

## Table of Contents

1 SP52948 – Solicitor Adrian Mueller, on behalf of owners corporation, confirming that maintenance of common property is compulsory and that some strata files are missing on 14 <sup>th</sup> of November 2019.....	2
2 SP52948 – NCAT 20/33352 extracts from dismissed application by not accepting the evidence in spite of orders allowing web-based files at Directions Hearing on 25 <sup>th</sup> of September 2020.....	3
3 SP52948 – Previous Fire Safety reports still unresolved.....	5
4 SP52948 – BCS Strata Management relying on luck not to get fined for late submission of AFSS report on 16 <sup>th</sup> of June 2016.....	7
5 SP52948 – Ryde City Council letter to BCS Strata Management on 9 <sup>th</sup> of August 2016 and belted response by BCS Strata Management on 15 <sup>th</sup> of November 2016 without notifying owners at Annual General Meeting.....	8
6 SP52948 – Waratah Strata Management summary of fire and OH&S compliance problems on 17 <sup>th</sup> of March 2017.....	10
7 SP52948 – Ryde Council letter with requests to investigate fire and OH&S compliance on 15 <sup>th</sup> of April 2019.....	11
8 In spite of owners overwhelmingly approving OH&S Special By-Law in 2016 it has never been registered in NSW Land Registry Services and no record of such assessment provided to any SP52948 owner as of June 2021.....	13
9 One smoke alarm in Lot 158 expired in 2005 and other in 2019, both declared faulty in 2019 and 2020 in fire inspections, and not replaced as of June 2021.....	14
10 SP52948 continued issues with Residential Tenancy Act 2010 short-term letting and additional risks for guests with smoke alarms.....	21
11 Lot 158 water leaks near electrical installation (lighting) on ceiling in sun-room.....	23
12 Lot 158 poor ventilation in main bathroom and laundry since 2018 and increased health and safety risks.....	25
13 Lot 43 poor ventilation in bathrooms and increased health and safety risks, as reported in June 2020.....	27
14 Lot 158 broken grille in en-suite bathroom still not repaired and almost created fire safety issue when in fell on electric foot massager on February 2021.....	31
15 Due to repetitive water leaks and piping problems insurance premiums for SP52948 enforced \$10,000.00 for each and every claim for water damage, burst pipe, and exploratory works since 2012.....	34
16 Smoking in the complex continue to be a serious fire safety risk – Block D garden beds.....	35
17 Smoking in the complex continue to be a serious fire safety risk – Block D garden pathway where lot of dry barks and leaves cover the grounds.....	44
18 BBQ area below sink high fire safety risks for four years.....	45
19 Electrical wires on ceiling for one down-light in Block D foyer for more than one year.....	48
20 Down-lights not-operational in foyers of all four buildings for at least one year.....	50
21 Non-uniform and missing signage on fire doors on ground floor of four buildings.....	54
22 Damaged lock mechanism on fire door for two years – Block C ground floor.....	58
23 Appearance of pathway outside Block C fire door – slippery and mouldy for 14 months.....	59
24 Rusted frame of fire door for six years – Block A basement.....	60
25 Waratah Strata Management instruction to delay AFSS work for three months on 25 June 2020.....	61
26 An example of ignored request by BCS Strata Management to resolve long-standing fire and OH safety issues on 16 October 2014.....	62
27 Unanchored metal mesh frame on swimming pool plant and unprotected hot surface close to power cable for four years.....	63
28 Three incidents with sun-room window frames blown away by winds and still outstanding tasks to eliminate the risks.....	68
29 Example of fire exit lights out of order.....	75
30 Non-uniform display of fire safety signage.....	77
31 Example of water leak damages near fire door exit in Block C ground floor in June 2021.....	78
32 Example of garden bed collapse risk near Block D in June 2021.....	82
33 Examples of garden bed problems covered with wooden planks or metal plates, instead of being repaired.....	83
34 Tripping hazard un-repaired since July 2012.....	96
35 Wooden railings disappeared behind townhouses due to rot and un-repaired since 2014.....	97
36 Example of water leak damages in Block C level 6 in June 2021.....	110

**1 SP52948 – Solicitor Adrian Mueller, on behalf of owners corporation, confirming that maintenance of common property is compulsory and that some strata files are missing on 14<sup>th</sup> of November 2019**

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 during those inspections as a result of which if does not have any records that he desires that is because those records are likely not available.

Equally importantly, if 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 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 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 the same rights in relation to the maintenance of his property as the rights that are enjoyed by other owners.

**2 SP52948 – NCAT 20/33352 extracts from dismissed application by not accepting the evidence in spite of orders allowing web-based files at Directions Hearing on 25<sup>th</sup> of September 2020**

- 9 The matter was listed for hearing before the Tribunal on 11 February 2021. The hearing was conducted by telephone. appeared for the applicant. Mr Mueller, Solicitor appeared for the owners corporation. None of the members of the strata committee whom the applicant sought to be removed under s 238 of the SSMA appeared, and the submissions of the owners corporation dealt with the reasons why the individual strata committee members opposed orders being made under s 238 of the SSMA.
- 28 The Tribunal did not investigate any of the links provided by it would have been clearly procedurally unfair to the owners corporation for the Tribunal to view material which had not been filed and served in the proceedings and which the owners corporation could not see at the hearing as the hearing was conducted by telephone.
- 29 The owners corporation did not file and serve any documentary evidence; nor did the individual strata committee members.
- 30 The only document relied upon by the owners corporation was written submissions dated 18 January 2021.
- 66 Even if irregularities (i.e. the meetings did not comply with the SSMA or the SSMA Regulations) were established, the Tribunal would not exercise its discretion under s 24 of the SSMA to declare all of the Motions passed at such meetings invalid. Such an order would have a profound and deleterious effect on Lot owners and third parties. For example, Motions passed and acted upon involving the appointment of contractors to perform works to common property would be retrospectively declared invalid; and insurance entered into by the owners corporation would also be retrospectively declared invalid. There are overwhelming discretionary considerations against making the order sought by the applicant even if any breach was established.

68 In respect of fire safety compliance, [redacted] complains at paragraph [90] of his statutory declaration dated 18 August 2020 that the owners corporation has (i) replaced some smoke detectors over the years using owners corporation funds; (ii) there are smoke detectors that are not working and should be repaired or replaced by Lot owners; (iii) fire safety exit lights have not been replaced; and (iv) the owners corporation has failed to acknowledge and rectify fire safety non-compliance issues.

69 The applicant has provided no clear evidence, other than his subjective views, that the owners corporation has failed to comply with its duty to maintain, replace and repair common property under s 106 of the SSMA. There is insufficient evidence to establish breach. Even if the Tribunal was satisfied that the owners corporation was failing to comply with its duty in respect of the building being fire safety compliant (which is clearly an important obligation), there is no evidence that clearly identifies what specific measures need to be taken to achieve compliance.



### 3 SP52948 – Previous Fire Safety reports still unresolved

As reported in the past:

- FRN16/829 BFS19/749 (8000006616)
- FRN16/829 BFS19/3235 (SRID 9030)
- BSF16/666(10242)
- FRN16/829 BFS20/252 (SRID 10317)
- FRN16/829 BFS20/1014 (SRID 11059)

As an example, in Block A, second floor, exit light was not operational in period between 7<sup>th</sup> of February 2018 and 26<sup>th</sup> of March 2018 (total of 48 days!) .



In phone conversation with the staff at the time who called us on 23<sup>rd</sup> of March 2018 at 07:41 hours, he admitted that allegedly there were 22 faulty lights in the complex.

Lot 158 email correspondence to strata managers in period 22<sup>nd</sup> of December 2016 onwards had 41 complaints about smoking in the complex and faulty/expired smoke alarms in their unit and 19 complaints about dangers in the complex (due to lack of maintenance and compliance with by-laws).

<https://www.smh.com.au/national/nsw/bankstown-unit-fire-inquest-strata-manager-failed-to-inform-owners-about-safety-defects-20150622-ghunyd.html>

<https://www.propertychat.com.au/community/threads/landlord-and-others-sued-over-bankstown-apartment-fire.28322/>

<https://www.dailytelegraph.com.au/newslocal/north-shore/kuringgai-council-issues-list-of-orders-for-strata-owners-of-killara-death-trap/news-story/62cfcc323ae0578911347dc94f7fc89f>

<https://www.capitolbca.com.au/2018/09/06/brisbane-body-corporate-receives-heavy-fines-for-non-compliance-with-fire-safety-laws/>

Waratah Strata Management wrote in Minutes of SP52948 committee meeting on 29<sup>th</sup> of April 2021:

**Communications By-Law.** The Strata Manager is authorised to archive all correspondence from Lot 158, but is not required to respond to any of the correspondence.

Some of professional reports that have been undisclosed to owners, CTTT, NCAT, and NSW Fair Trading over the years:

[Common-routine-building-maintenance-required-in-residential-strata-properties-in-NSW](#)

[BCS-Strata-Management-hid-professional-building-report-from-owners-Murdocca-Associates-Block-D-L2-Internal-Wall-Cracking-28Apr2010](#)

[BCS-Strata-Management-hid-professional-building-report-from-owners-and-CTTT-Napier-and-Blakeley-Jul2012](#)

[BCS-Strata-Management-hid-professional-building-report-from-owners-ThyssenKrupp-Elevator-HR-Assesment-11Dec2013](#)

[BCS-Strata-Management-hid-professional-building-report-from-owners-ThyssenKrupp-Elevator-HR-Issues-and-Pricing-11Dec2013](#)

[BCS-Strata-Management-hid-professional-building-report-from-owners-Vertical-Transport-Management-Services-Report-Feb2014](#)

[BCS-Strata-Management-hid-professional-building-report-from-owners-NCB-Plumbing-17Feb2014](#)

[BCS-Strata-Management-hid-professional-building-report-from-owners-Integrated-Consultancy-Group-water-damages-and-external-painting-recommendations-for-concrete-cancer-4Nov2014](#)

[Thompson-Elevator-Consultancy-Service-audit-undisclosed-to-owners-Mar2017](#)

This document lists just some of the problems in the complex that can cause injury, health problems, or even death in dire circumstances.

#### 4 SP52948 – BCS Strata Management relying on luck not to get fined for late submission of AFSS report on 16<sup>th</sup> of June 2016

SP52948 provided delayed and incomplete AFSS reports in the past, with high risks to owners corporation. In 2016, BCS Strata Management was relying on luck not to get fined and hid it from owners:

**From:** Debbie Stephenson  
**Sent:** Thursday, 16 June 2016 4:08 PM  
**To:** Wenny Ji  
**Subject:** RE: SP52948 - 1-15 FONTENOY ROAD - AFSS April 2016

Hi Wenny,

I can see what you see 😞

Maybe we need to lodge it with council and cross our fingers .

Unfortunately the assistant that was handling this matter, left earlier in the year.

It is important to note the implications of not submitting the required form to local council on time. It is an offence under the Environmental Planning and Assessment Act not to submit a compliant AFSS to Council by the due date.

Offences can be subject to a Court imposed penalty of up to \$110,000.00 or an on the spot fine for failing to give an annual fire safety statement, starting from:

- \$1,000.00 for the first week overdue,
- \$2,000.00 for the second week overdue,
- \$3,000.00 for the third week overdue,
- \$4,000.00 for the fourth and any subsequent week overdue.

