

Table of Contents

Extract from agenda for Annual General Meeting on 22 October 2020 with Motion 10 not compliant with requirement to be a Motion submitted to owners for vote.....	2
Extract from Minutes with misconstrued and false information at Annual General Meeting on 22 October 2020.....	3
Excluded Lot 158 Motions by Solicitor Adrian Mueller at Annual General Meeting on 22 October 2020.....	4

Extract from agenda for Annual General Meeting on 22 October 2020 with Motion 10 not compliant with requirement to be a Motion submitted to owners for vote

9 APPOINTMENT OF JS MUELLER & CO LAWYERS

THAT the owners corporation RESOLVES pursuant to section 103 of the Strata Schemes Management Act 2015 to defend the proceedings commenced by the owners of unit 158, [redacted] in the NSW Civil and Administrative Tribunal (File No. SC 20/33352), to engage J.S.Mueller & Co. Lawyers to act for the owners corporation in the Tribunal proceedings on the terms of that firm's attached costs agreement issued on 20 August 2020 and to authorise and direct the strata managing agent to give instructions to J.S.Mueller & Co. concerning the conduct of the Tribunal proceedings.

Explanatory Note: This is a motion to authorise the owners corporation to defend proceedings in NSW Civil and Administrative Tribunal and appoint J.S.Mueller & Co. Lawyers to act for the owners corporation in the Tribunal proceedings.

10 LEGAL PROCEEDINGS AGAINST LOT 158

That an update on the legal proceedings, authorised at the 2019 AGM, being taken against [redacted] owners of Lot 158, be provided.

Waratah Strata Management did not notify owners (and later NCAT in case 20/333532) that Solicitor Adrian Mueller was paid \$2,700.00 (plus GST) for “consulting” on how to prevent Lot 158 Motions at AGM 2020 (as shown in agenda one year later for AGM 2021):

Agenda Page 14 of 136

Strata Plan 52948		Macquarie Gardens, 1-15 Fontenoy Road, Macquarie Park NSW 2113		Group	Amount (GST exclusive)	Status	Type	Ref.No.	Payment No.
Administrative Fund									
15/09/2020	Lot 69: Debt recovery Stage 1				(25.00)		Ow.Inv		
15/09/2020	Lot 77: Debt recovery Stage 1				(25.00)		Ow.Inv		
15/09/2020	Lot 82: Debt recovery Stage 1				(25.00)		Ow.Inv		
15/09/2020	Lot 115: Debt recovery Stage 1				(25.00)		Ow.Inv		
15/09/2020	Lot 164: Debt recovery Stage 1				(25.00)		Ow.Inv		
15/09/2020	Lot 173: Debt recovery Stage 1				(25.00)		Ow.Inv		
15/09/2020	Lot 177: Debt recovery Stage 1				(25.00)		Ow.Inv		
15/09/2020	Lot 180: Debt recovery Stage 1				(25.00)		Ow.Inv		
15/09/2020	Lot 201: Debt recovery Stage 1				(25.00)		Ow.Inv		
28/09/2020	Advice on Motions Requested by Owner Lot 158	J.S. Mueller & Co			2,700.00	Paid	DE	100582	000939
					00.00	Paid	DE		000941

Minutes of the meeting:

Prior to commencement of the meeting the strata manager advised that the owners of Lot 158 had provided written proposed amendments to many of the AGM motions. It was resolved that these proposed

4

Minutes Page 4 of 16

amendments not be accepted.

9 APPOINTMENT OF JS MUELLER & CO LAWYERS

The owners corporation RESOLVES pursuant to section 103 of the Strata Schemes Management Act 2015 to defend the proceedings commenced by the owners of unit 158, [REDACTED] in the NSW Civil and Administrative Tribunal (File No. SC 20/33352), to engage J.S.Mueller & Co. Lawyers to act for the owners corporation in the Tribunal proceedings on the terms of that firm's attached costs agreement issued on 20 August 2020 and to authorise and direct the strata managing agent to give instructions to J.S.Mueller & Co. concerning the conduct of the Tribunal proceedings.

10 LEGAL PROCEEDINGS AGAINST LOT 158

An update on the legal proceedings, authorised at the 2019 AGM, being taken against [REDACTED] owners of Lot 158, was provided. The strata manager advised that legal advice has been obtained from a barrister and a letter has been issued by JS Mueller & Co on behalf of the strata committee and Waratah Strata Management to [REDACTED]. The strata manager is to seek further advice from Mueller's on having a Deed of Agreement signed by [REDACTED] to prevent further alleged defamatory documents being published on the internet and sent by direct email to owners.

Excluded Lot 158 Motions by Solicitor Adrian Mueller at Annual General Meeting on 22 October 2020

Motion: Ratify emails sent to Fair Trading NSW and the Police by Waratah Strata Management urging them not to investigate

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following events:

- Extract from Waratah Strata Management email to the Police in April 2018:

Also attached is a Deed of Settlement and Release between the OC and DB. We have not yet obtained legal advice, but it is possible that DB is in breach of this Deed of Settlement by making his current allegations to Police.

It is clear from both of these documents that DB has been making these allegations for many years and that they have been dealt with many times by the CTTT and the District Court and dismissed. The strata committee are extremely concerned that DB is continuing to waste Police time on these false allegations.

- Extract from Waratah Strata Management email to Fair Trading NSW urging them not to investigate allegations of financial mismanagement on 17th of May 2019:

An Owners Corporation is a democracy – everyone has a say and everyone a vote and the majority rules. 218 owners in SP 52948 are very happy with the operation of the Owners Corporation and its strata committee. One owner thinks all of the other owners are idiots or thieves. Why should the OC and SC have to continue to respond to and waste its time and resources on one recalcitrant, obsessive owner? We understand you have to investigate this complaint, but ask you to take into account the above information and do not require ourselves or the OC to waste any more time on it.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested owners be provided with relevant files in 2017, 2018, 2019, and 2020.

Motion: Ratify events related to NCAT case SC 20/33352

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following events:

- During the time Lot 158 was member of the Executive Committee in period 2004-2010, he was not informed or presented with strata documents dealing with many aspects of the management of our complex. Other eight members of the committee gave me assurance of having strong business and accounting experiences and were trusted to do their jobs with due diligence and duty of care whilst I was concentrating on other matters (mostly related to engineering and security). Since late 2010, when some serious concerns made us start questioning the strata managers and committee members, the attacks against my wife and me surfaced.
- Waratah Strata Management and the committee members refused to attend free mediation at Fair Trading NSW in March 2020
- Waratah Strata Management and the committee members failed to fully respond to Lot 158 requests through O'Brien Criminal & Civil Solicitors on:
 - 14th of November 2019
 - 21st of November 2019
 - 24th of April 2020
- Lot 158 warned members of the committee to take actions or face NCAT and other legal consequences in emails on:
 - 1st of May 2020

27th of July 2020

29th of July 2020

- The NCAT submission is provided for:
 - STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 238 (a), Orders removing the following members of the Executive Committee for failing to comply with this Act, the regulations and the by-laws of the strata scheme SP52948, failing to exercise due care and diligence, failing to provide full and proper assistance in Fair Trading NSW, Office of Legal Services Commissioner, and Police investigations, some of them providing misleading and false statements to CTTT in 2012 and 2013 which caused serious financial losses to SP52948 and selective benefits to small group of owners, strata managers, and Solicitor Adrian Mueller, and engaging in serious misconduct, while holding the office:

Mr. Moses Levitt (Lot 147)

Mr. Stan Pogorelsky (Lot 181)

Mr. Thomas Karolewski (Lot 21)

Mr. Jeffery Wang (Lot 218)

Mrs. Marianna Paltikian (Lot 88)

Mr. John Gore (Lot 200)

and STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 238 (b)

Orders prohibiting strata committee to make or approve the following decisions without general meetings (where only financial owners are allowed to vote and full details of quorums made available before the general meetings and in minutes of those meetings): contracts for strata management, building management, electricity supply, elevator maintenance and upgrades, all other major maintenance works and upgrades as per SSMA 2015 Section 102 and SSMR 2016 Regulation 25, legal costs without firstly attempting free mediation at Fair Trading NSW, and 10-Year Capital Works plans.

- STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 150, Orders invalidating By-Law 11 “Unreasonable Communications”
- STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 150, Orders invalidating By-Law 10 “Gas, water, and sewerage charges for services and supply”
- STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 150, Orders invalidating By-Law 9 “Control of Common Gas Supply”
- STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 24, Orders to invalidate resolutions, contracts and election of the committee at AGM 2019 (which applies to AGM 2017 and 2018 as well)
- STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 232, Orders to resolve disputes and settle complaints:
 - ✓ Hold meetings with the accordance with the Act,
 - ✓ Enforce compliance with the By-Laws,
 - ✓ Act to prevent nuisance or hazards: smoke detectors, smoking in the complex, fire safety issues, tripping hazards due to uneven pavers as reported by Napier & Blakeley professional assessment in July 2012, frequent water leakages, roof membranes, fences behind townhouses, garden beds, stalking, intimidation and harassment of owners,
 - ✓ Provide documents to Lot 158, with special emphasis to last seven years and requirements to assist Police, Office of Legal Services Commissioner, and Fair Trading NSW with their investigations.
- Since early August 2020, Waratah Strata Management and the committee members failed to provide full information to all owners, publish the details on Waratah Strata Management website, and publish information on notice boards about NCAT case and the scheduled Directions Hearing.
- Waratah Strata Management failed to fully respond to Lot 158 emails dated:

18th of August 2020

19th of August 2020

- Since 18th of August 2020, Waratah Strata Management and the committee members failed to copy of Lot 158 Statutory Declaration to all owners and publish it on Waratah Strata Management website.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested owners be provided with relevant files in 2017, 2018, 2019, and 2020.

Motion: Ratify events related to Solicitor Adrian Mueller acting on behalf of owners corporation

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following events:

- Owners were prevented to vote and make decision on similar Motion at AGM 2017, 2018, and 2019.
- Solicitor Adrian Mueller was reported to the Office of Legal Services Commissioner in case 56561 on 24th of January 2019 and listed by Lot 158 as "person of interest" in Police Event E65804633 since July 2017.

In June 2019, OLSC provided the following update, which was ignored by Waratah Strata Management and the committee members:

14.1.1, 14.1.2 and 14.2 of the Solicitors Conduct Rules. I noted that it was open to the Strata Committee, as Mr Mueller's client, to make a complaint to this Office if they believe that Mr Mueller has refused to provide client documents upon request. It would equally be open to the NSW Police to raise any concerns they may hold directly with my Office.

- Solicitor Adrian Mueller provided advice to BCS Strata Management and the committee about his cost estimates and possibility of legal costs being claimed against insurance policy on 2nd of July 2012.
- BCS Strata Management staff in internal mail confirmed that SP52948 had insufficient funds to pay bill to creditor 69633 in amount of \$14,056.90 and strata manager Mr. Paul Banoob requested urgent transfer of \$50,000.00 from MBL account without disclosure to owners or at any committee meeting.
- Secret committee meeting was conducted in Lot 181 (unfinancial owner Mr. Stan Pogorelsky who himself confirmed not paying gas heating levies in 2012 and 2013) without agenda and minutes being sent to any owner.
- CHU Insurance secretly extended indemnity to SP52948 under Policy 9 C) for legal expenses in spite of warning about high risks on 1st of August 2012. This information was never disclosed to owners.
- Solicitor was well aware of the plan for BCS Strata Management to submit Statutory Declaration on 27th of September 2012 and be present at CTTT Hearings in file SCS 12/32675 in 2012/2013 but he disallowed it.
- Solicitor Adrian Mueller provided false statement to the Tribunal that Lot 3 was away from the country at the CTTT Hearing in file SCS 12/32675 on 19th of October 2012 but the same evening Lot 3 was found present at the Annual General Meeting.
- Solicitor Adrian Mueller confirmed to CTTT in file SCS 12/32675 in letter on 26th of October 2012 that Lot 3 was NOT part of the proceedings, and yet, had full knowledge of insurance claims for "Defence of Lot 3" which amounted to \$24,919.31 (plus GST) in period August 2012 to mid-2013.
- BCS Strata Management, Waratah Strata Management, and committee members failed to disclose to owners that CHU Insurance was requesting repayment since 17th of October 2016 and Mr. Robert Crosbie only presented it in agenda for EC meeting in March 2017 after repeated requests by the insurer.
- CHU Insurance forced SP52948 to repay \$8,800.00 in March 2017.

- Solicitor Adrian Mueller was well informed about the invoice paid for insurance premiums to Gallagher Australia on 21st September 2012 in amount of \$84,414.77, which was 74.38% higher than in September 2011 (due to warning by the Insurance Broker about the "high risk" CTTT case in August 2012).
- Solicitor Adrian Mueller failed to comply with CTTT Directions in SCS 12/32675 three times before the Hearing on 17th of October 2012.
- Solicitor Adrian Mueller initiated new CTTT SCS 12/32675 without official owners corporation approval or disclosure to owners on 10th of December 2012, although he was well aware that the insurance had approved \$12,714.65 for his legal costs three days earlier on 7th of December 2012.
- Solicitor was well aware of SP52948 owners not wanting to engage him as per Lot 158 evidence in May 2013.
- Four versions of the Standard Costs Agreement in CTTT case SCS 12/32675 were uncovered by Lot 158 and only one contained the alleged signature by BCS Strata Management Mr. Gary Webb nine months after the engagement of the Solicitor Adrian Mueller:
 - 17th of July 2012: Signed Standard Costs Agreement by BCS Strata Management Epping Branch Manager Mr. Paul Banoob in document generated on 16th of April 2013 and undisclosed to owners, CTTT, and District Court in 2012, 2013, and 2014. Found in strata documents in Lot 158 document search on 13th of June 2017.
 - 25th of July 2012: Allegedly signed Standard Costs Agreement by BCS Strata Management Mr. Gary Webb as provided in Statutory Declaration by Mr. Peter Bone to CTTT on 19th of April 2013 (nine months after the event).
 - 28th of August 2012: Undisclosed to owners, CTTT, and District Court in 2012, 2013, and 2014. BCS Strata Management insurance claim form for CHU Insurance after secret change of the insurance policy without signed Standard Costs Agreement.
 - 29th of January 2013: Solicitor Mr. Adrian Mueller's submission to CTTT without signed Standard Costs Agreement.
- Solicitor Adrian Mueller represented SP52948 in SM12/1537 and CTTT SCS 12/50460 without proper authorization. This information was shared with selective committee members and Waratah Strata Management on 27th and 29th of July 2020:
 - CTTT SCS 12/50450 interim order to stop Annual General Meeting 2012 due to serious misconduct was dismissed until after Annual General Meeting and CTTT forced SCS 12/50460 to go to mediation on 10th of September 2012.
 - Lot 158 sent email to Solicitor Adrian Mueller about facsimiles sent to CTTT SCS 12/32675, 12/50450, and 12/50460 on 19th of October 2012.
 - NSW Fair Trading forwarded files to BCS Strata Management Peter Bone in CTTT SCS 12/50460 mediation events on 17th of January 2013.
 - On 6th of March 2013, Solicitor Adrian Mueller sent letter to Fair Trading NSW claiming that he was legally representing SP52948 in mediation case SM12/1537 (precursor to CTTT file SCS 12/50460).
 - In spite of all involvement, Solicitor Adrian Mueller claimed not knowing about CTTT SCS 12/50460 in email sent to BCS Strata Management on 6th of May 2013.
 - Solicitor Adrian Mueller belatedly issued Standard Costs Agreement for CTTT SCS 12/50460 on 6th of May 2013.
 - Letter from CTTT in file SCS 12/50460 sent to Solicitor Adrian Mueller about non-compliance order for SP52948 Secretary and Solicitor on 7th of May 2013.
 - Solicitor Adrian Mueller invoice charging for involvement in CTTT SCS 12/50460 mediation events at NSW Fair Trading on 10th of May 2013 without owners corporation approval or Standard Costs Agreement.

- Lot 158 repeated complaints about false representation by Solicitor Adrian Mueller and expenses were sent in CTTT SCS 12/50460 on 13th of May 2013.
- Lot 158 provided summary of owner's votes against any engagement of Solicitor Adrian Mueller to BCS Strata Management on 17th of May 2013.
- BCS Strata Management provided false statement to a single owner about owners corporation engaging Solicitor Adrian Mueller not BCS Strata Management, and planning how to recover Solicitor's costs if CTTT case is rejected on 22nd of May 2013.
- BCS Strata Management requested extension of time to respond in CTTT SCS 12/50460 and confirmed that Solicitor engagement had to be approved at Extraordinary General Meeting on 24th of May 2013.
- Lot 158 repeated requests to Solicitor Adrian Mueller to return files due to his false representation in CTTT SCS 12/50460 on 1st of June 2013
- Lot 158 submitted Folder 12 submission in CTTT SCS 12/50460 with evidence of illegal engagement of Solicitor Adrian Mueller on 4th of June 2013, which members of the committee collectively refuted by hiding evidence.
- Lot 158 was denied access strata files for CTTT file SCS 12/50460 on 8th of March and 5th of June 2013, in spite of legally being valid member of the committee. Mr. Moses Levitt email confirmed he was fully aware of Lot 158 rights to access strata files on 5th of June 2013.
- Lot 158 sent request to BCS Strata Management and committee to organize general meeting and accept owners preference not to engage Solicitor on 6th of June 2013.
- Without any evidence offered by BCS Strata Management and committee members, CTTT made decision in SCS 12/50460 decision on 2nd of September 2013.
- Undisclosed email between BCS Strata Management and committee members confirmed that Solicitor Adrian Mueller was not engaged for CTTT 12/50460 on 2nd of September 2013. Email recipients:

Mr. Peter Bone (BCS Strata Management)
 Mr. Paul Banoob (BCS Strata Management)
 Mr. John Ward
 Mr. Moses Levitt
 Mr. Stan Pogorelsky
 Mrs. Maureen McDonald
 Mr. Jeffery Wang
 Mr. Rafael Hirschorn

- Solicitor Adrian Mueller represented SP52948 in CTTT SCS 12/32675 without proper authorization. This information was shared with selective committee members and Waratah Strata Management on 27th and 29th of July 2020:
 - Solicitor Adrian Mueller was disallowed to represent owners corporation at CTTT on 15th of April 2013 in committee meeting dated 28th of March 2013, and he persuaded Tribunal that this was an accidental mistake.

The paper committee meeting on 28th of March 2013 was attended by:

Mrs. E. Saulits
 Mr. J. Ward
 Mr. S. Quick
 Mr. Moses Levitt (unfinancial due to unpaid full gas heating levies)
 Mrs. M. McDonald
 Mr. S. Pogorelsky (unfinancial due to unpaid full gas heating levies)

- At CTTT hearing on 15th of April 2013, Solicitor Adrian Mueller said words to the effect of (Lot 158 has audio recording of the event):

What I wish to do is... continue with the Hearing today on proviso that I am able to tender some evidence on this issue. Evidence which I've only discovered... Material...

There's two documents:

First is a letter from me to the owners corporation dated the second of July 2012 in which I did an estimate of my costs to act in owners corporation's appeal.

Second document is email from the Strata manager to me on 6th of August 2012 returning the signed copy of my costs agreement... and the costs agreement... signed by the strata manager on behalf of the owners corporation...

And I apply... to... tender of these documents today on the basis that I've only been informed of the challenge...

- Solicitor Adrian Mueller sent secret note to the committee urging them to produce "signed contract" after third CTTT hearing in file SCS 12/32675 on 15th of April 2013.
- Solicitor Adrian Mueller was actively involved in the creation of the Statutory Declaration for BCS Strata Management Mr. Peter Bone with eight crucial emails still missing as evidence, against the wishes of owners corporation or approval at any general meeting or disclosure, and caused excessive courier costs to owners corporation in amount of \$851.56 on 19th of April 2013.
- Statutory Declaration by Mr. Peter Bone (written by Solicitor Adrian Mueller) on 19th of April 2013:

On 25 July 2012 the Standard Costs Agreement was signed by Gary Webb on behalf of the owners corporation. I know Gary Webb personally. He is employed by Raine & Horne Strata - Sydney. Mr. Webb was the person at Raine & Horne Strata Sydney who throughout July 2012 was the person responsible for the day to day strata tile management of the owners corporation. I have seen Mr Webb sign document and I recognise the signature on the costs agreement as his signature.

On 25 July 2012 I emailed to Adrian Mueller a copy of the Standard Costs Agreement signed by Gary Webb.

- Solicitor Adrian Mueller letter to CTTT on 19th of April 2013:

On 25 July 2012 the then strata manager of the owners corporation, Gary Webb, signed the lawyer's costs agreement on behalf of the owners corporation and the signed costs agreement was emailed to the lawyer by the strata manager on that day.

- Secret copy of handwritten notes in agenda of EC meeting scheduled for 22nd of August 2012 showed that the meeting was organized by Mr. Paul Banoob. This agenda suddenly appeared on Waratah Strata Management website in April/May 2020.
- EC meeting only introduced Mr. Peter Bone as new strata manager on 22nd of August 2012.
- Secret handwritten notes in agenda of EC meeting scheduled for 22nd of August 2012 showed that the meeting was organized by Mr. Paul Banoob.
- 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.
- 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 9th of September 2017 was submitted, with Police investigations and interviews starting in late 2017.

Issues in the investigations include alleged false statements by BCS Strata Management in Statutory Declaration to CTTT on 19th 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 21st 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.

- In FY 2018 alone, Solicitor Adrian Mueller charged SP52948 \$5,550.00 (plus GST) for services which include attempt to silence Lot 158 through "Bylaw Prohibiting Unreasonable Communication". None of the owners were notified about the amount of costs incurred by the Solicitor at any time during 2018, 2019, and 2020 by Waratah Strata Management and the committee members.
- Secretary of the EC Lot 3 and acting Chairperson Waratah Strata Management failed to include Motion at AGM 2017 and confirm payments to Solicitor Adrian Mueller, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- For missing documents (eight emails) that are critical to proving alleged false statements by BCS Strata Management staff in Statutory Declaration to CTTT on 19th of April 2013, Police requested access to strata files from BCS Strata Management, Waratah Strata Management, and Solicitor Adrian Mueller in April 2018. Solicitor Adrian Mueller charged owners corporation \$350.00 on 28th of May 2018 but failed to provide them with the eight emails.
- Office of Legal Services Commissioner already had a caution against Solicitor Adrian Mueller for not following legal practices for SP52948 in 2013.

Strata Managers and committee members failed to offer assistance to provide files to Office of Legal Services Commissioner in cases:

41366 in 2013
56561 in 2019

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners throughout 2017, 2018, 2019, and 2020.

Motion: Ratify events related to owners corporation refusing to provide detailed responses to O'Brien Criminal & Civil Solicitors

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following events:

Owners were not notified about the following Lot 158 requests through O'Brien Criminal & Civil Solicitors:

- In written notes of committee meeting dated 5th of September 2019, Waratah Strata Management and committee members engaged Solicitor Adrian Mueller to prepare Deed for Lot 158 to sign at AGM 2019:

*Legal Action Motion for AGM agenda to approve legal action or Barrister \$150,000.00
Have Mueller prepare a Deed so DB can sign at meeting to cease further action
DB targeting SC because are on SC not as individual, so SC should fund
Lot owners to be made aware of impact on OC & value of their unit*

- Solicitor Adrian Mueller prepared the Deed for AGM 2019 without owners receiving copy of Standard Costs Agreement in compliance with Strata Schemes Management Act 2015 Section 105.
- Since AGM 2019, owners have not received copies of Standard Costs Agreement in compliance with Strata Schemes Management Act 2015 Section 105.
- Letter to Solicitor Adrian Mueller on 21st of November 2019 asking for full details of alleged defamation of committee members, strata and building manager staff.

- Letter from Solicitor Adrian Mueller on 14th of November 2019 sent to O'Brien Criminal & Civil Solicitors, in which he stated:

Lot 158 has undertaken repeated inspections of the records of the owners corporation. The representatives of the owners corporation consider that all available records of the owners corporation were made available to Lot 158 during those inspections as a result of which if Lot 158 does not have any records that he desires that is because those records are likely not available.

Equally importantly, if Lot 158 is truly prepared to confine his communications to matters relating to the maintenance and repair of lot 158 only, and to cease and desist from disseminating what the representatives of the owners corporation consider to be defamatory material about them, then what is the purpose of Lot 158 pressing for the records to be produced to him?

In the circumstances, the representatives of the owners corporation do not consider that there is any merit in Lot 158 request for those records to be provided to him and they are not prepared to agree to the request.

The strata legislation imposes on the owners corporation a duty to maintain and repair the common property. This means there is no need for the Deed to be amended to give Lot 158 the same rights in relation to the maintenance of his property as the rights that are enjoyed by other owners.

- Email was sent to Secretary Mrs. Marianna Paltikian on 24th of April 2020:

Lot 158 has provided us with material that raises serious questions as to the workings and legality of the Executive Committee (the committee) of the Owners Corporation of Strata Plan 92548.

We have been instructed by Lot 158 to commence proceedings in the NSW Civil & Administrative Tribunal (NCAT) aimed at questioning the legality of various decisions of the committee and at obtaining orders that the committee fulfill certain obligations where it has been negligent.

It would be in the best interests of all parties to resolve this situation without the need to escalate matters into the NCAT.

Legality of Committee

We are instructed that there has only ever been a maximum of eleven candidates for the committee each year since its inception. Our client has been one of those candidates on several occasions, including the last three years.

We are further instructed that during the last three years at least two of those candidates have not been legally elected to the committee as they have not been financial.

As you are aware, in order for a candidate to be legally elected they must not be liable for any outstanding levies or unpaid interest on invoices. Further, in order for a candidate to legally vote on committee decisions they must not be liable for any outstanding levies or unpaid interest on invoices at the time of the vote.

We are instructed that over the last three years, certain persons have voted on committee decisions when they have not been in the required financial position.

This would have the effect of making those decisions invalid.

Further, pursuant to the combined effect of the Strata Schemes Management Act 2005 and Section 76(1)(b) of the Interpretation Act 1987, in order for the committee meetings to be lawful, all owners must receive advanced written notice of the meetings and the agenda. We are instructed that this has not occurred.

This legality of any contracts that have been entered into by the committee is also questionable if they have been signed by non-financial members.

If you disagree with the above then please provide evidence that all of the committee members were financial throughout 2017, 2018 and 2019 and that all owners received advanced written notice of meetings and the agenda of those meetings.

Please also provide evidence that the current contracts with owners corporation representatives have been signed by legally elected members of the committee.

Lot 158 a Member of The Committee

As there have only ever been a maximum of eleven candidates for the committee and as the committee requires there to be nine financial members, it stands to reason that if two members are not legally elected due to their financial status then the non-elected candidates must, by default, be members of the committee.

This means that if there were two or more persons not legally elected to the committee in 2017-2019 then Lot 158, as a voluntary candidate, would have become a member of the committee in those years by default.

Please advise us if you disagree with this position.

Defamation

We are aware of previous and recent threats to sue Lot 158 for defamation.

Our client does not believe he has defamed anyone; however, he is prepared to address any concerns if proper particulars are provided.

We invite you to provide us with the particulars of who on the committee you allege has been defamed, how they have been defamed and where they have been defamed. Lot 158 is prepared to amend his website, nswstratasleuth.id.au, to delete any material that we are advised is defamatory of a particular person.

Mediation

As you are aware, Lot 158 has many concerns about the management of the unit complex. These concerns are valid and relate to the safety and comfort of his premises and the complex as a whole, and the welfare of himself and his family.

Lot 158 has tried to have these matters resolved in several ways. Throughout 2019 and 2020 there have been opportunities for the committee to participate in mediation with Lot 158 and resolve the issues that he has without further escalation.

Can you please explain why committee members, and owners corporation representatives have refused to participate in mediation with Lot 158 to this point, and whether there is any prospect of resolving Lot 158 concerns through such a forum.

Access to Documents

Lot 158 has lawfully and properly made repeated requests to access committee documents that he is entitled to inspect. These requests have been wrongfully denied.

We attach a list of the documents requested. Can you please allow Lot 158 to inspect these documents at your earliest convenience or provide a valid reason for each document as to why it cannot be inspected?

We look forward to your urgent response to the matters raised in this letter. If we have not heard from you within 14 days, then we are instructed to move forward with an application to NCAT.

- Minutes of committee meeting dated 5th of May 2020 listed the following:

Legal advice regarding Lot 158, including acceptance of barrister fee proposal – Subject to amendments required to the content of the costs agreement, the strata manager is instructed to sign the costs agreement under common seal for and on behalf of the Owners Corporation. The barrister is also to be requested to respond to the letter received from O'Brien Criminal & Civil Solicitors on behalf of Lot 158.

- Lot 158 sent request to Waratah Strata Management on 22nd of July 2020 asking for evidence of Standard Costs Agreement being provided to each owner within 14 day after the disclosure being made.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners throughout 2017, 2018, 2019, and 2020.

Motion: Ratify events related to owners corporation refusing to attend free mediations at Fair Trading NSW

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following events:

- Owners were not notified about the following attempts by Lot 158 for free mediation with strata manager, building manager, and the committee members in following cases at Fair Trading NSW in attempt to avoid unnecessary legal costs and allow full democratic processes:

SM10_1230 PK
SM11/1348 DR
SM12/1537 JR
SM15/1226 RH
00351498 in March 2020

- Instead of free mediation, strata managers and committee members opted for expensive legal costs, in spite of being fully aware that:

Sadlo v Viceroy Gilead Pty Ltd [2013] NSWCTTT 559 (at [10]):

"[10] ... the [respondent] opted to be represented by a lawyer. It had no obligation to do so. The tasks involved in providing evidence, and making submissions at the hearing could have been undertaken by an employee or officer of the [respondent]. The [applicants] should not be obliged to pay an expense the [respondent] had no obligation to incur."

