

**Summons by SP52948 Lot 158 to Peter Bone to provide responses and evidence
CTTT File SCS 12/32675
27 February 2013**

1. Provide documentary evidence of water and gas reimbursements for some townhouse owners between the AGM 1999 (29 September 1999) and AGM 2012 (17 October 2012) which were paid without the Special By-Law or a resolution at any general meeting.

2. Provide errata and amendments for minutes of the AGM 2012, as per document issued to the Strata Manager on 30 January 2013.

3. The minutes of the EC meeting held on 22 February 2012 documented that the Strata Manager was instructed to seek a costs proposal from a strata lawyer.

Provide documentary evidence of why it took five months to obtain the Solicitor's Standard Cost Agreement.

4. Provide evidence of the payments by SP52948 for the Solicitor J.S. Mueller & Co invoices in the period between 22 February 2012 and 1 March 2013.

5. Provide copies of the invoices that the Solicitor J.S. Mueller & Co issued to Strata Plan 52948 in the period between 22 February 2012 and 1 March 2013.

6. Provide evidence that the Executive Committee discussed my request (with seven proxies vested in me) to avoid incurring legal costs that I submitted on 2 March 2012, and your reasons to reject my proposal.

7. Provide documentary evidence that the Executive Committee received approval for engaging the Solicitor J.S. Mueller & Co by owners vote at a general meeting.

8. Provide documentary evidence that the Executive Committee reached the decision to engage the Solicitor J.S. Mueller & Co after they had provided the Standard Cost Agreement on 16 July 2012 (not beforehand).

9. As per minutes of the EC meeting held on 22 August 2012 the costs of the Solicitor were scheduled to be discussed and tabled at AGM 2012, including the budget to approve any future engagement.

Provide documentary evidence that all owners in SP52948 received full details of the Solicitor's costs in period 22 February 2012 and 1 March 2013.

10. The private EC meeting on 9 July 2012 "decided" to engage the Solicitor Mr Adrian Mueller. This was documented in the minutes of the official EC meeting on 22 August 2012.

Provide the minutes of the EC meeting held on 9 July 2012.

11. Provide documentary evidence of reasons why the Strata Manager prevented my Motion to improve mediation processes in the complex to be listed in the agenda for AGM 2012.

12. Provide documentary evidence who, and with what legal rights, approved the Strata Manager to continue using services of the Solicitor Mr Adrian Mueller after the AGM 2012 at owners corporation expense?

13. Provide documentary evidence who, and with what legal rights, approved not to allow all owners in SP52948 to receive a copy of the Solicitor's Standard Cost Agreement since 16 July 2012.

14. Provide documentary evidence who, and with what legal rights, approved not to allow all owners in SP52948 to be aware of and receive any information that the Executive Committee and the Strata Manager failed to comply with CTTT orders in SCS 12/32675 four times:

CTTT Directions Hearing on 8 of August 2012

CTTT non-compliance note on 19 of September 2012

CTTT non-compliance note on 9 October 2012

CTTT order about rehearing on 17 December 2012 (late submission)

15. Provide documentary evidence that the Strata Manager acted with duty of care (as per contractual agreement with SP52948 on 16 June 1999, SCS Code of Ethics, NSW Strata Schemes Management Act 1996 And Regulation 2010, and Property, Stock and Business Agents Act 2002), and why they failed to release requested evidence in three DFT and CTTT cases that I opened in the last two years.

16. Provide documentary evidence for the EC meeting held on 4 January 2013:

a) An ECM may be requested by at least 1/3 of the Executive Committee members or by a previous resolution of the Executive Committee itself. Provide names of the members of the EC who requested this meeting.

b) What are the resolutions made at the EC meeting held on 4 of January 2013?

c) Why are the minutes of this EC meeting not provided for two months now?

d) How much do the distribution of the agenda for this EC meeting and the related minutes cost the owners corporation in total (postage, photocopying, and whatever else applies)?

e) Provide minutes of this meeting.