Complying with by-laws - all owners and occupiers in a strata scheme, including tenants, are legally obliged to comply with the by-laws of the scheme.

**5 SP52948 – Ryde City Council letter to BCS Strata Management on 9<sup>th</sup> of August 2016 and belted response by BCS Strata Management on 15<sup>th</sup> of November 2016 without notifying owners at Annual General Meeting**

9 August 2016

Dear Sir/Madam

1 Fontenoy Road Macquarie Park  
Fire Safety Issues

Council has received correspondence advising that compliance tags are being fitted to existing fire doors, some doors being twelve years old; it is also alleged that some fire doors are non-compliant with the relevant Australian Standard.

I note that the last annual fire safety statement listed fire doors as one of the installed fire measure and certified them as compliant with their original design/installation standard; from the information provided to Council the gaps around the doors do not comply with the relevant standards.

Prior to further action by Council you are requested to contact your service contractor and provide Council with their comments in respect to the alleged non-compliances.

Should you require any further information or wish to discuss this matter, please contact me on 9952 8184.

Yours faithfully

Executive Building Surveyor

Ryde City Council did not get any response for three months and initiated another request to BCS Strata Management on 3<sup>rd</sup> of November 2016:

The Owners Strata Plan 52948  
C/- Body Corporate Services  
Locked Bag 22  
Haymarket NSW 1238

3 November 2016

Dear Sir/Madam

1 Fontenoy Road Macquarie Park  
Fire Safety Issue

I refer to Council's letter dated 9 August 2016 advising of an alleged serious fire safety breach and requesting comment from your service contractor.

To date Council has not received a response to this request.

You are therefore requested to advise Council, by 21 November 2016, the present position in this matter.

Should you require further information or wish to discuss this matter, please contact me on 9952 8184 or by e-mail (details below).

Yours faithfully

Executive Building Surveyor  
ENVIRONMENT, HEALTH & BUILDING  
P: (02) 9952 8184 | E: [@ryde.nsw.gov.au](mailto:@ryde.nsw.gov.au) | [www.ryde.nsw.gov.au](http://www.ryde.nsw.gov.au)

Here is what BCS Strata Management responded on 15<sup>th</sup> of November 2016, more than THREE MONTHS AFTER THE COUNCIL INQUIRY and ALMOST ONE MONTH AFTER THE ANNUAL GENERAL MEETING IN SP52948:

15 November 2016

City of Ryde  
Locked Bag 2069  
NORTH RYDE NSW 1670

Dear Council

**RE: Your attached notices – Fire Safety**

**PROPERTY: Strata Plan 52948: 1-15 Fontenoy Road Macquarie Park**

Our fire safety contractor – Eagle Fire (9620 8885) – have advised that they believe that the fire doors are compliant to the standard mentioned on the AFSS. This is based on the certificate which we received from Lock Stock and Barrel Locksmiths (attached) who were engaged by the building to complete the repairs from the annual inspection. Their records (Eagle Fire) also indicate that there are 192 residential units on the premises, each one with a fire door. There are also 98 common area fire doors. They would require access to every unit to inspect their door. This will take a technician 3 days to complete as long as all units provide access, and then have the report put together in their office. They have calculated that they would need to charge the building \$3840.00 + GST for this service. At the moment they are scheduled to carry out an annual inspection on the building in January when (as per their agreement with the building) all of these doors will be inspected in accordance with the conditions of the annual fire safety statement. They can't carry out the annual inspection any earlier as the AFSS is due on 1st April.

Due to the above reasoning from Eagle Fire, the Owners Corporation are kindly requesting that Council will agree to hold off until January to save the building this large expense. But if the Council still want us to proceed immediately, please send another notice to that effect so that we can commission the inspection works to be completed.

Many thanks and we look forward to hearing your reply.

Yours faithfully

**BCS STRATA MANAGEMENT - EPPING**



6 SP52948 – Waratah Strata Management summary of fire and OH&S compliance problems on 17<sup>th</sup> of March 2017

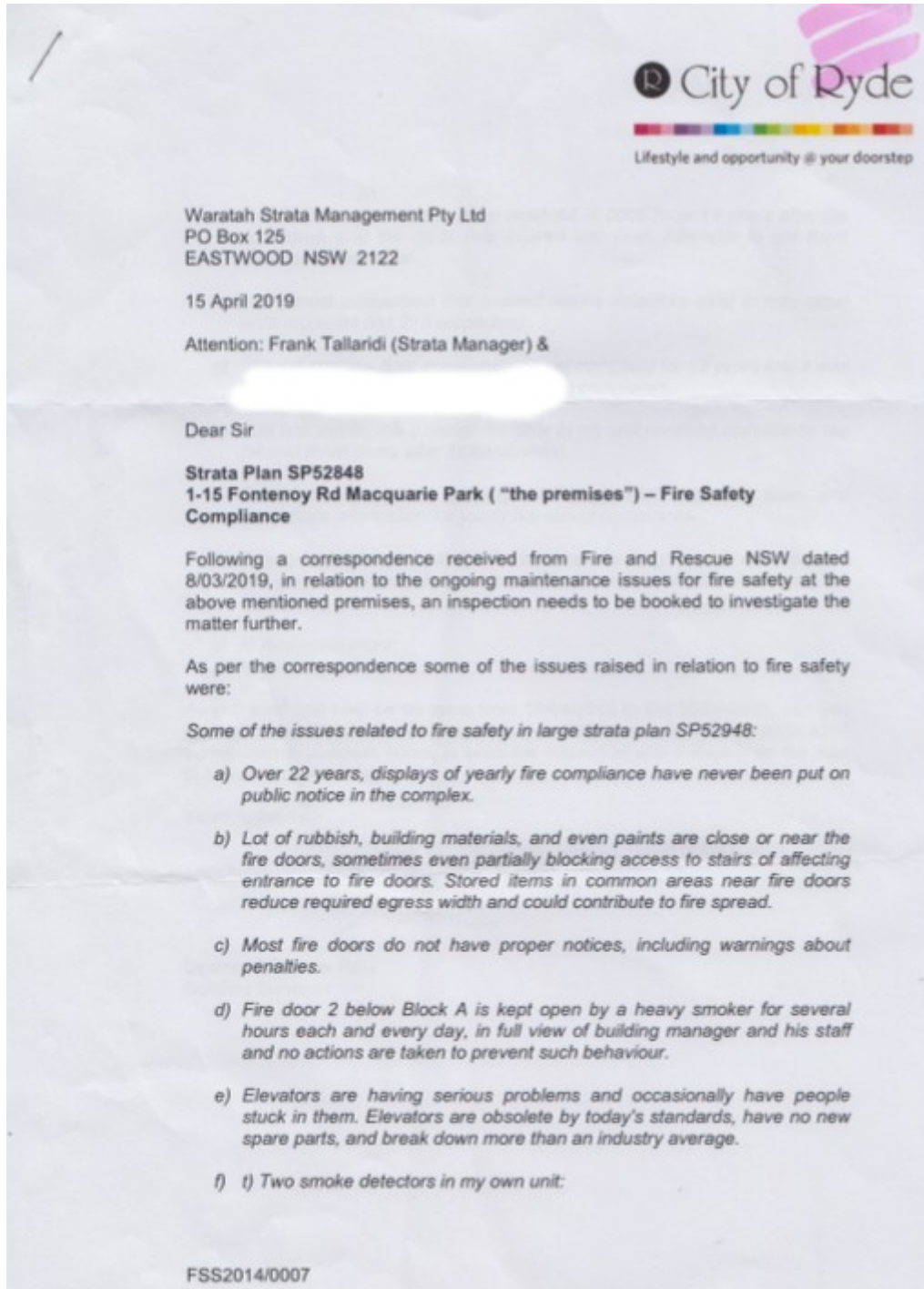
From: Robert Crosbie  
Sent: Tuesday, 7 March 2017 12:09 PM  
To: [REDACTED]  
Cc: [REDACTED]@waratahstrata.com.au  
Subject: SP 52948, 1-15 Fontenoy Road, Macquarie Park

[REDACTED] raised the following issues with me at the conclusion of our site inspection last week:

1. We inspected Block A Fire Door 1 in the basement garage. It had both a door handle and a crash bar. The door handle was latching but the crash bar latches appeared to be locking in the unlatched position. In an emergency, if both the door handle and crash bar latch were working it would make it very difficult for a resident to exit the building, particularly if they were carrying a child. I suggest that the door handle should be removed with only the crash bar in operation. Please discuss this with the fire services contractors to confirm how this door should be operating. I assume other doors from the garages may also operate in a similar fashion, so should also be checked.
2. It was apparent that some fire doors were also catching on the floor and were not self-closing. These doors should also be serviced.
3. I understand that the garage fire doors previously had a sound alarm on them that operated after a set time to alert residents if a garage door was being used late at night or had been left open. This was a security measure to reduce break-ins to the garages. [REDACTED] advises these alarms have been disabled or are no longer working. Please advise whether this was a decision made by the committee or if there is some other issue with these alarms.
4. We inspected the internal face of the louvres in Block A garage. These appeared to be quite badly corroded and may not be suitable for repainting. Please have Brian Thompson inspect these when he is next on site to advise whether they can be repainted or if they should be replaced.
5. There was a water stain on the concrete block wall inside the garage on the left hand side of Block A Fire Door 1. It would appear that there is water seeping through the wall from the fire stairs above. Please advise whether this has previously been reported and whether any quote has been obtained. I am sure there are many similar areas of water penetration into the garages which are not necessarily structural issues, but if a low cost remedy is available repairs may be worthwhile.

Your assistance in these matters is appreciated.

**7 SP52948 – Ryde Council letter with requests to investigate fire and OH&S compliance on 15<sup>th</sup> of April 2019**



*One of them should have been replaced in 2005 (now 14 years after the due date), and the other one expired last year. Attempts to get them replaced failed so far.*

*It is almost guaranteed that expired smoke detectors exist in many other units (complex has 218 properties).*

- g) The external fire door in my unit was not compliant for 12 years and it was replaced in August 2016 upon my strong complaints.*
- h) Just last month, the external fire door in my unit received compliance tag (almost three years after its installation).*
- i) Strata managers and building managers often provided false and incomplete information for yearly fire safety compliance.*
- j) Emergency lights are often left unrepaired for long time. In one example last year, emergency light on level 2 in Block A was faulty for more than 59 days.*
- k) k) And much more.*

**8 In spite of owners overwhelmingly approving OH&S Special By-Law in 2016 it has never been registered in NSW Land Registry Services and no record of such assessment provided to any SP52948 owner as of June 2021**

At Annual General Meeting on 4<sup>th</sup> of November 2016, owners approved Special Resolution:

**25. MOTION REQUESTED BY LOT 158-OCCUPATIONAL HEALTH AND SAFETY RISK ASSESSMENT::**

25.1 That the Owners Corporation SP 52948 by SPECIAL RESOLUTION pursuant to Section 47 of the Strata Schemes Management Act 1996, make an additional By-Law in the following terms:

SPECIAL BY-LAWS: "Occupational Health and Safety Risk Assessment"

- To comply with the Work Health Safety (WHS) Laws that commenced on 1st of January 2012 and accompanied by the Model Work Health and Safety Regulations (MWHSR), the owners corporation shall conduct professional OH&S Risk Assessment before each and every annual general meeting,
- The OH&S Risk Assessment results shall be included in the agenda for every annual general meeting

**APPROVED**

**49 voted Yes, 11 voted No**

Special Resolution must be registered with NSW Land Registry Services within six months after the special resolution has been passed in order for the by-laws to be valid and legally enforceable. But that never happened in strata plan SP52948. Special By-Law has not been registered, in spite of complaints and concerns sent to Waratah Strata Management.