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners throughout 2017, 2018, 2019, and 2020.

Motion: Ratify events related to Interpretation Act 1987 (NSW) ("IA") assented on 28th of November 2018

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following events:

- Interpretation Act 1987 (NSW):

The "postal" rule which used to provide that a document served by post was deemed served on the fourth (4th) working day, has been amended to now provide that a document is deemed served on the seventh (7th) working day after the day of postage.

This amendment was effected by Schedule 1.18 of the Justice Legislation Amendment Bill (No 3) 2018 (NSW) which amends section 76(1)(b) of the Interpretation Act 1987 (NSW) ("IA") and was assented to on 28 November 2018.

Under the Strata Schemes Management Act, 2015 (NSW), the notice period for a general meeting (other than the first) is seven (7) days. In addition to this seven (7) day period, allowance must also be made for the postal rule, which is a further seven (7) day period. The day of postage cannot be included nor can the day of the meeting itself (Section 36 of the IA) – in other words, those days must be left clear and not be counted in either the postal or strata period. The seven (7) day postal rule is for seven (7) working days – working days are not public holidays, bank holidays in the state to which the agenda applies, Saturdays or Sundays.

- Strata committee meetings require three (3) days notice with minutes issues within 7 days:

<https://www.fairtrading.nsw.gov.au/housing-and-property/strata-and-community-living/strata-schemes/meetings-of-the-strata-committee>

- Each member of the strata committee, and every lot owner, need to be notified of an intended strata committee meeting at least three days before the meeting is due to be held. The notice of the meeting must include a detailed agenda for the meeting.
- In a large strata scheme (more than 100 lots), the Secretary or meeting organiser needs to put the notice of the meeting on the noticeboard and deliver it to each owner. In other strata schemes, the notice can either be put on the notice board or delivered to each owner. One can deliver the notice by post or email or in person to someone over the age of 16 years at that address. If no address is recorded in the strata roll then the notice needs to be delivered to an owner by:

delivering it personally,

sending it to their postal or email address,
 placing it in their letterbox, or
 leaving it on a part of their lot that is their residence, but not in a garage or storeroom.

- Lot 158 sent Motions for AGM 2019 on Saturday 28th of September 2019 at 21:09 hours.
- At earliest, Waratah Strata Management would have dealt with it on Monday, 30th of September 2019 and sent notices to owners in early October. Waratah Strata Management refused to prove the date they sent the letters.
- Lot 158 has full photo evidence that notice boards in the complex did not have ANY information about AGM even as late as 11th of October 2019.
- If notices were sent on 1st of October 2019, the following would apply:

1st of October 2019 not counted (day of postage)
 7th of October 2019 not counted (Labour Day in ACT, NSW & SA)
 17th of October 2019 not counted (day of the meeting)

leaving the following calculation:

Seven working days as per Interpretation Act 1987 (NSW) are: 2, 3, 4, 8, 9, 10, and 11 October 2019

Days for notice of AGM: 12, 13, 14, 15, and 16 October 2019 (five days)

Day	Date	Weekday	Service calculation	Event
1	1/10/2019	Tuesday	Postage date not included	Notice posted
2	2/10/2019	Wednesday	First working day	
3	3/10/2019	Thursday	Second working day	
4	4/10/2019	Friday	Third working day	
5	5/10/2019	Saturday	Weekend	
6	6/10/2019	Sunday	Weekend	
7	7/10/2019	Monday	Public holiday (Labour Day)	
8	8/10/2019	Tuesday	Fourth working day	
9	9/10/2019	Wednesday	Fifth working day	
10	10/10/2019	Thursday	Sixth working day	
11	11/10/2019	Friday	Seventh working day	Notice effective
12	12/10/2019	Saturday	First notice day	
13	13/10/2019	Sunday	Second notice day	
14	14/10/2019	Monday	Third notice day	
15	15/10/2019	Tuesday	Fourth notice day	
16	16/10/2019	Wednesday	Fifth notice day	
17	17/10/2019	Thursday		Date of meeting

This makes AGM 2019 non-compliant, along with other strong reasons like quorum miscalculation, unfinancial owners allowed to vote, Lot 158 Motions not presented for voting with any legally-valid reasons to justify it, lack of tender for strata management contract renewal, non-disclosure of alleged losses of invoices, emails, and other financial documents, non-disclosure of owners who were allowed to be committee members whilst unfinancial, and much more.

- Issues with notification for meetings. Examples of SP52948 EC meetings in 2019 and 2020 (Lot 158 has full evidence):
 - Agenda for EC meeting scheduled for 21st of March 2019 was created on 18th of March 2019. Not sent to Lot 158 and failed to satisfy Interpretation Act 1987 (NSW) for “postal” rule which stipulates that a document is deemed served on the seventh (7th) working day after the day of postage (neither the day of postage nor the day of the meeting may be counted).
 - Agenda for EC meeting scheduled for 2nd of May 2019 was created on 26th of April 2019. Not sent to Lot 158 and failed to satisfy Interpretation Act 1987 (NSW) for “postal” rule which stipulates that a document is deemed served on the seventh (7th) working day after the day of postage (neither the day of postage nor the day of the meeting may be counted).
 - Agenda for EC meeting scheduled for 20th of June 2019 was created on 17th of June 2019. Not sent to Lot 158 and failed to satisfy Interpretation Act 1987 (NSW) for “postal” rule which stipulates that a document is deemed

served on the seventh (7th) working day after the day of postage (neither the day of postage nor the day of the meeting may be counted).

- Agenda for EC meeting scheduled for 5th of September 2019 was created on 30th of August 2019. Not sent to Lot 158 and failed to satisfy Interpretation Act 1987 (NSW) for “postal” rule which stipulates that a document is deemed served on the seventh (7th) working day after the day of postage (neither the day of postage nor the day of the meeting may be counted).
- Agenda for EC meeting scheduled for 13th of February 2020 was created on 7th of February 2020 and not listed on Waratah Strata Management website for owners. Not sent to Lot 158 and failed to satisfy Interpretation Act 1987 (NSW) for “postal” rule which stipulates that a document is deemed served on the seventh (7th) working day after the day of postage (neither the day of postage nor the day of the meeting may be counted).
- Agenda for EC meeting scheduled for 12th of March 2020 was created on 7th of March 2020 and put on notice boards at around midday on 12 March 2020. Not sent to Lot 158 and failed to satisfy Interpretation Act 1987 (NSW) for “postal” rule which stipulates that a document is deemed served on the seventh (7th) working day after the day of postage (neither the day of postage nor the day of the meeting may be counted). The notice of the meeting also had wrong date of the meeting: 12 March 2020 instead of real data when the meeting occurred on 17 March 2020.
- Agenda for EC meeting scheduled for 7th of May 2020 was created on 1st of May 2020. Not sent to Lot 158 and failed to satisfy Interpretation Act 1987 (NSW) for “postal” rule which stipulates that a document is deemed served on the seventh (7th) working day after the day of postage (neither the day of postage nor the day of the meeting may be counted).
- Agenda for EC meeting scheduled for 16th of July 2020 was created on 1st of July 2020. Not sent to Lot 158 and failed to satisfy Interpretation Act 1987 (NSW) for “postal” rule which stipulates that a document is deemed served on the seventh (7th) working day after the day of postage (neither the day of postage nor the day of the meeting may be counted).

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners throughout 2017, 2018, 2019, and 2020.

Motion: Ratify events related to Special Resolution for “Unreasonable Communication” Special By-Law

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following events:

- Owners were prevented to vote and make decision on this Motion at AGM 2019.
- Solicitor Adrian Mueller was engaged on 27th of July 2017 to provide:
 - Legal advice to restrain Lot 158 from publishing defamatory material at a cost of \$3,500.00 (plus GST).
 - To review Lot 158 Motions for AGM 2017 at a cost of \$1,750.00 (plus GST).

In their email to Solicitor Adrian Mueller, Waratah Strata Management Mr. Robert Crosbie stated:

The committee would like to know whether it is possible for a motion to be included on the AGM agenda that instructs or authorises the committee to ignore all correspondence from DB...

- In Solicitor Adrian Mueller’s response on 2nd of August 2017, the following was stated:

If the owners corporation makes such a by-law and enforces it in the Tribunal you should expect that Mr DB will vigorously defend that enforcement action including on the basis that the by-law is not valid because it is beyond the power of the owners corporation. The owners corporation will therefore need to have the fortitude to pursue any enforcement action in the Tribunal and incur the attendant costs to uphold the validity of the by-law. We note that success in Tribunal proceedings cannot be guaranteed but that the owners corporation would have reasonable prospects for a successful outcome in any such action.

- In Solicitor Adrian Mueller's response on 10th of October 2017, the following was stated, contradicting his own statements made on 2nd of August 2017:

The by-law does not cover communications that are made by owners or occupiers to third parties such as the media. This is because the by-law must relate to your strata scheme and extending its scope to embrace communications to third parties who are not connected to your strata scheme may render the by-law invalid and unreasonable.

The by-law does not contain a detailed definition of "unreasonable communications" made by owners or occupiers to the owners corporation, strata committee, strata manager or other owners or occupiers. We have deliberately kept the definition of "unreasonable communications" quite broad to capture as many unreasonable communications as possible. However, it may be preferable to specify in the by-law clear examples of "unreasonable communications", for instance, sending more than one email per day to your strata manager (except in than emergency) or sending any written communication that contain more than 500 words. You should give this aspect of the by-law some though and let us know if you require any amendments to the by-law.

...

In our view, the owners corporation does have power to make a by-law that prohibits owners and occupiers engaging in unreasonable communications with the owners corporation, the strata committee, your strata manager and other owners and occupiers or disseminating personal information about an owner or occupier to any of those parties. This is because a by-law covering these matters clearly relates to the administration and management of the lots and common property. Nevertheless, the by-law is certainly novel and no Court or Tribunal has ever passed comment on the ability of an owners corporation to make a by-law that deals with the topics that are covered by the by-law we have prepared. Therefore, even though we consider that the owners corporation has power to make the by-law, we cannot provide you with any guarantee that the by-law will stand scrutiny if it is ever challenged.

- Resolution was made at AGM 2017 where the following quorum calculation was used by Waratah Strata Management on page 18th of Meeting Attendance Register on 23rd of October 2017:

Unfinancial owners:	53
Financial owners:	165
Total entitlements eligible to vote (UE):	7,522 (UE 10,000.00)
Quorum 25%:	42 (UE 2,500.00)

- The following owners with gas heating connection were allowed to vote, be counted as valid for quorum, or accepted to act as proxies at AGM 2017 in Meeting Attendance Register without paying full gas heating levies, including 10% simple interest for overdue payments for each and every year applicable:

Lot 3 (seven proxy votes listed in Minutes of the meeting)

Lot 8

Lot 59

Lot 62

Lot 68

Lot 88 (undeclared gas heating without ever providing evidence when it was disconnected by licensed staff)

Lot 102

Lot 134

Lot 144

Lot 147 (three proxy votes listed in Minutes of the meeting)

Lot 163

Lot 167

Lot 175

Lot 181 (six proxy votes listed in Minutes of the meeting)

Lot 182

Lot 194 (townhouse owner)

Lot 198 (townhouse owner)

Lot 199 (townhouse owner)

Lot 213 (townhouse owner)

- Waratah Strata Management Mr. Robert Crosbie acted as Chairperson and received six proxies at AGM 2017, which allowed them to vote for their own contract extension in non-compliance with Strata Schemes Management Act 2015, Section 25 (7) and (8).
- Waratah Strata Management and committee members refused to notify owners and amend minutes of the meetings and declined to offer evidence to refute Lot 158 statements of lack of AGM 2017 quorum at AGM 2018 and 2019.

- Consolidated By-Laws were registered on 30th of October 2017 by Waratah Strata Management without disclosure to owners and without providing updated information that landlords/agents must provide to tenants within seven days of entering into tenancy agreement, or allowing landlords/agents to notify tenants of any changes in by-laws.
- Screenshot of Waratah Strata Management website on 26th April 2018 confirmed 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 30th October 2017 contained several errors:
 - By-Law 4 Lot 3 Window on page 7 was a Special By-Law, not an ordinary one.
 - There was another Special By-Law 4, related to Satellite Dishes.
 - There were two Special By-Laws 5 for Smoking with DIFFERENT contents.
 - By-Law 13 on page 9 was 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 30th October 2017 were illegal (including one member of the Executive Committee, Lot 200 who received those benefits without disclosure for several years). Page 9 of the Minutes of the AGM 2017 confirmed 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 Waratah Strata Management to Lot 158 on 21st of June 2018 did not acknowledge they had already registered Consolidated By-Laws on 30th of October 2017.
- Mr. Thomas Karolewski, in email to Waratah Strata Management and members of the committee, ignored Lot 158 complaints about secret registration of Consolidated By-Laws and Police Event for what is alleged to be fraudulent insurance claims and false statements by strata manager and Solicitor Adrian Mueller in Statutory Declaration to CTTT, and instead stated on 8th of August 2018:

I think we should inform the owners about:

- *long – standing dispute between the individual and the Owners – Strata Plan 52948, going on for over a decade*
- *previous court case and that the Strata won it*
- *court order – whatever the determination was*
- *that the SC is now seeking a legal advice how to deal with the false allegations and therefore it is in the best interest of the owners not to respond to the communications from the individual or act on them.*

- Mr. John Gore, wrote the following email to Waratah Strata Management and committee members on 9th of August 2018:

I like this response from Thomas. It is important that we reply in simple terms to owners but in the last point I would just say that “we are seeking further legal advice” and that owners can check past minutes to verify for themselves the actions taken by Strata Committee.

- Waratah Strata Management did not provide access to Consolidated By-Laws as requested by Lot 158 on 23rd of November 2017.
- Lot 158, at own expense in amount of \$18.00, obtained copy of Consolidated By-Laws on 27th of April 2018.
- Resolution was made at AGM 2018 where the following quorum calculation was used by Waratah Strata Management on page 18 of Meeting Attendance Register on 18 October 2018:

Unfinancial owners:	20
Financial owners:	198
Total entitlements eligible to vote (UE):	9,086 (total UE 10,000.00)
Quorum 25%:	50 (UE 2,500.00)

- The following owners with gas heating connection were allowed to vote, be counted as valid for quorum, or accepted to act as proxies at AGM 2018 in Meeting Attendance Register without paying full gas heating levies, including 10% simple interest for overdue payments for each and every year applicable:

Lot 3 (listed as valid in Minutes of AGM 2018 but shown as not valid to vote in Meeting Attendance Register)
 Lot 59
 Lot 62

Lot 68

Lot 88 (undeclared gas heating without ever providing evidence when it was disconnected by licensed staff, two proxy votes listed in Minutes of the meeting)

Lot 102

Lot 134

Lot 144

Lot 147 (eight proxy votes listed in Minutes of the meeting)

Lot 148

Lot 163

Lot 167

Lot 175

Lot 181 (11 proxy votes listed in Minutes of the meeting)

Lot 182

Lot 198 (townhouse owner)

Lot 199 (townhouse owner)

Lot 206 (townhouse owner)

Lot 213 (townhouse owner)

- Waratah Strata Management prevented Lot 158 Motion at AGM 2018 to be reimbursed for Consolidated By-Law expenses and did not allow voting at AGM 2019.
- Waratah Strata Management refused to notify owners and amend minutes of the meetings and declined to offer evidence to refute Lot 158 statements of lack of quorum at AGM 2019.
- Waratah Strata Management and committee members failed to prove validity of AGM 2017, 2018 and 2019 as requested by Lot 158 through O'Brien Criminal & Civil Solicitors on 24th of April 2020.
- Waratah Strata Management and EC members were repeatedly reminded and warned that female co-owner of Lot 158 could make any request of concern because she was not involved in Deed of Settlement and Release that was signed by other owner of Lot 158 and owners corporation on 13th of February 2014. Waratah Strata Management refused to inform owners about it.
- Waratah Strata Management failed to inform owners or refute estimates that Solicitor Adrian Mueller earned possibly above \$80,000.00 since 2012 for allegedly defending owners corporation and that he did not offer assistance to Police in 2018 to prove Statutory Declaration he had prepared to CTTT on 19th of April 2013 was based on valid statements.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners throughout 2017, 2018, 2019, and 2020.

Motion: Repeal Special By-Law 11 “Unreasonable Communication” registered on 26th of October 2018

The Owners Corporation SP52948 by SPECIAL RESOLUTION, pursuant to Section 141 of the Strata Schemes Management Act 2015, repeals Special By-Law 11 “Unreasonable Communication”:

- Strata Managing Agent shall lodge a notification with the Registrar-General in the manner approved by the Registrar-General within 14 days from the date the change of the By-Laws is approved by owners corporation.
- After changes of the By-Laws, Strata Managing Agent shall publish them for all owners on the web site and provide them to agents of rented properties.
- To the extent of any inconsistency with previous by-laws, this by-law prevails.

Explanatory Notes

Owners were prevented to vote and make decision on this Motion at AGM 2017, 2018, and 2019.

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 Special By-Law is unenforceable and discriminates against owner’s rights.

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners throughout 2017, 2018, 2019, and 2020.

Motion: Amend Special By-Law 9 “Control of Common Gas Supply” registered on 26th of October 2018

The Owners Corporation SP52948 by SPECIAL RESOLUTION, pursuant to Section 141 of the Strata Schemes Management Act 2015, amend Special By-Law 9 “Control of Common Gas Supply”:

- Modify Item 1 currently stating:

1. Enter a lot to inspect the common gas supply to cooking appliances;

To become:

1. Enter a lot to inspect the common gas supply to cooking appliances by owners corporation agents, employees or contractors;

- Modify Item 5 currently stating:

5. Vary the annual charge having regard to the cost of gas imposed on the Owners Corporation;

To become:

Owners corporation shall approve the annual charge levy at general meetings through Special Resolution amendment of this Special By-Law, with FY 2021 levies set per each such appliance as follows:

<i>One bedroom units</i>	<i>\$35.00 per quarter plus GST</i>
<i>Two bedroom units</i>	<i>\$40.00 per quarter plus GST</i>
<i>Three bedroom units</i>	<i>\$45.00 per quarter plus GST</i>

- Modify Item 6 currently stating;

6. Impose a retrospective levy on lots found to have tapped the common gas supply without permission from the Owners Corporation, any such charge to be at the absolute discretion of the Owners Corporation acting reasonably;

To become:

6. Impose a retrospective levy on lots found to have tapped the common gas supply without permission from the Owners Corporation, by using levy values as defined for a given year, with 10% simple interest per each year for any outstanding payment; such charge to be at the absolute discretion of the Owners Corporation acting reasonably;

- Add Item 10 to state:

10. Owners corporation representatives shall audit gas heating connections before every general meeting though physical verification as voluntary reporting failed on every occasion in the past.

- Add Item 11 to state:

11. Register of gas heating connections shall be made available through web portal at all times, including evidence of disconnections by licensed gas fitter.

- Delete the following paragraph:

The Chairman noted that this was a slight change in previous policy applied where voluntary reporting of gas appliances had been accepted and the annual fee had remained fixed for many years. This fee was not too low and some measures were necessary to deal with undisclosed use of common gas supply. The conversion of this policy to a by-law is to deal with enforcement.

- Strata Managing Agent shall lodge a notification with the Registrar-General in the manner approved by the Registrar-General within 14 days from the date the change of the By-Laws is approved by owners corporation.
- After changes of the By-Laws, Strata Managing Agent shall publish them for all owners on the web site and provide them to agents of rented properties.

- To the extent of any inconsistency with previous by-laws, this by-law prevails.

Explanatory Notes

Owners were prevented to vote and make decision on this Motion at AGM 2017, 2018, and 2019.

SSMA 2015 Section 212 extends power to owners corporation to enter a lot by its agents, employees or contractors. The Act does not empower a strata committee member to enter a lot for the purpose of carrying out work, or inspecting common property.

Additional safety risk: carbon monoxide poisoning and other faults that can occur with heaters. Carbon monoxide has no smell, taste or color. When the gas is inhaled, it enters the blood and takes the place of oxygen, which can cause death. Every two years a licensed gas fitter should check the heater, flue and the surrounding environment for combustion gasses in the living space.

Motion: Repeal Special By-Law 10 “Gas, water and sewage charges for service and supply” registered on 26th of October 2018

The Owners Corporation SP52948 by SPECIAL RESOLUTION, pursuant to Section 141 of the Strata Schemes Management Act 2015, repels the Special By-Law 10 “Gas, water and sewage charges for service and supply”:

- It has not provided equitable benefits to all 26 townhouse owners since its registration on 6th of May 2013. Examples:

2013. 19 out of 26 townhouse owners received benefits for private water and gas usage:

MINYI XIA	\$2,104.45
A LEE	\$1,267.85
Y CHEN	\$1,066.85
FRANCOIS DEGROS & R PAN	\$910.13
SUN MIN HWANG	\$820.66
PING JI & QING ZHANG	\$759.52
HUIMIN RONG & JOHN LEE	\$752.74
K HA & H JIN	\$734.21
ROBERT BROWN	\$658.18
ANDREW CHOW	\$609.10
ANNA NG	\$602.88
ZIBA ZOHREHVANDI	\$466.37
HAN HONG YUN	\$427.18
ANNE PERERA	\$413.19
J YOUNG	\$344.43
ANGELINA LEUNG	\$611.79
Lot 202	\$242.91
Y GEE & S WOO	\$234.57
SEUNG HEE WOO	\$142.55

2014. 18 out of 26 townhouse owners received benefits for private water and gas usage:

PING JI & QING ZHANG	\$1,415.26
SUN WOO & YU GEE	\$1,262.45
ANDREW CHOW	\$1,114.97
A LEE	\$1,021.84
KISUNG HA & HYE OK JIN	\$957.02
SUN MIN HWANG	\$895.28
XIAOJUAN LI	\$839.67
ANGELINA LEUNG	\$784.70
Lot 202	\$736.30
J LEE & H RONG	\$733.42
ROBERT BROWN	\$588.61
Y CHEN	\$490.23
ZIBA ZOHREHVANDI	\$466.32
J & E GORE	\$327.88
MINYI XIA	\$196.69

H H YUN	\$109.00
ANNE C PERERA	\$82.38
J YOUNG	\$77.03

2016. 15 out of 26 townhouse owners received benefits for private water and gas usage:

HAN HONG YUN	\$1,401.99
XIAOJUAN LI	\$1,119.39
KISUNG HA & HYE OK JIN	\$1,115.32
PING JI	\$1,042.79
DENNIS NC & ROSE SW YEUNG	\$886.43
S M HWANG	\$840.78
S & L LEUNG	\$788.17
ZIBA ZOHREHVANDI	\$771.85
A CHOW	\$709.70
J LEE & H RONG	\$599.04
J & E GORE	\$470.87
Lot 202	\$426.27
ROBERT BROWN	\$254.90
SUN WOO & YU GEE	\$101.50
L MA	\$70.55

2019. 18 out of townhouse owners received benefits for private water and gas usage:

Xiaojuan Li	\$726.08
Anna Lee	\$628.25
Hye Ok Jin & Kisung Ha	\$603.20
Sun Min Hwang	\$549.91
Huimin Rong & John Lee	\$478.85
Ziba Zohrehvandi	\$335.81
John Gore	\$332.34
Ping Ji & Qing Zhang	\$329.96
Andrew Tsz Kit Cho & Pui Yee Yung	\$295.89
Gengfeng Huang & Xinyi Liang	\$292.49
Angelina Leung	\$274.16
Sun Moon Woo & Yu Jeong Gee	\$273.89
Han Hong Yun & Hee Sun Kae	\$258.89
Karen Yeung	\$120.64
Andrew Chow	\$116.48
D Yeung & R Yueng	\$99.84
Anna Heung Ying Ng	\$83.66
Francois Degros & Ruimin Pan	\$79.89

- Strata Managing Agent shall lodge a notification with the Registrar-General in the manner approved by the Registrar-General within 14 days from the date the change of the By-Laws is approved by owners corporation.
- After changes of the By-Laws, Strata Managing Agent shall publish them for all owners on the web site and provide them to agents of rented properties.
- To the extent of any inconsistency with previous by-laws, this by-law prevails.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Waratah Strata Management did not allow voting on this Motion at AGM 2017, 2018, and 2019, and fully declare conflict of interest by EC members. Special By-Law was approved at AGM in 2012 and reconfirmed in 2013 that did not comply with strata regulations. Reimbursements for water and gas were not applied in equitable manner since introduction in 1999. Special By-Law 10 fails to satisfy SSMA 2015, Section 139 "Restrictions on by-laws".

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 Special By-Law in the following terms:

SPECIAL BY-LAW: "Equitable Sharing of Water Usage Costs for Townhouse Owners"

- 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 litres) 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.
- Strata Managing Agent shall lodge a notification with the Registrar-General in the manner approved by the Registrar-General within 14 days from the date the Special By-Law is approved by owners corporation.
- After changes of the By-Laws, Strata Managing Agent shall publish them for all owners on the web site and provide them to agents of rented properties.
- To the extent of any inconsistency with previous by-laws, this by-law prevails.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Waratah Strata Management failed to allow voting for this Motion at AGM 2017, 2018, and 2019, and declare conflict of interest by EC members.

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 Special By-Law in the following terms:

SPECIAL BY-LAW: "Equitable Sharing of Gas Usage Costs for Townhouse Owners"

- 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 "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;
- Strata Managing Agent shall lodge a notification with the Registrar-General in the manner approved by the Registrar-General within 14 days from the date the Special By-Law is approved by owners corporation.
- After changes of the By-Laws, Strata Managing Agent shall publish them for all owners on the web site and provide them to agents of rented properties.
- To the extent of any inconsistency with previous by-laws, this by-law prevails.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Waratah Strata Management failed to allow voting for this Motion at AGM 2017, 2018, and 2019, and declare conflict of interest by EC members.

Motion: Ratify events related to Waratah Strata Management obtaining unauthorized access to Lot 158 password at lookatmystrata.com.au

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following events:

- Owners were not allowed by Waratah Strata Management to vote or discuss this Motion at AGM 2019.
- Lot 158 submitted the complaint and request that their access to Waratah web site hosted at lookatmystrata.com.au be re-enabled on 21st of April 2018.
- Waratah Strata Management responded on 26th of April 2018 with accurately conforming the password only Lot 158 should have known.
- Lot 158 submitted official complaint and inquiry with Rockend who own website lookatmystrata.com.au and voiced concerns about lack of access to SP52948 files, asking them to reset the password and explain how third party like Waratah Strata Management could obtain access to private password. Rockend did not reply.
- Lot 158 submitted repeated complaint and request that their access to Waratah web site hosted at lookatmystrata.com.au be re-enabled on 16th of June 2018 and another update on 18th of June 2018.
- Lot 158 offered secure web access to Waratah Strata Management with evidence of failed logins and many other strata files they allegedly did not have at lookatmystrata.com.au on 20th of June 2018, which they declined.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners throughout 2017, 2018, 2019, and 2020.

Motion: Ratify events related to refusal to maintain proper air flow in bathroom in Lot 158 since June 2018

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following events:

- Owners were not allowed by Waratah Strata Management to vote or discuss this Motion at AGM 2019.
- Lot 158 orally submitted complaint to owners corporation representative about poor ventilation and smell coming through the vents in bathroom of Lot 158 two times in May 2018. This was ignored and no action taken until official email was sent to Waratah Strata Management on 16th of June 2018 and 20th of June 2018.
- Lot 158 submitted repeated complaint and request to resolve issue with poor ventilation in one bathroom 22nd of December 2018 and 31st of January 2019. No reply was received or action taken. Video evidence was provided.
- Lot 158 made additional complaints via email on the following dates:
 - 10th of December 2019
 - 30th of March 2020
 - 26th of May 2020
 - 7th of July 2020
 - 21st of July 2020
- Lot 158 collected evidence of inappropriate level of fresh air in bathrooms of several units in Block A and B during 2019 and 2020.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners throughout 2017, 2018, 2019, and 2020.

Motion: Ratify events of Lot 158 stalking, intimidation, bullying, and intention to cause fear, and ordering access to CCTV to be provided by strata manager and staff of building manager if requested by owners and Police

The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:

- Owners were not allowed by Waratah Strata Management to vote or discuss this Motion at AGM 2017, 2018, and 2019.
- Committee members failed to protect Lot 158 after numerous complaints about bullying, stalking, threats, and attempts of intimidation:
 - Personal meeting with Mrs. Marianna Paltikian on 27th February 2017.
 - Meeting with Director of Waratah Strata Management Mr. Robert Crosbie on 1st March 2017.
 - Personal meeting with EC member on 1st March 2017.
 - Email to EC members on 5th March 2017.
 - 14th March 2017 at 07:17 hours: SMS to building manager.
 - Email to Waratah Strata Management on 18th of February 2018.
 - Email to Waratah Strata Management on 16th of June 2018.
 - Email to Waratah Strata Management on 21st of June 2018.
 - Email to Waratah Strata Management on 9th of October 2018.
 - Email to Mrs. Maureen McDonald on 24th of January 2019.
 - Email to Waratah Strata Management on 31st of January 2019.
 - Email to Waratah Strata Management on 9th of May 2019.
 - Email to Waratah Strata Management on 18th of June 2019.
 - Email to Waratah Strata Management on 19th of June 2019.
 - Email to Waratah Strata Management on 11th of August 2019.
 - Email to Waratah Strata Management on 12th of August 2019.
 - Email to Mr. Jeffery Wang on 17th of October 2019.