17. Provide names of the EC office bearers since AGM 2012 on 17 October 2012 (Chairperson, Treasurer, Secretary).

18. Provide documentary evidence who created the unofficial proxy form for AGM 2012 and why did the Strata Manager accept it during vote count at the meeting.

19. Provide documentary evidence who, and with what legal rights, approved the unofficial proxy form to be selectively distributed to some owners for AGM 2012.

20. Provide documentary evidence who, and how, collected these unofficial proxy forms from owners for AGM 2012.

21. Provide documentary evidence who, and with what legal rights, approved to change my Motions and even exclude some of them at AGM 2012.

22. Provide documentary evidence who, and with what legal rights, approved that explanatory notes be provided for Motions that the Executive Committee strongly favored personally, but did not allow the same for other Motions at AGM 2012 and AG 2011.

23. Conduct a recount of proxy votes at AGM 2012 and EGM in May 2012 and report how many were invalid and/or illegal and document why they were accepted.

24. Provide documentary evidence that all but one insurance company declined to provide quotes at the renewal time in September 2012.

25. Provide documentary evidence that the 53% rise in the insurance contract cost for SP52948 in FY 2013 is solely a result of the CTTT cases and my actions in attempt to improve services and transparency in the complex.

26. On 16 January 2012 I requested access to view the contracts for complex maintenance and the Strata Manager.

a) Provide documentary evidence of the caretaker's contract.

b) Provide details of the expenses that were paid to Strata Agency in FY 2012:

Disbursements	\$6,857.23
Tax/BAS Generation Fee	\$725.00
Inspections	\$618.32
Sundry Expenses	\$444.00
Any other that I did not detect yet?	

From the cashbook payments by account code the Account 270 (Disbursements) includes these expenses: Bundled disbursement, Archive retrieval, Printing supplies, A4 Paper.

Provide documentary evidence of what the bundled disbursements are, and are they charged in accordance with the Strata Community Australia Code of Ethics, Part 2.1 (Strata Managing Agents must not charge fees or disbursements that are not permitted under the signed agency agreement or any variation of it without the consent of the Owners Corporation).

27. In his supplement agenda for AGM 2011, the Chairperson stated the following on 12 October 2011:

Discussions have taken place with senior executives of the managing agent and a reduction in fees for the coming year has been agreed as part of a package of measures being worked out to help resolve service levels problems experienced recently. If these measures are unsuccessful we can revisit the issue at a later date. The current contract therefore remains in place, with altered fees.

The Management fees for FY 2012 were \$33,498.96. The management fees for FY 2011 were \$33,456.00.

Provide documentary evidence or proof of a reduction in fees for the Strata Manager in FY 2012 and the list of measures to improve service levels that had been agreed upon by the Chairperson and the Strata Agency alone before the AGM 2011.

28. Provide documentary evidence of who, and why, approved that three important insurance policies be cancelled in FY 2012 (in red below) and why were owners not notified about it at the AGM 2012?

Policy No.	CHU 83665 QBE NNR836665 21/Sep/2011 2011	QBE NNR836665 21/Sep/2012 2012	Change % to Previous Year	Comments 2012
Building	\$95,062,240.00	\$99,815,352.00	5.00	Does not include carpet, internal painting and window coverings within individual lots
Loss of Rent/temp Accomodation	\$14,259,336.00	\$14,972,303.00	5.00	
Common Contents	\$950,622.00	\$998,164.00	5.00	
Legal Liability	\$20,000,000.00	\$20,000,000.00	0.00	Deductible for legal claims has been increased to \$10,000.00
Voluntary Work	\$200,000.00	\$200,000.00	0.00	
Fidelity Guarantee	\$100,000.00	\$100,000.00	0.00	
Office Bearers	\$2,000,000.00	\$2,000,000.00	0.00	
Catastrophe	\$28,518,672.00	\$29,944,608.00	5.00	
Government Audit	\$25,000.00	\$25,000.00	0.00	
Appeal Re H&S	\$100,000.00	\$100,000.00	0.00	
Lot Improvements	\$250,000.00	\$250,000.00	0.00	
Legal Defense Expenses	\$50,000.00			
Deductible each and every claim	\$2,000.00			
Deductible for water damage		\$10,000.00		
Extended Cover - rent/temp accommodation	\$4,277,801.00			
Escalation in cost of temporary accommodation	\$1,425,934.00			
Cost of storage and evacuation	\$1,425,934.00			

29. Someone drew my attention to the possibility that the levies for Ms Betty Saulits (long-service member of the EC and the Secretary) are not paid by herself.