Since 2016 there has been no evidence of any OH&S health and risk assessments in the complex.

Document searches in 2017 and 2019 found no files related to OH&S and none are published on Waratah Strata Management web portal.

**9 One smoke alarm in Lot 158 expired in 2005 and other in 2019, both declared faulty in 2019 and 2020 in fire inspections, and not replaced as of June 2021**

Not including reports to previous strata agency, just in period 2019 to 2021 this was reported to Waratah Strata Management on:

1 March 2019

19 March 2019

1 May 2019

9 May 2019

9 May 2019 (second email with further updates)

17 June 2019

18 June 2019

19 June 2019

30 June 2019

7 July 2019

20 October 2019

7 December 2019

10 December 2019

13 February 2020

8 March 2020

18 March 2020

18 March 2020 (second email with further updates)

27 March 2020

28 March 2020

3 April 2020

28 April 2020

2 February 2021

19 April 2021

12 May 2021

Smoke alarms are common property and in period from 1996 to 21 March 2019, they were always replaced with funds from common funds (Admin Fund).



At committee meeting on 21<sup>st</sup> of March 2019, without approval of owners corporation, committee members and Waratah Strata Management unilaterally made the following decision:

- Smoke alarms in units - It is noted that the smoke alarms inside each unit are the lot owners

2

Minutes Page 2 of 3

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.

In spite of repeated warnings to correct the above information, Waratah Strata Management did not respond or notify all owners that they selectively allowed some owners replace their smoke alarms from common funds (Lot 8, Lot 83, Lot139, Lot 198):

23/04/2018	Block D U139 Install Smoke Alarm	Thor Electrics Pty Ltd	150.00	Paid	DE	22576	000435
16/10/2018	16.05	Administrator	Waratah Strata Management Pty Ltd				Page 9

2019-05-31 11:39:31

Date	Details	Payee	Macquarie Park NSW 2113 Amount (GST exclusive)	Status	Type	Ref.No.	Payment No.
27/04/2018	AFSS 2018 Council Lodgement Fee	City of Ryde Council	60.45	Paid	Chq	10528	000005
30/04/2018	AFSS Repairs	Eagle Fire Protection Pty Ltd	4,515.00	Paid	DE	00026361	000437
02/05/2018	Lodge Annual Fire Safety Statement May 2018	Waratah Strata Management	150.00	Paid	DE		000440
07/05/2018	Block A Replace Exit Lights	Thor Electrics Pty Ltd	330.00	Paid	DE	22577	000443
14/05/2018	Block B U8 Smoke Alarm	Thor Electrics Pty Ltd	150.00	Paid	DE	22587	000448
04/06/2018	Th198 Install Smoke Alarm	Thor Electrics Pty Ltd	160.00	Paid	DE	22592	000454
04/06/2018	U204 Repair Sprinkler System	W & M Gordon Property	300.00	Paid	DE		000466
25/06/2018	20/6/18 - 19/9/18	Eagle Fire Protection Pty Ltd	2,815.25	Paid	DE	00026860	000479
23/07/2018	Test Emergency Lights in Garage Area	Thor Electrics Pty Ltd	360.00	Paid	DE	22612	000501
30/07/2018	Block C U83 Install Smoke Alarm	Thor Electrics Pty Ltd	160.00	Paid	DE	22617	000507
06/08/2018	Block C Exit Door Light	Thor Electrics Pty Ltd	470.00	Paid	DE	22620	000514
			<b>\$23,857.45</b>				

On 7<sup>th</sup> of March 2020, Waratah Strata Management confirmed to Lot 158 problems that both smoke alarms need to be replaced:

Eagle Fire report states the following

Unit 158 Level 2 Building A				
Item # 121	Smoke Alarm	10 Year Replacement	Replace old/expired smoke alarm with new. The quoted amount is for a straight swap only and does not include any unforeseen circumstances.	
Item # 122	Unit Smoke Alarm	10 Year Replacement	Replace old/expired smoke alarm with new. The quoted amount is for a straight swap only and does not include any unforeseen circumstances.	

Regards,

**Frank Tallaridi**

Waratah Strata Management

On 28<sup>th</sup> of April 2020, Lot 158 again requested replacement of the smoke alarms and copies of the fire inspections and per SSMA 2015 Section 43 and they have never been provided to them or any other owner:

28 January 2020

18 March 2020 (unplanned full test of the building emergency lights)

19 March 2020

6 April 2020

Waratah Strata Management refused to replace them, in spite of repeated warnings of the risks.

Here is SMS from another owner who was told to replace smoke alarm at own cost on 17<sup>th</sup> of April 2020:



At committee meeting on 29<sup>th</sup> of April 2021, Waratah Strata Management sent the following update with change of actions to owners in the Minutes:

- **Smoke Detectors** - It was decided that the Owners Corporation would take responsibility for the maintenance and replacement of all smoke detectors in each lot. The smoke detectors are inspected during the annual fire inspection, but the replacement of the batteries and replacement of failed or out of date detectors has been lot owner responsibility. This is now causing difficulty with the fire contractors signing off the Annual Fire Safety Statement so it is better that any maintenance is carried out by the Owners Corporation so as not to prevent or delay the AFSS being issued. Owners/residents are responsible for reporting to the property manager non-functioning smoke detectors including the need for battery renewal. Smoke detectors identified at the last inspection and requiring replacement will be part of this program.

As of June 2021, both smoke alarms in Lot 158 are not yet replaced.

En-suite bedroom (manufacture date 1994, expired in 2005):





Foyer near main bathroom and kitchen (manufacture date 2008, expired in 2019)





Email to SP95535 shows similar delays in their complex in 2018/2019:

**From:**  
**Sent:** Friday, 20 September 2019 10:49 AM  
**To:**  
**Cc:**  
**Subject:** SP 95535, 11 Henderson Road, Alexandria.  
**Attachments:** FW: Modified Fire Safety Order 11 Henderson Road Alexandria FIRE/2018/113

We have the AGM for the above property on Monday evening and would like a brief update on the current status of the Council fire order works that we can provide to the owners. Attached is our most recent correspondence, so I am aware we have until January to finalise the items, but would like to know what is currently underway. Please also advise the likely costs of the remaining works so we can allow for this in this year's levy budget.

## 10 SP52948 continued issues with Residential Tenancy Act 2010 short-term letting and additional risks for guests with smoke alarms

This was reported to strata managers, who failed to rectify major issue endangering safety and health of tenants, causing potential increase in insurance costs and risks, on:

26 March 2020

27 March 2020

19 April 2021

SP52948 properties are still advertised for short-term letting, in non-compliance with Development Approval Conditions and Building and Development Advisory Service (Consent 288/94). Examples:

<https://www.shorttermapartmentrentals.com.au/apartment/macquarie-park-2-bedroom-fontenoy-road-mq48/>

It is being advertised at price of \$140.00 to \$200.00 per night.

[https://yandex.com/maps/org/north\\_ryde\\_furnished\\_apartments\\_93\\_fontenoy\\_road/192016770265/?ll=151.132828%2C-33.779415&z=18](https://yandex.com/maps/org/north_ryde_furnished_apartments_93_fontenoy_road/192016770265/?ll=151.132828%2C-33.779415&z=18)

<https://www.expedia.com.au/Sydney-Hotels-MQ-2bad2bath-Aptgympoolbbq-Roomsport-Area.h39570260.Hotel-Information>

<https://www.travelocity.com/Sydney-Hotels-MQ-2bad2bath-Aptgympoolbbq-Roomsport-Area.h39570260.Hotel-Information>

[https://australia247.info/explore/new\\_south\\_wales/city\\_of\\_ryde/macquarie\\_park/inest-accommodations-0414-388-911.html](https://australia247.info/explore/new_south_wales/city_of_ryde/macquarie_park/inest-accommodations-0414-388-911.html)

<https://planetofhotels.com/en/australia/rydalmere/north-ryde-self-contained-two-bedroom-apartment-93font>

How bad was the rating on 1<sup>st</sup> of April 2018 for Lot 93 shows this website:

<https://planetofhotels.com/en/australia/rydalmere/north-ryde-self-contained-two-bedroom-apartment-93font>

They stated, **with special emphasis on faulty smoke detectors:**

*When we arrived the apartment was dirty, with urine splashes on the floor in bathroom etc. The smoke detector didnt work, There were no teaspoons, no toaster and egg stuck to the cupboard doors...*

Some councils have 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. 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 ONLY if owner stays and lives in property and shares it with visitors. In that case they still have to get Ryde Council approval.
- The other valid options for a property to be occupied in our complex are:
  1. Owner occupied, or
  2. Subject to a lease under Residential Tenancy Act 1987.
- Services like AirBnB, StayZ, and similar are not allowed in strata complexes by law as yet.

## 11 Lot 158 water leaks near electrical installation (lighting) on ceiling in sun-room

In 2003, SP52948 lost case at NSW Fair Trading due to lack of proper maintenance of sun-room for an owner:

MOTION 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 & Horne 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.

Similar problem was reported to Waratah Strata Management, who failed to rectify major issue endangering safety and health of tenants, causing increase in insurance costs and risks, on:

29 November 2020

12 May 2021

One repair was completed but the carpet in sun-room was already completely damaged (water bubbling from the opening in the floor).

Second repair was not done. Somebody deemed it to be an “old” problem because the ceiling was dry at the time.

Photos and videos taken on 11<sup>th</sup> and 12<sup>th</sup> of May 2021 show that the ceiling is moist and full of water residue in certain areas near lighting, creating high risk of fire hazard and electrocution.

Lot 158 took moisture meter readings in various areas of the ceiling and it is obvious that water damage near electrical lighting is a major problem, with disaster just waiting to happen.

Typically, moisture content in percent (%MC) above around 17-18% is considered to be a significant problem. Readings on some areas on the ceiling near electrical lighting was 33% in Lot 158 whilst others were perfect.

Rental properties are covered amendments to the Residential Tenancies Act 2010 (the Act) and the new Residential Tenancies Regulation 2019 (the new Regulation):

Landlords are currently required to provide the rented property in a reasonable state of cleanliness and ‘fit for habitation’. The changes introduce seven minimum standards which clarify what ‘fit for habitation’ means.

The minimum standards set clearer expectations for landlords and tenants and will apply to all rented properties. To be fit to live in, the property must (as a minimum):

- be structurally sound,
- have adequate natural or artificial lighting in each room, except storage rooms or garages,
- have adequate ventilation,
- be supplied with electricity or gas, and have enough electricity or gas sockets for lighting, heating and other appliances,
- have adequate plumbing and drainage,
- have a water connection that can supply hot and cold water for drinking, washing and cleaning,
- have bathroom facilities, including toilet and washing facilities that allow users' privacy.

Landlord or agent should take steps (such as make repairs) to make sure the property is fit to live in. These standards must be maintained throughout the tenancy (by making repairs).