- Email to Waratah Strata Management on 21st of February 2020.
 - Email to Waratah Strata Management on 10th of June 2020.
 - Email to Waratah Strata Management on 29th of June 2020.
 - Email to Waratah Strata management on 21st of July 2020.
 - Email to Waratah Strata Management on 23rd of July 2020.
- Waratah Strata Management provided the following statement to Lot 158 in email on 21st June 2018:
These allegations are matters for the police to deal with.
 - Waratah Strata Management provided the following statement to Lot 158 in email on 24th of January 2019:
Stalking claim by Lot 158 – You advise this has been reported to the police. Stalking is a criminal issue and should therefore be left in the hands of the police to deal with as they see fit. Waratah Strata and the Owners Corporation will therefore not get involved in this matter.
 - On 18th February 2018, Lot 158 female co-owner sent a plea to Waratah Strata Management, requesting that owners corporation representatives 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 7th February 2018 for alleged video recordings of the 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 and 2019.
 - Waratah Strata Management refused to inform owners corporation Lot 158 female co-owner has serious health issues, which can cause immediate death due to stress and that she is even exempted from Jury duty.
 - The lack of actions by Waratah Strata Management and EC members resulted in the following Police Events they failed to report to owners:
26th March 2018
26th of October 2018 (one week after the AGM)
14th of November 2018
11th of August 2019
 - According to Police statements, and based on direct requests by Lot 158, owners corporation declined to provide access to CCTV recordings in 2017, 2018, and 2019.
 - Waratah Strata Management failed to issue compliance notice and enforce By-Laws 6 and 8 registered on 30th of October 2017 and By-Laws 6 and 8 registered on 20th of October 2018.
 - In event dated 10th of June 2020, with complaint against Mr. Moses Levitt trying to enter elevator after female owner of Lot 158 was already inside and asking him not to do it, he responded through Waratah Strata Management Mr. Frank Tallaridi on 14th of July 2020 stating amongst the other, without initially providing access to CCTV:
She is delusional and appears to have paranoia about the behaviour of some people in the complex. Neither he nor his wife can tell us what we can or cannot do in the common area within the complex. Should they see us and are concerned at getting close then they can move away and enter the area where we are at a later stage. We will NOT give way to their bizarre behavior or be intimidated by their threats.
 - In event dated 29th of June 2020, with complaint against Mr. Stan Pogorelsky not keeping safe Covid-19 distance and deliberately following female owner of Lot 158 to letterbox area, Waratah Strata Management Mr. Frank Tallaridi responded belatedly on 23rd of July 2020 stating:
Please note that only the footage of the incident 10 June 2020 is available and not from the 29th June 2020 as the footage overwrites after 18 days and advice to keep that footage was not noted.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to owners with relevant files throughout 2017, 2018, 2019 and 2020.

Motion: Ratify events related to owners corporation refusal to maintain smoke alarms in Lot 158, discrimination against Lot 158, failure to comply with fire safety standards, and providing misconstrued information to owners

The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:

- Owners were not allowed by Waratah Strata Management to vote or discuss this Motion at AGM 2017, 2018, and 2019.
- Lot 158 orally complained to Waratah Strata Management multiple times in 2017 and 2018 about expired smoke alarms in their unit.

Waratah Strata Management did not take corrective actions.

- Lot 158 sent email to Waratah Strata Management on 1st of March 2019 with reminder about expired smoke alarms in Lot 158.

Waratah Strata Management did not respond.

- Waratah Strata Management provided the following misleading statement to owners in minutes of EC meeting on 21st of March 2019:

Smoke alarms in units - It is noted that the smoke alarms inside each unit are the lot owners responsibility to service and replace as required. It is further noted that a small number of smoke alarms within units were replaced during the BCS management period, but that was incorrect practice and has not continued under Waratah Strata's management.

- Lot 158 provided Waratah Strata Management with the following examples of smoke alarms being replaced for owners from common funds in recent times, including three replacements directly authorized by Waratah Strata Management in FY 2018:
 - Essential Services Management – charged common funds for visit to Unit 110 to replace smoke detector when owner did not provide access – 10 October 2013
 - Essential Services Management – replaced smoke detector Unit 162 – 6 December 2010
 - Essential Services Management – replaced smoke detector Unit 117 – 15 November 2013
 - Essential Services Management – replaced smoke detector Unit 146 – 9 December 2013
 - Essential Services Management – replaced faulty smoke detector Unit 79 – 31 October 2014
 - Essential Services Management – replaced smoke detector Unit 79 – 20 November 2014
 - Essential Services Management – replaced faulty smoke detector Unit 145 – 6 May 2015
 - Essential Services Management – replaced faulty smoke detector Unit 106 – 4 August 2015
 - Essential Services Management – replaced faulty smoke detector Units 108 and 159 – 12 May 2015
 - Essential Services Management – replaced smoke detector Townhouse 200 – 31 August 2015
 - Essential Services Management – replaced faulty smoke detector Townhouse 198 – January 2016
 - Essential Services Management – replaced second faulty smoke detector Unit 183 – February 2016
 - Essential Services Management – replaced faulty smoke detector Unit 182 – 12 February 2016
 - Essential Services Management – replaced second faulty smoke detector Townhouse 198 – April 2016
 - Essential Services Management – replaced faulty smoke detector Unit 68 – 19 May 2016
 - Essential Services Management – replaced faulty smoke detector Unit 180 – 9 August 2016
 - Essential Services Management – replaced second smoke detector Townhouse 200 – 24 August 2016

Lot 139, 23rd of April 2018, at cost of \$150.00 (GST exclusive)

Lot 8, 14th of May 2018, at cost of \$150.00 (GST exclusive)

Lot 198, 4th of June 2018, at cost of \$160.00 (GST exclusive)

Lot 83, 30th of July 2018, at cost of \$160.00 (GST exclusive)

Lot 158 also documented number of owners failing to provide entry to their units for annual fire safety and smoke alarm inspections in 2018 and 2019.

Lot 158 requested that Waratah Strata Management share information with all owners about common funds being used for replacing smoke alarms for 22 years and amend the minutes of EC meeting on 21st of March 2019.

Waratah Strata Management did not inform the owners and did not update the minutes of the meeting with correct information.

- On 17th of June 2019, Lot 158 sent email to Waratah Strata Management documenting misleading and misconstrued statements by Waratah Strata Management for owners at EC meeting on 21st of March 2019.

Waratah Strata Management did not respond.

- Lot 158 sent email to Waratah Strata Management on 7th of July 2019 with photos showing:

Smoke alarm in main bedroom expired in 2005
Smoke alarm in common area expired in 2018

Lot 58 also provided a report on "SP52948-random-check-of-fire-safety-late-June-and-early-July-2019".

Waratah Strata Management did not respond.

- On 21st of May 2019, owners corporation representative provided misleading and inaccurate information to Ryde Council in regards to fire safety issues, which Lot 158 refuted with evidence:

a) We implicitly confirmed they had never put yearly fire safety statements on notice boards and deliberately ignored them. They very well knew the regulations (as provided by Lot 158 on many occasions).

b) Fire safety reports documented problems every year but they were always partially ignored or delayed. An example:

On 6 June 2013, Lot 158 submitted the request with the following subject:

SUBMISSION FOR GENERAL MEETING: Maintenance in the complex and compliance with the State and Federal Regulations on 6 June 2013

No response was ever received.

In July 2013, Eagle Fire Protection conducted a second inspection (reports for January 2013 and July 2013) are enclosed herewith.

Due to lack of maintenance, our cost to rectify fire protection issues increased by 30.32% in just six-month period in 2013.

As of July 2013, Eagle Fire Protection's assessment gave total cost of \$26,878.50 (GST inclusive) to rectify all issues.

Attachment "SP52948-Eagle-Fire-Protection-Inspection-Reports-and-Quotes-to-Rectify-Problems-31Jul2013.pdf".

c) Waratah Strata Management knew very well the regulations about notices on fire doors but decided to ignore them. They very well knew the regulations (as provided by Lot 158 on many occasions).

d) Smoking near Fire Door 2 was facilitated by owners corporation representative for almost nine months. Repeated complaints were ignored.

Attachment "SP52948-FINAL-WARNING-FOR-IMMEDIATE-ACTION-SP52948-providing-illegal-smoking-facility-behind-fire-door-2-in-Block-A-on-9May2019.pdf".

e) Elevator problems are not minor but major.

The frequent problems with elevators and number of professional reports prove it. The first major one was from Napier & Blakeley from July 2012 but it is too large to enclose herewith (I can provide it in a separate email if necessary).

Attachments (all of them are hidden from owners' knowledge):

BCS-Strata-Management-hid-professional-building-report-from-SP52948-owners-ThyssenKrupp-Elevator-HR-Assesment-11Dec2013.pdf

BCS-Strata-Management-hid-professional-building-report-from-SP52948-owners-ThyssenKrupp-Elevator-HR-Issues-and-Pricing-11Dec2013.pdf

BCS7328835-Vertical-Transport-Management-Services-lift-report-invoice-25Feb2014.pdf

SP52948-Thompson-Elevator-Consultancy-Service-audit-Mar2017.pdf

Here are some of Lot 158 recent attempts to reason with them via email:

REQUEST FOR MAINTENANCE: Elevator in Block A caused tenants in Lot 158 to travel in wrong direction three times in two months and elevator did not settle level with the floor of the building several times - 25Dec2018

FOR CONSIDERATION AND OFFICIAL RESPONSE: Elevator in Block A caused tenant in Lot 158 to travel in wrong direction again on 6Jan2019

FOR CONSIDERATION AND OFFICIAL RESPONSE: Elevator in Block A caused tenant in Lot 158 to travel in wrong direction again on 21Jan2019

FOR CONSIDERATION AND OFFICIAL RESPONSE: Elevator in Block A caused tenants in Lot 158 to travel in wrong direction sixth time on 28Jan2019

FOR CONSIDERATION AND OFFICIAL RESPONSE: Elevator in Block C took three times to open and close door automatically before travelling on 9Feb2019

FOR CONSIDERATION AND OFFICIAL RESPONSE: Elevator in Block C and Block A additional issues on 10 and 17 February 2019

FOR CONSIDERATION AND OFFICIAL RESPONSE: Elevator in Block A additional issues on 21 February and 1 March 2019

FOR CONSIDERATION AND OFFICIAL RESPONSE: Elevator in Block A on 20 May 2019

f) Internal smoke detectors are responsibility of owners corporation. They have always been paid from common funds (attachment "SP52948-examples-of-smoke-detectors-in-units-and-townhouses-replaced-from-common-funds.pdf").

Attached images show payments for smoke alarm replacements in four units in 2018 and how Waratah Strata Management mislead owners on 21 March 2019 by stating that they never approved such payments from common funds (Lot 158 found contrary evidence in FY 2018 financials on 31 May 2019).

Under current legislation, the owners corporation is responsible for repairing AND maintaining smoke alarms IF the smoke alarms are hard-wired to the lot's electricity supply with a backup battery or connected to a common fire board or panel.

However, if the smoke detectors are stand alone and battery-operated, then the lot owner (or tenant) is responsible for checking and changing the battery. Ultimately, the owners corporation is responsible for replacing or repairing a faulty smoke alarm.

The law is that repair and maintenance of smoke alarms are an owner's responsibility unless it was installed at time of construction (which is the case in SP52948).

g) Owners corporation is looking for an excuse about fire door compliance. They were very well aware of the issues (video and photo evidence collected for previous years proves it and they had access to them).

h) Compliance tags on the doors were missing on MANY doors, not just Lot 158. There is nobody who could "paint" over the door frames in so many properties. Owners corporation was reminded about them several times but decided to ignore the requests.

i) It was proven to Ryde Council that strata agencies failed to disclose non-compliance fire safety issues in the past.

j) Not true that owners corporation replaces the faulty lights in the complex promptly. In just one example, on Level 2 Block A, they delayed replacement of the faulty fire exit light in period between 7 February 2018 and 26 March 2018 (total of 48 days!). Photo evidence exist for every day of that period.

- Since AGM 2019, Lot 158 logged number of problem reports for elevators, fire safety, smoking in the complex, smoke alarms, and OH&S:

9th of December 2019

10th of December 2019

23rd of January 2020

4th of February 2020
13th of February 2020
3rd of March 2020
8th of March 2020
18th of March 2020
26th of March 2020
27th of March 2020
3rd of April 2020
15th of April 2020
28th of April 2020
29th of April 2020
22nd of July 2020

- Lot 158 made repeated requests to Waratah Strata Management and committee members to provide access to five fire safety inspections and rectification work in 2020:

28th of January 2020
18th of March 2020 (unplanned full test of the building emergency lights due to failures in January 2020)
19th of March 2020
6th of April 2020
14th of August 2020

- Smoke alarms in Lot 158 are currently expired and might cause serious health and safety issue in emergency if they fail to operate as designed.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners with relevant files throughout 2019 and 2020.

Motion: Ratify owners corporation refusal to provide names of employed staff and using unlicensed security guards without disclosure

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following events:

- Owners were not allowed by Waratah Strata Management to vote or discuss this Motion at AGM 2019.
- Owners corporation enforced requirement for building manager (caretaker) to have only licensed staff on site at EC meeting on 10th of January 2001. Four current owners attended that meeting:

Lot 62 (ex-EC member)
Lot 151 (EC member)
Lot 160
Lot 181 (EC member)

Now-deceased EC member presented a petition signed by around 40 owners indicating their objection to an unlicensed security person being engaged at EC meeting on 10th of January 2001.

- Clause 6.1 of the contract with building manager requires them to provide a list of the full names and addresses of all persons employed by them. Request by Lot 158 to review it was not addressed by Waratah Strata Management.
- Clause 6.2 of the contract with building manager requires them to keep shift rosters for all employees for at least 24 months. Request by Lot 158 to provide it was not addressed by Waratah Strata Management.
- Lot 158 sent request to Waratah Strata Management about unlicensed security guards on 3rd of March 2018. Reply was never received and this information was not disclosed to owners in any official notices by Waratah Strata Management.
- Lot 158 sent request to Waratah Strata Management about unlicensed security guards on 1st of September 2019. Reply was never received and this information was not disclosed to owners in any official notices by Waratah Strata Management.

- Lot 158 sent request to Waratah Strata Management about unlicensed security guards on 16th of September 2019. Reply was never received and this information was not disclosed to owners in any official notices by Waratah Strata Management.
- Waratah Strata Management prevented Lot 158 Motion at AGM 2017 and 2018 about insurance and safety risk with night shift duties attended by unlicensed security guards, cut working hours of security guards, and periods without staff on site in early morning.
- Due to special night work by Lot 158 on 3rd 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 to explain it was not answered or reported to owners.

- During FY 2018 and 2019, there were at least four documented examples of staff working in night shift without proof of security license:

17th December 2017
 3rd May 2018
 1st of September 2019
 15th of September 2019

- Lot 158 reported security service concerns in October 2017 without any response from Waratah Strata Management.

- Lot 158 raised the security service concerns in reports on:

5th of October 2017
 17th of December 2017
 18th of February 2018
 10th of July 2018
 25th of August 2018

Waratah Strata Management did not respond and did not inform owners.

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

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

- Waratah Strata Management declined to answer the following repeated questions by Lot 158 on 1st of September 2019 and 16th of September 2019:
 - *Owners in the complex are of the belief that they are protected by licensed security guards at night for the last 23 years (many years ago they were even required to have valid First Aid certification).*
 - *This evening, staff was seen in the office two times who did not appear to have valid Security Guard Class 1, or similar, license:
<https://www.onegov.nsw.gov.au/PublicRegister/#/publicregister/search/Security>*
 - *As a matter of priority, please provide the following information:*

Are night shift staff required to have valid Security Guard Class 1 license (as it used to be the case with previous building managers and caretakers)? To be eligible for this license, one must have a National Police Certificate as well.

If so, provide names of SP52948 night shift staff that have valid Security Guard Class 1 or similar license.

If the Security Guard Class 1 (or similar) license is not required, please notify all owners in the complex so that a proper review is done why are owners paying such high costs for night security.

If Security Guard Class 1, or similar, license is required for night shift work in our complex, then provide details of staff who works this evening in the complex (evidence has been collected on our side). If such person is not

licensed (and should be), who approved UNLICENSED STAFF to work today and two times in last two years (also reported by Lot 158 but not responded to or actioned)?

- *Have you notified insurance company of the risks of employing unlicensed security guards (even occasionally)?*
- *Have you notified Fair Trading that you knowingly overpay invoices for security guards if they are not licensed at all times?*
- *Have you notified owners that they pay high price each time unlicensed security guards work in the complex?*
- *Have you notified owners that if the security guards do not have license, there is no Police check of their character and background?*

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners with relevant files throughout 2017, 2018, 2019, and 2020.

Motion: Ratify events related to owners corporation refusal to enforce Special By-Law 5 for smoking in the complex and not enforcing fire safety compliance standards

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following events:

- Owners were not allowed by Waratah Strata Management to vote or discuss this Motion at AGM 2019.
- Lot 158 sent email with complaint about smoking in basement area behind Fire Door 2 in Block A to selective group of EC members on 25th and 26th of November 2018. No reply was received.
- Lot 158 sent email to Waratah Strata Management with complaint about smoking in basement area behind Fire Door 2 in Block A on 20th of December 2018.

The email contained photos as evidence. No reply was received.

Waratah Strata Management failed to inform owners about it.

- Lot 158 sent email to Waratah Strata Management with complaint about smoking in basement area behind Fire Door 2 in Block A on 18th of January 2019.

No reply was received and Waratah Strata Management failed to inform owners about it.

- Lot 158 sent email to Waratah Strata Management with complaint about smoking in basement area behind Fire Door 2 in Block A on 25st of January 2019.

The email contained photos as evidence.

No reply was received. Waratah Strata Management failed to inform owners about it.

- Lot 158 sent email to Waratah Strata Management with complaint about smoking in basement area behind Fire Door 2 in Block A on 31st of January 2019.

The email contained photos as evidence.

No reply was received. Waratah Strata Management failed to inform owners about it.

- Lot 158 sent email to Waratah Strata Management with complaint about smoking in basement area behind Fire Door 2 in Block A on 9th of February 2019.

The email contained photos as evidence. No reply was received. Waratah Strata Management failed to inform owners about it.

- For ongoing fire safety non-compliance in the complex and persistent smoking behind Fire Door 2. Lot 158 lodged fire safety complaint FRN16/829 job BFS19/749 on 4th of March 2019.

Waratah Strata Management failed to inform owners about it.

- Lot 158 sent email to Waratah Strata Management with complaint about smoking in basement area behind Fire Door 2 in Block A on 19th of March 2019.

The email contained photos as evidence.

No reply was received. Waratah Strata Management failed to inform owners about it.

- Lot 158 sent email to Waratah Strata Management with complaint about smoking in basement area behind Fire Door 2 in Block A on 29th of April 2019.

The email contained photos as evidence.

No reply was received. Waratah Strata Management failed to inform owners about it.

- Lot 158 sent email to Waratah Strata Management with complaint about smoking in basement area behind Fire Door 2 in Block A on 9th of May 2019.

The email contained photos as evidence.

No reply was received. Waratah Strata Management failed to inform owners about it.

- Lot 158 sent email to Waratah Strata Management with reminder about smoking in basement area behind Fire Door 2 in Block A on 18th of June 2019 and 19th of June 2019.

No reply was received. Waratah Strata Management failed to inform owners about it.

- Lot 158 sent email to Waratah Strata Management with complaint about smoking in basement area near Block A on 25th of August 2019.

No reply was received. Waratah Strata Management failed to inform owners about it.

- Lot 158 sent email to Waratah Strata Management with complaint about smoking in basement area near Block A on 16th of September 2019.

No reply was received. Waratah Strata Management failed to inform owners about it.

- Waratah Strata Management was repeatedly warned by Lot 158 that they failed to ensure compliance with NSW strata acts, SP52948 by-laws, and OH&S regulations in regards to smoking, by silently providing facility for smoking behind fire door 2 in Block A. By doing so, they created:

- Deliberate nuisance to owners, especially in Block A,
- Smoking facility which is not approved by owners corporation at any legally-convened meeting,
- Discrimination against owners in Block A as such smoking facility is not setup in other building blocks in the complex,
- Serious health hazard for fragile owner of Lot 158 due to smoke drift into two bedrooms and the balcony,
- Secondhand smoke - harmful to health, and there is no safe level of exposure (Cancer Council NSW),
- Damage to furniture and cloths in Lot 158 due to persistent cigarette smell,
- Regular obstruction of fire door 2 in Block A,
- Poor disposal of cigarette butts,
- Problems by not ensuring that emergency exits are adequate at all times,
- Non-compliance with EC decision at meeting on 12th of April 2018,
- Security risk at night since Fire Door 2 is actively used for smoking but not monitored for access,
- Noise because a notorious smoker constantly uses mobile phone.
- The NSW Environmental Planning & Assessment Regulation 2000 requires that "the owner of a building, to which an essential fire safety measure is applicable, is required to maintain each essential fire safety measure in the building". Failure to comply with this legislation can lead to significant fines and possibly serious legal ramifications for those responsible.
- Non-compliance with fire safety standards lacking in various areas in SP52948 (photo and video evidence has been collected). Examples:
 - There are no displays of yearly fire compliance notices.
 - Lot of rubbish, building materials, and even paints are close or near the fire doors.

- Many fire doors do not have proper notices, including warnings about penalties.
 - The worst example is Fire Door 2 below Block A, which is, among the other issues, kept open by an owner every day. Where occupants prop open the main fire door is a compliance issue for the Ryde Council to address through issuing of Fire Safety Orders and/or Penalty/Infringement Notices. The reason why fire doors are to be kept closed on a multi storey building is because the building needs to be pressurized for when there is a fire. Each floor needs to have a positive air pressure to stop a fire from spreading.
- Owners corporation was forced to rectify some of the ongoing fire safety issues on 10th of May 2019.
- Waratah Strata Management failed to inform owners about orders made by Ryde Council and Fire & Rescue NSW orders in regards to fire safety complaint FRN16/829 job BFS19/749.
- In second half of 2019 and 2020, the following smoking issues were reported Waratah Strata Management:
- 1st of August 2019
 25th of August 2019
 1st of September 2019
 11th of September 2019
 12th of September 2019
 16th of September 2019
 25th of September 2019
 25th of October 2019
 12th of December 2019
 23rd of January 2020
 14th of February 2020
 7th of March 2020
 8th of March 2020
 14th of March 2020
- Evidence of cigarette butts and lack of their cleaning near gazebo behind tennis courts has been collected by Lot 158 each day in period between 15th of September 2019 and 28th of September 2019 and during 2020.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to provide owners with relevant files throughout 2017, 2018, 2019, and 2020.

Motion: Ratify events related to owners corporation refusal to prevent illegal use of public land (Lot 202 DP848752) for parking and not informing owners about Ryde Council actions in in 2015, 2018 and 2019

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following events:

- Waratah Strata Management prevented Lot 158 Motion about using public land for parking at AGM 2018 and 2019:
- Lot 202 DP848752 (land strip along SP52948 towards M2 motorway)
 440 Lane Cove Road
 Classified as Public Recreation Space towards M2 motorway
- Waratah Strata Management failed to notify owners corporation that Ryde Council made decision against public parking rezoning land four times as per SP52948 requests:
 - Ryde Council rejected request for resident parking scheme within Zone 5 in Fontenoy Road - 26th of November 2009.
 - Ryde Council rejected request to use public land for parking (EC meeting on 20th of July 2011).
 - Response from Ryde Council after inquiry about approval to use public land for parking in SP52948 on 26th of June 2015.
 - Response from Ryde Council after inquiry about approval to use public land for parking in SP52948 in April 2017.
 - Owners corporation first time opened gates towards M2 motorway council land in April 2015, without notification to owners corporation or decision made at any valid EC or AGM. In spite of warnings that it was illegal, owners corporation continued to keep the gate open until January 2016.

Owners corporation ignored the complaint to Ryde Council on 24th of May 2015.

- Waratah Strata Management provided undisclosed advice to EC members how to influence Ryde Council on 21st of April 2017 in revisited attempt to use public land:

I suggest that members of the committee approach the elected Councillors that are responsible for your area. Council staff will only follow Council policy, but the Councillors have the ability to push for changes to be made and need your votes to get re-elected. You could request the area be rezoned to suit your needs, or that you be permitted to lease the area on a peppercorn rent.

- Waratah Strata Management provided advice to EC members how to open gate on public land for parking without approval and avoid any responsibilities on 9th of August 2018:

I had a call about this today.. We have discussed reopening the gate to the land and back. Attached is the email we received from Council when we formally asked them about using that land for parking. They probably did not have any option but to respond with the official policy, but owners corporation representative said when he spoke with Council they really didn't want to know about it.

If we just open the gate so residents have access to use the land and they choose to park there, it is at their own risk. Owners corporation representative and I talked about putting signage about it being used for parking, but this would suggest the OC has approved it for parking, so I suggest no signage. If anyone asks the committee or owners corporation representative, the response would be the OC does not authorize parking there as it is Council land. Council can deal with the parking if they have a problem with it.

- Without owners corporation or Ryde Council approval, gate was opened towards council land M2 motorway noise barrier on 29th of October 2018 (just 10 day after the AGM where Waratah Strata Management prevented Lot 158 Motion about it).
- Lot 158 made number of inquiries and tried to engage owners corporation representative to stop such illegal activities:
 - Such use of public land increased risk of litigation, council penalties, insurance claims, noise, damage to public land and top cover of the soil, and security risks (stolen cars, abandoned cars - some of the cars were left there for two weeks at a time, cars from non-owners or tenants in the complex).
 - Who, and at which SSMA 2015 legally convened EC meeting, approved use of public land for parking?
 - Why did Waratah Strata Management not know who was parked on public land when Lot 158 asked?
 - When were owners and tenants publicly notified about use of public land for parking (via email, letters, and on ALL notice boards in the complex)?
 - Copy of the Rude Council approval to use public land for parking.
 - RE1 Public Recreation
 - 1 Objectives of zone
To enable land to be used for public open space or recreational purposes.
To provide a range of recreational settings and activities and compatible land uses.
To protect and enhance the natural environment for recreational purposes.
 - 2 Permitted without consent
Environmental protection works.
 - 3 Permitted with consent
Business identification signs; Community facilities; Environmental facilities; Kiosks; Recreation areas.
Recreation facilities (indoor); Recreation facilities (outdoor); Restaurants or cafes; Roads.
 - 4 Prohibited
Any development not specified in item 2 or 3.
 - Ryde Local Environmental Plan 2014 (Ryde LEP 2014) was notified on the NSW Legislation Website on the 12th of September 2014 and came into force on that date.
Ryde Local Environmental Plan 2014 applies to all land identified on the Ryde LEP 2014 Land Application Map.
Illegal parking includes vehicles parked contrary to parking regulation signage, or parking on council land (including the footpath and driveway crossovers).
Council is responsible for enforcement of parking regulations within the Local Government Area.
Rangers patrol on-street locations in CBDs and road reserve areas as well as Council and various shopping centre car parks.
Parking enforcement is necessary to ensure safe and convenient parking and encourage the adequate rotation of parking spaces for all users.
Police are also authorized to enforce parking regulations.

Council issue penalty notices to vehicles which are illegally parked. Illegal parking includes vehicles parked contrary to parking regulation signage, or parking on council land (including the footpath and driveway crossovers). These penalties are issued under the provisions of the NSW Road Rules 2014.

- In some documented cases by Lot 158, cars were parked on public land up to two weeks without moving.
- Lot 158 also recorded evidence of damaged top soil due to parking activities and owners corporation ignored it.
- On behalf of a group of concerned owners, Lot 158 logged an inquiry with Ryde Council on 28th of November 2018 where they confirmed no approval was given to SP52948 to open the gate towards public land.
- Lot 158 collected evidence that owners corporation organized move of one of the trees on public land to a different location around 15th of December 2018.
- Lot 158 sent email inquiry to Waratah Strata Management asking who had allowed unauthorised parking on council land towards M2 motorway noise barrier on 20th of December 2018. No reply was received.
- During late December 2018 and early 2019 Lot 158 collected evidence of long-term parking that affected owners corporation ability to mow the grass. No reply was received from Waratah Strata Management.
- On behalf of a group of concerned owners, Ryde Council opened an official case on 4th of January 2019.
- Follow-up requests by Lot 158 were sent to Waratah Strata Management on the following dates:

10th of February 2019

19th of March 2019

29th of April 2019

18th of June 2019

No reply was received from Waratah Strata Management.

- Under pressure and visits by Ryde Council staff, owners corporation finally closed the gate towards public land on 10th of March 2019.
- Waratah Strata Management provided misleading and misconstrued statements to owners in minutes of EC meeting on 21st of March 2019, using unreasonable and unjustified predictions:

Use of visitor parking spaces and Council parkland - It is noted that the owners of Lot 158 have lodged multiple complaints with Council about residents use of the Council parkland at the rear of the property for parking. As a result of those complaints Council are now preventing residents from using that area for parking. It is also noted that the Owners Corporation will no longer be permitted to maintain that parkland and that Council will only mow the area every 2 - 3 months, so the area is likely to become overgrown and attract mice, rats, snakes and other vermin.

Minutes of EC meeting on 21st of March 2019 were left on notice boards, including two notice boards near letterboxes outside the buildings, for viewing by all owners, visitors, contractors, and passers-by from 28th of March 2019 to 29th of April 2019.

- Lot 158 sent email to Waratah Strata Management on 29th of April 2019, in which they stated:

Without prejudice, you are requested to make public correction and apology to me in regards to the Minutes of the EC meeting allegedly held on 21 March 2019.

The fact is: we did not complain about parking, but reported ILLEGAL use of council land, as every ethical citizen should and would have done. ILLEGAL use is just that: ILLEGAL and cannot be condoned or supported.

Today, the mowing of grass on the council strip was done without any problems. Owners corporation representative staff opened the gate temporarily and closed after the work was completed.

We also note that the smoking near our bedroom near Fire Door 2 in the basement is continuing unabated and further evidence has been collected.

For other reported problems affecting Lot 158, most of them are still unattended, not responded to, and unresolved.