- a) Please confirm if a third-party is involved in paying the levies for Ms Betty Saulits.
- b) If so, does the third-party have any business interest or enjoy special benefits in the complex (directly or indirectly)?
- c) Is there any other member of the Executive Committee who might enjoy similar privileges and get levies paid by a third-party?

30. Provide documentary evidence for the following:

- a) Why were expenses for the bin liners spread across four different accounting codes in FY 2012?
- b) Are the bin liners still being purchased and if so, where are they?
- c) If the owners still pay for them, what are the expenses since the 1 September 2012?
- d) If the decision was made not to use the bin liners, what were the reasons for it and when was it introduced?

31. My original request to deal with SkyNet Global running ISP business in the complex has been open since 28 March 2012.
- a) Confirm, with documentary evidence, on which date their equipment was, or will be, uninstalled in the complex.
 - b) Confirm, with documentary evidence, that all costs for the decommissioning of the ISP services provided by SkyNet Global are fully covered by them and that owners corporation carries no liabilities in that regard.
 - c) Confirm, with documentary evidence, the ISP business that ran in the complex for the last eight years did not affect our insurance premiums.
 - d) Confirm, with documentary evidence, that the owners corporation earned income from each registered customer that the SkyNet Global was supposed to pass to SP52948, and the amounts earned over the last eight years.
 - e) Confirm, with documentary evidence, the electrical power rating and calculate the usage for the SkyNet Global equipment that the owners corporation actually paid for over the last eight years (benefiting directly a third-party company).
32. Provide documentary evidence of who reviewed and approved the agenda and the supplement for the AGM 2012.
33. Provide documentary evidence of who reviewed and approved the agenda and the supplement for AGM 2011.
34. Since Mr Peter Bone is not a fully licensed Strata Manager, provide evidence of who at Raine & Horne Strata Epping acts as his supervisor.
35. Provide documentary evidence of what actions has the Raine & Horne Strata Agency taken to ensure that the services provided to the owners corporation are of high standards and in accordance with the law since 2011, when the previous Strata Manager Simon Wicks was sidelined.
36. a) Why are earnings from the term deposits performing so poorly? For example, the earnings from term deposits between FY 2012 and 2011 dropped around 38%, in spite of increased amount of money in the Sinking Fund?
- b) Is the money from strata's common funds kept in any other fund that does not belong to SP52948?
 - c) Are any brokerage or other fees paid to the Strata Agency or any other party when new term deposits are negotiated and how much (if applicable)?
 - d) Who oversees and monitors the bank term deposit offers on the day of maturity?
36. a) Provide the documentary evidence of why the Chairperson and the Strata Manager Mr John Fry increased the cost of the building painting contract by 15% (listed in the AGM notice on 13th of September 2004 – \$464,000.00 PLUS GST = \$510,400.00, against the EC approved amount of \$446,380.00 inclusive of GST).
- b) Provide documentary evidence why the owners were not given an opportunity to approve these costs at the general meeting which happened one month after the Chairperson and the Strata Manager reached their decision.

37. In May 2012, an EGM was called to give exclusive rights to common property to owners of Lot 136 and 137 at short notice and without any public consultation.

- a) Since three members of the EC did not even vote at the EGM (both the first and the adjourned one), provide names of the Executive Committee members who approved the EGM.
- b) Provide documentary evidence of why have the minutes of the EGM not been updated to reflect the errors that were provided to the Strata Manager since May 2012.
- c) Mr Paul Banoob is not officially listed as a registered Strata Manager at the DFT site. Provide documentary evidence in what capacity was he conducting the EGM in May 2012.
- d) Provide documentary evidence of why were the owners of Lot 136 and 137 not charged the full expenses that they incurred for the EGM, and who approved it.