We have heard from various owners that SP52948 strata managers often decline or do not properly repair water leaks in sun-rooms.

Here are the facts:

- 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).

Sun-room 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 sun-room; 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, SP52948 Lot 45 forced proper repairs in his sun-room through NSW Fair Trading.
- Since 2012, SP52948 strata 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:
- Sun-room must not have water leaks.



## **12 Lot 158 poor ventilation in main bathroom and laundry since 2018 and increased health and safety risks**

This was reported to Waratah Strata Management, who failed to rectify major issue endangering health of tenants, causing increase in insurance costs and risks, on:

16 June 2018

20 June 2018

22 December 2018

23 December 2018

25 January 2019

10 February 2019

9 May 2019

30 June 2019

20 October 2019

7 December 2019

10 December 2019

15 April 2020

26 May 2020

7 July 2020

21 July 2020

26 September 2020

15 February 2021

21 March 2021

19 April 2021

Number of owners complained about poor ventilation, so Lot 158 is not the only one reporting this health hazard and lack of proper maintenance of common property.

Since June 2018 Lot 158 has been reporting issues with amount of fresh air coming through vents in one bathroom and laundry (the other bathroom is fine).

Talking to some owners and tenants, they are lead to believe that vent covers cannot be taken out of ceiling, which is wrong. We also learned that some vent covers are actually screwed in ceilings, which we hope are not the case because it would endanger health of all residents due to inability to clean them up properly.

It is obvious that world has changed dramatically since COVID-19. Having proper ventilation is a crucial part of preventing infection.

Rule's research on COVID-19 found, that after social distancing, ventilation was the second most significant part of preventing infection spread, because air conditioning prevents infection by removing air from a room where there are virus droplets.

AIRAH (the Australian Institute of Refrigeration, Air Conditioning and Heating) have said that they have found no evidence to suggest that air-conditioned in homes and businesses transmit COVID-19 at this time.

While there is no firm evidence the disease can travel around buildings through air-conditioning systems, allowing more fresh external air into buildings with heating and ventilation systems is one suggested tactic. Also, enhanced filtration can play a role, and there is “ample evidence” that viruses do better in low humidity.

Question requiring immediate response: what are strata managers doing in regards to pro-active maintenance of all HVAC units, cleaning air vent covers in the ceilings, and advising all owners and tenants about it? To clean air vent covers they should be removed from ceilings and be soaked in hot, soapy water. For scrubbing off the stubborn dust, one can use a microfiber cloth or even a small sponge paintbrush.

Some of quarterly HVAC maintenance tasks (designed to ensure comfort, air quality, safety and a healthy environment). Ignoring/delaying these items could result in an increase in indoor allergy symptoms, illnesses and a loss of efficiency:

- Apply Anti-bacterial and Anti-Corrosion Treatments to Chillers or Water Towers if Needed
- Change Air Filters
- Check Electrical Components and Wires
- Clean Dirt, Leaves and Debris from Around Outside Unit
- If the HVAC Unit Is Equipped with UV Lamp, Ensure Proper Operation
- Inspect Air Handler P-Trap
- Inspect and Program Thermostats (Seasonally)
- Inspect Drain Tube and Pan for Moisture, Mold and Bacteria Growth
- Inspect HVAC and/or Boiler Piping for Leaks and Signs of Corrosion
- Make Sure Dampeners are Operating Correctly

Yearly preventative maintenance tasks are designed to prevent catastrophic failures by finding problems in a timely manner:

- Check coils for Corrosion and Damage
- Check Fan Motors and Other Moving Parts for Wear and Tear
- Disassemble Cooling Tower Screens
- Examine Heating and Cooling Bills and Compare Them with Previous Year
- Have Air Conditioning Unit Professionally Inspected (Prior to Summer)
- Have HVAC Unit Professionally Cleaned
- Have HVAC Vents Cleaned and Inspected for Mold
- Inspect BAS System or HVAC Control System for Proper Operation and Function
- Inspect Fans Belts for Wear and Tear
- Inspect Heating Ignition and Heat Exchanger (Prior to Winter)
- Inspect HVAC Unit for Bacterial Growth, Especially Chillers
- Inspect Internal Components for Moisture Accumulation and Mold
- Make Sure HVAC Ducts are Properly Insulated
- Consider Performing Energy Efficient Upgrades

**13 Lot 43 poor ventilation in bathrooms and increased health and safety risks, as reported in June 2020**

On 13<sup>th</sup> of June 2020, Lot 158 documented problems with water leaks and dampness in bathrooms of Lot 43 (top floor in Block B), which created not only serious health risks, but also dangers of water entering electrical installations.



Strata managers never responded or offered evidence of rectification work.

Lot 158 said in their email:

*Broadly known as toxic mold, black mold that appears to have infected their bathrooms can put the family in danger. Black mold actively produces mycotoxins, the poisonous substance of fungus.*

*Mycotoxins can cause many health problems, including infections and allergic symptoms. The following symptoms are caused by mycotoxins from black mold infestation.*

- \* Respiratory infections, including coughing, sneezing, and sore throat. In some serious cases, the toxin can lead to pneumonia, breathing problems, and asthma attacks.*
- \* Chronic fatigue, exhaustion, headache and migraines, even mental depression and mental impairment.*
- \* Blood diseases, including haemorrhage, nosebleed, and mucous membrane irritation.*
- \* Damage to internal organs and the suppression of immune system.*
- \* Sinus congestion such as difficulty breathing, runny nose, ear infection, sneezing, coughing, and sore throat.*
- \* Allergic reactions, including red, itchy, and watery eyes, as well as hives and rashes on the skin.*

*Poor repairs of water leaks are best displayed by more than 24 repairs in Lot 191 over last 8-9 years.*

*In 2003/2004, Lot 45 in Block B of our complex (he was a physiatrist) successfully forced owners corporation to repair water leakages in sun-room. BCS Strata Management tried to argue that sun-rooms were not designed to be "water-tight", which was complete nonsense and was rejected at NSW Fair Trading. Lot 158 is aware of recent similar claims by Waratah Strata Management for other owners. All areas of units need to be free of water leakages and dampiness.*

*All four buildings in the complex have serious problems with roof leaks and plumbing. There was some work in Block B in 2012 and 2015 to repair roof membrane.*

*Due to lack of proper maintenance, Kintyre decreased the warranties for roof membrane in Block B from 15 to 5 years. So, this year, the warranties for half-roof membrane in Block B have expired.*

**As evidence shows, there was no 15-guarantee and it will never be provided due to long-term neglect of the roof area not only in Block B, but quite possibly in other buildings as well:**

## **Kintyre Building Services Pty Ltd**

A.B.N. 65 062 739 039 Licence No: 79326C

**Level 1, 15 Mobbs Lane  
Carlingford, NSW 2118**

Ph: 9868 7919 Fax: 9868 6903 Email: admin@kintyre.net.au

## **Tax Invoice**

Invoice #: 00036682  
Date: 27/02/2015

### **INVOICE TO:**

The Owners-STRATA PLAN  
C/- Russell Young  
BCS Epping  
Locked Bag 22  
Haymarket NSW 1238

### **JOB ADDRESS:**

The Owners-STRATA PLAN  
North Ryde NSW 2113

Amount

Supplied and installed permanent anchor points to allow for static line harness access to roof perimeter

Hi-pressure cleaned the dirt and grime build-up from the concrete substrate

Supplied and installed one coat of primer to the concrete substrate

Supplied and installed a new 40mm hob around the perimeter of the concrete substrate

Supplied and installed a 2 x layer torch on membrane to entire concrete substrate consisting of roll base and mineral top

Supplied and installed new Colorbond perimeter capping to provide external finish

This quotation includes an allowance to hoist all materials to the roof externally and removal of all job spoils from site on completion

**PLEASE NOTE - The torch on membrane comes with a 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.**

**\$59,356.00**

*Recently, there was an emergency work in roof of Block B again. This is requested immediately:*

- 1. Investigate causes of mold and humidity in bathrooms of Lot 43, and take corrective actions as required.*
- 2. Investigate air flow in bathrooms and laundry of Lot 43, and take corrective actions as required.*  
*For some tenants (Lot 158 knows a few), owners corporation cleaned up the vents in their units.*
- 3. Verify if any other unit on top floor of Block B (Level 7) has similar problems.*
- 4. Prepare tenders for membrane installation for second half of the roof in Block B and whole roof in Block A and C (Block A and C have not been done properly for 24 years now).*
- 5. Send notice to all owners and tenants about maintenance of vents in bathrooms and laundry rooms, which are especially important during COVID-19.*

On 9<sup>th</sup> of 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 26<sup>th</sup> of November 2014. The only "competitor" was Kintyre Building Services, which won the contract through Motion at the General Meeting.

After work was completed in Block B, there was a complaint about the quality and urgent additional repairs had to be done in March 2015. Without any further bids or requests for quotes, Kintyre Building Services "won" project for one other building. Paid roof repairs without tender to them since 2014 (prices include GST):

\$7,785.00 Block D: roof membrane - fourth part

\$25,000.00 Block D: roof membrane - third part

\$32,786.00 Block D: roof membrane - second part

\$43,714.00 Block D: roof membrane - first part

\$35,613.60 Block B: roof membrane - second part

\$23,742.40 Block B: roof membrane - first part

Waterproofing one whole roof in a building cost SP52948 around \$107,000.00 (GST inclusive). The same work, by DBS would cost around \$74,800.00 (GST inclusive).

Membrane repairs on remaining two and a half-roofs are still outstanding, in spite of several professional assessments.



From Napier & Blakely report in July 2012:



Block A roof coverings



Block C roof coverings

#### Condition, Observations and Comments

The flat concrete deck roof areas to Blocks A, B, C and D contain large areas of standing water. A number of previous patch repairs have been carried out. The surfaces require preparing and recovering with a liquid applied waterproof membrane within the short to medium term (1-5

years). Block C was observed to be in good overall condition with Block D suffering the most standing water.

The falls to the drainage are insufficient and improving the existing falls should also be considered. The internal units were not inspected for any water penetration via the roof slab.

The townhouses roofs appear to be in good condition with no defects of note.



Standing water to flat roof deck, Block A



Standing water to flat roof deck, Block B

**14 Lot 158 broken grille in en-suite bathroom still not repaired and almost created fire safety issue when in fell on electric foot massager on February 2021**

Reported to Waratah Strata Management, major issue endangering safety and health of tenants, causing increase in insurance costs and risks, on:

26 September 2020 (handyman made a temporary repair that lasted till early 9th of February 2021)

9 February 2021

15 February 2021

21 March 2021

12 May 2021


As of June 2021, this is still an unresolved problem.