- In document search on 31st of May 2019, Lot 158 found further evidence of defamation.

- Owners corporation was mowing grass and maintaining public land towards M2 motorway between 1996 and March 2019, without any concerns, or complaints.
- Since March 2019, owners corporation is not maintaining grass on public land towards M2 motorway.

Waratah Strata Management were asked why they stopped doing it and if it was their decision to force Ryde Council to change their policies about parking:

- Parking on nature strips or footpaths is an offence as it is an inconvenience and a hazard.
- In oral communications with Ryde Council staff in period December 2018 to March 2019, it was confirmed that the council appreciated help from the public to maintain nature strips near properties.
- The council land is public property and may be maintained by the residents and owners on the adjacent land.
- Mowing the council grass is a 'goodwill' gesture by the residents and owners on the adjacent land.
- There is an implied consent by NSW councils to let owners and residents on the adjacent land to mow their grass.
- Owners and residents on the adjacent land who help mow council grass actually help with decreasing the cost and avoid higher council rates. It is an implied 'good citizen' duty.
- One must obtain permission from the council to undertake any works (except mowing) on the driveway, footpaths and nature strips outside the property. This includes driveway modifications, storage of materials such as skips bins and pruning, planting or replacing trees on your nature strip.
- Mowing of nature strips near residential properties is generally the responsibility of the owners and residents adjacent to council land.
- Where building work is proposed, owners and/or applicants are responsible for ensuring the street trees and grassed nature strip are protected during construction.
- Some councils even take drastic measures. For example, Council (Strathfield NSW) would mow the nature strip for an owner and then send them a bill:

<https://www.strathfield.nsw.gov.au/residents/trees/nature-strips/>

- Waratah Strata Management failed to respond to Lot 158 and inform the owners about actual events related to illegal parking on public land since March 2019.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners with relevant files throughout 2018, 2019, and 2020.

Motion: Ratify that committee members failed to refute and respond to official reports of lack of quorums with evidence since AGM 2012

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following events:

- Waratah Strata Management provided the following explanation to Lot 147 and 181 in email with subject "SP 52948 – AGM" on 12th of September 2017:
An owner is unfinancial if the owner has not paid all contributions levied on the owner that are due and payable, and any amounts recoverable from the owner, in relation to the lot. They are unfinancial if the amount was owing as at the date the meeting notice was issued and not paid before the meeting.
- Waratah Strata Management did not disclose to owners at AGM 2017, 2018, and 2019 that:
 - Strata levies must be paid even when receipt of levy notice is missing, as regulated by Fair Trading NSW.
 - Each owner and/or property manager needs to be aware of their owners corporation levy cycle.
 - If money is not received to the trust account at the end of one month after it is due and payable, it bears interest at the rate of 10% (as prescribed by the regulations) from the due date until it is paid.
 - Owners corporation may, by special resolution at general meeting, determine (either generally or in particular case) that a contribution is to bear no interest.
 - Strata manager does not have authority to waive the interest as it is not money owing to the strata manager.
 - The Courts have determined that non-receipt of a levy notice is not a sufficient reason for non-payment.
 - If a lot is sold and there are unpaid levies, then both the owner at the time the contributions were levied and the new owner are jointly and severally liable for the payment of the contribution and the interest payable.
 - If a lot is sold and there are unpaid levies, then both the owner at the time the contributions were levied and the new owner are jointly and severally liable for the payment of the contribution and the interest payable.

- Lot 158 sent emails to Waratah Strata Management and EC members on 7th and again on 25th of August 2017 documenting with evidence BCS Strata Management failures to declare lack of quorum for all Annual General and Extraordinary General Meetings in 2012, 2013, and 2014.
- Email to Waratah Strata Management on 19th of March 2019 was unanswered.
- Email to Waratah Strata Management on 27th of April 2019 was unanswered.
- Email to Waratah Strata Management on 18th of June 2019 was unanswered.
- Waratah Strata Management and committee declined to attend mediate at Fair Trading NSW in case 00351498 in March 2020.
- Waratah Strata Management and EC members never replied, declined to inform owners about these requests at EC meetings, and did not refute the allegations about lack of quorum for all Annual General and Extraordinary General Meetings since 2012.
- Email by Lot 158 through O'Brien Criminal & Civil Solicitors was sent to Secretary Mrs. Marianna Paltikian on 24th of April 2020 and not responded to yet.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners with relevant files throughout 2017, 2018, 2019, and 2020.

Motion: Ratify non-compliant ballot for EC members at AGM 2017

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following events:

- Waratah Strata Management allowed ballot papers to be counted as valid in spite of non-compliance with SSMA 2016, Section 10.
- Waratah Strata Management and EC members failed to make amendments of minutes of AGM 2017, 2018, and 2019 in spite of full explanations provided to them by Lot 158 that were never responded to or refuted with evidence.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners with relevant files throughout 2017, 2018, 2019, and 2020. Lot 158 uncovered evidence that invalid ballot papers were also used at AGM 2013 and AGM 2016. At AGM 2001, members of the committee decided to destroy ballot papers straight after the meeting.

Motion: Ratify Lot 158 prevented from submitting Motions through premeditated actions by Waratah Strata Management and Solicitor Adrian Mueller at AGM 2017

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following events:

- Solicitor Adrian Mueller, in advice given to Waratah Strata Management on 23rd of August 2017, provided template letter on how to ensure that Lot 158 Motions for AGM 2017 be excluded by simply delaying to respond to Lot 158 until the day of agenda being sent in October 2017 which would not give enough time for complaint by the owners and amendments of the notices for the general meeting.
- Waratah Strata Management used the template of the letter provided by Solicitor Adrian Mueller and sent it to Lot 158 on 10th of October 2017, excluding all Motions without legal grounds, and not giving enough time to Lot 158 to complain.
- Waratah Strata Management failed to inform owners about these actions.
- At AGM 2017, Waratah Strata Management failed to notify the owners that:
 - SSMA 2015, Section 19 defines the person chairing the meeting MAY rule a motion is out of order if: motion would conflict with the Act or by-laws, or would otherwise be unenforceable, or motion does not meet requirements of the Act.
 - The person chairing the meeting, when ruling a motion out of order must give reasons for the ruling; and state how the ruling may be reversed by the persons present and entitled to vote.
 - The persons present at the general meeting, who are entitled to vote, may by ordinary resolution disagree with the Chairperson and/or the Executive Committee and reverse the ruling. The reasons given by the Chairperson and/or Executive Committee must be recorded in the minutes of the meeting.
- Lot 158 found evidence of the premeditated plans by Solicitor Adrian Mueller and Waratah Strata Management during document search on 31st of May 2019.

Explanatory Notes

Lot 158 requested Waratah Strata Management provide owners with relevant files throughout 2017, 2018, and 2019.

Motion: Ratify events related to owners being prevented by Waratah Strata Management from voting on Lot 158 Motions at AGM 2018 and 2019

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following events:

- Solicitor Adrian Mueller, in letter sent to Waratah Strata Management on 23rd of August 2017 provided advice about Special By-Law for unreasonable communications with warning that such by-law was risky and weak if challenged in court.
- Solicitor Adrian Mueller, in letter sent to Waratah Strata Management on 23rd of August 2017 provided advice about Special By-Law for unreasonable communications and success in Tribunal proceedings could not be guaranteed.
- Solicitor Adrian Mueller, in letter sent to Waratah Strata Management on 23rd of August 2017 provided advice about Special By-Law for unreasonable communications and warned that owners corporation would have the fortitude to pursue the enforcement action in the Tribunal and incur the attendant cost to uphold the validity of the by-law.
- Lot 200, in email to Waratah Strata Management and EC members on 5th of October 2017 suggested that unreasonable communications by-law should be amended to state that Secretary and strata manager were required to respond to current owner of Lot 158 only for matters directly related to Lot 158 and did not have to respond to any other communications.

- Handwritten notes by Waratah Strata Management about Lot 150 Motions for AGM 2018:

Points to discuss **LOT 150 MOTIONS**
2018

- ① 2017 83 Pages of motions
All but 3 rejected on legal advice
- ② 2018 61 Pages of motions
At least half are repeats from 2017
- ③ Muellers have rejected 25-28/49 motions
Hed to include all on agenda because
would not provide in Word format to
allow to be include only as stated by mueller
- ④ Option 1 - Unreasonable Comm. By-law
Reject all in accordance due to breach
of this by-law
- ⑤ Option 2 - Discuss a vote on each
motion individually (2-3 hours?)
- ⑥ Option 3 - Vote on all as a block.
- ⑦ Legal Action - Discuss Deed of Settlement
3 Adjudication Applications 2011-2014
3 CTTT Appeals
District Court Appeal All lost
Ordered to pay \$17,700 costs to OC
Dusan agreed to cease all claims in
relation to all applications

See Copy By 14 Over

- Minutes of AGM 2018 listed the following statements:

LOT 158 MOTIONS MUELLERS LEGAL ADVICE

The advice of JS Muellers Solicitors on the Lot 158 motions were tabled at the meeting. The strata manager advised that co-owner of Lot 158 had between 2011 and 2014 lodged 3 separate Adjudication applications against the Owners Corporation, which were all lost by Lot 158; had lodged 3 Consumer Trader Tenancy Tribunal (CTTT) applications appealing the Adjudication decisions, which were all lost by Lot 158; had lodged a District Court application appealing the CTTT decision, which was withdrawn by Lot 158, and then entered into a Deed of Settlement with the Owners Corporation agreeing to cease any further proceedings and to pay the Owners Corporation \$17,700 of its costs, in addition to an earlier \$8,800 costs order from CTTT. It was discussed whether to seek legal advice to determine whether Lot 158 is in breach of that Deed of Settlement by continuing to publicly distribute serious allegations against the Owners Corporation, past and present members of the strata committee, its past and present strata managing agents, and past and present employees of the strata managing agents. Co-owner of Lot 158, committed to cease all correspondence from Lot 158 to the Owners Corporation, the strata committee, lot owners and the strata managing agents unless it is an issue directly affecting Lot 158. Resolved that legal advice on the above issues is not to be commenced at this time, however the strata committee are authorised to seek legal advice at any time should the owners of Lot 158 breach the commitment to cease all correspondence unless it is an issue directly affecting Lot 158.

- One week after the AGM 2018, Police Event E69860959 dated 26th of November 2018 was raised for attempt to intimidate female owner of Lot 158.
- One month later, Police Event E265804296 dated 14th of November 2018 was raised for attempt to intimidate, harass, and stalk Lot 158 whilst collecting video and photo evidence of neglect of complex maintenance and fire safety issues.
- Waratah Strata Management used the unreasonable communications Special By-Law (which was approved at AGM 2017 without quorum), excluding all Lot 158 Motions at AGM 2018 and 2019.
- At AGM 2018 and 2019, Waratah Strata Management failed to notify the owners that:
 - The Strata Schemes Management Act 2015, Section 19 defines the person chairing the meeting MAY rule a motion is out of order if: motion would conflict with the Act (SSMA 2015) or by-laws, or would otherwise be unenforceable, or motion does not meet requirements of the Act.
 - The person chairing the meeting, when ruling a motion out of order must give reasons for the ruling; and state how the ruling may be reversed by the persons present and entitled to vote.
 - The persons present at the general meeting, who are entitled to vote, may by ordinary resolution disagree with the Chairperson and/or the Executive Committee and reverse the ruling. The reasons given by the Chairperson and/or Executive Committee must be recorded in the minutes of the meeting.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners with relevant files throughout 2017, 2018, 2019, and 2020.

Motion: Ratify the events related to lost USB key with strata files for all periods before 1st of February 2017

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

- BCS Strata Management sent USB key to Waratah Strata Management with all strata files on 1st of February 2017.
- Waratah Strata Management notified Lot 158 that they had completed loading the strata records on their computer systems and were able to discuss outstanding issues and correspondence on 9th of February 2017.
- Lot 158 made multiple copies of the USB key during document search on 13th of June 2017.
- Waratah Strata Management provided USB key to Police who were investigating Fraud Report E65804633 on 5th of April 2018.

- Since around June 2018, Waratah Strata Management was aware that the Police lost the USB key and could not return it.
- Waratah Strata Management and the Police made number of attempts to engage BCS Strata Management to provide additional copy of the USB key that had been sent to Waratah Strata Management on 1st of February 2017 originally.
- At AGM 2018 Waratah Strata Management failed to disclose to owners that all strata files on USB key were lost.
- Before AGM 2018, or at any time before and after the event, current strata records show that Waratah Strata Management failed to notify the auditors about loss of USB key.
- Before AGM 2018, or at any time before and after the event, current strata records show that Waratah Strata Management failed to notify Australian Taxation Office about loss of USB key.
- At AGM 2018 Waratah Strata Management failed to inform owners that Lot 158 has copies of the USB key with strata files which they obtained through paid document search on 13th of June 2017.
- At AGM 2018 Waratah Strata Management failed to inform owners that Lot 158 offered free access to secure web site with strata files in 2018, which Mr. Robert Crosbie declined.
- Waratah Strata Management notified owners about lost USB key 10 months after the event, on 12th of March 2019, after another alleged loss of strata files due to ransomware attack in early February 2019.
- Waratah Strata Management failed to respond to Lot 158 who questioned events in relation to USB key and data losses on:
 - 14th of July 2019
 - 10th of August 2019
 - 27th of March 2020 (sent to Secretary Mrs. Marianna Paltikian)

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to provide owners with relevant files throughout 2018, 2019, and 2020.

Motion: Ratify the following events Lot 158 document searches at BCS Strata Management and Waratah Strata Management

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

- Lot 158 was repeatedly prevented access to strata files and given only limited number of files in paid document searches on:
 - 12th of November 2012
 - 8th of March 2013
 - 17th of October 2013
 - 17th of November 2014
 - 29th of March 2015
 - 18th of December 2015
 - 13th of June 2017
 - 31st of May 2019
 - 20th of September 2019
- Lot 158 was legal member of the committee in the following years due to some owners being unfinancial to be on the committee. Latest email was sent to Waratah Strata Management on 15th of February 2020:

SUMMARY: Lot 158 legal member of the EC and overpaid document searches

It is noted that owners corporation representatives and EC members failed to make amends to avoid legal costs and provide any details of alleged defamation.

In the same manner, owners corporation representatives and EC members continued to operate in such way that does not benefit owners corporation and Lot 158.

The evidence of many attempts Lot 158 made to settle out of court is voluminous.

Some of (many) elements that now needs immediate attention is as follows:

a) Based on comprehensive evidence, Lot 158 was/is a valid member of the Executive Committee in the following years due to the following owners not declaring second gas connection and not paying prescribed levies (including 10% simple interest for overdue levies per year):

FY 2013, two unfinancial members on the committee: Lot 147, Lot 181 (total number of candidates: 10, selected 9, two not valid, hence Lot 158 should have been automatically elected on 17 October 2012)

FY 2015, two unfinancial members on the committee: Lot 147, Lot 181 (total number of candidates: 10, selected 9, two not valid, hence Lot 158 should have been automatically elected on 26 November 2014)

FY 2018, three unfinancial members on the committee: Lot 88, Lot 147, Lot 181 (total number of candidates: 11, selected 9, three not valid, hence Lot 158 should have been automatically elected on 18 October 2017)

FY 2019, three unfinancial members on the committee: Lot 88, Lot 147, Lot 181 (total number of candidates: 10, selected 9, three not valid, hence Lot 158 should have been automatically elected on 17 October 2018)

FY 2020, three unfinancial members on the committee: Lot 88, Lot 147, Lot 181 (total number of candidates: 10, selected 9, three not valid, hence Lot 158 should have been automatically elected)

b) Lot 158 conducted number of document searches since 2012. For the financial years Lot 158 was a legal member of the Executive Committee, SP52948 illegally charged for the access to files. That should have been free-of-charge.

12 November 2012

17 October 2013

31 May 2019

20 September 2019

It is requested to reimburse Lot 158 immediately. If Waratah Strata Management does not have copies of payments and invoices, they need to provide written statement that they do not have them, and at such point in time Lot 158 can provide them.

c) For document searches at Waratah Strata Management office on 31 May 2019 and 20 September 2019, Waratah Strata Management failed to satisfy requirements of SSMA 2015 Section 59, 61, and 62.

d) By preventing or not providing proper access to Lot 158 viewing strata files, Waratah Strata Management directly influenced Police and other investigations so far.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to provide owners with relevant files throughout 2017, 2018, 2019, and 2020.

Motion: Ratify major events related to gas heating levies

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

- AGM held on 19th of February 1998 adopted Special By-Law 2 which strictly disallowed any addition to common property within the lots without prior written approval.
- Minutes of EC meeting on 21th July 1999 set annual fee of \$200.00 for gas heating connection in Item 13.
- Minutes of EC meeting on 17th November 1999 in Item 13 (f) confirmed levies for the second gas connection in amount of \$200.00 per annum applied to units in buildings and townhouses and payable in advance in December of the current financial year and be subject to annual review.

Two members of the committee had gas heating at the time: Lot 62 (Mr. Upali Aranwela) and Lot 181 (Mr. Stan Pogorelsky).

- Minutes of AGM on 29th of September 1999 were found and scanned during document search on 12th of November 2012 and confirmed in all other document searches at BCS Strata Management in Minute Book on pages 128, 129, and 130.

Minutes of AGM on 29th of September 1999 were found and scanned during document search on 20th of September 2019 at Waratah Strata Management in Minute Book on pages 137, 138, and 139.

Minute Book at Waratah Strata Management was tampered with and changed from the original that BCS Strata Management created.

- Minutes of the EC meeting held on 19th of January 2000 in Item 3 (c) contained motion for notice to be sent to all owners in regards to gas heating in units and townhouses. Owners never received such notice.

Two members of the committee had gas heating at the time: Lot 62 (Mr. Upali Aranwela) and Lot 181 (Mr. Stan Pogorelsky).

- Minutes of EC meeting on 22nd of March 2000 in Item 4 (b) listed the following planned actions for gas heating in units and townhouses:

Enquiries to be made into the cost of installing individual meters for each unit.

Details of the current quarterly gas contributions for each building to be provided to the committee members.

Strata manager advised that the major portion of the gas bill related to pool heating.

Two members of the committee had gas heating at the time: Lot 62 (Mr. Upali Aranwela) and Lot 181 (Mr. Stan Pogorelsky).

- EGM on 21st of May 2000 failed due to lack of quorum and failed to introduce GST. This was found and scanned during document search on 12th of November 2012 and confirmed in all other document searches at BCS Strata Management in Minute Book on page 165.
- Minutes of EGM on 23rd of August 2000 were found and scanned during document search on 12th of November 2012 and confirmed in all other document searches at BCS Strata Management in Minute Book on pages 166 and 167, which naturally followed the pattern of page 165 for EGM on 21st of May 2000.
- Owners corporation obtained Boundary Determination about pergolas being common property from Land & Property NSW on 27th of July 2000.
- During document search at Waratah Strata Management on 20th of September 2019, Minutes of EC meeting on 2nd of August 2000 were found, which did not exist in any previous document search.

Agenda for this meeting and minutes were never sent to any owner. Minutes contained the following statement in Item 2 (a):

It was noted that minutes should be produced and distributed by the managing agent and only referred to the various members at the following committee meeting for their approval.

In Item 3 (b), the following was reported:

Discussion also ensued the annual fee that should be payable by unit occupiers that have a gas fire installed and it was resolved at this stage that an amount of \$50.00 per annum is to be charged to such unit occupiers.

The same page of the Minutes also contained handwritten note by Waratah Strata Management on yellow sticker:

\$50.00

Next changed 17/10/12 to \$200 + GST P.A.

EC meeting on 2nd of August 2000 did not comply with SSMA 1996 regulations.

Two members of the committee had gas heating at the time: Lot 62 (Mr. Upali Aranwela) and Lot 181 (Mr. Stan Pogorelsky).

- During document search at Waratah Strata Management on 20th of September 2019, a letter was found dated 7th of August 2000 without details of which owners it was sent to:

The committee has resolved that an annual fee of \$50.00 is to be charged to any unit owners with a gas heater to cover the cost of additional gas used.

We attach an invoice for a two year period through until the 31 August 2001 and await your cheque in settlement.

This letter was not found in any previous document search since 12th of November 2012.

- The letter dated 7th of August 2000 claimed to have attached the invoice, which Lot 158 found in document search at Waratah Strata Management on 20th of September 2019. The invoice was dated 8th of August 2000, not 7th of August 2000 and also did not contain the details of which owners it was sent to:

In respect to gas used for heating purposes for the period 1 September 1999 to 31 August 2001.

Amount payable \$100.00

The invoice failed to charge \$200.00 for period 1st of September 1999 to 31st of August 2000 that was supposed to be invoiced in December 1999 and then failed to apply 10% simple interest per year.

The invoice failed to add 10% GST that applied from 1st of July 2000.

This invoice was not found in any previous document search since 12th of November 2012.

- AGM on 5th of October 2000 introduced special levies in amount of \$100,000.00 to improve status of Sinking Fund payable in four instalments.
- The annual review of the levies for the gas heating connection and disclosure of conflict of interest when it applied to members of the EC never happened in spite of decision at EC meeting on 17th November 1999 in Item 13 (f).
- AGM 2012 rushed to introduce Special By-Law for gas heating levies without full disclosure of events and allowed unfinancial owners to vote. Of special interest were the following owners who acted as members of the committee at different times:

Lot 3
Lot 62
Lot 147
Lot 181

Lot 158 repeatedly asked for evidence that the meeting satisfied quorum.

- Secret email between BCS Strata Management and two EC members on 23rd of October 2012 showed their intention to delay registration of the Special By-Law.
- Complaint by owner of Lot 88 on 27th of March 2013 expressed frustration that the proposed by-law did not have defined levies.
- BCS Strata Management confirmed to Lot 59 that their new gas installation connection would incur quarterly billing based on capacity/rating of the gas heater on 11th of April 2013.
- Based on validity of meetings, levies for second gas connection until EC meeting on 6th May 2013 when the Special By-Law 12 was registered, were at \$200.00 plus GST per year.
- Special By-Law 12 was registered on 6th of May 2013 did not specify the amount payable for the gas heating levies. The by-law imposed retrospective levies on units found to have such connection without permission, and applying charges at absolute discretion of owners corporation acting reasonably.

The by-law also required that only confirmation from a licensed gas fitter can remove the levy.

The by-law stated that this was a slight change in previous policy applied where voluntary reporting of gas appliances had been accepted and the annual fee had remained fixed for many years. The fee was now too low and some measures were necessary to deal with undisclosed use of common gas supply.

- Minutes of EC meeting on 28th August 2013 (directly benefiting several EC members without disclosure of personal interests) set applicable gas levies to \$55.00 per year.

- Agenda for AGM 2013 listed intention to set the following levies for gas heating:

\$75.00 per quarter for one-bedroom unit
 \$100.00 per quarter for two and three-bedroom units
 The charges would be reassessed annually.

This plan was never implemented.

- Minutes of the EC meeting on 27th of November 2013 set applicable second gas connection levies to \$220.00 per annum.

- Agenda for AGM 2014 sent the following warning to owners in November 2014:

The by-law relating to annual charges for gas heating passed at AGM in 2013 was implemented by requesting owners to voluntarily disclose their use of the common property cooking gas system for heating appliances. The disclosure rate was lower than expected and therefore new inspections will be required and owners who have not voluntarily disclosed the usage can expect to be retrospectively charged with interest. Current fees are \$50 per quarter.

- Letter from BCS Strata Management sent to owners on 14th 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.

- Secret report dated 13th May 2014 listed 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 62, 147, 181

BCS Strata Management failed to disclose this report to owners.

- After poor self-reporting, EC members instructed BCS Strata Management to run follow-up on 15th of May 2014. Few more owners replied:

Lot 127, 134, 148, 167, 182

- BCS Strata Management issued another warning to owners about voluntary reporting of gas heating connections on 30th of June 2014.

- EC meeting on 4th of March 2015 reported that BCS Strata Management was instructed to reinstitute the quarterly billing for gas heating which had been omitted for two quarters.

Lot owners who had voluntarily disclosed the use of common gas supply for room heating were to be charged at the rate then applying for each year of past use.

Interest charges were to be levied on owners found to have been using gas for heating, without paying for the supply.

- EC Member, Lot 181, issued secret and undisclosed request to BCS Strata Management on 10th of June 2015, confirming that BCS Strata Management had neglected to raise invoices, and asking for them as a matter of urgency.

- BCS Strata Management exchanged several emails with Lot 181 between 19th of June 2015 and 17th of July 2015.

BCS planned to charge Lot 3 and 181 \$55.00 (GST inclusive) per quarter from 1st of November 2015.

- Lot 181 sent his own calculation about gas heating levy arrears to BCS Strata Management on 10th of June 2015. His calculation listed \$311.66 owing for all periods up to 31st of October 2015 and confirmed that he did not pay any gas heating levies in 2012 and 2013.

- BCS Strata Management sent invoice to Lot 3 for gas heating usage for period 1st of September 2000 to 31st of October 2015 in amount of \$1,085.00 on 17th of July 2015 although Lot 181 confirmed in his email to BCS Strata management that Lot 3 had such connection since they moved into the complex.

- Building manager conducted incomplete audit of gas heating connections on 21st of March 2016 which found 13 owners:

Lot 3, 59, 62, 68, 102, 127, 144, 147, 148, 163, 167, 181, 182

- Lot 147 complained about poorly managed invoices for gas heating to BCS Strata Management on 16th of August 2016. This is an extract of email exchange between BCS Strata Management staff:

Example: lot 147 has been charged:

General Debtor Invoices:

2012, 2013 (in one charge as we were back charging for missed invoices & 01/09/15 â€” 31/08/16.

Charged to the lot:

01/09/2010 â€” 31/08/2011

01/09/2014 â€” 31/08/2015

With the information we have on system, my advice would be to leave the charges as they are and if owners are arguing that they have already paid, we can do an audit of the lot and GD accounts as they come up, (the same as we have done for this lot)

In this case, we have no evidence to show we have invoiced the owner twice, either way, all funds they have transferred are accounted for and allocated to the lot, so no refund would be required.

Does this make sense?

- Without disclosure to owners, BCS Strata Management was ordered to suppress gas heating charges on 22nd of July 2016 until the committee discussed it.
- BCS Strata Management issued invoices in amount of \$110.00 payable on 1st of August 2016 for gas heating in 2012 and 2013 to the following owners, without charging correct amounts and not including 10% simple interest per each year:

Lot 3, 59, 62, 68, 102, 127, 144, 147, 148, 163, 167, 181, 182

- On 9th of January 2017, even before they took office, Waratah Strata Management stated to Lot 158 they were not interested in dealing with old unresolved issues.
- On 11th of January 2017, Waratah Strata Management repeated similar intention: not to deal with old problems.
- Waratah Strata Management provided the following listing of 18 owners with gas heating connection in minutes of EC meeting on 16th of March 2017 with intention to issue invoice in amount of \$220.00 (GST inclusive) in May that year:

Lot 3, 8, 59, 62, 68, 102, 127, 144, 147, 148, 163, 167, 181, 182, 194, 199, 206, 209

- Email exchange between Lot 209 and Waratah Strata Management on 10th and 12th of April 2017 confirmed that townhouse owner had gas heating connection but stopped claiming reimbursements in 2014. Waratah Strata Management failed to inform owner about it:

Hello Robert,

Thank for your reply. My records show the last gas rebate for townhouse 209 ended 2.5 years ago on the 25 September 2014 . Since then new tenancy arrangement have been in place where the incumbent tenant pays for full gas charges.

I hope this helps and it may also save you time in doing a manual check of the past strata managers records.

SP 52948

1-15 FONTENOY ROAD

MACQUARIE PARK

ADDITIONAL GAS POINTS

The following units have additional gas points installed:

Lots 3, 8, 59, 62, 68, 102, 127, 144, 147, 148, 163, 167, 181, 182, 194,
199, 206, 209. *Lot 209 cancelled*

No gas usage being claimed
A charge of \$220 incl. GST per annum for gas usage for the period of
1 September to 31 August each year (SP FY) is to be invoiced and
payable as at 1 May each year.

- Waratah Strata Management and the committee members worked on secret rebuttal of Lot 158 claims on 19th and 25th of June 2020 and could not document the date when the alleged gas heating levies were decreased to \$50.00:

Rebuttal of Comments by [redacted] *[in italics]*

19 June 2017

Extracts for discussion

I tried to reason with the EC members and two strata agencies (BCS Strata Management and Waratah Strata Management) very hard, to no avail. Since they refuse to share evidence with you, for purely personal benefits, I am forced to do it myself.

DB has not attended any EC meeting to 'reason' with anyone – nor has he attended AGMs. All he has presented are written diatribes. He was invited to meet with the Chairman and 2 EC members to discuss matters of concern but he rejected their overture.

Owners are not told that most of actions to improve the complex in accordance with the laws are forced by me.

Utter rubbish. BD would like to think so. All work undertaken by the EC has been on a planned, considered and cost effective manner.

Based on hard evidence that I obtained on 13 June 2017, I can announce herewith that our strata plan SP52948 has not had legally valid full-membership Executive Committee for at least 17 years! It is due to fact that many of them did not pay, to this day, proper levies for second gas connection.

EC members were not in arrears with any accounts at the time of the elections.

It took me six years to prove it. ????

Special By-Law 4, giving exclusive rights to common property to EC Secretary, is still not published and is effectively hidden from all owners and investors for 14 years!

By-Laws have been available subsequent to the meetings on which they were passed.

My priority is to prevent further loss from common funds, and enforce reimbursements from all parties that own money to us with standard 10% interest. The reason why these (and many other losses) happened are simple: lack of transparency, lack of duty of care, and lack of access to all strata files for owners.

I ask you, honourable owners with same vested interests to protect your investment and hard-earned money, to support me in effort to replace current executive committee and form a new one immediately. Everybody with wish to avoid special levies, and ensure proper management of the complex, is welcome.