38. At AGM 2011, the Chairperson reported a new electricity contract being awarded for three years based on a reverse auction process. Our electricity costs increased by 18.04% during 2012, in spite of some saving devices being installed to further cut down on our usage.

Provide documentary evidence of the electricity supply contract signed in 2011, including any brokerage or other fees (if applicable).

39. The Special By-Law 4 was amended and registered on 24 June 2003 and one of the critical conditions was:

The Owner of lot 3 shall indemnify, and keep indemnified, the Owners Corporation in respect of all claims, action, costs, and expenses whether for injury to persons, or damage to property, arising in any way out of carrying out the works and future maintenance and the owner shall at all times keep in effect a public risk insurance policy in the sum of not less than \$5,000,000 to cover the owners obligations hereunder.

- a) Provide documentary evidence of the cover in regards to public liability insurance that owners of Lot 3 should have had for the last eight years.
- b) Provide documentary evidence why the Strata Manager refused and failed to produce this evidence in CTTT cases so far.

40. Provide documentary evidence who, and with what legal rights, decided not to attempt mediation in DFT case SM10/1230PK which incurred additional costs to all parties.

41. Provide documentary evidence who, and with what legal rights, decided not to allow all owners in SP52948 to be notified about the Department of Fair Trading mediation in case SM12/1537JR?

42. Provide documentary evidence who, and with what legal rights, decided not to attempt mediation in DFT case SM11/1348DR which incurred additional costs to all parties (eventually led to CTTT case SCS 12/32675).

43. Provide documentary evidence who, and with what legal rights, decided not to attempt mediation in DFT case SM12/1537JR which will incur additional costs to all parties in CTTT file SCS 12/50460 (pending action now), even after the Executive Committee and the Strata Manager asked and were granted additional time to consider a response.

44. Here is what I proposed in October 2010 and February 2011 in regards to two-phase faults for lift in Block A:

Community and Strata Insurance policies typically cover the following types of the damages to electrical cables and systems:

*Fire
Lightning (thunderstorms and similar)
Power Surge (must be acknowledged by EnergyAustralia)*

a) We can safely exclude the first two options as reasons for damaged two phases.

b) In all those years when Liftronics had managed the lift maintenance in our complex, nobody ever mentioned damaged cables, so it seems logical to assume that the cables were somehow destroyed post June 2010 (after ThyssenKrupp won the contract).

c) Normally, a new vendor (in this case ThyssenKrupp) submits the quote for the contract based on the audit of the facilities. In some instances, the new vendor does the audit after they win the contract.

Nobody in the complex has ever received a complaint or warning from ThyssenKrupp that they "had inherited" faulty power feeds for the lift in Block A.

d) So, here are the realistic possibilities who should pay for the damaged cables and the re-run of the two new phases (length of around 130 metres). I would strongly suggest to obtain written and official statements from the following four parties:

Liftronics to confirm that in their time there were no damaged cables;

ThyssenKrupp to confirm that there were (or no) damaged cables WHEN they won the maintenance contract;

EnergyAustralia to confirm that the cables were caused (or not) by any power surge;

Any electrical contractor that might have worked in our complex in the period between June and September 2010 to confirm if they caused the accidental damage.

One of the above parties is a definite answer from whom to claim the recovery of around \$40,000 that the owners at Macquarie Gardens spent on the new cables. Would you please add this request to the items to be discussed at the next executive committee meeting. The cables could not have burnt by themselves so there must be a logical explanation and someone should take responsibility for it.

Provide documentary evidence why the EC and the Strata Manager did not enforce the proper investigation of the two-phase issue, which, in the end, cost owners corporation around \$50,000.00.

45. Provide documentary evidence why proper planning for the Sinking Fund was discarded at AGMs by the EC and the Strata Manager (Sinking Fund budgeting never included estimates of major works and their costs).