Here is an example of Waratah Strata Management Mr. Simon Wicks making an order to secure exhaust vent for Lot 33 in 2011 (before he was removed from managing SP52948 whilst employed by BCS Strata Management):

<b>WORK ORDER</b>		Function Exercised Date: 20/09/2011
<b>Function Exercised on behalf of the Owner Strata Plan No. 52948</b> <b>Building Name</b> <b>Building Address</b> 1-15 FONTENOY ROAD, MACQUARIE PARK NSW <b>Portfolio Manager:</b> SIMON WICKS Phone: (02) 9868 2999 Email: @bcms.com.au <b>Site Contact:</b> Contact Phone: Contact Mobile: Contact Email:		
<b>Issuing Manager:</b> Simon Wicks Phone: (02) 9868 2999 Email: @bcms.com.au		<b>Signature:</b> 
<b>Office of Issue:</b> EPPING Office Address: LOCKED BAG 22 HAYMARKET NSW 1238		
<b>PERSON/CONTRACTOR INSTRUCTED:</b> Name: Ability Property Maintenance Pty Ltd Address: PO Box 281 Castle Hill NSW 1765 Tel - 1: (02) 9899 8899 Mob: 0438 440 450 Tel - 2: Fax: (02) 9899 8899 Email: @optusnet.com.au <b>CONTRACTOR IS NOT BCSblue CERTIFIED - Visit <a href="http://www.bcsblue.com.au">www.bcsblue.com.au</a> for information</b>		
Please refer to the instructions below, undertake a risk assessment of the site and if safe proceed with the required works. By proceeding with the job instructions specified you are deemed to have accepted the terms and requirements of this work order		
<b>JOB INSTRUCTIONS</b> Unit 33 - Secure bathroom exhaust vent. Unit is currently vacant. Please collect keys from James at Raine & Horne Epping.		

Here is an example of BCS Strata Management Mr. Gary Webb making an order to repair exhaust vent for Lot 179 in 2012:

<b>WORK ORDER</b>		Function Exercised Date: 22/02/2012
<b>Function Exercised on behalf of the Owner Strata Plan No. 52948</b> <b>Building Name</b> <b>Building Address</b> 1-15 FONTENOY ROAD, MACQUARIE PARK NSW <b>Portfolio Manager:</b> GARY WEBB Phone: (02) 9868 2999 Email: @bcms.com.au <b>Site Contact:</b> N K TANG Contact Phone: 0411 243550J Contact Mobile: 0433672389 K Contact Email: @hotmail.com		
<b>Issuing Manager:</b> Gary Webb Phone: (02) 9868 2999 Email: @bcms.com.au		<b>Signature:</b> 
<b>Office of Issue:</b> EPPING Office Address: Locked Bag 22 HAYMARKET NSW 1:		
<b>PERSON/CONTRACTOR INSTRUCTED:</b> Name: Electron Management Pty Ltd Address: 6 Tarban Street Gladesville NSW 2111 Tel - 1: 0418 222 374 Mob: 0418 222 374 Tel - 2: Fax: Email: @electronmanagement.com.au		
Please refer to the instructions below, undertake a risk assessment of the site and if safe proceed with the required works. By proceeding with the job instructions specified you are deemed to have accepted the terms and requirements of this work order		
<b>JOB INSTRUCTIONS</b> U179, Inspect and repair exhaust fans as required.		

HR & FL West repaired and refitted exhaust fans in Lot 67 in 2013:

TAX INVOICE

H R & F L WEST  
9 BOTTLE BRUSH RD  
WESTLEIGH 2120

A B N 30 413 213 905

Invoice # 1002

TO : OWNERS OF SP 52948  
MACQUARIE GDNS, NTH RYDE

19/ 6/13

C/: RAINE AND HORNE STRATA

ATTENTION : PETER BONE

- Carry out various repairs including render repairs, cornice and ceiling repairs to units 119, 150, 151 and 193

Unit # 67

- Repair and refit exhaust fans to ceilings

**15 Due to repetitive water leaks and piping problems insurance premiums for SP52948 enforced \$10,000.00 for each and every claim for water damage, burst pipe, and exploratory works since 2012**

Apart from obvious risks related to water, these problems create serious threats of entering electrical installations, which could end with fires and smoke inside the properties.

**Excesses:**

SECTION 1	Earthquake	For each claim or series of claims during a period of 72 hours for loss or damage caused by Earthquake or Tsunami:	
		i. Where the Building(s) Sum Insured is up to \$5,000,000 and the Building is occupied solely for residential purposes; or	\$ 250
		ii. Where the Building Sum Insured is greater than \$5,000,000 and the Building is occupied solely for residential purposes; or	\$ 20,000 or 1% of the Building Sum Insured (whichever is the lesser)
		iii. Where the Building is occupied partly or solely for commercial purposes	\$ 20,000 or 1% of the Building Sum Insured (whichever is the lesser)
SECTION 1	Water Damage/Burst Pipe/Exploratory Cost on each & every claim	\$	10,000
SECTION 1	Flood Damage claims	\$	5,000
SECTION 1	All Other Claims as per Policy Wording and	\$	1,000
SECTION 2	For each and every claim	\$	250
SECTION 3	For each and every claim	\$	250
SECTION 4	7 days		
SECTION 5	For each and every claim	\$	250
SECTION 6	For each and every claim for loss of damage to machines	\$	5,000 - Chillers, Cooling Works, Generators & Central Air Conditioners \$ 2,500 – Lifts and pump motors 1,000 – All Other Losses
SECTION 7	For each and every claim	\$	10% of all Legal Expenses or \$1,000 for each claim, whichever is the greater
SECTION 8	For each and every claim	\$	250



## 16 Smoking in the complex continue to be a serious fire safety risk – Block D garden beds

Smoking is still a major concern for fire safety.

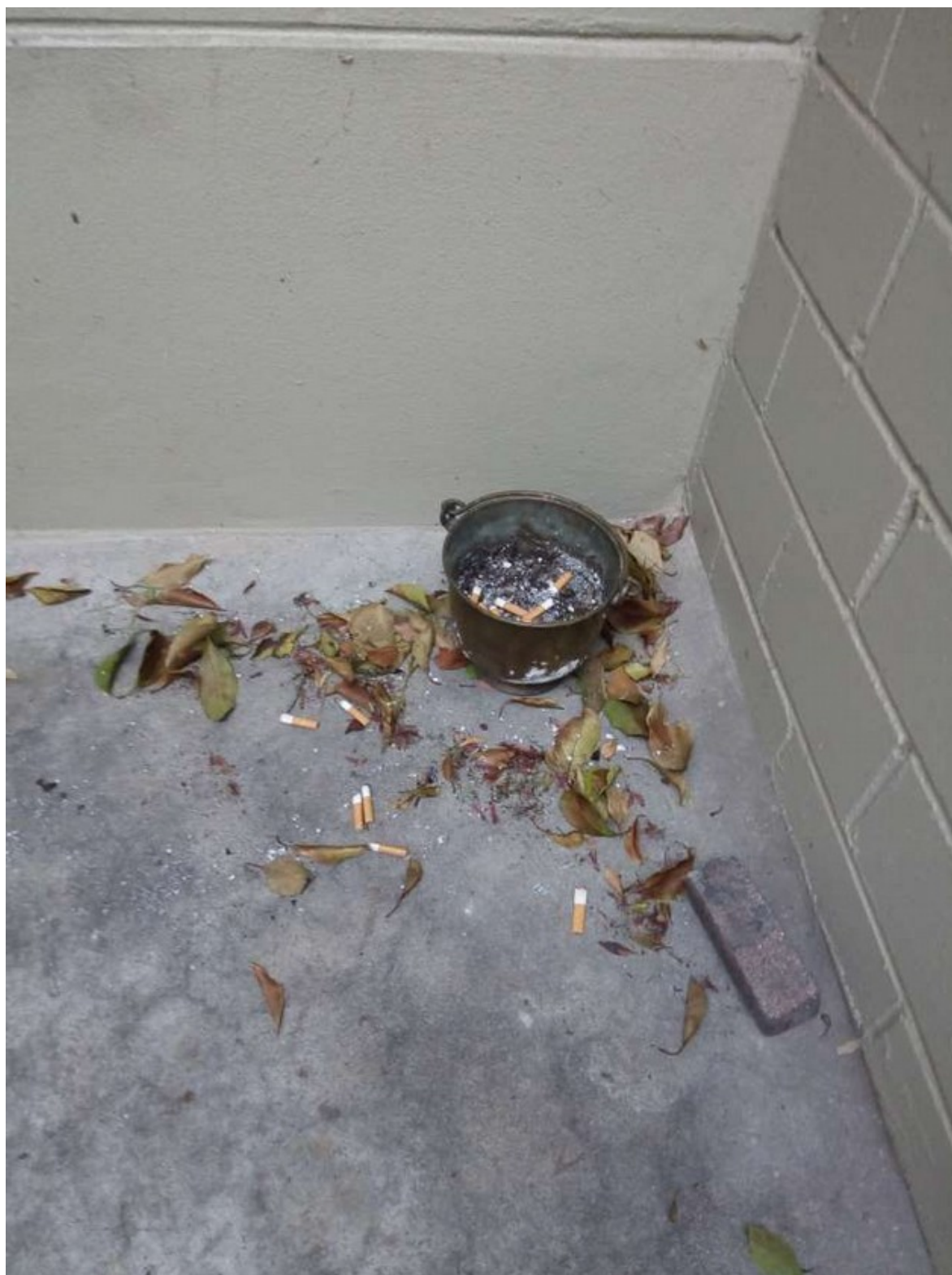
Example of cigarette butt litter on 24<sup>th</sup> of November 2014:



Examples of smoking near fire door 2 below Block A in June and July 2018:

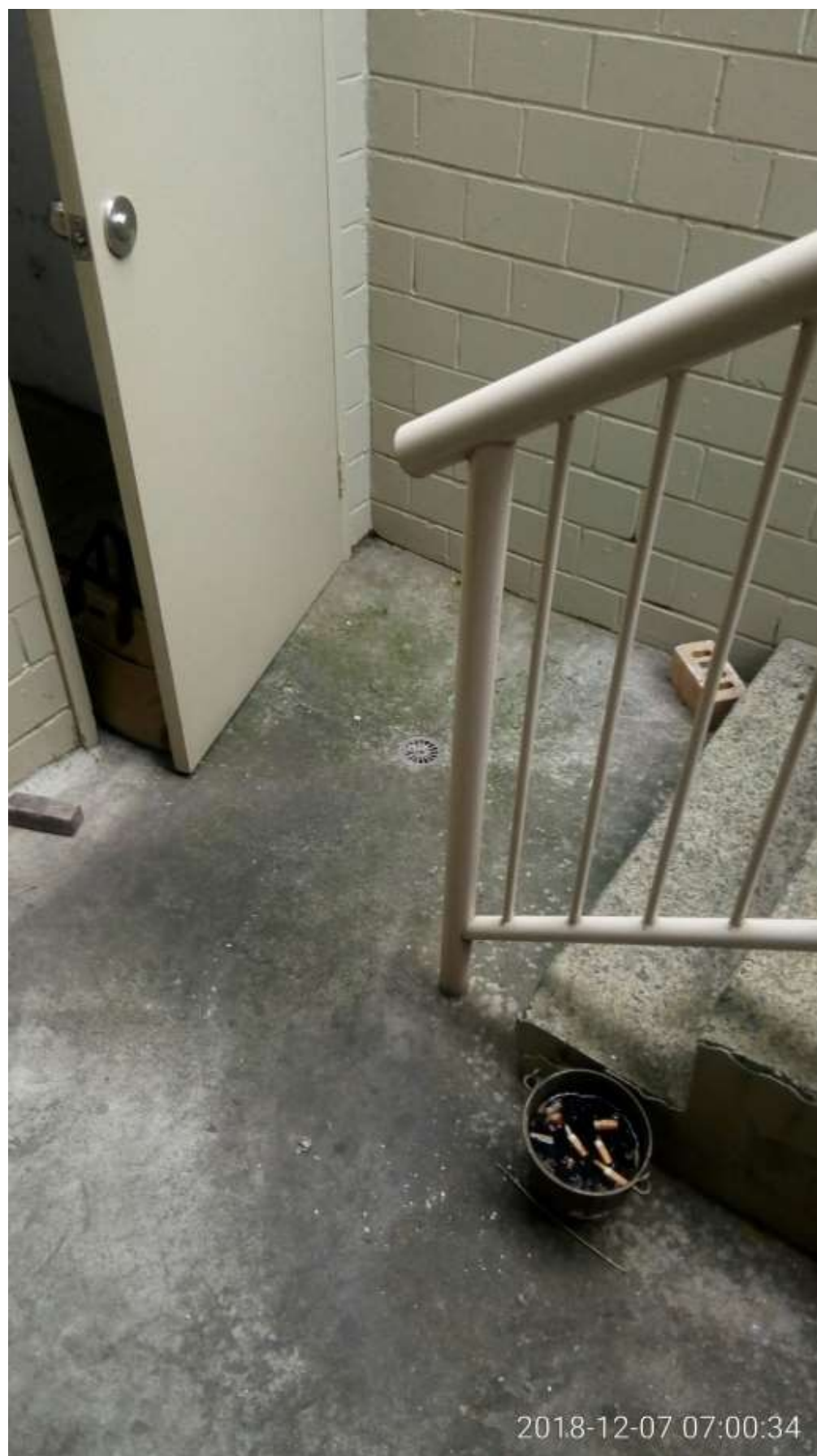


Example of smoking near fire door 2 below Block A in November 2018:

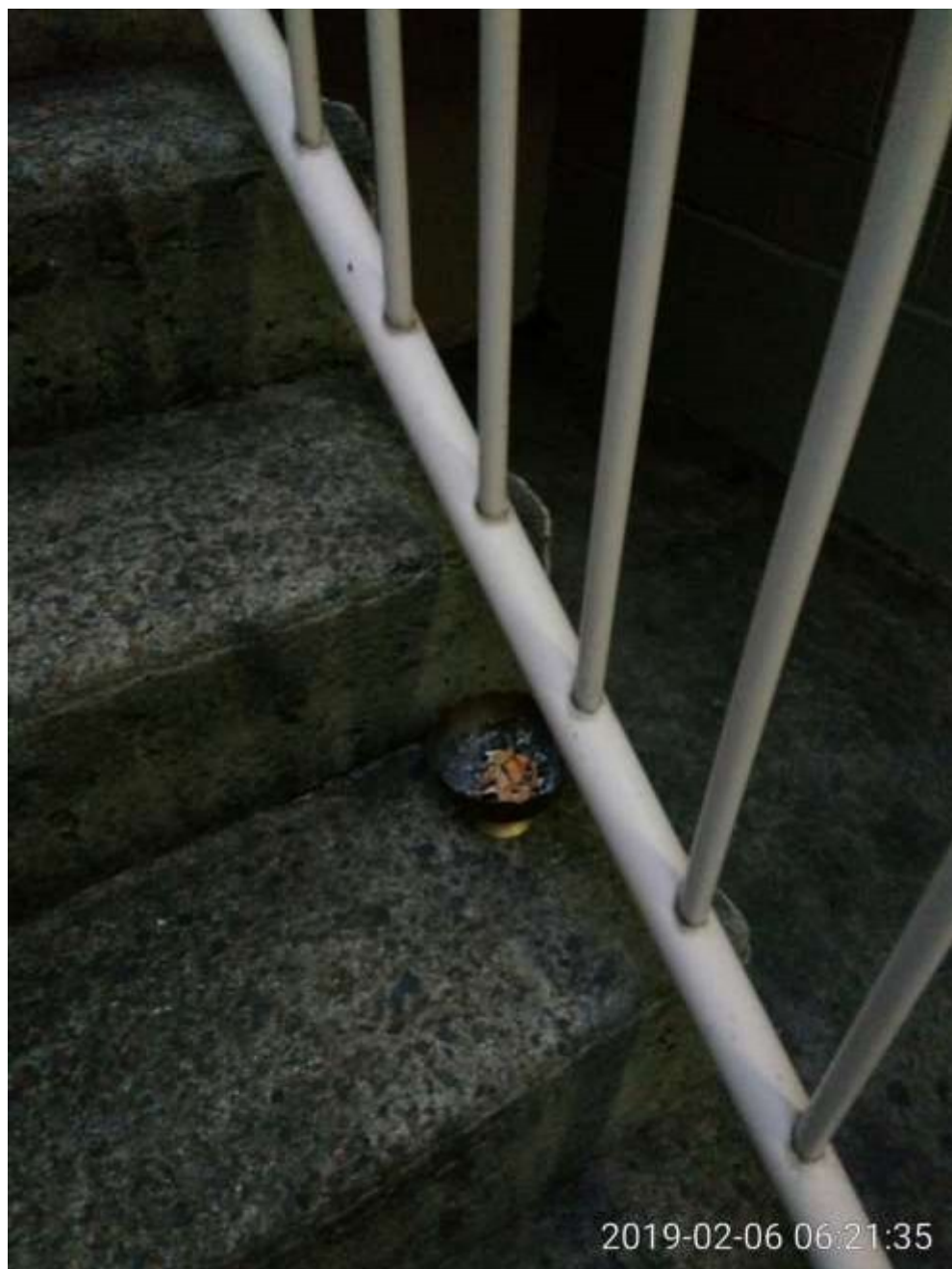




Example of smoking and keeping fire door 2 below Block A open in December 2018:



Example of ashtray for smoking left of fire stairs near fire door 2 below Block A in February 2019L





Example of hiding cigarette butts near louvres behind fire door 2 below Block A in February 2019:



Example of hiding cigarette butts near louvres behind fire door 2 below Block A in May 2019:



Fire door 2 below Block A was kept open in non-compliance with fire safety regulations almost every day for many months in 2018/2019 and smoking allowed. Example of what one day of smoking created between dates of 17<sup>th</sup> and 18<sup>th</sup> of January 2019:



Numerous complaints to strata managers failed to protect owners and tenants. Last time, Lot 158 sent email to strata managers on 26<sup>th</sup> of April 2021. No response received.

Garden area near Block D, flooded with cigarette butts and not cleaned. Apart from obvious pollution to the nature, dry leaves and branches can easily start the unintentional fire as well.





17 Smoking in the complex continue to be a serious fire safety risk – Block D garden pathway where lot of dry barks and leaves cover the grounds





## 18 BBQ area below sink high fire safety risks for four years

For the last four years, ever since alleged major upgrades in the complex, the BBQ area has been repeatedly repainted, repaired, and allegedly "maintained with high quality of services without evidence of warranties". This was reported numerous times.

- a) Walls damaged by long-term water penetration and leaks,
- b) Piece of PVC pipe protruding through the wall,
- c) Rusted hoses,
- d) Rusted pipes,
- e) Potential for electrical hazards because water leakages and wall damages appear to be close to wall socket,
- f) Dry leaves could create fire hazard,
- g) Water wastage?







**19 Electrical wires on ceiling for one down-light in Block D foyer for more than one year**

Reported to strata managers repeatedly, Still an unresolved issue.

Not only down-light is not operational but potentially live wires are protruding from the ceiling.









**20 Down-lights not-operational in foyers of all four buildings for at least one year**

a) Block A, none of eight down-lights operational



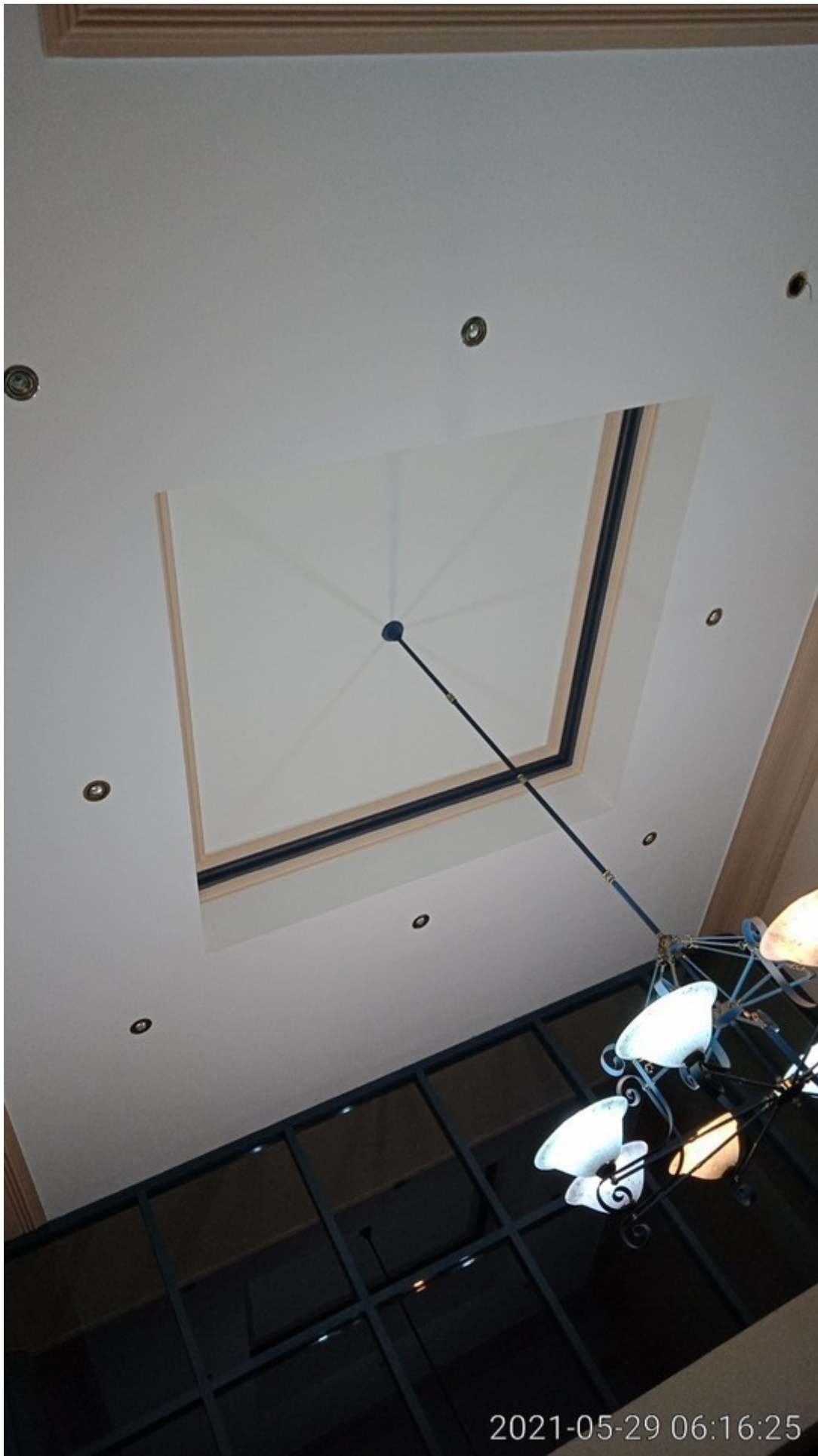
b) Block B, none of eight down-lights operational



c) Block C, none of eight down-lights operational



d) Block D, none of eight down-lights operational





**21 Non-uniform and missing signage on fire doors on ground floor of four buildings**

a) Block A, with notice about thoroughfare and exit



2021-06-02 16:05:14



b) Block B, without signage for thoroughfare and keeping the door open



2021-06-02 15:59:58

c) Block C, without notice for thoroughfare



d) Block D, without signage for thoroughfare and exit



22 Damaged lock mechanism on fire door for two years – Block C ground floor



23 Appearance of pathway outside Block C fire door – slippery and mouldy for 14 months





24    Rusted frame of fire door for six years – Block A basement



## 25 Waratah Strata Management instruction to delay AFSS work for three months on 25 June 2020

https://www.lookatmystrata.com.au/187035/maintenance/jobDetails/7837?isQuote=67% ...