To date DB has cost the OC substantial amounts legal fees in countering his accusations, including increased insurance costs for legal fees.

If you do not object, I intend to call Extraordinary General Meeting immediately. The affairs and conduct of the last general meeting give strong reasons for it.

There is a cost associated with calling an EGM. Why has DB not attended the last 2 AGMs to air his complaints? He and his wife walked out of an AGM when they were ridiculed for their comments.

There is an effort from Secretary of the EC (Lot 3) to change sliding door direction (that is common property) and requires decision at general meeting.

This is an Invasion of Privacy. The owner of Lot 3 made an enquiry, on which they still hav

We also should vote for new elevator contract and not allow disasters with contracts like in the past.

In period from 21 July 1999 (EC meeting) till 6 May 2013 when the Special By-Law 12 was registered, the levies were struck at \$200.00 per year, without owners corporation approval or ratification at any general meeting.

Did not require OC approval

In period since 6 May 2013, when the Special By-Law was registered through false statements to owners corporation, the applicable gas levies were \$50.00 per year, without owners corporation approval or ratification at any general meeting.

At EC meeting held on 16 March 2017, the gas levies were increased to \$220.00 per year.

Incorrect. They were increased in 2014 subsequent to a report prepared by ML in November 2013.

Current EC members Mrs. Lorna Zelenzuk (Secretary of the EC), Mr. Moses Levitt, Mrs. Marian Paltikian, and Mr. Stan Pogorelsky (Chairperson of the EC) failed to declare the special interest in changing the levies for the second gas connection:

Levies increased – hardly in favour of relevant EC members.

> In period from 21 July 1999 (EC meeting) till 6 May 2013 when the

> Special By-Law 12 was registered, the levies were struck at \$200.00

> per year, without owners corporation approval or ratification at any general meeting.

Subsequently reduced to \$55.00 – date unknown but in use when ML applied to have a gas connection in 2001.

Rebuttal of Comments by [redacted] *[in italics]*

25 June 2017

One has to go through the attachments, all 120 pages, to follow his convoluted mind.

Some references

17/65; 19/65; 20/65; 29/65; 56/65; 62/65??; 65/65??

Cease and desist letter Require date + details for each item

- Minutes of EC meeting on 20th of July 2017 stated the following:

The historical charges to lot owners for additional gas points was discussed. The strata manager advised that a thorough review of the BCS records has been carried out, including a request for further information from BCS, and it is still not possible to accurately confirm the amounts that have been charged to and paid by the respective lot owners. It is the view of the strata committee that the cost of carrying out a forensic audit of the strata accounts over many years would far exceed the amount of any unpaid additional gas charges and therefore the cost of this exercise could not be justified. Resolved that a motion is to be included on the Annual General Meeting agenda to allow owners to vote on whether a forensic audit of the gas charges is to be carried out or whether it will be deemed that all gas charges are paid up to date. (Note: In the accounts provided by BCS at the change of strata manager they indicate General Debtors in relation to gas charges totalling \$1,411.66, of which only \$91.66 relates to strata committee members. The committee do not believe this information is accurate but have deferred this decision to be made at the AGM so there is no question of a conflict of interest by the committee.)

The issue of gas supply and gas usage charges was also discussed. Waratah Strata Management were previously instructed to only reimburse gas usage and not gas supply charges. It has been raised by various owners that this is inconsistent with what previously occurred and amended Special By-Law 13. It was discussed that the unit owners only pay a supply charge for the gas used for hot water and not cooking, and that the townhouse owners should therefore also not pay the supply charges for their gas used for cooking. Resolved that the townhouse owners are to be reimbursed the gas supply and gas usage charges. Waratah Strata are to reimburse owners the gas supply charges on any previously claimed expenses as part of the next reimbursement paid.

This Motion was not listed in agenda for AGM 2017 and 2018.

- Email from Lot 147 to Lot 181 on 16th of July 2017, showing lack of knowledge and understanding of CHU Insurance payments for Solicitor Adrian Mueller legal costs:

I was concerned about DB's claim that he had never paid the \$8,800.00 and only \$26,500.00 so I contacted previous EC member this morning to clarify exactly what was included in the amount awarded to OC. It appears that the \$8,800.00 could be assessed as part of \$26,500.00 awarded to the OC. I requested he confirm his comments to me which is hereunder. It also expands the comments in his email dated ... [I think you sent to me but cannot locate]. So it appears that DB is correct that he made no payment of \$8,800.00.

Hence the payment made to the insurer was incorrect and Robert should advise them of these facts and request we be reimbursed.

- Email from Lot 147 to Waratah Strata Management on 17th of July 2017 about CHU Insurance payments for Solicitor Adrian Mueller legal costs, providing wrong instruction:

Subsequent to the OC paying \$8,800.00 to CHU DB, in his email referring to the CHU Insurance Claim between 25 March 2017 and 5 April 2017, has claimed he did not pay \$8,800.00.

I have determined that this is correct and per the comment from previous EC member below. The \$8,800.00 was assessed as part of the overall penalty of \$26,500.00 paid by DB.

Would you please advise CHU accordingly and request a refund of the amount of \$8,800.00 from them – they did receive the amount of \$26,500.00.

This clarifies why we cannot trace that amount in the documents from BCS.

- Extracts from letter sent to owners by Waratah Strata Management and committee members on 21st of July 2017:

Gas heating connections

The historical charges to lot owners for additional gas points was discussed at the recent SC meeting. The strata manager advised that a thorough review of the BCS Strata Management records has been carried out, including a request for further information from BCS, and it is still not possible to accurately confirm the amounts that have been charged to and paid by the respective lot owners. It is the view of the strata committee that the cost of carrying out a forensic audit of the strata accounts over many years would far exceed the amount of any unpaid additional gas charges and therefore the cost of this exercise could not be justified. It was decided that a motion is to be included on the Annual General Meeting agenda to allow owners to vote on whether a forensic audit of the gas charges is to be carried out or whether it will be deemed that all gas charges are paid up to date. In the accounts provided by BCS at the change of strata manager they indicate General Debtors in relation to gas charges totaling \$1,109.23, of which none relates to strata committee members. The committee do not believe the BCS information is accurate but have deferred this decision to be made at the AGM so there is no question of a conflict of interest by the committee members.

Legality of Committee members

DB has made accusations that members of the SC have a conflict of interest when voting on matters of a financial nature. This is an absurdity. Of course the SC members have a financial interest in the building - that is why they are on the committee! To suggest that committee members cannot make an impartial decision that is in the best interests of the OC just because they also have a personal financial interest in the outcome of those decisions is offensive.

The committee cannot stop DB sending you his correspondence, but you can instruct him to stop sending you his emails. You are encouraged to ignore his misinformed, inaccurate and twisted version of events. If you have any personal concerns about the management of the property, please send them directly to Waratah Strata Management, who will raise them with the strata committee, so you can be provided with accurate information in response.

Correspondence such as that being distributed by DB has a serious impact on the harmony within the property and the value of your units. Any prospective purchaser of a unit within the building will carry out an inspection of the strata books and records. When those records disclose serious disharmony, many owners may choose not to purchase a unit in your building, reducing the competition from buyers and the price achieved.

From S Pogorelsky, owner of Unit 181, and member of the Strata Committee.

I refer you to Mr M Levitt's letter concerning [redacted] email of the [redacted]

Response by Lorna Zelunzuk to allegations made by [redacted] (DB).

While I do not believe that I should have to defend myself against allegations made by DB, I believe my right to privacy has been violated, some facts relating to myself have been misrepresented and others totally false.

1. Membership of EC Committee

- DB has failed to advise owners that he too was a member of the EC for some 10 years. Many of his allegations of inappropriate management of the Strata relate to years that he was a member of the EC.
- I was a member (and President of the Owners Corporate) for a short period prior to 1999 and only rejoined the committee approximately 6 months prior to the previous AGM (October 2016). Some of DB's allegations against me refer to the period that I was not on the EC and are therefore not valid.

2. Gas Levies

- All invoices issued to me in relation to gas levies have been paid.
- I take exception to the circulation of personal financial information to the wider Macquarie Gardens community about what I allegedly owe or do not owe to the Strata.
- DB alleges there was a conflict of interest in striking an increase of the gas levy by EC members as some of the EC members have a gas connection. This is false. A conflict of interest would only occur if the levies were reduced. In this case the gas levy was increased.

3. Special By Law #4

- The allegation that this by-law has been hidden is false. By-Law #4 appears in the list of Macquarie Gardens By-Laws.

From M Levitt, owner Unit 147, and member of the Strata Committee

On 16 July 2017 Mr [unit 158] emailed:-

Based on all available documents and minutes of meetings, so far the conclusion that can be reached with reasonable level of confidence is that the four EC members alone (Mrs. Lorna Zelenzuk Lot 3, Mr. Upali Aranwela Lot 62, Mr. Moses Levitt Lot 147, and Mr. Stan Pogorelsky Lot 181) owe to owners corporation around \$10,000.00 (plus 10% interest applied in each year) in UNPAID GAS LEVIES for the period of at least 15 years. It also means they were UNFINANCIAL and could not make any decisions at general meetings.

[DB] has accused me previously in numerous emails of not having paid gas levies by extracting private invoices from Strata Records out of context. He has not bothered to show correspondence proving payment – why? He has also extracted data including voting papers pertaining to me from the Strata Records as attachments to his emails. Whilst this data is accessible to owners such data is not for publication and is a breach of privacy. Has any owner accessing Strata Records the right to publish extracted confidential information in any manner?

For the record I applied to the EC prior to installing a second gas connection, which was approved. From that date I was invoiced and have paid all accounts, including for the period 2012-2013 - which BCS invoiced late. All payments have been verified. All invoices received were paid timeously.

His calculation of \$10,000 owing is absolute rubbish as one can calculate that from the 15 years 2000 to 2014 had the four owners above paid $(13 \times \$50 = \$650) + (2 \times \$200 = \$400) = \text{Total of } \$1,050$, then the maximum could be $4 \times \$1,050 = \$4,200$. As I, and presumably others named, have paid, his comments are false and libellous.

This is indicative of the absolutely absurd numbers DB has over the years been dreaming up, that monies amounting to millions of dollars being owed or overspent. He continuously accuses Strata Committee members of fraud and secret machinations, belittling their efforts to maintain the high standard for the complex at minimal cost to owners which is evident in the current work being done.

- Handwritten notes taken by Waratah Strata Management at EC meeting on 20th of July 2017 show a different plan:
Gas charges – To include motion or AGM agenda that cost of auditing accounts to verify gas charges would be far greater than any income OC may receive. No further action to be taken in regards to investigating or collecting any unpaid charges.
- Lot 147 and 181 were fully aware of consequences of being an unfinancial owner through email that Waratah Strata Management sent to them on 12th of October 2017:

Stan & Mo,

As discussed yesterday:

Unfinancial Owners:

An owner is unfinancial if the owner has not paid all contributions levied on the owner that are due and payable, and any amounts recoverable from the owner, in relation to the lot. They are unfinancial if the amount was owing as at the date the meeting notice was issued and not paid before the meeting.

Levy Increase:

I suggest the discussion on the levy increase should not look at the increase from one financial year to another due to there being 3 quarters from one budget and one quarter from the previous budget, but should just look at the increase from one levy year to the next. This is what matters most to the owners – how much will the levy go up from one quarter to the next.

A summary of the figures incl. GST is as follows:

	2016-2017	2017-2018	Difference
AF	\$ 869,000	\$ 830,170	-4.6%
CWF	<u>\$ 275,000</u>	<u>\$ 324,500</u>	+18%
Total	\$1,144,000	\$1,154,700	+0.93%

- Secretary of the EC and acting Chairperson Mr. Robert Crosbie failed to include Lot 158 Motion “Retrospective payments into common funds as per Special By-Law 12 Control of common gas supply” at AGM 2017 and 2018 and declare conflict of interest by EC members, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- During document search at Waratah Strata Management on 31st of May 2019 the following listing of owners with second gas connection was found:

Lot 3, 8, 59, 62, 68, 102, 127, 147, 148, 163, 181, 182, 194, 198, 199, 206, 213

The following units have **additional gas heating points** installed and are to be charged the “Additional Gas Point Fee”:

Lots 3, 8, 59, 62, 68, 102, 127, 147, 148, 163, 181, 182.

A charge of \$220 incl. GST per annum for gas usage for the period of 1 September to 31 August each year (SP FY) is to be invoiced and payable as at 1 May each year for that period.

The following townhouses are entitled to claim for **gas usage** charges:

195, 196, 197, 198, 200, 201, 202, 203, 204, 205, 207, 208, 209, 210, 211, 212, 214, 215, 216, 217, 218, 219.

Lots 194, 198, 199, 206 & 213 cannot claim for gas usage as they have an additional gas point (heating or hot water) and are not to be charged the Additional Gas Point Fee.

Lot 213 has removed gas cooking so cannot claim for gas usage.

Townhouses 194 – 219 can claim for **water usage**.

This summary was not provided by Waratah Strata Management to owners.

- During document search at Waratah Strata Management on 20th of September 2019 the following listing of owners with second gas connection was found:

Lot 3, 59, 62, 68, 102, 127, 147, 148, 162, 163, 181, 182, 194, 198, 199, 206, 213

The following units have additional gas heating points installed and are to be charged the "Additional Gas Point Fee":

Lots 3, 59, 62, 68, 102, 127, 147, 148, 162, 163, 181, 182.

(Note: Lot 8 disconnected 16/4/19 – charged pro-rata year.)

(Note: Lot 162 connected additional gas point 30/5/19 – charged pro-rata year.)

A charge of \$220 incl. GST per annum for gas usage for the period of 1 September to 31 August each year (SP FY) is to be invoiced and payable as at 1 May each year for that period.

The following townhouses are entitled to claim for gas usage charges:

195, 196, 197, 198, 200, 201, 202, 203, 204, 205, 207, 208, 209, 210, 211, 212, 214, 215, 216, 217, 218, 219.

Lots 194, 198, 199, 206, & 213 cannot claim for gas usage as they have an additional gas point (heating or hot water) and are not to be charged the Additional Gas Point Fee.

Lot 213 has removed gas cooking so cannot claim for gas usage.

Townhouses 194 – 219 can claim for water usage.

- Lot 158 provided to Waratah Strata Management during 2017, 2018, and 2019 evidence of the following owners having second gas connection, which they declined to publish for owners or refute in any statement:

Lot 3, 8, 59, 62, 68, 88, 102, 127, 134, 144, 147, 148, 154, 162, 163, 167, 175, 181, 182, 192, 194, 198, 199, 206, 209, 213

Based on available and incomplete evidence (strata managers failed to provide access or lost data due to poor management of owner's information), Lot 158 found only these owners had formal approval to install:

Lot 59	Letter on 6 th of March 2013
Lot 62	EC meeting on 26 th of May 1999
Lot 88	Letter on 19 th of September 2013
Lot 148	August 2007
Lot 167	EC meeting on 28 th of August 2013
Lot 181	EC meeting on 26 th of May 1999
Lot 194	Letter on 28 th of March 2011
Lot 213	EC meeting on 17 th of September 1998

Based on available and incomplete evidence (strata managers failed to provide access or lost data due to poor management of owner's information), Lot 158 found only these owners provided information when they connected gas heating appliances:

Lot 147	Since May 2001
Lot 148	Started on 13 th of August 2007, disconnected on 9 th of September 2019
Lot 162	Connected on 30 th of May 2019
Lot 167	Since 27 th of May 2014 (received invoice for FY 2012 and 2013 on 15 th of July 2016)
Lot 182	Owner's comment: "Not known, it was there when we bought the unit"

Lot 192 Owner's comment: "We have been paying relevant fees from the beginning"
Lot 213 Owner's comment: "Existing outlet possibly installed by previous owner. We moved in on 7Feb2014. We are using electric stove and oven"

- Lot 3, 147, 62, 68, 102, 147, 148, 175, 181, 182, 192, 209 were approached to refute or confirm Lot 158 documents about unpaid levies for gas heating connections and any defamation examples in November 2018. None of them responded with any evidence.
- Waratah Strata Management note for EC meeting in February 2019 contains the following details about owners being charged belated levies for second gas connection:

FY 2013	\$55.00 per annum
FY 2014	\$55.00 per annum
FY 2016	Nil

The note also contains the information the decision was made to set second gas connection levies to \$220.00 per annum on 27th of November 2013.

Waratah Strata Management commented they needed to back-charge levies for second gas connection for FY 2016.

This was not provided to owners in the minutes of the meeting.

- Minutes of EC meeting on 21st of March 2019 listed the following:

Further resolved that following Waratah Strata's computer hacking loss of data, the additional gas point fee is to be re-charged to the levy account of Lots 3, 8, 59, 62, 68, 102, 127, 147, 148, 163, 181 & 182 for the period 1 September 2017 to 31 August 2018. Further resolved the same lots are to be charged the same fee for the period 1 September 2018 to 31 August 2019, with this fee due and payable on 1 May 2019.

(Stan Pogorelsky & Mo Levitt left the meeting for the duration of the following item due to their vested interest in the outcome of the discussion.) Further resolved the strata manager is to review the available Owners Corporations records to determine whether there is sufficient information available to decide whether any lot owner owes to the Owners Corporation any amount for the additional gas point fee for prior years. (Note: The strata manager advises that due to a complaint lodged with the police by the owners of Lot 158, the USB containing the BCS Strata Management records was taken by the NSW Police for examination. The USB was subsequently lost by the Police. Both the Police and Waratah Strata have attempted to obtain a replacement USB from BCS, but that has not been provided. As a result of the missing USB, it will be impossible to determine the history of the gas point fee charges during BCS' management period.)

- Minutes of EC meeting on 2nd of May 2019 stated the following:

The strata manager confirms that the charges for the additional gas points for the 2018 year (which had been inadvertently deleted from owners levy accounts due to Waratah's IT Incident) and the charge for the 2019 year have been charged to all relevant levy accounts. It was also noted that the following decision was made at the strata committee meeting held on 20 July 2017: "The historical charges to lot owners for additional gas points was discussed. The strata manager advised that a thorough review of the BCS records has been carried out, including a request for further information from BCS, and it is still not possible to accurately confirm the amounts that have been charged to and paid by the respective lot owners. It is the view of the strata committee that the cost of carrying out a forensic audit of the strata accounts over many years would far exceed the amount of any unpaid additional gas charges and therefore the cost of this exercise could not be justified. Resolved that a motion is to be placed on the Annual General Meeting agenda to allow owners to vote on whether a forensic audit of the gas charges is to be carried out or whether it will be deemed that all gas charges are paid up to date. (Note: In the accounts provided by BCS at the change of strata manager they indicate General Debtors in relation to gas charges totalling \$1,411.66, of which only \$91.66 relates to strata committee members. The committee do not believe this information is accurate but have deferred this decision to be made at the AGM so there is no question of a conflict of interest by the committee.)" It is noted that the above motion was not included on the agenda of the following AGM, therefore the strata committee will include this motion on the agenda of the 2019 AGM.

The same meeting also listed:

Email from Lot 158 regarding use of Council land for parking and smoking - No further action to be taken.

Email from Lot 158 regarding Treasurers position and lost BCS USB - No further action to be taken.

Email from Lot 158 to Thomas Karolewski concerning gas charges, 1999 to 2016 - It is noted that this matter was raised before by the owner of Lot 158. To avoid breach of Special By -Law 13 Unreasonable Communications, owners are advised to direct all communication via the Strata Manager. It is also noted that the 2018 treasurers appointment was specifically for the functional purpose of the strata committee, reporting only to the committee during that tenure. It is also noted that the functions of the treasurer are delegated to Waratah Strata Management in their management agreement.

- Lot 158 offered free services of reputable CPA for forensic auditing of strata financials to Waratah Strata Management on 8th of June 2019, which was silently ignored by committee members and strata manager.

This email was not shared with owners by Waratah Strata Management.

- Minutes of EC meeting on 5th of September 2019 stated the following:

Additional Gas Point Charges - The strata manager advised that a detailed analysis had been carried out of Lot 181 additional gas point charges and payments made. The strata manager is satisfied that all gas charges that have been invoiced by the respective strata management companies have been paid, apart from \$18.34. A further \$110.00 of gas charges have not been invoiced by BCS Strata Management and therefore not paid by Lot 181. Resolved that a motion is to be included on the 2019 AGM agenda to allow this issue to be considered by the Owners Corporation. The motion is to recommend that as lot owners cannot be expected to pay charges that have not been invoiced to them, that many lot owners may have changed, that the number of lots that have the additional gas point may have changed and that as most other owners will not be willing or able to provide the detailed financial history of the gas charges to their lot, it is not feasible to estimate the amount owing for any unpaid gas charges and that no further action is to be taken on this issue.

- Agenda for AGM 2019 listed the following Motion:

ADDITIONAL GAS POINT CHARGES

That the Owners Corporation will take no further action to investigate or audit the history of additional gas point charges and all lots are deemed to be paid in full.

Explanatory Note: Due to repeated public allegations that have been made by the owners of Lot 158 in relation to the charges that have been made to those owners with additional gas outlets, the strata manager and strata committee have conducted a thorough investigation of the available records going back to 1999. Stan Pogorelsky, owner of Lot 181, provided a detailed history of all relevant invoices he had received from Raine & Horne Strata, BCS Strata and Waratah Strata and of all payments made. As a result of that review it has been found that Lot 181 has not been issued with gas point charge invoices of \$55 for the quarter 1/12/15 - 28/2/16 and \$55 for the quarter 1/6/16 - 31/8/16. A further \$18.34 was short paid during 2015. In summary Lot 181 has short paid \$128.34 of which \$110 has never been invoiced. There are a further 12-15 lots with additional gas points whose detailed records are not available to review. Many owners will be unwilling or unable to provide the detailed financial records required to review their gas charge payments. Some of the owners of these lots will have changed so it will not be possible to audit records or recover funds from those owners. It is considered that the cost of conducting a forensic audit of the strata records would far exceed the amount of any funds that may be recovered. It is therefore proposed by the strata committee to approve the above motion.

- Audited financial statements for SP52948 until 2017 confirm that no owner paid \$200.00 (pre-GST) or \$220.00 (post-GST) for second gas connection per year before 2016, causing losses to owners corporation funds and forcing other owners to carry out costs for private use.
- Available evidence was offered to Waratah Strata Management that shows no levies were charged for second gas connections in the following years:

1999

2000 (GS not applied from 1st of July 2000)

2001 (GST not applied)

2004

2008

2012

2013

2016

2018

- Available evidence was offered to Waratah Strata Management that shows incorrect values of levies were applied for second gas connections in lots of other years (including not charging 10% simple interest).

- Waratah Strata Management claimed that \$3,600.00 (plus GST) was earned from owners with second gas connection in FY 2017. The figure of \$3,600.00 in FY 2017 matches exactly 18 owners who were reported in Minutes of EC meeting on 16th of March 2017. Waratah Strata Management refuses to provide information of which owners paid levies for second gas connection.
- In FY 2018 (financial year from 1st of September 2017 to 31st of August 2018) Waratah Strata Management claimed that \$2,537.54 (plus GST) was earned from owners with second gas connection. Waratah Strata Management refuses to provide information of which owners paid levies for second gas connection.
- Evidence of discrepancies in reporting levy income for second gas connections in 2018/2019:
 - Income and Expenditure report dated 10th of October 2018 – levy income of \$2,537.54 in FY 2018.
 - Income and Expenditure report dated 3rd of December 2018 – levy income of \$2,537.54 in FY 2018.
 - Income and Expenditure report dated 29th of March 2019 – levy income of \$0.00 in FY 2018.
 - Income and Expenditure report dated 9th of April 2019 – levy income of \$0.00 in FY 2018.
 - Income and Expenditure report dated 12th of April 2019 – levy income of \$0.00 in FY 2018.
 - Income and Expenditure report dated 19th of April 2019 – levy income of \$0.00 in FY 2018.
 - Income and Expenditure report dated 27th of April 2019 – levy income of \$0.00 in FY 2018.
 - Income and Expenditure report dated 30th of April 2019 – levy income of \$0.00 in FY 2018.
 - Income and Expenditure report dated 3rd of May 2019 – levy income of \$0.00 in FY 2018.
 - Income and Expenditure report dated 10th of May 2019 – levy income of \$0.00 in FY 2018.
 - Income and Expenditure report dated 29th of May 2019 – levy income of \$0.00 in FY 2018.
 - Income and Expenditure report dated 17th of August 2019 – levy income of \$0.00 in FY 2018.
 - Balance sheet dated 31st of August 2019 lists \$0.00 revenue for levies in FY 2018.
- Evidence of discrepancies in reporting levy income for second gas connections in 2019:
 - Income and Expenditure report dated 10th of October 2018 – levy income of \$0.00 in FY 2019.
 - Income and Expenditure report dated 3rd of December 2018 – levy income of \$0.00 in FY 2019.
 - Income and Expenditure report dated 29th of March 2019 – levy income of \$4,800.00 in FY 2019.
 - Income and Expenditure report dated 9th of April 2019 – levy income of \$4,800.00 in FY 2019.
 - Income and Expenditure report dated 12th of April 2019 – levy income of \$4,800.00 in FY 2019.
 - Income and Expenditure report dated 19th of April 2019 – levy income of \$4,800.00 in FY 2019.
 - Income and Expenditure report dated 27th of April 2019 – levy income of \$4,800.00 in FY 2019.
 - Income and Expenditure report dated 30th of April 2019 – levy income of \$4,600.00 in FY 2019.
 - Income and Expenditure report dated 3rd of May 2019 – levy income of \$4,800.00 in FY 2019.
 - Income and Expenditure report dated 10th of May 2019 – levy income of \$4,800.00 in FY 2019.
 - Income and Expenditure report dated 29th of May 2019 – levy income of \$4,724.93 in FY 2019.
 - Income and Expenditure report dated 17th of August 2019 – levy income of \$4,775.34 in FY 2019.
 - Income and Expenditure report dated 31st of August 2019 – levy income of \$4,775.34 in FY 2019.

- Lot 158 document search at Waratah Strata Management on 20th of September 2019 found two versions of the proposed invoice posting dated 29th of March 2019 for FY2019 levies for second gas connections totaling \$2,640.00:

Lot 3, 8, 59, 62, 68, 102, 127, 147, 148, 163, 181, 182

The first document contains the following statement:

This is the additional gas point fee for the period 1 September 2018 to 31 August 2019

The second document contains the following statement:

The additional gas point fee charged for 2018 was deleted from your levy account as a result of our recent IT incident. The invoice is to reinstate that charge. You have already paid this charge, which is likely to be showing on your most recent levy notice as Prepaid Levies of \$220.00.

- In preparation for NCAT case SC 20/33352, Lot 158 sent the following request to Waratah Strata Management on 23rd of July 2020:

On 21 July 2017, letter was allegedly sent to all owners, defending actions by strata managers and committee members.

In it, three members of the committee provided personal statements refuting all Lot 158 allegations in a very blunt manner.

You are asked to obtain formal update on this letter and statements from these owners who, we allege, were not financial and could not have been members of the committee at the time (and in many other years for some of them):

Mrs. Lorna Zelenzuk

Mr. Stan Pogorelsky

Mr. Moses Levitt

Strata Schemes Management Act 2015 – unfinancial owners and conflict of interest

An owner will be able to require that a motion be included on the agenda for a general meeting of an owners corporation even though the owner cannot vote because of unpaid strata contributions (Schedule 1, clause 4). Any requirement given by an owner must include an explanation of the motion of not more than 300 words in length (Schedule 1, clause 4).

An owner will be able to nominate a candidate for election to the strata committee even though the owner is unfinancial (Schedule 1, clause 5).

An unfinancial owner will not eligible for appointment or election to the strata committee (section 32).

An unfinancial owner will still not be allowed to vote at general meetings (Schedule 1, clause 23).

A member of the strata committee will not be 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 at the date notice of the meeting was given and the amounts owed by the unfinancial owner were not paid before the meeting (Schedule 2, clause 9).

A committee member will not be entitled to move a motion at a committee meeting unless the person is entitled to vote on the motion (Schedule 2, clause 14).

Members of a strata committee will need to disclose any pecuniary interest in a matter that is being or is about to be considered at a meeting of the committee and, unless the committee otherwise determines, must not be present for any deliberations on the matter or vote on the matter (Schedule 2, clause 18).

Strata levies must be paid even when receipt of levy notice is missing!

Each owner and/or property manager needs to be aware of their owners corporation levy cycle.

It is their explicit duty of care to act in such manner as to protect interests of all owners and investors, and in accordance with the laws.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners with relevant files throughout 2018, 2019, and 2020.

Motion: Ratify the following events for Audit Report for FY 2017

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

- Owners were not allowed by Waratah Strata Management to vote on this Motion at AGM 2019.
- Clause 21 of SSMR 2016 requires that the accounts and financial statements of the owners corporation with budget above \$250,000.00 must be audited before presentation at AGM in accordance with Section 95 of SSMA 2015.
- Agenda for AGM 2017 and 2018 did not have audited accounts listed.
- Document search at Waratah Strata Management on 31st of May 2019 and 20th of September 2019 did not find audited report for FY 2017.

Waratah Strata Management silently refused to provide access to it.

Waratah Strata Management failed to notify owners about it.

- Document search at Waratah Strata Management on 31st of May 2019 found audited report signed on 18th of October 2018 – the exact date of the AGM 2018.

Waratah Strata Management failed to notify owners about it.

