corporation denied a vote on the Motion.
- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- Without approval at any EC or general meeting, Building Manager Uniqueco Pty Ltd opened gates towards M2 city council land and allowed parking for two years in 2015.
- BCS Strata Management, EC members, and Uniqueco ignored request for proof of decision to use council land. Because of Lot 158 efforts, Uniqueco quietly closed the gate towards council land.
- SP52948 even attempted to purchase this land from the Ryde City Council, without approval by the owners corporation in 2011. Ryde Council rejected it at the time.
- The following capacity of parking in SP52948 (complex with 218 properties: 192 units in four buildings and 26 townhouses) is undisclosed to owners:

Garage bays in the basement of four buildings:	260
Townhouse garage bays:	26
Townhouse pergola bays:	26
Unit garages used as storage (against the by-laws):	13
Townhouse garages converted:	21
Common property parking bays:	38
Visitors parking bays:	12

- Every owner, when they purchase the property is fully aware of the allocation of their car park allocations.
- A single member of the EC, Mr. Moses Levitt, has been persistently trying to force Ryde City Council to rezone public land behind the complex towards without owners corporation knowledge or full discussions. Each time, the Council rejected it and secretary of the EC failed to inform the owners.
- In Lot 158 submissions to Ryde City Council (last one in September 2018), the following reasons for objections to rezone the land were provided four times:

Owners in SP52948 were not asked about rezoning of the public land in this area.

Because there is only one gate (wide enough for a single car only), means of ingress and egress and means of movement provided or to be provided within this "car park" are certainly not satisfactory without additional costs (complex has some huge projects pending to resolve roof leakage problems, elevator upgrades, window cleaning, and the budget will be tight).

In case of accidents, the issue of insurance and responsibilities? Will Ryde Council take responsibility for issues on public property?

Uniqueco was asked if they would be liable for any claims of damage. They declined to respond. Why should owners corporation pay for additional risks and premiums?

This gate is currently not monitored or managed at any time. There are no security cameras, and the "backdoor" increases risk of intruder attacks.

The lighting in the evening is insufficient. This is further complicated by the fact (video evidence exists), that Waratah Strata Management and Uniqueco Building Manager for many months deliberately kept areas towards M2 motorway and part of townhouses in complete darkness for part of the night, causing security risks and potential for incidents.

Extra cameras are additional costs, at the time, when our 14-camera system is already beyond the use-date.

Due to high costs of belated maintenance issues, SP52948 funds will be severely depleted in the next two years and owners do not want special levies.

There is already lot of free space to park cars along the Fontenoy Road.

Internal design of parking facilities and system of traffic management are satisfactory within the complex. Owners bought their properties with clear understanding how many car spaces they get in their own garages.

The strip of land for proposed "car park" does not have adequate provision for the management of storm water and the minimization of stormwater pollution.

There is no indication who and how will manage the maximum number of cars to be accommodated in this public space.

The complex has more than 26,000 square meters of land and there are other possibilities to add extra car spaces if deemed so necessary.

Parking cars in public land in the strip between M2 and the complex diminishes privacy of owners in the buildings because they would be exposed to additional unrestricted viewing and night noise. None of the owners would like it.

There is nothing to stop any other driver to drive through the complex and use this public land without even being owners or tenants in this location. They are already doing it during the day when number of them come, park their car, and then take public transport to their workplace or walk away to other destinations.

Quite a number of garages are used for storage which is a personal decision, as such owners have enough space to park their cars if they used the garages in a designed manner.

Walk through basement reveals that there are number of garages which are empty or not used.

- Owners corporation orders Secretary of the EC to not make any action, issue any request, or make any decision in regards to rezoning the public land without full disclosure and vote at the general meeting.

If gate towards M2 is reopened, owners corporation shall not be liable for any accidental or deliberate damage to property caused by vehicle movement on council land.

Building Manager shall be responsible for any issues arising from usage of council land.



**Motion: Undisclosed potential conflict of interest by EC member Lot 133**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- EC member's property (Lot 133) was sold by Uniqueco Director Mr. Steve Carbone's son (information obtained from public site).
- This information was presented in request to notify owners in February 2018, which both Uniqueco and Waratah Strata Management prevented.
- EC member Lot 133 confirmed two times in 2017 that she had employed staff member of Uniqueco at other location, and failed to act upon owner's complaints of stalking and intimidation by that staff member, which resulted in health emergency for female owner of Lot 158 in April 2018.

**Motion: Discrimination against Lot 83 and undisclosed privileges for three owners in their garages**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- Waratah Strata Management, Uniqueco staff, and EC members refused to confirm or notify owners about:

Lot 147, EC member Mr. Moses Levitt using the garage as workshop for many years.

Lot 151, EC member Mrs. Maureen McDonald is the only owner in the buildings with four fluorescent tubes (all other owners have up to two fluorescent tubes, depending on the original design of the complex).

Lot 114 having non-standard housing for lights in the garage.

- Apart from fire and safety risk, this also brings a potential for insurance premium increases, especially if the connection was done by unlicensed staff.
- None of the two EC members ever reimbursed owners corporation for private lighting and power points in the garages.
- Lot 83 request for similar rights was rejected in the Minutes of the EC meeting in June 2018.

**Motion: Discrimination for carpet maintenance against majority of owners**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- Lot 157, which suffered major water flooding and carpet damage in December 2014, was caused by water leak in EC member's Lot 181 - Mr. Stan Pogorelsky.
- Email from building manager to BCS Strata Management confirmed it on 23<sup>rd</sup> December 2014. This information was never presented to owners.
- The repair cost was \$3,025.00 (GST inclusive), paid by owners corporation to Sydney Wet Carpet and Structure Drying Experts as per invoice 3563.
- Discriminatory behavior by strata managers and building managers by providing selective benefits to specific owners only is shown by two examples of evidence:

Lot 201 was notified that that carpet maintenance could not be paid from common funds on 9<sup>th</sup> September 2013.

Lot 123 was notified that carpet maintenance could not be paid from common funds on 9<sup>th</sup> January 2015.

- Owners corporation acknowledges the discrimination against majority of owners and the risk that future claims for similar actions by other owners have to be treated with equal rights.

**Motion: Missing proof of quotes for hot water system in Block C costing above \$30,000.00 in 2017**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:**

- On 1<sup>st</sup> March 2017. Lot 158 asked Uniqueco Director Mr. Carbone if he had multiple quotes for replacing hot water system in Block C at cost above \$30,000.00.
- In front of Mr. Robert Crosbie, Mr. Carbone claimed that he personally gave three quotes to EC members and the strata agency before work started.
- At document search on 13<sup>th</sup> June 2017, evidence of three quotes was not found in strata documents.
- This was summarized to Waratah Strata Management, Uniqueco, and EC members but a reply or comment never received.

**Motion: Owners corporation failed to show proof or seek yearly evidence of public liability insurance compliance for Lot3, 136 and 137**

**The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:**

- In spite of legal requirements, as per registered Special By-Law 4 for exclusive rights to common property granted to Lot 3, and Lots 136 and 137 for exclusive rights to common property as per Special By-Law 10, Secretary of the EC has not shown proof that the owners in question have valid public liability insurance cover every year.
- Owners corporation issues an order to of the EC to seek proof of those insurances from Lots 3, 136 and 137 before the general meetings every year, and provide written assurance to owners corporation that they are in order and duly paid.