# WARATAH

## Strata Management

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OWNERS CORPORATION PORTFOLIO REPORTS MEETINGS DOCUMENTS MAINTENANCE

← Back

### Job Details

Strata Plan 52948

### Job Description

Quote accepted for fire services - FlameSafe Hi Your proposal to provide Inspection and Testing of Fire Safety Measures services to this property has been accepted as per your quoted price \$9,490.00 plus GST (Ref#: I20-207) Please be advised that this service is to commence from 20 September 2020. Thanks Frank

### Tradesperson

Name	FlameSafe Fire Protection Pty Limited
Amount Quoted	-
Total Amount Invoiced	-

### Invoices

No invoices to display.

### Work Order

Sent

### Job Number

7834

### Manager



Robert Crosbie

### Reported By

### Created

25/06/2020

**26 An example of ignored request by BCS Strata Management to resolve long-standing fire and OH safety issues on 16 October 2014**

From L [redacted]   
Subject **REQUEST FOR IMMEDIATE ACTION SP52948 Work Health and Fire Safety Reports 16Oct2014** 16/10/14, 10:01 pm  
To Russell Young <[redacted]> 

Hello,

It is apparent that the BCS (previously Raine & Horne Strata Sydney) and the Executive Committee take their responsibility in regards to OH & S and Fire Safety too lightly.

This is the third year now that almost identical issues come up in Fire Safety reports.

Apart from getting quotes from suppliers, full action was never followed up.

At the AGM 2014, you must provide full report on:

- \* OH & S issues

- \* Comprehensive elevator repairs and/or upgrades (as reported in professionally prepared documents by Napier & Blakeley in July 2012 and ThyssenKrupp in December 2013). The summary provided in short report by Vertical Transport Services in February 2014 is incomplete, superficial, and inconclusive. Many of the faults found in Napier & Blakeley's report are still outstanding.

- \* Fire Safety issues

Under the Work Health and Safety Act 2011, the maximum fines for non-compliance are severe and exhaustive. There are certain penalties that range up to \$3 million for owners corporation found guilty, \$600,000 for individuals such as committee members/owners or in some instances jail terms.

Whilst these are the maximum fines under the proposed laws, the non compliance by owners corporation of even the simplest issue may result in fines and/or claims against it.

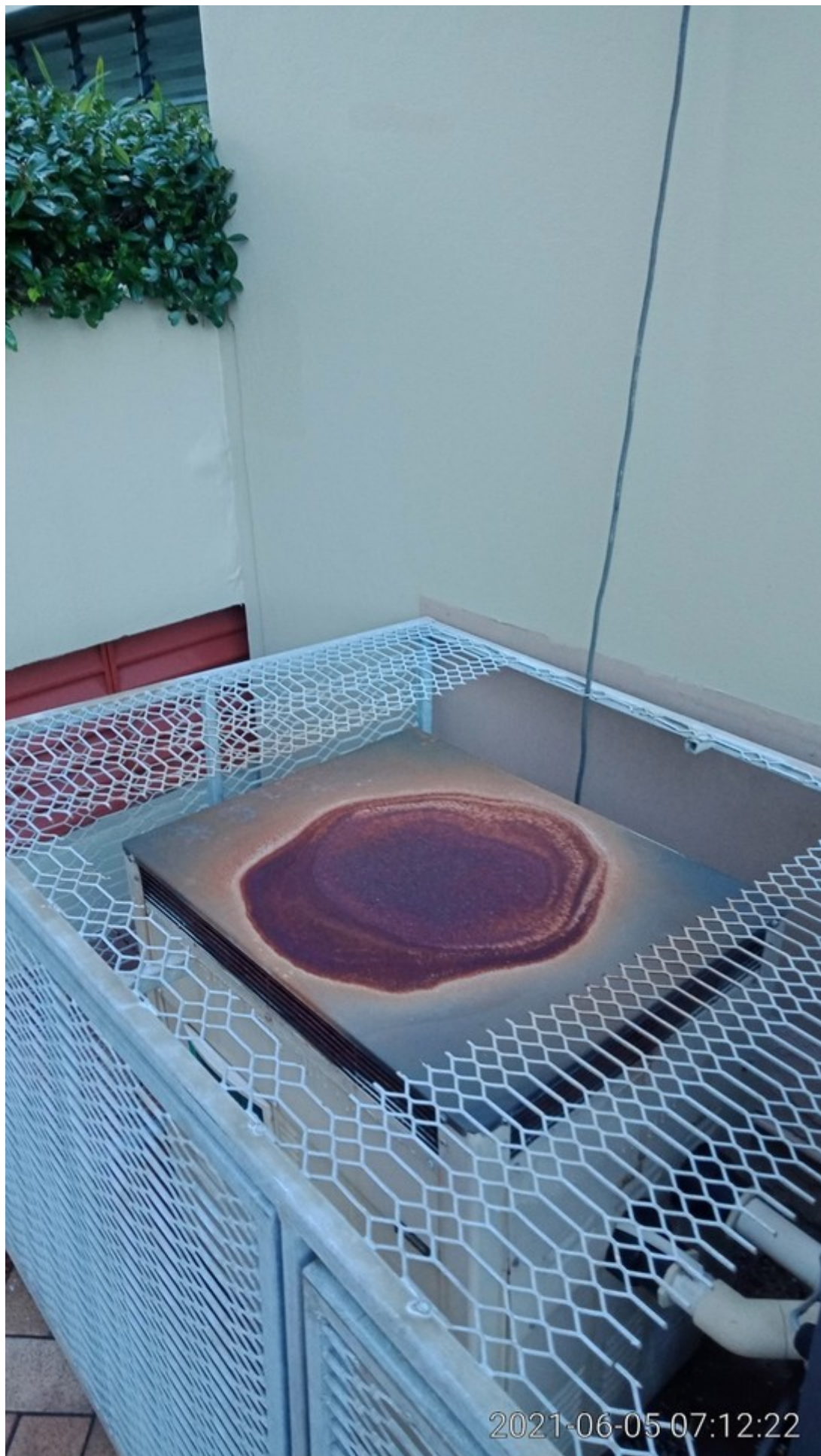


**27 Unanchored metal mesh frame on swimming pool plant and unprotected hot surface close to power cable for four years**

Metal frame not anchored to the wall, protruding and rusted bolts on unpainted swimming pool wall, hot and rusted surface not protected from weather elements and children who often play in the area, power cord located very close to hot surface which can create electrical hazard.



















## 28 Three incidents with sun-room window frames blown away by winds and still outstanding tasks to eliminate the risks

- First time it occurred around 1998, just three years after the complex was built:

**Subject:** RE: SP52948 - Window damage

**From:** Lot 151

**Date:** 6/9/10, 5:49 pm

**To:** John Fry - strata manager

Thank you for the advice re fallen window.

I would bring to your notice there was a similar incident in approximately 1998 – shortly after my (late) husband and I purchased our unit on 21 August 1997. My husband was greatly concerned at the time as we regularly baby-sat our young grand- children – who spent much time in our large courtyard. He insisted to the then Strata Manager – Alistair Dunn - that all windows be checked. This was arranged to be done and we received a report (from the Strata Manager) that no further problems had been detected.

John, perhaps there might be some record of this incident.

---

**From:** John Fry [mailto:johnf@bcms.com.au]

**Sent:** Monday, 6 September 2010 10:18 AM

**To:** EC members

**Subject:** SP52948 - Window damage

Dear Members

I need to update you on an event that occurred yesterday where a sunroom window and frame came away with the winds and landed in the courtyard area below. Fortunately no one was injured.

A window company has been out to measure up and the insurer has been notified. It will take about 2 weeks before the window can be replaced as they need to manufacture and powder coat to match.

I have requested Ruth to arrange for all sunroom windows to be inspected by the window company to ensure that there are no others that require attention.


Regards

John Fry

Raine & Horne Strata-Sydney


53 Beecroft Road Epping NSW 2121

- Second time the event occurred on 5<sup>th</sup> of September 2010 and was not repaired until mid-2011: Lot 82 windows sucked out. Minutes of committee meetings confirm that no owner received information about it: SP52948-EC-Minutes-16Feb2011, SP52948-EC-Minutes-13Apr2011, SP52948-EC-Minutes-20Jul2011.



Fri 29/07/2011 4:36 PM  
Ron Sinclair  
RE: SP52948 - Plans / Building Reinstatement Valuation / Insurance Premium for 2012

To: Simon Wicks

 You forwarded this message on 1/08/2011 11:58 AM.

Simon

I have arranged for 3 quotes with cover increased by 4% to be provided in time for you to include in the Committee meeting agenda.

With regard to para 4 the Broker has a strict fiduciary obligation to act in the best interests of the policy holders.

Claims

Unit 82	wind sucked out window	claim \$9190.50	excess \$2000	recvd. \$6355
	Lift power cable replacement	\$39,500		claim refused
Unit 84	burst pipe	\$12,260.50	\$2000	\$4683 Assessor appointed contractor \$7700 plus our contractors.
Unit 209	burst pipe	\$7000	\$2000	\$970 Assessor considered contractor's claim for drying out unit was excessive

at

\$3910. Contract for repair arranged by assessor and paid direct by insurer \$22,180 and loss of rent paid to unit owner \$14,000.

SP52948 made claim in amount of \$9,190.50 but insurance covered only \$6,355.00.

- Third time it happened on 29<sup>th</sup> of November 2020 for Lot 190.













SP52948 has been extremely lucky that female tenant of Lot 190 let go off sunroom frame before it was blown in front of the building. She tried to hold onto it but was too weak to prevent the disaster. Otherwise, we would have had major or even fatal incident.

Statement from Lot 190 tenants - the female owners was extremely distressed by the whole event. And they had two other complaints were receive from them:

(1) Due to poor ventilation in bathrooms (reported by various owners number of times and still not resolved in Block A) , the smell of food and other foul smells was plaguing them inside the unit.

(2) Wall cracks, especially one in the bedroom.

They were not even aware of the frequent water-related repairs that most units on top floor of Block A continuously have.

Waratah Strata Management was requested to provide full professional incident report which includes root cause analysis – no response or outcome of any professional report were ever published.