- Audited report for FY 2017 and 2018 was not provided or given to any owner before or after AG 2017 and AGM 2018.
- Screenshot taken of Documents folder at Waratah Strata Management website for SP52948 portal shows no documents (including auditor's reports) on 1st of April 2019.
- Screenshot taken of Documents folder at Waratah Strata Management website for SP52948 portal shows no documents (including auditor's reports) on 10th of May 2019.
- Screenshot taken of Documents folder at Waratah Strata Management website for SP52948 portal shows no documents (including auditor's reports) on 29th of May 2019.
- Screenshot taken of Documents folder at Waratah Strata Management website for SP52948 portal shows several strata documents and only Audit Report dated 31/08/2018 on 10th of July 2019.

From 2017, the following files were listed:

MINUTE BOOK 24/10/2017
MINUTE BOOK 10/10/2017

- Screenshot taken of Documents folder at Waratah Strata Management website for SP52948 portal shows several strata documents and only Audit Report dated 31/08/2018 on 17th of August 2019.

From 2017, the following files were listed:

MINUTE BOOK 24/10/2017
MINUTE BOOK 10/10/2017

- Screenshot taken of Documents folder at Waratah Strata Management website for SP52948 portal shows several strata documents and only Audit Report dated 31/08/2018 on 12th of October 2019.

From 2017, the following files were listed:

MINUTE BOOK 24/10/2017
MINUTE BOOK 10/10/2017

The screenshots also confirm that only 31 documents existed in Documents folder for SP52948 files at Waratah Strata Management website for SP52948 portal.

- Screenshot taken of Documents folder at Waratah Strata Management website for SP52948 portal shows several strata documents and only Audit Report dated 31/08/2018 on 8th of March 2020.

From 2017, the following files were listed:

MINUTE BOOK 24/10/2017
MINUTE BOOK 10/10/2017

The screenshots also confirm that only 76 documents existed in Documents folder for SP52948 files at Waratah Strata Management website for SP52948 portal.

- Screenshot taken of Documents folder at Waratah Strata Management website for SP52948 portal shows several strata documents and only Audit Report dated 31/08/2018 on 19th of March 2020.

From 2017, the following files were listed:

MINUTE BOOK 24/10/2017

MINUTE BOOK 10/10/2017

The screenshots also confirm that only 78 documents existed in Documents folder for SP52948 files at Waratah Strata Management website for SP52948 portal.

- Screenshot taken of Documents folder at Waratah Strata Management website for SP52948 portal shows several strata documents and only Audit Report dated 31/08/2018 on 30th of May 2020.

From 2017, the following files were listed:

MINUTE BOOK 24/10/2017
MINUTE BOOK 10/10/2017
Audit Report 31/08/2017

The screenshots also confirm that only 84 documents existed in Documents folder for SP52948 files at Waratah Strata Management website for SP52948 portal.

The published date of the Audit Report (31/08/2017) does not match with the audit date on 20th of October 2017.

- Audit Report for 2017 has the following characteristics:
 - It does not contain any company logo or headers.
 - It does not contain any contact details of the auditor.
- Lot 158, through O'Brien Criminal & Civil Solicitors requested access to many strata files from Waratah Strata Management on 30th of October 2019. Two of the missing files were Audit Reports for FY 2017 and 2018.

Letter from Solicitor Adrian Mueller on 14th of November 2019 sent to O'Brien Criminal & Civil Solicitors, in which he stated:

Lot 158 has undertaken repeated inspections of the records of the owners corporation. The representatives of the owners corporation consider that all available records of the owners corporation were made available to Lot 158 during those inspections as a result of which if Lot 158 does not have any records that he desires that is because those records are likely not available.

Equally importantly, if Lot 158 is truly prepared to confine his communications to matters relating to the maintenance and repair of lot 158 only, and to cease and desist from disseminating what the representatives of the owners corporation consider to be defamatory material about them, then what is the purpose of Lot 158 pressing for the records to be produced to him?

In the circumstances, the representatives of the owners corporation do not consider that there is any merit in Lot 158 request for those records to be provided to him and they are not prepared to agree to the request.

- Lot 158, through O'Brien Criminal & Civil Solicitors requested access to many strata files from Waratah Strata Management on 24th of April 2020. One of the missing files was Audit Report for FY 2017.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners with relevant files throughout 2017, 2018, 2019, and 2020.

Motion: Ratify the following events for elevator contract renewal and tender for major elevator upgrades since 2005 and elevator maintenance issues

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

- Liftronic contract was renewed without tender in 2005, as confirmed in official statement by strata Manager Mr. John Fry to CTTT and Fair Trading NSW in 2011.
- Liftronic lost contract with SP52948 due to high cost of maintenance in amount of \$31,228.00 per year in 2010.

- Waratah Strata Management sent letter on 23rd of March to ThyssenKrupp with contract termination on 30th of June 2017.
- Waratah Strata Management sent request for remediation work to ThyssenKrupp on 19th of April 2017.
- Minutes of EC meeting on 16th of March 2017 confirmed elevator contract was expiring on 30th of June 2017.
- Minutes of EC meeting on 20th of April 2017 asking Thompson Elevator Consultancy Services to conduct tender and oversee remediation work by ThyssenKrupp before their contract ended.
- Alleged notice and minutes of EC meeting dated 26th of June 2017 was never sent to owners or listed on notice boards (non-compliance with SSMA 2015, Schedule 2, Part 4, and SSMA 2015, Schedule 2, Part 9).
- EC meeting on 30th of June 2017, approved Liftronic contract in amount of \$24,400.00 plus GST without having the contract details, on Friday (non-standard day for SP52948 meetings) and at time when no owner who works could attend (11:00 hours in the morning).

Three vendors submitted the quotes for the tender:

Liftronic Elevator
Schindler Lifts
ThyssenKrupp

The "decision" to grant the contract renewal to Liftronic Elevators was made at alleged paper EC meeting on 31st of June 2017 that did not satisfy any requirements for legally-convened meetings:

- a) No owner received agenda (notice) of the meeting three days before the meeting.
 - b) No owner received the minutes of the meeting within seven days after the event.
 - c) No notice board published the results of the meeting.
 - d) Only five out of nine members of the Executive Committee voted, and of those five two were not financial to vote due to ongoing unpaid levies (which Waratah Strata Management failed to disclose to owners).
- Liftronic maintenance tags were put in elevators on 4th of July 2017.
 - Email reply from Waratah Strata Management to Thomson Elevator Consultancy Services on 10th of July 2017 confirming that they were not able to open the Liftronic contract sent to Thomson Elevator Consultancy Services on 30th of July 2017 which Thomson Elevator Consultancy Services only forwarded to Waratah Strata Management on 10th of July 2017.
 - Written notice by Waratah Strata Management for EC meeting scheduled for 20th of July 2017, with intention not to do any work to recover unpaid levies for second gas connection, pre-approved Waratah Strata Management to sign the Liftronic contract and to be sent the original to EC member Lot 147 who was not financial due to unpaid full levies for second gas connection, and confirmation that ThyssenKrupp was paid for period 1st of July 2017 to 30th of September 2017 in spite of contract ended on 30th of June 2017.
 - Agenda of EC meeting sent to owners on 13th of July 2017, with intention to discuss elevator maintenance contract at Executive Committee meeting scheduled for 20th of July 2017.
 - Minutes of the Executive Committee meeting on 20th of July 2017 confirmed resolution to authorise Waratah Strata Management to sign contract with Liftronic.
 - In secret email to ThyssenKrupp, Waratah Strata Management confirmed overpaid ThyssenKrupp in spite of advanced knowledge of cancelled contract five and a half months earlier on 13th of September 2017.
 - Waratah Strata Management discovered Liftronic contract was not signed as of 15th of September 2017 and asked for revised contract which they signed without owners corporation approval at any meeting.
 - Waratah Strata Management signed the comprehensive maintenance contract with Liftronic on 29th of September 2019, without disclosure to owners at any time since then.
 - Lot 158 requested copy of elevator contract with Liftronic be provided by Waratah Strata Management on 27th of November 2017, which was declined until document search on 20th of September 2019, almost two years after the request.

- Liftronic upgrades confirmed as of 9th of May 2019 but kept secret from owners till late June 2019. SP52948 owners were not notified about elevator upgrades but internet websites were full of information since early June 2019.
- Planning for maintenance of elevators was originally delayed until year 2026 in 10-Year Capital Works Fund Plan in March 2017 without consultation with owners.

10-year Capital Works Plan was commissioned from Biv Reports Pty Ltd and the elevator upgrades were scheduled for year 2026, at cost of around \$339,831.00. Just two years later, real cost of the upgrades in 2019 are above \$800,000.00 - granted to Liftronic.

- Waratah Strata Management prevented Lot 158 Motions about undisclosed reports and lack of maintenance as recommended by Professional Assessors not included by BCS Strata Management at Annual General Meeting in 2016, and Waratah Strata Management at AGM 2017, 2018, and 2019.
- Waratah Strata Management prevented Lot 158 Motion about lack of proper 10-Year plans in SP52948 AGM 2017, 2018, and 2019.
- Waratah Strata Management prevented Lot 158 Motion about lack of details of tenders for elevator maintenance contract in 2005, 2010, and 2017 at AGM 2017, 2018, and 2019.
- In minutes of AGM 2018, Waratah Strata Management failed to notify owners that hoisting rope in Lift 4 in Block A was replaced on 10th of May 2017 - more than three years after the Vertical Transport Management Services recommendation in February 2014.
- Thompson Elevator Consultancy Services assessment and quote for elevator major works sent to Waratah Strata Management on 16th of November 2017 but presented to owners the expired quote one year later in agenda for AGM in October 2018 where three vendors were allegedly short-listed:

Liftronic Elevator
Electra Lift
Otis Elevator

AGM 2018 was conducted in non-compliance with strata regulations, and elevator upgrade contract was granted to Liftronic. AGM 2019 was conducted in non-compliance with strata regulations. Waratah Strata Management and committee members failed to prove validity of AGM 2017, 2018 and 2019 as requested by Lot 158 through O'Brien Criminal & Civil Solicitors on 24th of April 2020.

- Waratah Strata Management – unreported deposit in amount of \$160,000.00 for elevator upgrades on 7th of March 2019.
- Waratah Strata Management failed to report large deposit given to Liftronic from Capital Works Fund in Minutes of the EC meeting held on 21st of March 2019.
- Waratah Strata Management failed to report large deposit given to Liftronic from Capital Works Fund in Minutes of the EC meeting held on 2nd of May 2019.
- Lot 158 complained to Waratah Strata Management about exposed wiring and unsafe practices during elevator upgrades on 6th of October 2019. No corrective action was taken and no response was ever received.
- Lot 158 received email from Waratah Strata Management on 10th of December 2019 claiming that Liftronic would be onsite for next two weeks for continuing monitoring and problem resolutions.
- Lot 158 documented the following breakdowns of elevators after the upgrades.

7 th of December 2019	Elevator in Block D out of service for second time in two weeks
12 th of December 2019	Elevator in Block A out of service
25 th of December 2019	Elevator in Block A out of service
23 rd of January 2020	Elevator in Block A out of service
23 rd of January 2020	Elevator panel poorly and unprofessionally installed on Level 2 Block A
11 th of February 2020	Elevator in Block D out of service (no information on notice boards or in the building)
12 th of January 2020	Elevator in Block D out of service (no information on notice boards, only a single handwritten note at the main entrance to the building)
13 th of January 2020	Elevator in Block D out of service (no information on notice boards)
14 th of January 2020	Elevator in Block D out of service (no information on notice boards)
15 th of January 2020	Elevator in Block D out of service (no information on notice boards)

17 th of January 2020	Elevator in Block D out of service (more than seven days of failed service)
18 th of February 2020	Elevator in Block D out of service
19 th of February 2020	Elevator in Block A out of service
26 th of June 2020	Elevator in Block A out of service on 23 rd of May and Block B out of service on 26 th of June
11 th of July 2020	Block A elevator door on level 2 very noisy

- On 12th of February 2012, handwritten note (without any signature) was put near the entrance to Block D, stating;

*D Block residents
Sorry for Elevator Disruption
Liftronic Company Aware of problem
And Working on Fixing it.*

- On 14th of February 2020, an angry note was appended to handwritten notice about elevator problem in Block A:

Need an update – No communication brings frustration

- On 17th of February 2020, first official notice was put in Block D:

MAIN COMPUTER DRIVE FAULTY

*There has been no luck obtaining the Main Computer Drive in Australia & one has been order and is scheduled to arrive from overseas on Tuesday, 18th February 2020. The lift will be repaired asap.
Apologies for any inconvenience.*

- Message was put on notice boards on 19th of February 2020 stating:

*Liftronic will be onsite from Wednesday 19th – Friday 21st February 2020 from 9:30 am – 3:30 m to conduct final inspection and carry out any necessary work. During this period the lifts may need to be shut down for a short while.
Apologies for any inconvenience or noise that may occur during the process.*

- In July 2019, Lot 158 contacted all vendors who bid for elevators upgrades in 2018 (Otis, Electralift, Schindler, ThyssenKrupp) and confirmed that none of them were notified of the outcome of the tender.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to be provided to all owners with relevant files throughout 2018, 2019, and 2020.

Motion: Ratify the following events for strata management and building management contract renewals and tenders since 1999

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

- Since EC meeting on 17th of June 1998 strata plan SP52948 has not properly managed or run tenders for strata management and building management contracts.
- Raine & Horne Strata Sydney became strata manager at the adjourned Extraordinary General Meeting held on 11th of May 1999 without tender or competitive quotes.
- Contract with Raine & Horne Strata Sydney was signed on 16th of June 1999 with basic management fee in amount of \$16,500.00 for the first year.

The same contract was valid until they were removed from managing the complex at AGM on 24th of October 2016 (contract ended on 31st of January 2017).

- Minutes of Extraordinary General Meeting held on 23rd of August 2000 introduced GST from 1st of July 2000.
- Minutes of AGM increased strata management contract for Raine & Horne Strata Sydney value to \$21,947.20 (plus GST) and added management expenses without tender on 5th of October 2000.

- Paper EC meeting without agenda or minutes sent to owners undated in 2002 set Raine & Horne Strata Sydney contract value at \$21,500.00 (plus GST) with management expenses of \$4,700.00.
- Angry note from EC members to BCS Strata Management about their poor services on 9th of October 2011 was not disclosed to owners.
- COO Greg Freeman from Pica Group (parent company of BCS Strata Management) agreed contract renewal without tender by offering alleged loyalty discount from \$33,499.00 to \$29,900.00 per annum on 10th of October 2011.
- EC members complained about loyalty discount not being applied and not receiving financial benefit for two years on 31st of January 2013, which was not disclosed to owners.
- BCS Strata Management failed to sign the Tenderer's Declaration at AGM 2014.
- EC members complained to BCS Strata Management about secret insurance commissions that were not disclosed to owners or logged in financials on 7th of November 2014.
- Minutes of the AGM held on 26th of November 2014 approved building and strata management contracts without full tenders.
- Ryan Strata offered superior strata management services on 10th of May and 27th of June 2016.
- BCS Strata Management failed to sign the Tenderer's Declaration at AGM 2016.
- BCS Strata Management lost and contract with Waratah Strata Management approved at AGM on 19th of October 2016.
- Unfinancial EC members ran three secret meetings without agenda and minutes being sent to owners to discuss BCS Strata Management contract renewal before AGM on 19th of October 2017.

After losing the contract, BCS Strata Management immediately charged \$935.00 (GST inclusive) on 18th of October 2016.

Waratah Strata Management and EC members failed to inform the owners about these meetings.

The three meetings are not recorded in strata files.

- Contract with Waratah Strata Management signed by two EC members (Lot 147 and 181) who could not prove they were financial owners and increased base value from \$21,800.00 to \$23,110.00 without owners knowledge on 14th of December 2016.
- BCS Strata Management analysis of why they lost contract with SP52948 on 21st of November 2016 confirming that EC members had no intention to change them and had three secret meetings about it.
- EC member from Lot 181 confirmed BCS Strata Management had provided very poor services on 27th of April 2017 but did not disclose it to owners.
- Waratah Strata Management prevented Lot 158 Motion about their prior relationship with BCS Strata Management at AGM 2017 and AGM 2019.
- AGM on 24th of October 2017 approved Waratah Strata Management contract renewal without tender or disclosure of its increased value.
- Contract with Waratah Strata Management signed by two EC members (Lot 147 and 181) who could not prove they were financial owners on the same evening when AGM was conducted on 24th of October 2017 and increasing base value to \$24,310.00.
- 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 EC 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 23rd 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 14th of 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 Lot 147 and 181 without evidence they settled unpaid levies for second gas connections on 14th of December 2016.
 - Base value \$24,310.00 (GST inclusive) plus rebates, discounts, and commissions in Disclosure Schedule C1 and C2, signed by EC members Lot 147 and 181 without evidence that they settled unpaid levies for second gas connections straight after AGM on 24th of 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.

- Lot 158 sent the following email to Waratah Strata Management on 25th of March 2020 about their expired contract and other major issues (now part of evidence in NCAT case):

:
SUMMARY: Wararath Strata Management refusal to notify owners about critical issues including Fair Trading Mediation and expired contract with Waratah Strata Management - 25Mar2020

Repeated requests were sent to Waratah Strata Management for number of critical issues, which were so far not responded to and owners not notified. Let's summarize the major ones:

a) Irrefutable evidence exists that all Executive Committee and Annual General meetings in 2019 and 2020 failed to comply with Interpretation Act 1987 and SSMA 2015. Attachment "20200314-FOR OFFICIAL RECORDS_ Mediation SP52948 Case 00351498 and Fair Trading Files 9363613 and 9761719 - Persistent non-compliance with Interpretation Act 1987 (NSW) - 14Mar2020-27250.pdf".

Lot 158 has irrefutable evidence that AGM 2017, 2018, and 2019 were not conducted as per strata laws and could not be considered valid (lack of quorum, unfinancial owners allowed to vote, unfinancial owners allowed to be on the committee, strata and building managers contracts without tenders, other contracts having issues and risks, and much more).

Auditor's reports for FY 2017 has never been found in spite of repeated requests, event through lawyer.

Auditor's report for FY2018 has some serious problems (read attachment). Even a layman can find the discrepancies in allegedly audited data for FY 2018 and 2019 (attachment "SP52948-differences-for-income-and-expenditure-FY2018-audited-figures-provided-by-Waratah-Strata-Management-for-AGM-2018-and-FY2019.pdf"). Economos (current SP52948 auditing company) was approached several times to comment about it - no reply from them.

At AGM 2019, EC member officially admitted that between \$10,000.00 and \$20,000.00 was owed by selective owners and some EC members for overdue levies for second gas connection. In spite of that, Waratah Strata Management allowed them to vote and others in similar condition and debt, allowed Motion 14 to be voted before Motion 4 as per Mr. Moses Levitt request (unfinancial owners from Lot 147 and Lot 181 yet again be elected on the committee), and declined to report it in the minutes of the meeting.

b) Due to non-compliant AGM on 17 October 2019, the contract with Waratah Strata Management expired on 1 March 2020. Attachment "20200319-FOR OFFICIAL RECORDS_ Misleading and misconstrued strata files including serious problems with Auditor_s reports and expired contract with strata agency due to non-compliant AGM 2019 - 19Mar2020-27346.pdf".

c) FREE mediation at Fair Trading was rejected by Waratah Strata Management and EC members, without notifying owners of the reasons for the talks to avoid legal expenses. Attachments:

"SP52948-Fair-Trading-Mediation-invitation-6Mar2020.pdf"

"SP52948-Fair-Trading-Mediation-invitation-6Mar2020.pdf"

"SP52948-declined-mediation-17Mar2020.pdf"

"20200314-FOR OFFICIAL RECORDS_ Mediation SP52948 Case 00351498 and Fair Trading Files 9363613 and 9761719 - Persistent non-compliance with Interpretation Act 1987 (NSW) - 14Mar2020-27250.pdf"

d) Over 30 attempts to reason with owners corporation representatives and EC members in regards to alleged "defamation" were done either directly by Lot 158 or through lawyer in last 14 months. Each time, the respondents only offered tactics of bullying, intimidation, and threats. Even more, Solicitor Adrian Mueller, with his costs paid by all owners in vicinity of what is an estimate to be \$100,000.00 so far, rejected all reasonable legally-valid offers. In addition, he rejected access to strata files claiming that they likely "do not exist"!?! Some of attachments with evidence:

"SP52948-Lot-158-lawyer-efforts-to-reason-with-Waratah-Strata-Management-EC-members-and-Adrian-Mueller.png"

"Lot-158-legal-request-for-access-to-strata-documents-through-criminal-lawyer-to-Solicitor-Adrian-Mueller-and-SP52948-30Oct2019-page3.pdf"

"Lot-158-legal-request-for-access-to-strata-documents-through-criminal-lawyer-to-Solicitor-Adrian-Mueller-and-SP52948-30Oct2019-page4.pdf"

"Lot-158-legal-request-for-access-to-strata-documents-through-criminal-lawyer-to-Solicitor-Adrian-Mueller-and-SP52948-30Oct2019-page5.pdf"

"Lot-158-legal-request-for-access-to-strata-documents-through-criminal-lawyer-to-Solicitor-Adrian-Mueller-and-SP52948-30Oct2019-page4.pdf"

"SP52948-Lot-158-lawyer-efforts-to-reason-with-Waratah-Strata-Management-EC-members-and-Solicitor-Adrian-Mueller.png"

e) Investigations of two data losses (one in 2018 and one in alleged ransomware attack in 2019) generate strong suspicions. Written confirmations from Microsoft about alleged email and strata file losses (including invoices) in Microsoft Office 365 and Microsoft Azure shows that Microsoft was not notified about them when the event allegedly happened (at least that is their statement). Even more, had anybody notified Microsoft about email losses, they had capability to restore files within 90 days.

Sententia report on alleged ransomware attack in March 2019 did not mention any data losses in Office 365 and Microsoft Azure.

Written statement was obtained from Rockend who confirmed that they provide lookatmystrata.com.au domain but they do not store, hold, access, or release any information related to that domain. All such information is held and managed by Waratah Strata Management.

There are multiple versions of ransomware attack that Waratah Strata Management presented to different parties (which do not match), including other strata complexes, like SP61424.

Waratah Strata Management was repeatedly asked for evidence of their statements - they silently declined.

f) In spite of all efforts by owners corporation representatives, smoke detectors are common property and will have to stay that way, like it was for 22 years before. Attachments:

"20200318-PROBLEM REPORT_ Case FRN16_829 BFS20_252 and Fair Trading Files 9363613 and 9761719 - SP52948 persistent fire safety issues and lack of actions - 18Mar2020-27305.pdf"

"20200318-UNPLANNED AND UNANNOUNCED EMERGENCY LIGHTS TESTING Case FRN16_829 BFS20_252 and Fair Trading Files 9363613 and 9761719 - SP52948 persistent fire safety issues and lack of actions - 18Mar2020-27312.pdf"

There are lot of fire safety issues plaguing this complex for many years.

g) In regards to Covid-19, owners corporation representative provided misleading and misconstrued statements about swimming pool safety, which in spite of warnings below, have been ignored so far. In fact, swimming pool is still open for use even though government asked for the opposite last night (enforceable from tomorrow but common sense dictates it should have been closed long ago). In addition, questions about how well swimming pool is maintained are unanswered.

h) We had six elevator breakdowns (Block A and D, it is possible other buildings also had them) in period of just two months after alleged major upgrades. Owners were not informed. One of the breakdowns (in Block D) lasted EIGHT DAYS.

Many repairs to patch up painting and cracks (two years after major works) are not seemingly covered by any warranties. Lot 158 provided voluminous evidence of poor status of garden beds, fences, BBQ area, and so on.

More of a concern are what appears to be missing warranties Lot 158 asked for during two document searches but Waratah Strata Management failed to provide:

31 May 2019

20 September 2019

On 1 March 2020, Waratah Strata Management was asked again to IMMEDIATELY provide the following:

Warranty of Workmanship from Townview Painting Services
Dulux Warranty
Liftronic Warranty

Townview email discussed the painting warranties on 23 August 2017.

Waratah Strata Management ignored the request.

i) Short-term letting in the complex. Number of properties in SP52948 are short-term leased for tourists and businesses.

Lack of proper safety (an example, lot of smoke detectors have not been replaced for more than 10 years - one in Lot 158 was manufactured in 1994 and does not operate safely) can create a disaster for tenants.

In addition, some councils have now been sending letters to owners corporations asking to sign off statements about compliance with the Residential Tenancy Act 1987. For example, request sent to SP57348 from Council of the City of Sydney in February 2020 ("Compliance-with-Residential-Tenancy-Act-1987-sent-to-strata-complex-in-City-17Feb2020.png"). In it, it states:

The Body Corporate has been advised by the Council of the City of Sydney that Development Approval condition 5{c} for the Aston Strata building states that "All units approved for permanent residential accommodation must be either owner occupied, or occupied by a tenant with a residential lease under the Residential Tenancy Act 1987. A certificate signed by the owner or the Body Corporate (if the development is strata subdivided) or a Solicitor (holding a current certificate to practice), must be forwarded to Council within 12 months of the completion of the development, and every 12 months thereafter, certifying that all units approved for Residential Development are either owner occupied or are subject to residential leases under the Residential Tenancy Act, 1987." The Aston Body Corporate is required under the terms of this Development Approval to provide the above Certificate to Sydney City Council.

Verification of SP52948 Development Approval Conditions and Building and Development Advisory Service at Ryde Council confirms that this applies to SP52948:

* Short-term tenants are allowed if owner stays and lives in property and shares it with visitors. In that case they still have to get Ryde Council approval.

* Large-scale services like AirBnB, StayZ, and similar are not allowed in strata complexes by law as yet.

- Master contract admin expenses for strata manager in period FY 2014 to 2018 (GST exclusive):

FY	Amount
2014	\$53,835.00
2015	\$52,683.00

2016	\$50,684.00
2017	\$49,898.00
2018	\$43,919.00

- Raine & Home Strata Sydney (later became part of BCS Strata Management) and EC members promoted cleaners to become new caretakers without tender at EC meeting on 21st of July 1999.
- Contract with Universal Strata Services without tender or owners decision at AGM, approved at paper EC meeting (without owners) valued at \$150,000.00 (plus GST) per year on 3rd of November 1999.
- The contract with the new caretaker in December 1999 increased by more than 33% without any tender, or decision at the general meeting (non-compliant with SSMA 1996 Section 80B):

FY	1999	2000
Caretaker	\$14,395.00	\$93,062.00
Cleaning	\$47,571.00	
Gardening	\$37,044.00	\$39,469.00
Security	\$80,641.00	\$80,968.00
Total	\$179,651.00	\$213,499.00

Contract for Security was originally given to another company (separate contract) at EC meeting on 24th of June 1998 and it was not part of the contract granted to caretaker.

- EC meeting decision to seek other tenders for security services contract on 22nd of March 2000.
- EC meeting decision to evaluate security services options on 24th of May 2000.
- At EC meeting held on Saturday, 2nd of December 2000, it was alleged that four quotes were tendered for security services but no details provided to any owner.
- EC meeting on 14th of February 2001, without giving any details of the tenders to owners corporation, caretaker was granted last remaining part of the main contract – security.
- Three-month overpayment to Universal Strata Care in 2004 – never disclosed to owners.
- Secret quotes for caretaker contract never disclosed to owners in 2004.

In a secret document, obtained belatedly eight years later, one company tendered their proposal on 25th of February 2004 at \$238,500.00 (GST exclusive) per year. That included night security duties in hours between 5:00pm and 5:00am next morning, seven days a week, and average gardener's hours of 20 per week. The total difference between their quote and Universal Strata Services in 2005 was \$10,505.00 (around 5% of the full contract only), with the emphasis that the new proposal offered more services.

With the GST included, the second tenderer would have charged the following for the maintenance contract (exclude security guards):

1 Caretaker	
1 Gardener	
1 Cleaner	
Total (with GST)	\$144,740.00

Services for the security guards would have been charged in accordance with the State Awards. For the same services, excluding the security guards, the caretaker charged the following in FY 2005/2006:

Caretaking/Cleaning (exclusive GST)	\$105,796.01
Gardening (exclusive GST)	\$42,053.01
Total (with GST)	\$162,631.22

The approximate savings, in favour of engaging the second tenderer in 2005 would have been AU\$17,891.00 per year, 12.36% savings for the owners corporation in just one year.

- EC meeting on 18th of August 2004 - legal case with previous caretaker attended by Lot 147 in court.

- Contract with Universal Strata Services without tender or owners decision at AGM, valued at \$255,712.92 (plus GST) per year on 1st of May 2006.
- Contract with Universal Strata Services without tender or owners decision at AGM, valued at \$268,498.56 (plus GST) per year on 1st of May 2008.
- Renewed contract with Universal Strata Services without tender or owners decision at AGM, valued at \$268,498.56 per year with extra 2% increase for three years (plus GST) on 1st of August 2010.
- Secret email exchange asking EC members to approve Universal Strata Services contract renewal for three years without tender on 8th of September 2010.
- Call-out charges by Universal Strata Services were undefined items in the contract.
- Renewed contract with Universal Strata Services without tender or owners decision at AGM, on 12th of March 2014.
- Standard Costs Agreement with Shakenovsky & Associates for legal services to prepare contract the building manager was issued on 4th of December 2014 and signed by two SP52948 EC members (whilst one of them - Lot 147, was not financial due to unpaid full levies, including 10% simple interest for overdue payments), day later on 5th of December 2014.
- Contract RS/RH 081394 with the building manager signed by two SP52948 EC members (whilst one of them - Lot 147, was not financial due to unpaid full levies, including 10% simple interest for overdue payments) was executed on 7th of December 2014. Contract value with building manager was valued at \$289,000.00.
- AGM 2014 - Strata Manager Mr. Russell Young confirmed that Universal Strata Services was paid for undelivered services for night security but failed to reimburse owners corporation.

Over the previous 12 months, security guards stopped working between hours of 2:00 to 5:00am, in spite of caretaker getting paid for their night staff. When questioned about it, the response was that "it was difficult to get the money back from poor people". BCS Strata Management failed to report it in the minutes of the AGM.

- EC member wrote email to Universal Strata Services advising them of lost contract on 7th of December 2014, which confirmed wishes of EC members to stay with them due to "personal connections".
- Minutes of EC meeting held on 21st of March 2016, renewed building manager contract for another year without any tender, although it was going to expire on 7th of December 2016, more than nine months before its renewal time.
- Building manager contract value increased by 2% without owners corporation decision at AGM or tender on 22nd of April 2016.
- Master contract expenses for Building Manager (Caretaker) in period FY 1999 to 2018 (GST exclusive):

FY	Master contract
1999	\$186,611.00
2000	\$220,168.00
2001	\$220,624.00
2002	\$218,938.00
2003	\$218,167.00
2004	\$222,376.00
2005	\$227,995.00
2006	\$228,438.00
2007	\$232,844.00
2008	\$235,560.00
2009	\$244,287.00
2010	\$264,080.00
2011	\$245,094.00
2012	\$255,673.00
2013	\$256,605.00
2014	\$252,618.00
2015	\$275,838.00
2016	\$292,912.00
2017	\$291,507.13
2018	\$304,629.95

- Contract RS/RH 081394 with the building manager was signed by two EC members (Lot 147 and 181) who were not financial due to unpaid full levies, including 10% simple interest for overdue payments, was signed on 27th of November 2017 without approval of annual fees by owners corporation (prices exclude GST):

From 1 January 2018 to 31 January 2019

	Annual price
Day caretaking	\$130,216.00
Pool maintenance	\$11,849.00
Gardening	\$55,980.00
Night caretaking	\$112,955.00
Total	\$311,000.00

From 1 February 2019 to 31 January 2020

	Annual price
Day caretaking	\$135,424.00
Pool maintenance	\$12,323.00
Gardening	\$58,220.00
Night caretaking	\$117,473.00
Total	\$323,440.00

From 1 February 2020 to 31 January 2021

	Annual price
Day caretaking	\$140,841.00
Pool maintenance	\$12,816.00
Gardening	\$60,548.00
Night caretaking	\$122,172.00
Total	\$336,377.60

- BCS Strata Management and Waratah Strata Management prevented owners from voting on Lot 158 Motions documenting problems with complex maintenance at AGM 2016, 2017, 2018, and 2019.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested them to provide owners with relevant files throughout 2018 2019, and 2020.

Motion: Ratify the following events for electricity supply contract renewals and tenders since 2015

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

- Correspondence between three EC members on 4th of October 2012, confirming the electricity supply contract expiring on 30th of September 2015.
- Strata Manager Mr. Simon Wicks, who was removed from managing SP52948 in 2011, was approached by Energy Action to renew electricity supply contract for number of strata plans as early as 11th of March 2015.
- BCS Strata Management, without official decision at AGM, or official decision by the EC, signed the electricity supply contract for three-year period on 8th of July 2015, two months before the expiration of the contract.
- AGM on 18th of October 2018 – like at AGM 2017, EC did not select office bearers, leaving role of Chairperson, Treasurer, and Secretary fully delegated to Waratah Strata Management.
- Waratah Strata Management secretly confirmed electricity supply contract expired in email to Energy Action on 24th of October 2018, without knowing the exact date of expiration, and without disclosure to owners or motion to approve or seek tender for contract renewal at AGM on 18th of October 2018.
- Secret quote for electricity metering service received by Waratah Strata Management and signed without decision at any EC meeting or notification to owners corporation on 1st of November 2018.
- Partial office bearers were elected five months after the AGM at EC meeting on 21st of March 2019.
- Waratah Strata Management confirmed that EC members did not receive electricity supply contract before the EC meeting on 21st of March 2019.

- Lot 158 did not find details of the alleged tenders for electricity supply at document search at Waratah Strata Management on 13th of June 2017, 31st of May 2019, and 20th of September 2019.
- EC meeting on 5th of September 2019 confirmed intention to retender electricity supply contract without disclosing full details.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested owners be provided with relevant files throughout 2015, 2016, 2017, 2018, 2019, and 2020.

Motion: Ratify the following events for BigAir ISP contract management

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

- Correspondence between EC members and BCS Strata Management on 10th of October 2012, confirming no income from BigAir ISP since 2005, in breach of the original contract.
- Correspondence between EC members confirming no income received, and fair annual income from BigAir to be \$20,000.00, blaming BCS Strata Management on 1st of September 2013.
- Grace Lawyers earned \$4,172.30 in attempt to expel BigAir from the complex and failed to achieve that task in 2013/2014.
- Grace Lawyers formally requested BigAir leave complex on 31st of January 2014.
- Photos taken of BigAir equipment on Block C on 6th of October 2014 that BCS Strata management and Waratah Strata Management refused to share with owners.
- Decision to engage Telecommunications Ombudsman and enforce eviction of BigAir at AGM on 26th of November 2014 was not complied with by the strata managers and E members.
- Lot 158 Motion for recovery of lost income from BigAir – disallowed without valid reason by BCS Strata Management at AGM 2016 and Waratah Strata Management at AGM 2017.
- Waratah Strata Management email to BigAir with frustration about lack of actions on 14th of February 2018.
- Waratah Strata Management email to BigAir on 16th of February 2018 requesting action to leave the complex or provide new contract details for consideration.
- Waratah Strata Management desperate email to Grace Lawyers on 8th of March 2018, without disclosure to owners.
- Waratah Strata Management email to BigAir asking for proposal on 6th of April 2018, in spite of knowledge that owners corporation did not want them to stay in complex since 31st of January 2014.
- Waratah Strata Management email to EC members with proposal from BigAir on 10th of April 2018.
- Waratah Strata Management email to BigAir with proposal requesting payment in amount of at least \$20,000.00 on 13th of April 2018.
- Waratah Strata Management email to EC members with BigAir counter offer with payment in amount of \$12,000.00 on 3rd of May 2018.
- Email from Waratah Strata Management to BigAir requesting payment in amount of \$20,000.00 on 18th of May 2018.
- BigAir offer of settlement with only \$12,000.00 payment using bullying language on 5th of June 2018.
- Email from Waratah Strata Management to EC members on 6th of June 2018 asking for confirmation if BigAir offer \$12,000.00 was sufficient and planning discussion at EC meeting scheduled for 21st of June 2018.
- Lot 158 document search at Waratah Strata Management on 31st of May 2019 and 20th of September 2019 found no evidence of EC members formally approving BigAir offer via emails or letters.

- Waratah Strata Management signed BigAir Settlement Deed 15th of June 2018 without planned discussion at EC meeting scheduled for 21st of June 2018.
- Waratah Strata Management issued Tax Invoice to BigAir on 15th of June 2018 without planned discussion at EC meeting scheduled for 21st of June 2018.
- Minutes of EC meeting on 21st of June 2018 alleged that the offer was accepted at that meeting without disclosure that Waratah Strata Management had already signed the Settlement Deed on 16th of June 2018.
- Waratah Strata Management refused to notify owners about Australian Taxation Ruling 2015/3.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested owners be provided with relevant files from 2011 to 2020.

Motion: Ratify events for Waratah Strata Management data losses due to ransomware attack

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

- The alleged ransomware attack started on 1st of February 2019 at 11:58:53 hours, just few days after Office of Legal Services Commissioner opened case 56561_1 for continuous professional misconduct by Solicitor Adrian Mueller including refusal to co-operate with the Police in Event E65804633.
- Multiple versions with different explanations of alleged ransomware attack were provided by Waratah Strata Management in regards to alleged ransomware attack in February 2019. At no time Waratah Strata Management and the committee disclosed to owners that alleged Bitcoin ransom was paid by a third-party known to Waratah Strata Management to the threat actor in the equivalent amount of \$5,052.03 nor the evidence of the payment was provided.
 - Waratah Strata Management reporting loss of SP52948 strata files to Lot 158 on 1st of March 2019:

Subject: Automatic reply: FOR CONSIDERATION AND OFFICIAL RESPONSE:
Elevator in Block A additional issues on 21 February and 1 March 2019
From: Robert Crosbie
Date: 1/3/19, 9:03 pm
To:

Due to a recent computer issue we are currently having to re-enter a large volume of financial records into our database. This process is going to take approximately 2 weeks. During this period I am having to manage and assist additional staff we have brought in to speed up this process.

I may therefore be slow to respond to many emails, but will be regularly checking emails and attending to urgent matters as soon as possible. I apologise for any inconvenience that may be caused during this period.

Regards,

Robert Crosbie

- Waratah Strata Management sent letter reporting loss of SP52948 strata files to all owners on 12th of March 2019.

WARATAH

Strata  Management

Address: R.O. Box 125, Eastwood NSW 2122 Phone: 02 9114 9599 Fax: 02 9114 9598
Email: enquiry@waratahstrata.com.au Web: www.waratahstrata.com.au

12 March 2019

Strata Owners

Dear Sir/Madam,

RE: WARATAH STRATA MANAGEMENT – IT INCIDENT

On 1 February, Waratah Strata Managements computers were impacted by ransomware, a type of malicious software. This resulted in access being denied to both our server and external cloud-based backup. For the first 3 weeks in February we had data recovery experts attempt to decrypt our files, which they were successful in doing, however they found that the files have been corrupted and are unreadable. We also appointed a legal firm that specialises in dealing with cyber security issues, so received the best advice and assistance that is available.

It is important to note that there is no evidence that any of the information contained in our system, including the financial and statutory Owners Corporation information such as owners details, has been accessed or taken by any third party. All indications are that the third party who deployed the ransomware only accessed the IT system to install the malicious software, but this is something that will be reviewed closely as we continue to investigate the incident. This incident has also been reported to the police via the Australian Cybercrime Online Reporting Network (ACORN).

Please be assured the owners corporation funds are completely secure – it is only our records that have been impacted.

On Friday 22 February we had our server returned to us and have since been restoring our lost data from a backup from mid-2018. We have employed additional staff and been working very long hours 7 days a week to re-enter all of the financial transactions and update the owners corporations records.

This process is now mostly complete, however as much of this data has been manually re-entered we acknowledge that there may have been mistakes made during this process. We are therefore providing the attached Owner Details Form and ask that you complete and return this form to us as soon as possible to ensure your current details are correctly recorded.

Enclosed is your notice for the levy due on 1 May. We have chosen to post this levy notice to you, even if you usually receive levy notices by email, until we are confident all owners details are correct.

Again, we ask you to carefully check the levy amount owing and if you have any concerns, we ask you to provide a copy of the original levy notices that were sent to you along with a covering letter/email to indicate the amounts of concern and proof of payment of those amounts, so we are able to investigate this for you. We will ensure that no owner incurs any additional charges as a result of errors that have occurred during the re-entering of the financial records.

We also advise that all of the data that was stored on our online portal has been lost. We will be able to restore a lot of this information, but not all of the historical records. For those owners that have been attempting to access the portal, this should now be accessible using your previously advised access details, or if new access details have been entered for your lot, a new web access letter is enclosed.

We request some understanding if we are unable to immediately take your phone calls or return emails at this time. We have over 5 weeks of work to catch up on that we have not been able to attend to until this week. We will be doing everything we can to respond to your requests for assistance as soon as possible.

We sincerely apologise for any inconvenience that has been caused by this issue.

Yours faithfully,

WARATAH STRATA MANAGEMENT PTY LTD

Robert Crosbie

Director

- EC meeting on 21st of March 2019 did not contain any information for owners but reported the Police lost USB pen key with strata files for the first time since it happened in April/May 2018.
- Waratah Strata Management response to Lot 158 about scheduled document search on 9th of May 2019:

Subject: SP 52948, 1-15 Fontenoy Road, Macquarie Park
From: Robert Crosbie
Date: 9/5/19, 5:35 pm
To:
CC: Frank Tallaridi

We write with regard to your various recent correspondence and respond as follows:

- We are happy to book a strata inspection for you on either 24 or 31 May at 9.30am. Please confirm which date you wish to book.
- As noted in the committee meeting minutes of 21/3/19 the USB provided by BCS at change of strata managers was provided to Eastwood Police to allow them to investigate the complaint you lodged with them. We have a copy of all correspondence with Detective Sergeant Steve Benson in relation to that lost USB. We also have a copy of all correspondence to BCS requesting they provide another copy. Thank you for advising that you have a copy of that USB. As a concerned owner at the property we are sure you will be willing to provide a copy of that USB for the Owners Corporations records. If yes, we ask you to bring a copy with you on 24 or 31 May. We are happy to reimburse you the cost of the USB if you wish.
- As advised in the letter that was sent to all owners in March, Waratah Strata Management's server was involved in a ransomware attack. This resulted in our server being encrypted. The hacker was also able to gain access to our cloud based backup service which was also encrypted. As a result a large portion of the owners corporations archive records are no longer available. All financial records are intact, along with all agendas & minutes, insurance records, strata plan files, etc. Much of our email correspondence is still available via Microsoft Exchange, but emails and other electronic correspondence that had previously been saved to our electronic archives are no longer available. We advise that all available records will be provided to you during your inspection, but make you aware some records are no longer available.
- The remainder of your recent correspondence has been dealt with at the committee meeting held on 2/5/19. (Copy attached).

- Waratah Strata Management email to Fair Trading NSW on 17th of May 2019:

In April 2018 [redacted] alleged criminal activity by the Owners Corporation with the Police. We were not made aware of the nature of that allegation, but were made aware that it related to the period when the property was managed by BCS Strata Management. On 5/4/18 Detective Sergeant Steve Benson of Eastwood Police came to our office to investigate the issue. To assist DS Benson we provided him with our copy of the USB provided by BCS at the change of strata managers so he could thoroughly review all of the records. We were some time later advised by DS Benson that he had been transferred to the Hunter Valley and that the USB had been lost. A copy of the relevant correspondence with DS Benson is available if required. Both myself and DS Benson have requested BCS to provide another copy of that USB, but that has not been forthcoming. [redacted] has advised that he has 4 copies of that USB (which he copied when he came in to inspect the OC Records). We have asked him to provide us with a copy and he has responded that he wants \$250 for his time to copy the USB. We have not yet had an opportunity to discuss that with the strata committee.

In February 2019 Waratah Strata's computers were attacked by ransomware. A copy of the incident report obtained by the solicitors acting for our cybercrime insurance company is attached. As a result of that attack we have lost a considerable amount of our electronic archive records. All of our financial records are intact and we have a substantial amount of paper records, including hard copies of all strata meeting agendas and minutes. We also have email records for the last 1-2 years. We have however lost documents such as copies of invoices paid, copies of levy notices issued and other electronic-only records.

- Information given to parties in other strata complexes who conducted document searches. One of them for strata plan SP61424 reported the following on 1st of March 2020:

We were aware of this event when completing this strata report. We were limited to the strata records that were recovered and accessible at the time of our strata inspection. Our inspector notes this in the report:

A complete set of Committee Meeting minutes was unavailable at the time of our inspection. Minutes between 2016 & 2018 Annual General Meetings were on disk; this disk is corrupt and could not be accessed. In February 2019 the managing agent was victim to a cyber attack. Files were compromised/lost and a complete set of records could not be recovered.

- Waratah Strata Management was aware of Lot 158 report CP19/02136 and CP19/02141 of Office of the Australian Information Commissioner (OAIC) in regards to privacy complaints. They never reported it to owners.

There are multiple reasons why data losses (including privacy issues) are important:

As requested, here are further reasons why we believe there was an interference with privacy, as defined in Section 41(1) of the Privacy Act:

(c) the complaint was made LESS than 12 months after the complainant became aware of the act or practice;
(d) the complaint is NOT frivolous, vexatious, misconceived, lacking in substance, and IS MADE made in good faith;

(da) an investigation, or further investigation, of the act or practice IS WARRANTED having regard to all the circumstances;

(db) the complainant HAS responded, within the period specified by the Commissioner, to a request for information in relation to the complaint;

(dc) the act or practice is NOT being dealt with by a recognised external dispute resolution scheme because privacy is not part of strata management laws;

(dd) the act or practice would NOT BE MORE effectively or appropriately dealt with by a recognised external dispute resolution scheme;

Section 41(2) of the Privacy Act also applies:

(a) the respondent has NOT dealt, and is NOT dealing, adequately with the complaint;

(b) the respondent HAS HAD an adequate opportunity to deal with the complaint but refused to do so.

Section 41(3) of the Privacy Act also applies:

(b) the Commissioner NEEDS TO BE satisfied that the interests of persons affected by the act or practice would not be unreasonably prejudiced if the investigation or further investigation were deferred until the application had been disposed of.

1. I have legal and moral obligation to extend the privacy issues to all 218 owners in the complex, not just Lot 158.

What is the basis of such claim: At Annual General Meeting in October 2019, it was implicitly confirmed that I am a legal member of the Executive Committee for the last three years due to failure by Waratah Strata Management to enforce payments of levies and 10% simple interest per year for overdue levies.

Strata plan SP52948 limits number of committee members to nine in any financial year. If the number of valid candidates is less than nine, then all of them become members of the committee automatically unless there is a recorded decision to have less than nine members in the Minutes of the meeting.

I, therefore, have every right and duty to act on behalf of owners corporation if it is in their best interest.

2. Waratah Strata Management is a small business that operates a residential tenancy database, as required by strata laws. Based on such OAIC definition, Waratah Strata Management needs to comply with the APPs.

OAIC definition: A residential tenancy database is a database that stores personal information about individuals occupying residential premises as tenants and is accessible by an individual other than the operator of the database or an individual acting for the operator.

3. Waratah Strata Management trades in personal information (provides a benefit, service or advantage to collect personal information, or disclose personal information for a benefit, service or advantage).

A benefit, service or advantage is any kind of financial payment, concession, subsidy or some other advantage or service.

4. Waratah Strata Management kept files that contained SENSITIVE information about owners and tenants not only for strata plan SP52948 but other complexes (due to mistakes of lodging documents in wrong portfolios).

Examples (can be provided upon request, not attached herewith due to sensitivity):

Lot X admission about serious health condition, dated 16 August 2013.

Lot Y admission of serious health condition, dated 16 June 2017.

Lot 158 (and all other 217 owners in the complex) passwords for access to lookatmystrata.com.au.

Death certificate and will execution through trustee of Lot Z.

Many other types of private and sensitive data were collected in various files, including Strata Roll, legal documents, and so on.

5. Waratah Strata Management kept files that contained various threats, sensitive security events related to harassment and intimidation, and allegations of misconduct.

6. Waratah Strata Management kept claims for reimbursements for private water and gas usage for owners that contained full bank account details (BSB, AC number, account owner).

Example (can be provided upon request, not attached herewith due to sensitivity):

Lot M claim for water and gas reimbursements, dated 18 September 2014.

Lot Q claim for water and gas reimbursements, dated 31 March 2015.

7. Waratah Strata Management subcontracted other businesses with a turnover of \$3 million or more (both managed in Microsoft Cloud and the first one owned by Rockend):

SP52948 strata files were located at lookatmystrata.com.au. Waratah Strata Management alleges that SP52948 data breach happened not only at waratahstrata.com.au but at lookatmystrata.com.au as well. Lookatmystrata is owned by Rockend, company that delivers body corporate management solutions, electronic document management systems, and similar.

Waratah Strata Management uses email services Office365 at Microsoft.

8. Multiple approaches were made to reason with Waratah Strata Management in regards to THREE data breaches.

A reply was never received and no other owner received reasonable information about them.

9. Waratah Strata Management provided multiple different versions of alleged ransomware attack to different audiences: Fair Trading NSW, owners, and myself (Lot 158).

In addition, they refuse to provide details of their alleged reports to Australian Cybercrime Online Reporting Network and the Police, in spite of my request to help these organizations with additional evidence that questions Waratah statements.

It took Waratah Strata Management almost six weeks to report alleged ransomware attack to owners and almost 10 months to report alleged loss of USB key with strata files!

10. Waratah Strata Management refuses to provide owners with analysis of the ransomware attack in February 2019 and USB key loss in mid-2018.

In addition, the report clashes with Waratah own statements to Fair Trading NSW and owners, and what Sententia reported.

Apart from lost USB key (Waratah Strata Management did not keep copies of it) with all files for periods before 1 February 2017 that took Waratah Strata Management around 10 months to report to owners in March 2019, the second loss of data in alleged ransomware attack is also not properly disclosed to owners.

Of special interest is the allegation that Bitcoin ransom was paid by a third-party known to Waratah Strata Management to the threat actor in the equivalent amount of \$5,052.03. Waratah Strata Management still refuses to disclose who paid the ransom and what the Police case number was, and if ATO and other relevant organisations were notified.

In short, there is a strong suspicion that Waratah Strata Management might have been involved in activities that require further investigations in regards to privacy.

We, at all times, offer to co-operate with your organisations and are able to provide much more evidence if and when required.

The only reason why OAIC could not investigate as due to fact that companies with annual turnover of \$3 million or less are excluded.

- *Lot 158 sent the following request and inquiry to Waratah Strata Management on 14th of July 2019, which was not provided to owners and not responded to by Waratah Strata Management:*

Lot 158 has some information that might be of importance to help the Police investigations in regards to alleged data loss and hacking attack against Waratah Strata Management.

After malicious or criminal attacks, human error accounted for 35% data breaches over the period 1 April 2018 to 31 March 2019 (source: Australian Government Notifiable Data Breaches).

The Privacy Act 1988 (Cth) (Privacy Act) and the Privacy Regulations 2013 (Privacy Regulations) requires strata managers to comply with 13 Australian Privacy Principles (APPs) (subject to other provisions of that Act) in how they handle personal information. The APPs regulate the manner in which personal information is handled throughout its life cycle, from collection to use and disclosure, storage, accessibility and disposal (where applicable).

It is noted that Waratah Strata Management had full access to all passwords at lookatmystrata.com.au, which was/is against all security policies and privacy guidelines.

Please provide the following information as a matter of priority:

a) On which date (exact time would be appreciated) did the attack happen and what services were affected (website access to waratahstrata.com.au, email, and so on)?

b) Apart from SP52948, did any other Waratah Strata Management client lose data or got affected by the hacking attack?

c) SP52948 strata files are located at lookatmystrata.com.au. Does Waratah Strata Management allege that SP52948 data breach happened not only at waratahstrata.com.au but at lookatmystrata.com.au as well (two websites affected)?

d) Waratah Strata Management uses email services and Office365 at Microsoft. Is it alleged that Microsoft was also attacked and somehow lost SP52948 files?

e) On which date did the full services for email and website access to waratahstrata.com.au and lookatmystrata.com.au get restored?

f) Who provided file restore services (presumably from backup tapes or on-line backups)?

g) On which date was the Police notified and what is the Event number?

h) On which date was mandatory data breach notification completed (Privacy Amendment (Notifiable Data Breaches) Bill 2016)?

i) On which date, if applicable, was SP52948 insurance notified about the loss of data, financial files, and private information (including bank account details)?

j) Waratah Strata Management appears to have stated strata files on USB key that was lost (misplaced) by the Police in mid-2018 was not backed up. Is that still a valid and truthful statement?

- Lot 158 sent the following request and inquiry to Waratah Strata Management on 11th of August 2019, which was not provided to owners and not responded to by Waratah Strata Management:

As expected and anticipated, Waratah Strata Management and EC members failed to respond to inquiry about alleged ransomware attack sent by Lot 158 on 14 July 2019.

Additional information is now required.

Please provide the following:

a) *What is the earliest date when EC members were notified by Waratah Strata Management about the lost USB key that had been provided to the Police in April 2018?*

b) *Which EC members were notified about lost USB key and strata files and what were their instructions to Waratah Strata Management? Copies of emails are necessary because they were not found during document search on 31 May 2019.*

c) *Who is responsible for failing to run proper backups of SP52948 strata files and email folders in period between lost USB key and the second event - ransomware attack on 1 February 2019.*

d) *Who made the decision not to notify owners about lost USB key before, or at AGM in October 2018?*

e) *Was Economos notified about the lost USB key before their financial audit which was allegedly signed exactly on the day of the AGM - 18 October 2018 (but not disclosed to owners).*

f) *What is the earliest date when EC members were notified by Waratah Strata Management about the alleged ransomware attack on 1 February 2019?*

g) *Which EC members were notified about lost USB key and strata files and what were their instructions to Waratah Strata Management? Copies of emails are necessary because they were not found during document search on 31 May 2019.*

h) *On which dates, if applicable, was Australian Taxation Office notified about lost USB key and the ransomware attack? Copies of emails or letters are necessary because they were not found during document search on 31 May 2019.*

i) *On which dates, if applicable, were Insurance Broker and the insurance policy provider notified about lost USB key and the ransomware attack? Copies of emails or letters are necessary because they were not found during document search on 31 May 2019.*

- At document search on 31st of May 2019, Lot 158 found ransomware investigation report by Sententia, as commissioned by Clyde & Co.

Waratah Strata Management refused to notify owners about these findings.

Sententia report, dated 26th of March 2019 stated:

- Their investigation had limited access to event logs.
 - Deeper understanding of the exact actions by the threat actor was not possible due to lack of evidence and an incomplete audit trail.
 - Based on incomplete logs, the encryption attack most likely occurred on 2th of February 2019 at 12:08:56 hours.
 - Threat actor achieved brute-force success with the 'Administrator' account on server WSMHS1, a malicious toolkit was then used to create 'www' account on 1st of February 2019 at 11:58:53 hours.
 - Incomplete audit logs from terminal services show the first login occurred at 23:59 hours on 1st of February 2019 and session ended at 03:33 hours on 2nd of February 2019.
 - There was no conclusive evidence to suggest any data exfiltration occurred (simply based on available usage data logs that did not take into account possibility of using data compression for file transfers, or selective file transfers – targeted files).
 - In timeframe between 15th of February 2019 and 17th of February 2019, Waratah Strata management was still at high risk, due to unpatched servers and continuous attacks with brute-force access. Lack of remediation actions to close all non-essential inbound ports continued to create risks.
 - Bitcoin ransom was subsequently paid by a third-party known to Waratah Strata Management to the threat actor in the equivalent amount of \$5,052.03. After this payment, there was no response from the threat actor.
 - The attack allegedly occurred due to misconfigured routers that allowed RDP protocol.
 - Waratah Strata Management recovered their data via a re-image procedure.
 - It was recommended to use more secure method of connectivity, such as MFA VPN.
- Lot 158 has full evidence that email sent to Waratah Strata management on 9th of February 2019 with subject "FOR CONSIDERATION AND OFFICIAL RESPONSE: Elevator in Block C took three times to open and close door automatically before travelling on 9Feb2019" was read by Mr. Robert Crosbie on 11th of February 2019 at 07:12:54 am by logging into Microsoft services.
 - Lot 158 has full evidence that email sent to Waratah Strata management on 9th of February 2019 with subject "FOR CONSIDERATION AND OFFICIAL RESPONSE: Half-meter hole in the building wall in Block C not repaired for more than half a year on 9Feb2019" was read by Mr. Robert Crosbie on 11th of February 2019 at 07:12:56 am by logging into Microsoft services.
 - Lot 158 has full evidence that email sent to Waratah Strata Management on 1st of March 2019 with subject "FOR CONSIDERATION AND OFFICIAL RESPONSE: Elevator in Block A additional issues on 21 February and 1 March 2019" was responded by Mr. Robert Crosbie's automated reply on 1st of March 2019 at 09:03 pm by logging into Microsoft services.
 - Lot 158 had number of attempts to obtain information about ransomware attack, which were silently denied by Waratah Strata Management and committee members:

10th of August 2019 Request to disclose if EC members were notified about two events for loss of SP52948 strata files in a timely manner

17th of February 2020 INTERIM UPDATE: Request to provide information about alleged data breach at Waratah Strata Management and loss of SP52948 strata files

25th of March 2020 SUMMARY: Waratah Strata Management refusal to notify owners about critical issues including Fair Trading Mediation and expired contract with Waratah Strata Management

27th of March 2020 Sent to Secretary Mrs. Marianna Paltikian Fwd: INTERIM UPDATE: Request to provide information about alleged data breach at Waratah Strata Management and loss of SP52948 strata files

- Lot 158 had extensive (still ongoing) investigations with Microsoft and here are the findings so far:

Sententia report in March 2019 does not report any data losses in Office 365 or Azure cloud, therefore no record of files being destroyed by ransomware attack on Microsoft public systems that Waratah Strata Management uses for SP52948.

Lot 158 obtained official statement by Microsoft that they had never been notified about data loss and/or ransomware attack in Office 365 that keeps emails for waratahstrata.com.au.

Microsoft also stated that had anybody reported loss of emails in Office 365, Microsoft would have had ability to restore them within 90 days after the incident. That obviously did not happen as Microsoft seemingly has no record of such actions.

Microsoft found no trace of any complaint, ticket, or report for data losses for waratahstrata.com.au in Office 365 during 2019 or 2020.

The only event related to waratahstrata.com.au was ticket in June 2019 (case number 14941752 - problem with sending emails).

Microsoft has not been involved in any investigation of alleged ransomware attack or data losses that Waratah Strata Management reported for emails in Office 365.

- Lot 158 obtained official statement by Rockend that they provide the lookatmystrata.com.au domain as a service. However, Rockend does not store, hold, access, or release any information related to that domain. All such information is held, exclusively managed, and complete responsibility of Waratah Strata Management.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested owners be provided with relevant files in 2019 and 2020.

Motion: Ratify Australia Post findings that no problems with letter deliveries to Lot 158 existed as implied by Waratah Strata Management in 2017, 2018, 2019, and 2020

The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:

- Apart from two EC meetings and one notice for EC meeting, Waratah Strata Management failed to deliver any notices and minutes of meetings in SP52948 since 1st of February 2017.
- Director of Waratah Strata Management, in his response on 17th June 2018 suggested that agenda and minutes of meetings were missing for Lot 158 due to problems with Australia Post.
- Lot 158 initiated four 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 2017 till now.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested owners be provided with relevant files in 2017, 2018, 2019, and 2020.

Motion: Ratify the following events and confirm inequitable, excessive and unapproved water and gas reimbursements to selective townhouse owners

The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:

- Waratah Strata Management prevented owners from voting on this Motion at AGM 2018.
- 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.
- Lot 158 has the evidence of the following expenses for reimbursements to selective townhouse owners in different years:

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 until 6th of May 2019

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 \$5,315.57 to undisclosed number of townhouse owners, without details of how the reimbursements applied

FY 2018, paid \$8,872.84 to undisclosed number of townhouse owners for their private water and gas usage, without details of how the reimbursements applied

FY 2019, paid \$5,880.23 to 18 townhouse owners for their private water and gas usage

FY 2020, paid \$5,587.71 to undisclosed number of townhouse owners for their private water and gas usage, without details of how the reimbursements applied

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested owners be provided with relevant files in 2017, 2018, 2019, and 2020.

Motion: Ratify the events and approve better financial reporting with enforcement of all payments in prescribed timeframes

The Owners Corporation SP52948 by ORDINARY RESOLUTION approves the following:

- Waratah Strata Management prevented owners from voting on this Motion at AGM 2017, 2018, and 2019 in non-compliance with SSMA 2015, Schedule 1, c(4).
- To ensure accounting with full transparency and allow owners to review it at any time, avoid misuse, and be in line with most reputable strata management agencies who provide these services automatically as standard service, 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 shall enforce payments of all invoices within timeframes defined on invoices in order to avoid false accounting for the financial year.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested owners be provided with relevant files in 2017 2018, 2019, and 2020.

Motion: Ratify 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:

- Waratah Strata Management failed to include this Motion at AGM 2017, 2019, and 2019, in non-compliance with SSMA 2015, Schedule 1, c(4).
- AGM 2016 on 19th October 2016, which approved expenditure for the painting project in 2017, failed to comply with strata regulations.
- 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 4th November 2016 confirmed 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 4th November 2016 confirmed 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 3rd 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 20th 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 28th 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 3rd 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 13th 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 stated on 1st 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.
- Numerous repeated repairs of garden beds and BBQ area were documented by Lot 158 to Waratah Strata Management since 2018.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested owners be provided with relevant files in 2017 2018, 2019, and 2020.

Motion: Ratify events in relation to missing register of items excluded from common-property, non-compliance with EC decision on 2nd of May 2001, and enforce EC decision to keep register of approvals granted to owners made on 2nd of May 2001

The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:

- BCS Strata Management 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.
- Waratah Strata Management failed to include this Motion at AGM 2017, 2018, and 2019, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- BCS Strata Management and Waratah Strata Management failed to comply with decision of EC meeting on 2nd of May 2001 to keep register of approvals granted to owners.

- 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 15th August 2007: Lot 135 application for solar film on windows.

28th March 2011: Townhouse 194 requested new gas boiler and separate gas meter.

EC meeting 4th 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 17th March 1998: Lot 62 approved to install double-glaze windows (By-Law planned to be approved at general meeting but never eventuated).

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

EC meeting 17th 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 19th August 1998: Townhouse 206 approved to install polycarbonate sheeting as pergola cover.

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

EC meeting 4th 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)

Gas heating connections in townhouses and building lots.

- Owners corporation makes decision for strata and building managers to conduct full audit of items that are not common property any longer and report it to owners within 30 days after this Motions is approved.
- Owners corporation makes decision for strata and building managers to update the register of approvals granted monthly and make it available via strata management's web site free of charge.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested owners be provided with relevant files in 2017, 2018, 2019, and 2020.

Motion: Ratify events for undisclosed major water leaks and commence roof membrane repairs in Block A and C, and half-roof on Block B

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

- BCS Strata Management 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.
- Waratah Strata Management failed to include this Motion at AGM 2017, 2018, and 2019, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).

- BCS Strata Management 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)

- BCS Strata Management and Waratah Strata Management failed to disclose to owners that insurance premiums were increased due to constant water ingress on 29th of August 2012.
- Insurance companies rejected claims for water damages multiple times since 2012. One of them was on 14th of July 2016.

BCS Strata Management and Waratah Strata Management failed to inform the owners.

- Lot 158 sent email to Waratah Strata Management with evidence of risks with delayed repairs of roof membranes in Block A and C, and half of Block B on 23rd of December 2018.

Waratah Strata Management did not respond and did not inform owners.

- Lot 158 sent email to Waratah Strata Management with additional evidence of risks with delayed repairs of roof membranes in Block A and C, and half of Block B on 2nd of January 2019.

Waratah Strata Management did not respond and did not inform owners.

- Lot 158 sent email to Waratah Strata Management with additional evidence of risks with delayed repairs of roof membranes in Block A and C, and half of Block B on 19th of March 2019.

Waratah Strata Management did not respond and did not inform owners.

- BCS Strata Management and Waratah Strata Management failed to disclose to owners that insurance premiums enforced \$10,000.00 excess in every financial year on water damage, burst pipes, and exploratory costs on each and every claim since August 2012.
- Without tender, Kintyre Building 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 tiles replacing chipped ones) as per invoice dated 27th of March 2012.
- On 9th June 2014, Dural Building Services (DBS) submitted the quote DBS Q14-048 for SP52948 roof repairs on Block B to BCS Strata Management.

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 26th November 2014.

The only competitor was Kintyre Building Services, who won the contract through misleading Motion at the AGM, without stating that their quote for half roof repairs on Block B would cost \$53,960.00 plus GST.

Kintyre's quote dated 27th 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 17th September 2014, two months before the approval happened at the AGM on 26th of November 2014.

After work was completed in Block B, there was a complaint about the quality in undisclosed EC notes 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 have cost around \$74,800.00 (GST inclusive).

- Kintyre's quotes provided only five-year warranty for the work in 2014 and 2015 due to:

Torch on membrane comes with 15 year material warranty. In discussions with the manufacturers they have advised that a liquid membrane applied to this roof would come with a 5 year material warranty due to excessive cracking and water ponding on the existing concrete substrate.

- Warranties for the work done on roof membranes in Block D and half of Block B expire in 2020, whilst work on Block A and C, and half of Block B has not even been done yet.
- In spite of documented evidence to maintain roofs, Waratah Strata Management, without consultation with owners corporation allegedly approved the 10-Year Capital Works Fund plan in March 2017, which delayed maintenance of roofs until year 2023.

2017 projected expenses for this work in amount of \$360,000.00 will increase to \$571,275.00 in year 2023.

- BCS Strata Management and Waratah Strata Management failed to disclose information about seriousness of the water leak problems in Block A, which was listed in NCB Plumbing warning dated 24th February 2016. They state to fix all ongoing water leaks throughout units 189, 190, 191, and 192 would be a very big job, as all ceilings would need to be pulled down throughout all the kitchens, bathrooms and possibly hallways and bedrooms to access all the piping.

Repeated repairs, without any warranties continue to plague the complex and waste owners' funds. 24 documented water-related repairs in one unit alone (Lot 191) since late 2011 at cost above \$21,000.00 generated almost two days of cumulative water supply shutdown to all owners in Block A. Since Waratah Strata Management took office on 1st February 2017, seven repairs were done in Lot 191 (statistics for 2019 is kept secret by Waratah Strata Management):

Cred. Code	Creditor Name	Doc. Ref.	Doc. Total (GST inc.)	Chq. Date	Date Presented	Comments
33568	NCB PLUMBING PTY LTD	28733	\$693.00	15/09/2011	15/09/2011	Lot 191: water leak
68671	HOWARD WEST - BUILDER	973	\$968.00	15/04/2013	15/04/2013	Lot 191: repair ceiling and cornices to kitchen after water leak, remove damaged ceiling and cornice sections, supply and install new trimmers to ceiling, supply and install new plaster board, treat and seal stains, sand repairs
33568	NCB PLUMBING PTY LTD	31213	\$832.70	19/04/2013	19/04/2013	Lot 191: urgent water leak in kitchen ceiling on Saturday
33568	NCB PLUMBING PTY LTD	31749	\$121.00	15/08/2013	15/08/2013	Lot 191: leak coming through light fitting in laundry
33568	NCB PLUMBING PTY LTD	31853	\$653.40	2/09/2013	2/09/2013	Lot 191: leak in ceiling area
68671	HOWARD WEST - BUILDER	1041	\$803.00	3/09/2013	03/09/2013	Lot 191: repair laundry ceiling after water leak from roof, cut out damaged plasterboard, trim ceiling and install new plasterboard, set joints and repair cornice, sand and seal repairs ready for painting
33568	NCB PLUMBING PTY LTD	32019	\$779.90	16/10/2013	16/10/2013	Lot 191: leak in laundry ceiling
68671	HOWARD WEST - BUILDER	1045	\$781.00	24/10/2013	24/10/2013	Lot 191: repair laundry ceiling after water leak from roof, remove damaged plasterboard, trim ceiling and install new plasterboard, set joints and repair cornices, sand repair and prepare ready for painting, refix ceiling light
68671	HOWARD WEST - BUILDER	52948814	\$1,078.00	14/08/2014	14/08/2014	Lot 191: ceiling water leak
68671	HOWARD WEST - BUILDER	1144	\$572.00	23/10/2014	23/10/2014	Lot 191: water damage to ceiling
68671	HOWARD WEST - BUILDER	1154	\$781.00	24/03/2015	24/03/2015	Lot 191: water damage ceiling
33568	NCB PLUMBING PTY LTD	34032	\$887.70	7/04/2015	07/04/2015	Lot 191: water leak through kitchen ceiling bulkhead
33568	NCB PLUMBING PTY LTD	34352	\$867.90	23/06/2015	23/06/2015	Lot 191: Urgent Saturday water leak bathroom ceiling
68671	HOWARD WEST - BUILDER	1188	\$1,078.00	23/06/2015	23/06/2015	Lot 191: Repair ceiling to bathroom after plumbers repaired hot water leak, cut out damaged ceiling section, trim ceiling and install new plasterboard, set joints and repair damaged cornice, sand repairs and treat water stains ready for painting
33568	NCB PLUMBING PTY LTD	34977	\$878.90	14/12/2015	14/12/2015	Lot 191: water leak through ceiling
33568	NCB PLUMBING PTY LTD	35299	\$658.90	24/02/2016	03/03/2016	Lot 191 and 192: water leaks
69661	W & M GORDON	151216	\$790.00	13/12/2016		Lot 191: repairs to bathroom ceiling after water leak
33568	NCB PLUMBING PTY LTD	INV36279	\$1,305.70	1/12/2016	13/12/2016	Lot 191: called out by caretaker, to a report of a water leak coming through the bathroom ceiling. We had to cut open a section of the ceiling to gain access to the pipes. We removed the section of the lagging and located the broken pipe. We found there were two separate leaks within a short distance and we managed to get a clamp over both leaks. We organised to return again, but received a call from the caretaker that one of the leaks had started up again. Upon checking we found that the leak was substantially worse and could not be resealed. As a result we had to notify residents and shut the water down to the building, so we could then cut out and replaced a 2 to 3 meter section of piping in the ceiling space, which also required us to cut another hole in the ceiling. Tested all new piping and cleaned up mess to complete our part of the job.
33568	NCB PLUMBING PTY LTD		Undisclosed to owners	3/03/2017		Lot 191: water leak in laundry ceiling
	Warrick - Handyman		Undisclosed to owners	8/03/2017		Lot 191: repaired gyprock ceiling in laundry area after water
33568	NCB PLUMBING PTY LTD		\$1,185.80	3/03/2017		Lot 191 water leak through bathroom ceiling
	NCB PLUMBING PTY LTD	INV-37627	\$1,284.80	22/01/2018		Lot 191: water leak in ceiling cavity wall
	W & M GORDON	861514	\$693.00	16/04/2018		Lot 191: ceiling repair after water leak
	NCB PLUMBING PTY LTD	INV-37891	\$1,383.80	16/04/2018		Lot 191: water leak
	NCB PLUMBING PTY LTD	INV-37955	\$1,933.80	14/05/2018		Lot 191: water leak through laundry ceiling
		Total	\$21,011.30			

- Lot 158 asked Waratah Strata Management multiple times:
 - To avoid repetitive repairs without long-term benefits and risks of litigation due to lack of maintenance, owners corporation to obtain three quotes for roof repairs in Block A and C, and half of Block B at AGM 2020.
 - To avoid repetitive repairs without long-term benefits and risks of litigation due to lack of maintenance, owners corporation makes decision to organize Extraordinary General Meeting (if quotes are not already prepared at AGM 2020) to approve roof repairs in Block A and C, and half of Block B, within 90 days after this Motions is approved.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested owners be provided with relevant files in 2017, 2018, 2019, and 2020.

Motion: Ratify events related to owners corporation had no official Office Bearers for several months in FY 2018, 2019, and 2020

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 24th October 2017 until Lot 158 warned Waratah Strata Management and new Office Bearers were announced at EC meeting on 15th February 2018.
- Owners corporation had not announced or officially elected Chairperson, Secretary, and Treasurer of the EC in period from AGM held on 18th October 2018 until EC meeting on 21th March 2019.
- Owners corporation had not announced or officially elected Chairperson, Secretary, and Treasurer of the EC in period from AGM held on 17th of October 2019 until EC meeting on 13th of February 2020.
- Treasurer Mr. Thomas Karolewski was approached three times by Lot 158 to warn against financial mismanagement:

22nd of April 2018

10th of May 2019

30th of June 2019

He failed to respond to the concerns.

Waratah Strata Management did not inform owners about it.

- Lot 158 found the following email by Mr. Thomas Karolewski to EC members and Waratah Strata Management on 8th of August 2018:

I think we should inform the owners about:

- *long standing dispute between the individual and the Owners – Strata Plan 52948, going on for over a decade*
- *previous court cases and that the Strata won it*
- *court order – whatever the determination was*
- *that the SC is now seeking a legal advice how to deal with the false allegations and therefore it is in best interest of the owners not to respond to the communication from the individual or act on them.*

- Lot 158 asked for proof that Treasurer Mr. Thomas Karolewski delegated his duties to Waratah Strata Management in FY 2018 and 2019.

A response was never received.

- During document search on 31st of May 2019 and 20th of September 2019, Lot 158 found no evidence that Mr. Thomas Karolewski officially delegated duties to Waratah Strata Management in FY 2018.
- During document search on 31st of May 2019, Lot 158 found belated evidence that Mr. Thomas Karolewski sent an undisclosed email to EC members and Waratah Strata Management avoiding responsibility for Treasurer role on 16th of March 2019 retrospectively (four days after owners learned about USB key loss with strata files in 2018 and ransomware attack with additional losses of strata files at Waratah Strata Management in February 2019):

I do not resume or accept the role of SP 52948 Treasurer, within the Committee election cycle, 18 Oct 2018 – Oct 2019.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested owners be provided with relevant files in 2017, 2018, 2019, and 2020.

Motion: Ratify non-compliance with SSMA 1996 S108 and SSMA 2015 S182 for Lot 158 paid document searches

The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms the following:

- BCS Strata Management 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.

- Waratah Strata Management failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).
- Waratah Strata Management failed to include this Motion at AGM 2018, 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 13th June 2017, 31st of May 2019, and 20th of September 2019.
- Lot 158 spent more than \$3,200.00 for document searches including years 2011, 2012, 2013, 2015, and 2017, and 2019 without being provided access to majority of strata documents.
- Waratah Strata Management replied with this comments in email to Lot 158 after complaints about missing strata files on 17th of June 2018:

I have repeatedly advised I am not interested in going back over your allegations against BCS. You have been provided access to all strata files. If you did not locate the documents you were looking for it means they are not in the strata records provided by BCS.

Waratah Strata management refused to inform owners about these statements.

- During document search in FY 2019, Waratah Strata Management failed to provide access to these documents (partial listing provided herewith) with the following status experienced by Lot 158 on the day:
 - Missing all cash book receipts for financials years between 2012 and 2019,
 - Missing auditor's report for FY 2017,
 - Missing almost all invoices for financial years between 2012 and 2019 (including invoices for second gas connection),
 - Missing most of insurance claims for financial years between 2012 and 2019,
 - Missing most of cash book payments for all financial years between 2012 and 2019, with exception of FY 2018 and part of FY 2019 (period between 1st of September 2018 and 2nd May 2019). Only one full financial year found in document "Detailed expenses for the financial year from 1/09/2017 to 31/08/2018" dated 16th of October 2018. There were payments for FY 2019 but covering period only up to 2nd of May 2019 ("Detailed expenses for the financial year from 1/09/2018 to 02/05/2019"). There was also an incomplete document for FY 2012 in file "Cash Book payment by Account Code 1/09/2011 to 31/07/2012",
 - Missing most of legal correspondence for years between 2012 and 2019,
 - Missing most of emails for years between 2012 and 2019,
 - Missing most of documents listed in Lot 158 request sent before the document search,
 - Missing current Strata Roll,
 - Missing copies of explicit delegation of duties of Treasurer, Secretary, and Chairperson to strata managers at BCS Strata Management and Waratah Strata Management in any period between October 2012 and 20th of September 2019 (only email delegation for FY 2019 found),
 - Missing audit of items that are not common property any longer,
 - Missing register of approvals for owners,
 - Missing correspondence between Waratah Strata Management with the Police and other applicable enforcement agencies in regards to computer break-in in period 1st of February 2019 to 20th of September 2019,
 - Missing correspondence between EC members, strata managers and the Police for any other security or legal matter in period 2014 to 20th of September 2019,
 - Missing up-to-date Bank Statements as on the day of Lot 158 visit,
 - Missing evidence of recovery of funds from parties responsible for frequent damages to car entrance gate,
 - Missing evidence of tender for elevator contract renewal in 2018,
 - Missing names of building management staff and their license details,
 - Missing most of correspondence files (emails or hard copies),
 - Missing most of yearly Fire Safety inspection reports for FY 2012, 2013, 2014, 2015, 2016, 2017, 2018, and 2019,

- Missing evidence of who made decision to undercharge BigAir ISP and approve Deed of Release and at which meeting,
 - Missing insurance claims,
 - Missing evidence that Lot 3 and Lots 136/137 comply with Special By-Laws in regards to public liability insurance for their exclusive use of common property in FY 2013, 2014, 2015, 2016, 2017, 2018, and 2019,
 - Missing evidence and invoices for all work related to painting and major works on townhouses allegedly costing \$92,950.00 in 2017,
 - Missing Email from Lot 181 with the spreadsheet for Lot 181 paid levies for second gas connection to Gary Mills at BCS Strata Management on 10th of June 2015 at 4:28 pm
 - Missing email from Teagan Robards at BCS Strata Management to Gary Mills and Lilia Olson with the spreadsheet of charges for Lot 181 second gas connection dated 17th of July 2015 at 12:51 pm (Subject line: "RE: S & T Pogorelsky - Gas charges paid from 1998 to 2015 - Strata Plan 52948"),
 - Missing audit of second gas connections for 218 lots, including who conducted it, the dates of gas disconnections with names of certified plumbers, and the date of the report,
 - Missing files in Legal Matters folder,
 - Missing minutes for number of EC and general meetings,
 - Missing unredacted (unmodified) eight emails submitted in CTTT Statutory Declaration by BCS Strata Management on 19th of April 2013 and District Court in February 2014,
 - Missing over 2,000 pages of evidence in CTTT folder for cases in 2012-2014 period,
 - Waratah Strata Management plans to destroy strata files in various folders even before the seven-year period expires. Under changes to the regulations, all records listed in Section 180 of the NSW Strata Schemes Management Act 2015 must be kept for seven years).
 - Nine entries were found in a single cheque book and older cheque books were not found.
- Lot 158, through O'Brien Criminal & Civil Solicitors requested access to many strata files from Waratah Strata Management on 30th of October 2019.
 - Lot 158, through O'Brien Criminal & Civil Solicitors requested access to many strata files from Waratah Strata Management on 24th of April 2020.
 - BCS Strata Management and Waratah Strata Management failed to inform owners corporation about their persistent refusal to provide access to owners corporation documents.

Explanatory Notes

Waratah Strata Management is the custodian of all strata files. Lot 158 requested owners be provided with relevant files in 2017, 2018, 2019, and 2020.

Motion: Ratify events related to 10-Year Capital Works Fund for SP52948

The Owners Corporation SP52948 by ORDINARY RESOLUTION ratifies the following:

- For 24 years, owners corporation never discussed or made proper plans for 10-Year Sinking (now called Capital Works) Fund Plan at general meetings.
- Latest 10-Year Capital Works Fund Plan was adopted in March 2017 without consultation with owners corporation. 10-year Capital Works Plan was commissioned from Biv Reports Pty Ltd and has no relevance to real needs or proactive maintenance of the complex.
- An example: Since 13th of July 2019, committee members and Waratah Strata Management failed to inform owners about that for four units alone in 2018/2019 owners corporation spent close to \$20,000.00 on water-related damages:

Lot 42
 Lot 92
 Lot 191
 Lot 192

- Waratah Strata Management, its predecessor BCS Strata Management, and EC members still refuse to notify owners that insurance policy for SP52948 enforces \$10,000.00 excess for every water damage or burst pipe due to continuous problems in the complex since year 2012.

- Lot 158 confirmed, with full evidence that Lot 191 had at least 24 water-leak repairs costing owners corporation Lot 191 above \$21,000.00 since 2011.
- Elevator upgrades were scheduled for year 2026, at cost of around \$339,831.00. Just two years later, real cost of the upgrades in 2019 was above \$800,000.00 - granted to Liftronic.
- In spite of documented evidence to repaint buildings and garden beds (external painting), this work was delayed until year 2027. Painting upgrades were scheduled for year 2027, at cost of around \$1,640,783.00. Just a year later 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). That did not include professional consultancy fees and failed to provide evidence and invoices for all work related to painting and major works on townhouses allegedly costing \$92,950.00.
- 10-Year Capital Works Fund plan in March 2017 delayed maintenance of roofs until year 2023. 2017 projected expenses for this work in amount of \$360,000.00 will increase to \$571,275.00 in year 2023.
- 10-Year Capital Works Fund plan in March 2017 delayed maintenance of fences until year 2025. 2017 projected expenses for this work in amount of \$65,000.00 will increase to \$120,310.00 in year 2025.
- Tripping hazards in the complex have not been rectified since 2012 and not done as per 10-Year Capital Works Fund Plan in March 2017 that planned this work for FY 2018.
- There is no evidence of tenders and work on central HWS upgrades planned for FY 2019 in amount of \$70,560.00.
- There is no evidence of tenders and work on stormwater drain and irrigation upgrades planned for FY 2020 in amount of \$46,305.00.
- AGM 2020 is just around the corner and planned tender for internal painting in 2021 in amount of \$243,101.00 has not yet been announced.
- AGM 2020 is just around the corner and planned tender common property lighting upgrades in 2021 in amount of \$24,310.00 has not yet been announced.
- 10-Year Capital Works Fund plan in March 2017 predicts FY 2020 balance of \$2,449,583.00 whilst real balance as of 31 August 2020 is \$709,724.06, meaning: only \$3,255.00 is saved per each owner.

Explanatory Notes

Strata files are also available from Waratah Strata Management.

Motion: Ratify frequent changes of staff managing SP52948 at BCS Strata Management and Waratah Strata Management

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,
- BCS Strata Management changed/replaced seven Strata Managing Agents and three Branch Managers due to unsatisfactory performance, or staff resignations, in period 2010 to 2016 before they lost contract with SP52948 at general meeting on 19th of October 2016:

Mr. John Fry
 Mr. Simon Wicks
 Mr. Gary Webb
 Mr. Peter Bone
 Mr. Paul Banoob
 Mr. Russell Young
 Mr. Gary Mills
 Mr. Billy Cheung
 Mr. Simon Brikha
 Mr. Mike Smythe

- Waratah Strata Management changed/replaced three Strata Managing Agents from 1st of February 2017 till now:

Mr. Simon Wicks
 Mr. Frank Tallaridi
 Mr. Stuart Greene

Explanatory Notes

Strata files are also available from Waratah Strata Management.

Motion: Ratify events related to sunroom waterproofing

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

- In 2003/2004, Lot 45 in Block B successfully forced owners corporation to repair water leakages in sunroom. BCS Strata Management tried to argue that sunrooms were not designed to be "water-tight" and was rejected at NSW Fair Trading:

OTION 2 That in connection with a Mediation Hearing due to take place on the 20th August 2003 (applicant Owner lot 45) that William John Fry from Raine & Home Strata-Sydney be authorised to attend such Hearing on behalf of the Owners Corporation with an instruction that agreement be sought for the waterproofing of the sunroom to be undertaken at Owners Corporation cost but that the repairs be delayed until 2004 at which time scaffolding will be in place for the purpose of repainting the exterior of the building - Carried.

- Lot 158 sent the following email to Waratah Strata Management on 8th of August 2020:

Here is what every owner must know:

Where water ingress can be traced to common property, it is strata's statutory obligation to rectify it. This often cannot be determined without the assessment of a plumber, engineer, or other professional.

When a lot owner notices a leak or water damage emerging they can request a committee to pay for this investigatory work, but an owner might decide to pay out of their own pocket first and seek reimbursement later. This is done for expediency – a leak should be investigated immediately, rather than waiting for a committee to convene, because a problem fixed sooner will be a problem fixed more affordably. Note this reimbursement could only apply if the problem was determined to be water ingress from common property.

We live in so-called Class 2 building (apartment buildings).

Sunroom is considered to be a habitable room. Habitable room means a room used for normal domestic activities, and:

(a) includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, playroom, family room and sunroom; but

(b) excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods.

In 2003/2004, Lot 45 forced proper repairs in his sunroom through Fair Trading NSW.

Since 2012, our strata managers and building managers prevent owners from knowing that due to significant water leaks and water-related damages, insurance companies forced water damage/burst pipe/exploratory excess for each and every claim \$10,000.00.

Water Damage/Burst Pipe/Exploratory Cost on each & every claim	\$ 10,000
--	-----------

Sunroom must not have water leaks. Period.

Here are some of many pieces of evidence we collected for repairs to sunroom (we have much more).

All listed expenses are GST exclusive!

Lot 75, repair sunroom ceiling on 1 November 2010 (total cost \$450.00)

Lot 82, replace whole sunroom windows and frame on 11 November 2010 (total cost \$6,200.00)

17 Lots in all buildings, repair sunroom windows on 30 March 2011 (total cost \$1,700.00)

Block C, various Lots, repairs in sunrooms on 13 April 2011 (total cost \$700.00)

Block D, unknown Lot, repair sunroom window on 25 May 2011 (total cost \$800.00)

Lot 23, investigate sunroom leaks on 22 June 2011 (total cost \$390.00)

Lot 136, repair sunroom window on 4 August 2011 (total cost \$145.00)

Lot 198, investigate sunroom leak on 5 October 2011

Lot 100, render sunroom wall due to water damage on 28 October 2011

Lot 189, water leak into sunroom, poorly repaired previously on 23 November 2011

Lot 56, waterproof sunroom and repair leaks on 21 December 2011 (total cost \$520.00)

Lot 37, investigate and repair water leak into sunroom on 7 March 2012 (total cost \$640.00)

Lot 14, investigate water leak into sunroom on 18 April 2012 (total cost \$110.00)

Lot 23, 53, and 167, water leaks into sunroom on 2 July 2012

Lot 79, sunroom repairs on 25 February 2013

Lot 126, repair sunroom leaks and waterproofing on 12 March 2013

Lot 99, water leaks into sunroom on 19 March 2013

Lot 94, repairs in sunroom on 20 June 2013 (total cost \$365.00)

Lot 151, waterproofing sunroom on 5 August 2013

Lot 133, repair in sunroom on 8 August 2013

Lot 23, 25, and 45 investigate water leaks on 3 July 2013

Lot 23, 25, 43, and 186, repair water leaks on 20 August 2013

Lot 93, waterproofing on 18 September 2013

Lot 60, sunroom damage due to heavy rain on 5 December 2014

Lot 31, repair water leaks and waterproofing on 26 May 2014

Lot 146, repair in sunroom on 13 December 2016 (total cost \$200,00)

Lot 15, repaired bubbled wall in sunroom January 2016

Unknown Lot, repair cornices in sunroom on 19 October 2016

- All areas of units need to be free of water leakages and dampiness.
- Lot 158 requested Waratah Strata Management complete the following tasks in July 2020:

- Investigate causes of mould and humidity in bathrooms and elsewhere around the complex, and take corrective actions as required.
- Investigate air flow in bathrooms and elsewhere, and take corrective actions as required.
- Send notice to all owners and tenants about maintenance of vents in bathrooms and laundry, which are especially important during COVID-19.

Explanatory Notes

Strata files are available from Waratah Strata Management.

Motion: Ratify events related Special Resolution 25 at AGM 2016

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

- At AGM 2016, Lot 158 submitted Motion 25 as Special Resolution:

Occupational Health and Safety Risk Assessment

It was approved with:

49 votes Yes
11 votes No

- BCS Strata Management and Waratah Strata Management failed to register this Special By-Law within six months of its approval.
- Waratah Strata Management and committee members failed to comply with AGM 2016 Motion 25.1 requiring owners corporation to obtain OH&S Risk Assessment before AGM 2017, 2018, and 2019.
- The provisions of the Work Health & Safety Act 2011 and the Work Health & Safety Regulation 2017 require that the owners corporation provide and maintain the common property to:
 - Ensure it is safe and without risk to the health of contractors and others who may use it.
 - Agree to undertake ongoing risk management assessment to identify and eliminate any such risks.

One way to undertake such risk management is to have an independent expert inspect the common property (on a regular basis) and report to the owners corporation any identified risks. This is commonly known as a Safety Audit or a Work Health & Safety Audit and should highlight anything unsafe or potentially hazardous.

Explanatory Notes

Strata files are available from Waratah Strata Management.