46. Provide full insurance and the building report that was commissioned in February 2012 (as reported at the EC meeting on 22 February 2012).

47. Provide copy of the registered Special By-Laws as approved at AGM in October 2012.

48. Provide full financial details of the water and gas reimbursements for the townhouse owners that they charged the owners corporation after the AGM 2012 (17 October 2012 to 1 March 2013).

49. Provide copies of letters and emails that were exchanged between the Strata Manager, other members of the EC, and the Solicitor Mr. Adrian Mueller for SP52948 affairs between 22 February 2012 and 1 March 2013 (apart from the CTTT case, this is required for a criminal investigation in regards to serious threats to my family and me).

50. The Supreme Court found that it had an obligation to rectify the problem associated with the common property, rather than merely showing that it had acted reasonably (Mabel Dorothea Fligg v The Owners Strata Plan 53457 [2012] NSWSC 230).

The mandatory and absolute duty to properly and promptly maintain and repair common property and any property vested in the owners corporation was highlighted in this case.

The case *Nicita v Owners of Strata Plan 64837 [2010] NSWSC 68* is a timely reminder of how rigorously the Courts are applying the strict duty to repair and maintain common property by the owners corporation.

Provide documentary evidence why the EC declined to manage the complex and the common property in a manner prescribed by law (owners corporation has an absolute duty to recognize and rectify problems associated with common property).

51. Provide documentary evidence is Strata Manager Mr John Fry, who was original proprietor of Raine & Horne Epping still in any business relationship with the company (staff member, occasional consultant, and so on)?

52. Full expense transaction records, income and expenditure statement together with balance sheet before the Annual General Meeting (secure web access, email, or, by post) are readily provided by other reputable strata agencies.

Provide documentary evidence and explanation why the Strata Manager and the EC refuse to allow owners to have access to full expense transaction records, income and expenditure statement together with balance sheet before the Annual General Meeting (secure web access, email, or, by post) for the last 12 years.

53. Provide documentary evidence and statement why you, acting as Secretary of the EC, strongly opposed and took every action to misconstrue and misinterpret my Motions at AGM 2012:

SP52948-Motion-Improvements-for-Financial-Reporting-and-Auditing-AGM2012

SP52948-Motion-Rescind-AGM2005-Motion-8-AGM2012

SP52948-Motion-Rescind-Special-By-Law-8-AGM2012

SP52948-Motion-Mandate-Water-Saving-Program-AGM2012

SP52948-Motion-Proposal-in-Relation-to-Common-Property-and-EGMs-AGM2012 (unserved at AGM 2010 and 2011)

SP52948-Motion-Terminate-Townhouse-Rebates-AGM2012

SP52948-Motion-Introduction-of-Subcommittees-AGM2012

SP52948-Motion-Discuss-Special-By-Law-4-AGM2012

SP52948-Motion-Discuss-Special-By-Law-10-AGM2012

SP52948-Motion-Improved-Dispute-Resolution-Process-AGM2012

SP52948-Motion-Training-for-Executive-Committee-Members-and-Declaration-of-Conflict-of-Interest-AGM2012

SP52948-Motion-Analysis-of-Optus-Proposal-2010-and-Past-Errors-AGM2012

54. Provide documentary evidence why the alternative contracts for the caretaker have not been obtained at the renewal time for many years

55. Provide documentary evidence who, and with what legal rights, approved not to respond to any of my questions, proposals, inquiries officially logged to Strata Manager and the EC since 2011.

56. Provide documentary evidence and the statement that you have read and understood the Solicitor J.S. Mueller & Co Standard Cost Agreement as issued on 16 July 2012.

57. Provide documentary evidence and the statement that you have investigated and complied with the legal obligation to owners corporation after the Solicitor J.S. Mueller & Co Standard Cost Agreement was issued on 16 July 2012

58. Provide documentary evidence and the statement that you have read and support the Solicitor Mr Adrian Mueller's submission to CTTT on 29 January 2013.

59. Provide documentary evidence and the statement that you support that I, Lot 158, should cover the legal costs for the Solicitor Mr Adrian Mueller.