Waratah Strata Management web portal status in June 2021 shows that the works on inspections of sun-rooms is still outstanding:

https://www.lookatmystrata.com.au/187035/maintenance

67%

WARATAH Strata Management

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OWNERS CORPORATION PORTFOLIO REPORTS MEETINGS DOCUMENTS MAINTENANCE

Strata Plan 52948

Work Orders Quotes

Open Work Orders

Date	Status	Job Summary	No
28/05/2021	Sent	Replace RFP batteries	9988
03/12/2020	Sent	Lot 158 Sunroom Leak	8888
01/12/2020	Sent	Inspect A & B Block sun room window frames	8869
01/12/2020	Sent	Inspect C & D Block sun room window frames.	8870
09/07/2020	Sent	Smoke detector for Unit 148 - Eagle Fire	7939
25/06/2020	Sent	Quote accepted for fire services - Flame Safe	7834
04/08/2017	Sent	Replace conduit brackets	4026
05/06/2017	Sent	Repair planter boxes	3758
12/05/2017	Sent	TH's 194-198 - Replace damaged gutters	3672
08/03/2017	Sent	TH214 - Repair sliding door leak	3401

Results: 1 - 10 / 12 Page 1 / 2 Show rows 10

Breaking of glass windows and frames during strong winds is mainly due to the following three reasons:

- (1) impact on the windows by hard windborne debris;
- (2) the pressure exerted by winds (i.e. wind loading) directly on the windward side of the building exceeds what the glass window can withstand;
- (3) high winds blow across buildings leading to a difference in air pressure between indoor and outdoor and the glass window cannot withstand the induced force (Bernoulli's principle). The Bernoulli's principle is derived from the law of conservation of energy (the sum of kinetic energy, potential energy and internal energy must be kept constant). The simple interpretation is: when a fluid (in this instance air) increases in speed of motion and its height remains the same, its pressure will decrease.

Waratah Strata Management was requested to provide full details of all OH&S professional reports from July 2012 onward when Napier & Blakeley were commissioned to review the status at cost above \$12,000.00, and especially since Lot 158 Motion 25 for Special By-Law was approved at AGM 2016 (49 votes YES and 11 votes NO) and should have been registered with Department of Land. It is recommended to have process of regular property inspections. The aim of these inspections would be to identify and

prioritize any site-specific factors that might affect building performance in future severe storm events. Works carried out would make the building more resilient and safer.

The sunroom frame fell sideways along Block A 5-6 meters away, and it was an extreme luck that no children were injured or killed as they played in and near the BBQ area at the time. Waratah Strata Management was requested to provide details if any owner or tenant lodged complaint about this event. Video evidence shows how dangerous the whole incident was. No response was ever received from Waratah Strata Management.

Waratah Strata Management was requested to provide details of insurance claims for this event, and also all insurance claims (included the ones that were rejected by the insurance providers) for the last seven years. No response was ever received from Waratah Strata Management. Providing an insurer with evidence that an independent inspection has been conducted and actions taken will demonstrate a reduction in risk and a corresponding reduction in premiums and excess (SP52948 has \$10,000.00 excess for each and every water-related claim and owners are prevented from having such information). If significant defects of a part of the structure are found then a grace period of continued insurance should apply while rectification works are undertaken.

Waratah Strata Management was requested to provide full evidence of alleged comprehensive upgrades in 2017 and window child safety devices in 2018, and that they included professional assessment of improved safety in the complex and warranties that accompany them.

On 28 June 2017, at 19:28, Lot 158 made the following report and forced Palmersglass to rectify gaps between window frames and walls, BUT this was not done for other units throughout the complex. Lot 158 had significant engineering knowledge to realize that such remediation work was critical (Waratah Strata Management ignored that advice for other units):

*Now that the windows in three bedrooms are repaired, there are two outstanding tasks to be completed:*

*1. As Palmersglass staff lifted the window frames from their original position, there are gaps under the frames from the outside.*

*In two bedrooms they are very obvious in some areas, so much so that when painters used water gun spraying to clean external walls today, some water entered into the bedrooms.*

*Please organise the waterproofing (sealing) under the window frames as soon as practicable. I am not sure if painters can do it, or somebody else?*

## 29 Example of fire exit lights out of order

Fire exit, ground floor behind Block C, light out of order since 31<sup>st</sup> of May 2021. Photo taken on 22<sup>nd</sup> of June 2021:







### 30 Non-uniform display of fire safety signage

Starta managers were repeatedly asked to confirm if the following is valid and if so, why various fire doors in SP52948 have very different or missing signage – no reply was ever received:

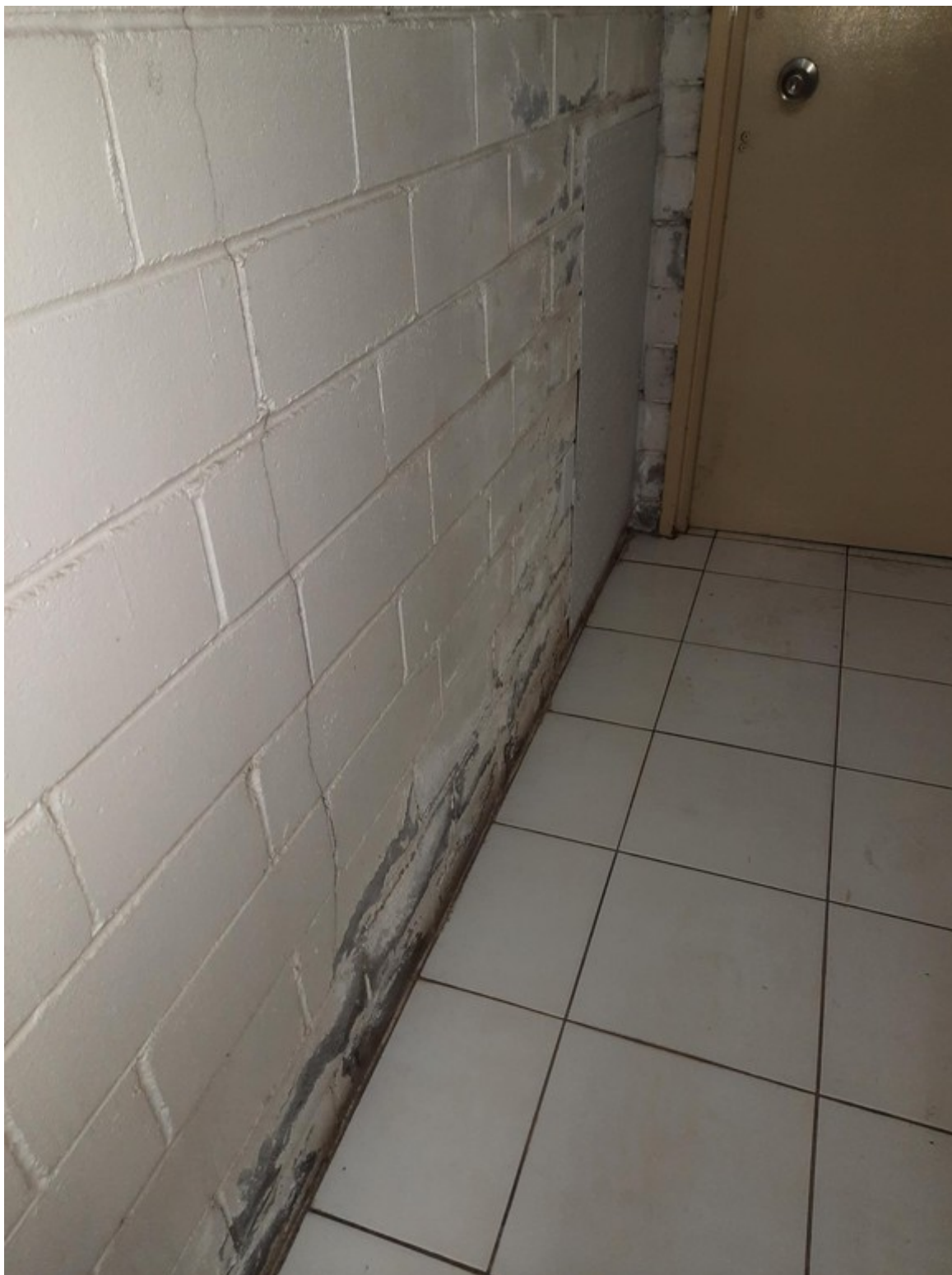
*In NSW all fire doors must permanently display the sign (Fire Safety Door / Do Not Obstruct / Do Not Keep Open) and display sign outlining the 'Offences Relating to Fire Exits':*



*The 'Offences Relating to Fire Exits' sign must be displayed at all times, either on the door itself or adjacent to the door (for example, on the wall). It should be located:*

- *On the "approach" side of all doors leading to a fire escape or fire stair, regardless of where in the building the door is located,*
- *On both sides of all doors between individual fire compartments where the doors must be kept closed at all times.*

**31** Example of water leak damages near fire door exit in Block C ground floor in June 2021













### 32 Example of garden bed collapse risk near Block D in June 2021

Problem exists since 2013:



In June 2021, still a problem:





### 33 Examples of garden bed problems covered with wooden planks or metal plates, instead of being repaired

- Instead of repairing the concrete cancer and cracks, simply cover it by piece of wood:

Initial status:



After installation of wooden plank:





Metal plates, which not only hide status of the concrete behind them but also create safety risks due to sharp edges in areas where children play every day:















2020-06-26 16:57:19



2020-06-26 16:57:34







2020-06-26 16:59:01













2020-06-26 17:01:07



### 34 Tripping hazard un-repaired since July 2012

Reported in July 2012 in Napier & Blakeley's professional report:

The construction joints formed within the basement car park soffits allow differential movement of the structure. This is subsequently affecting the brick paving to the common circulation areas above as well as the dwarf walls to the planter boxes causing isolated areas of cracking and minor movement. Affected areas of paving have risen in line with the construction joints below potentially causing trip hazards. Affected areas should be repaired through ongoing routine maintenance to prevent any future trip risks. The dwarf walls can be cosmetically repaired with sufficient movement jointing incorporated.

Trip hazards are part of alleged 10-Year Capital Works Fund Forecast, commissioned in 2017 without formal consultation or approval of owners corporation at general meetings, and should have been completed by August 2018 but is still a risk as of June 2021:

10 Year Capital Works Fund Forecast – Costs Estimates (includes GST)													Page 3	
Capital Works Fund Forecast for:		1-15 Fontenoy Road, North Ryde				Date commencing:		31 August 2017			Strata Plan:		SP52948	
											Today's date:		31 March 2017	
					End of Year 1	End of Year 2	End of Year 3	End of Year 4	End of Year 5	End of Year 6	End of Year 7	End of Year 8	End of Year 9	End of Year 10
Serial	Item	Current Cost Estimate	Approx year required	Escalated amount	Aug-18	Aug-19	Aug-20	Aug-21	Aug-22	Aug-23	Aug-24	Aug-25	Aug-26	Aug-27

### **35    Wooden railings disappeared behind townhouses due to rot and un-repaired since 2014**

Most of railings started collapsing since 2015. Attempts to reason with strata managers to repair common property failed.

















In 2021, walking in sloping site behind townhouses is quote risky, especially work workers.



















2021-04-15 15:02:31









2021-04-15 15:03:21





2021-04-15 15:04:08





2021-04-15 15:02:14

### **36 Example of water leak damages in Block C level 6 in June 2021**

Request to properly repair the hole, open since 2019:





Instead of repair, the hole is simply covered:

