

## STATUTORY DECLARATION

I, of 158/1-15 Fontenoy Road, Macquarie Park, NSW 2113,

do solemnly and sincerely declare in updated NCAT submission SC 20/33352 for strata plan SP52948 in August 2020 as follows (update is a clean-up of syntax and typing errors, now includes the NCAT file number, and supersedes my declaration dated 30 July 2020):

1. During the time I was member of the Executive Committee in period 2004-2010, I 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.

2. The 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:
  - o Hold meetings with the accordance with the Act,
  - o Enforce compliance with the By-Laws,
  - o 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,
  - o Provide documents as per document searches 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.

3. Voluminous evidence can be submitted to NCAT in four forms to save unnecessary paperwork and waste of natural resources, avoid unnecessary costs of printing, some files are color photographs which would not look correct in black-and-white prints, some files are in video format which cannot be printed, whilst some files are part of ongoing legal investigations and cannot be provided to the respondent:

- CD-ROM, or
- USB key, or
- Online, via secure web site and special access, or
- Brought on laptop during Hearing

Strata plan SP52948 (the respondent) already have all the necessary evidence.

4. Every possible effort was made to mediate with the strata managers, building managers, and the Executive Committee, which they declined each time and decided to engage very expensive legal services without owners corporation approvals, without disclosure of Standard Costs Agreements, and through what we allege to be fraudulent activities and statements to CTTT, Fair Trading NSW, and District Court, whilst they were 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."*

a) **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)**

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The following examples (full evidence is in our possession) demonstrate some the failures (there are too many to list herewith):

5. Solicitor Adrian Mueller knowingly failed to provide requested files in Police Event E65804633 in 2018, even though he was aware that he was listed as person-of-interest in what we allege to be serious fraudulent activities:

- Email from Solicitor Adrian Mueller to Branch Manager Paul Banoob dated 5 July 2012 at 04:41 pm
- Email from Branch Manager Paul Banoob to Strata Manager Garry Webb dated 5 July 2012 at 04:57 pm
- Email to EC members from BCS Strata Management Garry Webb dated 6 July 2012 at 08:32 am
- Email to EC members and two staff members at BCS Strata Management from SP52948 Chairperson dated 6 July 2012 at 12:48 pm
- Email to EC members and two staff members at BCS Strata Management from SP52948 Chairperson dated 9 July 2012 at 10:18 pm
- Email from Solicitor Adrian Mueller to BCS Strata Management Peter Bone dated 16 July 2012 at 6:52 pm
- Email from BCS Strata Management Peter Bone to Solicitor Adrian Mueller dated 25 July 2012 at 2:13 pm
- Email from BCS Strata Management Debbie Downes to EC members dated 16 April 2013 at 1:52 pm

Under Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015, the following applies to legal profession:

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

14.1.1 the client or former client, or

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

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

As 7-year period for Solicitor Adrian Mueller's involvement in court expires in February 2021 (from the completion of the law practice engagement in 2014).

Whilst not providing Police with the files, Solicitor Adrian Mueller charged owners corporation \$350.00 (GST exc) on 28 May 2018. This expense was not disclosed to owners by the committee members or Waratah Strata Management.

6. Solicitor Adrian Mueller has been well aware of multiple document searches that I conducted at strata managers' offices, where they failed to provide required files.
7. Solicitor Adrian Mueller was aware of my submission to Office of Legal Services Commissioner when he was advised by Waratah Strata Management in email on 21 June 2019. Extract from the email:

*We advise that your advice is being funded jointly by the OC, Waratah Strata Management, and building manager and therefore your advice should be on behalf of all 3 parties*

*We do however provide you with the attached email from Lot 158 which states that he lodged a complaint against you with the Office of Legal Services Commissioner. Please advise whether there is a conflict of interest for you in acting on this matter based on the complaint. If yes, please suggest how we should proceed*

...

*On a related issue, we received from BCS at the change of strata managers a USB of their archive records. In April 2018, we provide that USB to the Police who were investigating a complaint lodged with them by Lot 158. Unfortunately, the Police lost the USB (We have correspondence to support that fact) We have requested on a number of occasions for BCS to provide us with a copy of that USB (which we assume they will still have in their archive records), with no response. Please advise whether you have any connection with BCS management that may assist in having a copy of that USB provided*

8. I made numerous offers to discuss problems and avoid legal costs, which committee members, Waratah Strata Management, and building manager silently rejected each and every time.

One of the emails was sent to Waratah Strata Management on 18 June 2019.

Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to respond. Extract from the email:

*WITHOUT PREJUDICE: Request to stop wasting strata funds on legal expenses that cannot succeed*

*To be shared with all owners in the complex immediately. Any attempt to avoid doing it as a risk for the strata agency.*

*Waratah Strata Management and the Executive Committee are politely but firmly advised not to proceed with legal advice at owners corporation expense, firstly because it does not benefit owners in general but only some members of the Executive Committee, strata managers, and the Solicitors themselves, and secondly because SP52948 is already under dire financial stress (after elevators upgrades are completed which start in mid-July 2019, then two and a half roof membranes which are overdue, Block D hot water system upgrade, replacement of many obsolete smoke alarms, and so on). The owners do not realise it yet but they will soon.*

*Instead of wasting strata funds, simply work on resolving ongoing issues and enforcing proper management of the complex.*

The same email was sent several more times, latest one to Mrs. Mariann Paltikian on 28 March 2020:

*Interesting silence from you for all emails sent this week directly to Secretary of the EC?*

*On 19 June 2019, Waratah Strata Management sent an email to members of the RC (including YOU), that Lot 158 is questioning integrity of Adrian Mueller on allegations had made against Mueller with the Legal Commissioner and the Police. He used the phrase "for your light rwding..." in the opening statement of his email.*

*On Thursday, 20 June 2019, you sent an email to Mr. Robert Crosbie at Waratah Strata Management stating:*

*"My apologies Rob, I think I am coming up with something and I would like not to spread my germs at the meeting so I will stay away.*

*I would like to table my support for the muller taking legal action against Lot 158 in light of recent events."*

*Mrs. Marianna Paltikian: you have till 3:00pm today to confirm or deny that you sent this email without trying to make amends or mediate with Lot 158. You are then requested to send a copy of your email to all owners (and Lot 158 today).*

9. Committee members and Waratah Strata Management were repeatedly reminded about Solicitor Adrian Mueller professional misconduct:

- Solicitor Adrian Mueller is currently under investigation by the Office of Legal Services Commissioner since 24 January 2019 and listed by Lot 158 as "person of interest" in Police Event E65804633 since July 2017. Partial listing of issues that were submitted (legal practitioners call them "allegations"):
  - o Continuous professional misconduct since 2012 that earned him possibly above \$80,000.00 so far.
  - o Four versions of the Standard Costs Agreement and only one contained the alleged signature by Mr. Gary Webb nine months after the engagement:

- o 17 July 2012: Signed Standard Costs Agreement by BCS Strata Management Epping Branch Manager Mr. Paul Banoob in document generated on 16 April 2013 and undisclosed to owners, CTTT, and District Court in 2012, 2013, and 2014. Found in strata documents in sixth paid document search on 13 June 2017.
  - o 25 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 19 April 2013 (nine months after the event).
  - o 28 August 2012: Undisclosed to owners, CTTT, and District Court in 2012, 2013, and 2014. BCS Strata Management insurance claim form and files without signed Standard Costs Agreement.
  - o 29 January 2013: Solicitor Mr. Adrian Mueller's submission to CTTT without signed Standard Costs Agreement.
- Solicitor suggested to the Executive Committee to use insurance claims to pay for his invoices on 2 July 2012 in spite of knowing that the owners corporation had no funds to pay even the standard bills in that month (had to withdraw money from other funds secretly).
  - Solicitor was well informed about the secret change of the insurance contract clause (without owners corporation knowledge or approval) and the first claim made for his expenses only few weeks later (at the end of August 2012).
  - Solicitor provided false statement to the Tribunal that Lot 3 was away from the country at the CTTT Hearing in file SCS 12/32675 on 19 October 2012 but the same evening Lot 3 was found present at the Annual General Meeting.
  - Solicitor confirmed to CTTT in file SCS 12/32675 in letter on 26 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.
  - Solicitor was well informed about the invoice paid for insurance premiums to Gallagher Australia on 21 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 was well informed about losses to Lot 158 in amount of close to \$29,000.00 due to his actions.
  - Solicitor was well aware that in 2012 and 2013 none of the owners (including the Executive Committee members) were paying levies for second gas connections.
  - Solicitor was well aware about the documented losses above \$120,000.00 for private water and gas reimbursements to selective townhouse owners without Special Resolution of Special By-Law in period 1999 to May 2013.
  - Solicitor was well aware of the plan for BCS Strata Management to submit Statutory Declaration on 27 September 2012 and be present at CTTT Hearings in file SCS 12/32675 in 2012/2013 but he disallowed it.
  - Solicitor was well aware of SP52948 owners not wanting to engage him as per Lot 158 evidence in May 2013. One of the votes against the Solicitor belonged to Rabbi Cohen, who is still the owner in the complex.

- Solicitor sent secret note to the Executive Committee urging them to produce "signed contract" after third CTTT hearing in file SCS 12/32675 on 15 April 2013.
- Solicitor initiated CTTT file 12/32675 without official owners corporation approval or disclosure to owners on 10 December 2012, although he was well aware that the insurance had approved \$12,714.65 for his legal costs three days earlier on 7 December 2012.
- Solicitor was personally notified by me about my facsimiles sent to CTTT on 19 October 2012 for files SCS 12/32675, 12/50450, and 12/50460. He ignored it.
- Fair Trading NSW forwarded some of my files in CTTT file SCS 12/50460 mediation event SM12/1537JR to BCS Strata Management Mr. Peter Bone on 17 January 2013.
- Solicitor Adrian Mueller charged multiple times for his services on 21 and 22 February 2013, then 7, 13, 22, 25, 27, and 28 March 2013, and 2 April in Fair Trading NSW mediation event SM12/1537JR, in spite of being well aware that he was not legal to represent owners corporation. He was directly responsible for providing advice not to participate in Fair Trading NSW mediation event SM12/1537JR.
- Solicitor Adrian Mueller sent email to Fair Trading NSW in mediation case SM12/1537JR on 6 March 2013, claiming that he was representing owners corporation and giving advice that had no merits.
- Solicitor Adrian Mueller belatedly sent Standard Costs Agreement in CTTT file SCS 12/50460 to owners corporation on 6 May 2013 which was never signed or approved.
- CTTT sent another non-compliance order in letter on 7 May 2013, which documented efforts by the Solicitor, BCS Strata Management and members of the committee to prevent owners from having information about legal cases:

b) As in currently pending File SCS 12/32675 (I will present it in full details in the final Hearing on 10<sup>th</sup> of May 2013), the Owners Corporation has not authorised and approved any legal services and, as such, the engagement of the Solicitor in SCS 12/50460 is questioned. I duly report that the issue of the Solicitor's engagement in SCS 12/50460 was officially tabled by me during the Department of Fair Trading mediation attempt in file DFT on 7<sup>th</sup> of March 2013 (sent to Rebecca.Gleeson@fairtrading.nsw.gov.au), and also submitted to the CTTT in File SCS 12/32675 on 14<sup>th</sup> of March 2013).

**For the sake of all owners in the complex, it is requested that an official and indisputable proof the Owners Corporation has approved legal services in File SCS 12/50460 and all owners have been made aware of the current costs for the Solicitor in File SCS 12/32675 that have exceeded \$20,000.00 so far. Such documents have not been produced so far.**

c) The EC and the Strata Manager are continuously undermining the CTTT's orders and acting in non-compliance. Just in last 10 months, the owners in SP52948 received no information or notices about the following:

CTTT Directions Hearing in File SCS 12/32675 on 8<sup>th</sup> of August 2012  
 CTTT non-compliance warning to the Solicitor in File SCS 12/32675 on 17<sup>th</sup> of September 2012  
 CTTT non-compliance warning to the Solicitor in File SCS 12/32675 on 9<sup>th</sup> of October 2012  
 Non-compliance with extension to submit evidence upon Solicitor's own request on 19<sup>th</sup> of September 2012  
 CTTT Rehearing Orders in File SCS 12/32675 issued on 17<sup>th</sup> of December 2012  
 Failed Mediation in DFT File SM12/1537JR in January and February 2013  
 CTTT Hearing in File SCS 12/32675 on 15<sup>th</sup> of April 2013  
 CTTT Hearing in File SCS 12/32675 scheduled for 10<sup>th</sup> of May 2013  
 CTTT notice on submissions in File SCS 12/50460 issued on 24<sup>th</sup> of April 2013

- BCS Strata Management sent letter to CTTT in file SCS 12/50460 on 24 May 2013 seeking extension of time to prepare their submission. In it, they also stated that legal cost could only be done through Extraordinary General Meeting and that owners corporation needed to convene such meeting.
- On 10 May 2013, I sent email to Solicitor Adrian Mueller, strata managers Mr. Peter Bone and Mr. Paul Banoob, with claim that Solicitor was not legal representative of the owners corporation and that Solicitor must return private property (my files) immediately. Solicitor rejected it.
- On 1 June 2013, I sent email to Solicitor Adrian Mueller, strata managers Mr. Peter Bone and Mr. Paul Banoob, and members of the committee with claim that Solicitor was not legal representative of the owners corporation and that Solicitor must return private property (my files) immediately.
- On 2 September 2013, in email between members of the committee and strata managers Mr. Peter Bone and Mr. Paul Banoob, it was confirmed that Solicitor Adrian Mueller was never engaged in CTTT file SCS 12/50460.
- Solicitor was directly involved in preventing Lot 158 from viewing strata files in 2012 and 2013 without valid reason. Solicitor's invoice dated 6 March 2013 shows the efforts by him to prevent access to them (including the Standard Costs Agreement which ALL owners should have received as early as July 2012).
- Solicitor Adrian Mueller is a listed "person of interest" in Police Event E65804633 since July 2017.
- Payment was uncovered for the Solicitor dated 28 May 2018. It was in amount of \$350.00 (plus GST) for "Report to Police", in which, according to the Police statements on 28 August 2018, he did not provide crucial eight emails. In strata files I found no Standard Costs Agreement for the expense dated 28 May 2018 and no invoice issued by Solicitor Adrian Mueller. In strata files on 31 May 2018, we found no Standard Costs Agreement for the expense dated 28 May 2018 and no invoice issued by the Solicitor.
- In FY 2018, the Solicitor 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 and 2019. The registration of the By-Laws was illegal because there was no quorum to approve them at the general meeting.
- OLSC made a judgement on 31 May 2013 in file 41366, in which it was acknowledged the Solicitor partially acted in breach of legal obligations. OLSC confirmed that his "Fee Proposals" did not fully comply with the costs disclosure requirements set out in section 309 of the Legal Professions Act 2004 (LPA).
- Solicitor was actively involved in the creation of the Statutory Declaration with eight crucial emails still missing as evidence, against the wishes of owners corporation or approval at any general meeting or disclosure, caused excessive courier costs to owners corporation in amount of \$851.56 on 19 April 2013.
- Eight emails that are part of the Statutory Declaration signed by Mr. Peter Bone are crucial and "nobody" seems to have them or can prove they existed. Lying in a Statutory Declaration is punishable by up to five years in prison, according to the NSW Oaths Act. Former judge Marcus Einfeld served two years in prison for knowingly making a false statement under oath and for attempting to pervert the course of justice. The case stemmed from the improbable catalyst of a false statutory declaration over a \$77 speeding fine. Justice James said the retired judge engaged in "deliberate, premeditated perjury" in order to avoid incurring demerit points on his driver's licence.

- Solicitor must not engage in helping members of the SP52948 Executive Committee to directly or indirectly cause physical or mental harm to Lot 158 just because they found strong evidence of financial mismanagement in the complex. This especially applies to a female owner, who has significant medical conditions and any stress can literally kill her (medical certificate confirms it).
- During 2012, Solicitor Adrian Mueller failed to comply with CTTT orders for the Hearing three times as well.
- Four fraudulent insurance claims for non-existent CTTT case "Defence of Lot 3", which, four years later, CHU Insurance forced owners corporation to repay \$8,800.00.
- Over the last eight years, Solicitor was well informed and had received numerous pieces of evidence that SP52948 did not have valid Executive Committee and that their decisions were not made with valid quorum at general meetings, as per SSMA 1996 and 2015. Failing to know that a contract for his engagement had to be valid is negligent to the extent that disciplinary action can and should be taken due to repetitive nature of his involvement.
- Section 316 of the Crimes Act 1900 (NSW) makes the knowing concealment of information relating to a "serious indictable offence" a crime punishable by up to 2 years imprisonment. Section 4 of that Act defines "serious indictable offence" to mean an indictable offence that is punishable by imprisonment for life or for a term of 5 years or more. Subject to certain exclusions this generally includes the fraud offences in Part 4AA of that Act as well as stealing and similar offences in Part 4. Section 316(1) states if a person has committed a serious indictable offence and another person who knows or believes that the offence has been committed and that he or she has information which might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for it fails without reasonable excuse to bring that information to the attention of a member of the Police Force or other appropriate authority, that other person is liable to imprisonment for 2 years.
- Solicitor engaged in personal threats and bullying trying to prevent CTTT cases in period 2012-2014.
- Solicitor continued to delay CTTT proceedings in spite of persistent requests to provide evidence of his legal engagement for six months (until 19 April 2013).
- Duty of care arises where it is reasonable to expect that Lot 158 might be injured or harmed if they act or behave with a lack of care. This is called foreseeability. Just during 2018, these events occurred:
  - o Police Event E244254697 on 26 March 2018, which ended with Lot 158 female owner being taken to emergency due to fear of stalking and intimidation with blood pressure 218/109 (she had two mild strokes 12 years ago and any stress can literally kill her – she is even excused from Jury duty due to multiple medical conditions),
  - o Police Event E69860959 on 26 October 2018, with another attempt to stalk, bully, and intimidate Lot 158 female owner,
  - o Police Event E265804296 on 14 November 2019, attempt to intimidate and threaten even male owner of Lot 158 whilst collecting information about OH&S and smoking in the complex.
- Solicitor worked against owners corporation by merely protecting own interests and interests of a group of selected Executive Committee members of which some had/have not been legal to represent owners corporation. With knowledge that his contract was NOT signed on the date as listed in Statutory

Declaration to CTTT on 19 April 2013, Solicitor continued to misrepresent the owners corporation to this day (including the District Court mediation in February 2014):

Solicitor must not provide a statement which they know to be untrue,  
Solicitor must act with honesty, integrity and candour,  
Solicitor must correct any statement made subsequently discovered to be wrong,  
Solicitor must avoid conflicts of interest,  
Solicitor must avoid any compromise to their integrity and professional independence,

- Solicitor's continuous actions constitute repetitive, premeditated, orchestrated efforts to:

Mislead the Court,  
Abuse the Court's processes (continuing with court proceeding found to be wrongly conceived).  
and much more.

10. Solicitor Adrian Mueller continued to represent SP52948, without Standard Costs Agreement presented to owners, and evidence of who signed it, as per secret plan by committee members and Waratah Strata Management in preparation for AGM 2019:

Legal Action Motion on Agm Agenda to  
 Approve Legal Action on Barrister \$150000.  
 Have Mueller prepare a Deed he <sup>DB</sup> can  
 sign at meeting to cease further action  
 DB targeting SC because they are not  
 SC not as individuals, so OC should fund  
 lot owners ~~to~~ to be made aware of impact  
 on OC value of their units  
 Financial Reports Tabled Approval to cease  
 Accrual Adjustments To put note in Account  
 & get Auditors to deal with transactions  
 Chairmans Report to discuss positive cashflow  
 & budget  
 Gas Charges - All Gas Charges that have been  
 invoiced have been paid. OC not willing to  
 take action to audit past amounts issued &  
 paid.  
 Lift Block Ca D Close to finished by end Sept  
 Disability Pa. TBC  
 Council - Jeffrey to advise progress with council.  
 Insurance - Get new valuations before renewal  
 Energy Action - Approved  
 Skylight Quote. Approved.  
 Close 7.25 pm.  
 Chairmans Report Vote of Thanks. Steve Carbone  
 Agm <sup>24</sup> 14/10/19

11. Extract from letter that Solicitor Adrian Mueller, without disclosure of Standard Costs Agreement to owners at AGM 2019, and without approval to represent owners corporation at such meeting that satisfied the quorum, sent to my wife and me through O'Brien Criminal and Civil Solicitors on 14 November 2019:

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.*

12. In our email through O'Brien Criminal and Civil Solicitors to SP52948, the following was requested from the committee, building manager, and the committee:

*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 Waratah Strata Management Pty Ltd and building manager 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 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, building manager, and Waratah Strata Management Pty Ltd 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.*

13. On 19 March 2019, I sent the following email to Waratah Strata Management, which was ignored. In it, I documented unfinancial owners who were allowed to vote and some to be on the committee, not receiving notices of meetings, and myself being legal member of the committee:

*Subject: Lot 158 accepts membership on SP52948 committee on 19Mar2019*

*Based on evidence of unpaid full levies (including 10% simple interest per year) for second gas connection, two current member of the committee could not have been and cannot be valid.*

*Quorum at AGM 2016, 2017, and 2018 was not satisfied.*

*Lot 158 Motions that were excluded without any reasonable explanation or merits were determined by legal advice to be solely decision by the EC on 1 March 2019 (as per attachment).*

*The alleged loss of files and their manual recovery as per Waratah's email on 1 March 2019 and the fact that access to Waratah web site is not operational for days is a worrying sign.*

*Today (19 March 2019), notice board displayed agenda for the Executive Committee meeting scheduled for 21 March 2019 (that is just one day notice because the day of the meeting must be excluded). It fails to satisfy SSMA 2915 in these regards:*

*Lack of detailed agenda.*

*Each member of the strata committee, and every lot owner, need to be notified of an intended strata committee meeting at least 3 days before the meeting is due to be held.*

*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 describing any notice period for meetings, the legislation does not describe the nature of the 'days' notice - whether they be business days, calendar days etc. In the absence of such specification, the Interpretations Act 1987 (Section 36) requires that the period of time shall be reckoned so as to be exclusive of the day of the 'event' - the meeting. Section 76 of this same Act also declares that a letter sent through the post is deemed to have been delivered on the fourth working day after it was posted.*

*Yet again, Lot 158 did not receive a letter with the notice of the meeting, and if it arrives later today, it is too late.*

*Lot 158 would be happy to be corrected if these statements need an update (with FULL proofs from the SP52948 accounting).*

*In absence of other competing interests for the membership, Lot 158 accepts to be a member of the committee.*

*I remind owners about unpaid levies for gas heating, which include a group of Executive Committee members.*

*As an example, a group of 11 owners (they are not the only ones owing money to SP52948) is proven to own around \$40,000.00 in unpaid levies for gas connection (including compulsory 10% simple interest per year). There are a few more owners who I do not provide details herewith because their debt is smaller. Figures for 2017 and 2018 not included but it has been confirmed back-payments were not done so these figures are even larger in 2019:*

*Lot 3 undeclared unpaid levies \$6,991.50 for second gas connections - 1999 to 2016*

*Lot 62 undeclared unpaid levies \$5,572.50 for second gas connections – 1999 to 2016 (ex Treasurer)*

*Lot 68 undeclared unpaid levies \$973.50 for second gas connections – 2012 to 2016*

*Lot 102 undeclared unpaid levies \$4,015.00 for second gas connections – 2003 to 2016*

*Lot 147 undeclared unpaid levies \$4,746.50 for second gas connections – 2001 to 2016 (long-term EC member)*

*Lot 167 undeclared unpaid levies \$973.50 for second gas connections – 2012 to 2016*

*Lot 175 undeclared unpaid levies \$4,317.50 for second gas connections – 2003 to 2016*

*Lot 181 undeclared unpaid levies \$5,644.00 for second gas connections – 1999 to 2016 (long-term EC Member and occasional Chairperson)*

*Lot 182 undeclared unpaid levies \$2,156.00 for second gas connections – 2009 to 2016*

*Lot 192 undeclared unpaid levies \$2,475.00 for second gas connections – 2007 to 2016 (part of debt belongs to previous EC member)*

*Lot 148 undeclared unpaid levies \$2,475.00 for second gas connections – 2007 to 2016*

*Lot 158 is making every possible effort to avoid financial losses to SP52948, but it seems the EC is trying exactly the opposite. These emails are designed to prove who really wants free mediation and avoidance of litigation (unless forced).*

14. During document searches at Waratah Strata Management in 2017, 2018 and 2019, one of the documents that was not provided to me and not found in the documents was Strata Roll.

On 31 May 2019, I wrote the following email to Waratah Strata Management:

For immediate official response.

During document search on 31 May 2019, one of many missing documents was SP52948 Strata Roll.

*Waratah Strata Management had premeditated intention to prevent Lot 158 from getting it, in spite of legal obligations and even multiple legal advices like one on 22 August 2017 that owners like Lot 158 paid for (which was confirmed in their email to Fair Trading NSW on 20 May 2019).*

*SP52948-Solicitor-Adrian-Mueller-explaining-strata-roll-access-and-personal-information-sharing-22Aug2017.png*

In spite of having clear knowledge of the responsibilities in regards to Strata Roll, Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to provide access to it so that I could not contact other others and notify them of the problems in the complex, as per email to Fair Trading NSW on 20 May 2019, making it even worse because I claimed that I was legal member of the committee at the time.

From: Robert Crosbie  
Sent: 20-May-19 11:30:28 AM  
To:  
Subject: RE: NSW Fair Trading - Reference Number 9761719  
Attachments:

Lynn,

A copy of your letter has been forwarded to the strata committee.

Some of the SC members have expressed concern about the information provided to you being provided to , specifically the Strata Roll, including the owners contact details. has for many years emailed many of the owners that he has been able to obtain email addresses for. Many of those owners and many of the rest of the owners do not wish to be contact by as he also sends them 50-100 page emails on a regular basis. The SC understand that is entitled to obtain a copy of the Strata Roll when he conducts a strata inspection, but he is not entitled to a copy of the owners contact details such as phone and email addresses and they would not want that information passed on to him as a result of the complaint he has lodged. Please confirm that none of the documents provided will be passed on to

The SC also ask to be advised of the nature of the complaint/s that have been lodged against Waratah Strata Management.

Regards,

**Robert Crosbie**

Waratah Strata Management

15. In my email to Waratah Strata Management on 1 May 2020 which was not responded to by the committee members or strata manager, and not shared with owners, I stated the following (typing errors left as they were):

*Lot 158 so far genuinelly offed FREE mediation many times which were refused without valid reasons. Pity.*

*One of the actions for NCAT case, if responses provided to our lawyers are not satisfactory.*

*This information MUST be shared with all owners for the pending agenda of the EC meeting to respond to our lawyers, along with full details of what questions and information is requested from SP52948:*

**STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 238 Orders relating to strata committee and officers**

**(1) The Tribunal may, on its own motion or on application by an interested person, make any of the following orders--**

- (a) an order removing a person from a strata committee,**
- (b) an order prohibiting a strata committee from determining a specified matter and requiring the matter to be determined by resolution of the owners corporation,**
- (c) an order removing one or more of the officers of an owners corporation from office and from the strata committee.**

(2) Without limiting the grounds on which the Tribunal may order the removal from office of a person, the Tribunal may remove a person if it is satisfied that the person has--

- (a) failed to comply with this Act or the regulations or the by-laws of the strata scheme, or
- (b) failed to exercise due care and diligence, or engaged in serious misconduct, while holding the office.

*The evidence is overwhelming.*

*If officers of the committee and their representatives sincerely have best owners corporation interests and compliance with laws, they can approach Lot 158 personally and avoid serious consequences of their past actions:*

*Mr. Moses Levitt  
Mr. Stan Pogorelsky  
Mr. Thomas Karolewsky  
Mr. Jeffery Wang  
Mrs. Marianna Paltikian  
Mr. John Gore*

16. Mr. Stan Pogorelsky, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that he was illegal member of the Executive Committee, provided misleading and false statements to Consumer, Trader, and Tenancy Tribunal (CTTT) in spite of being warned about CTTT Act 2001, Section 71 and Strata Schemes Management Act 1996 (SSMA), Section 167 in file SCS 11/00711 on 20 February 2011. He provided no evidence to substantiate his statements.
17. Mr. Stan Pogorelsky and Mr. Moses Levitt, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that they were illegal members of the Executive Committee, unanimously supported joint submission by the committee who provided misleading and false statements to CTTT in spite of being warned about CTTT Act 2001, Section 71 and Strata Schemes Management Act 1996 (SSMA), Section 167 in file SCS 11/00711 on 27 February 2011. They provided no evidence to substantiate their statements.
18. Mr. Moses Levitt, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that he was illegal members of the Executive Committee, coordinated activities to collect signature from number of owners (evidence shows 26 signatures) in CTTT file SCS 11/00711 to state the following without any evidence:

*I am an owner at the above residential property and would confirm that I have received a copy of the application made by Lot 158 and understand the content of the submission.*

*It is my belief that*

1. *The management of the property at 1-15 Fontenoy Road comprising the Strata Plan Committee and agent has for many years undertaken an excellent job in looking after the affairs of the complex.*
2. *The finances for the Strata Plan are professionally addressed with the Committee and agent making every effort to control expenses in a sensible way for the benefit of all owners.*
3. *Maintenance of the buildings and gardens is undertaken in a prompt manner.*

*I have no concerns regarding the administration of the affairs of our Strata Plan and believe that all involved in the management carry out their duties to a good standard, that they are honest in their Endeavour's and the owners are regularly advised of matters affecting the property.*

*I disagree with the contents of the application and ask that the matter not proceed.*

19. Mr. Jeffery Wang provided misleading and false statements to CTTT in spite of being warned about CTTT Act 2001, Section 71 and Strata Schemes Management Act 1996 (SSMA), Section 167 in file SCS 11/00711 on 9 February 2011. He provided no evidence to substantiate his statements.
20. Mr. Jeffery Wang unanimously supported joint submission by the committee who provided misleading and false statements to CTTT in spite of being warned about CTTT Act 2001, Section 71 and Strata Schemes Management Act 1996 (SSMA), Section 167 in file SCS 11/00711 on 27 February 2011. They provided no evidence to substantiate their statements.
21. Mr. Moses Levitt, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that he was illegal member of the Executive Committee, provided misleading and false statements to CTTT in spite of being warned about CTTT Act 2001, Section 71 and Strata Schemes Management Act 1996 (SSMA), Section 167 in file SCS 12/05845 on 6 March 2012. He provided no evidence to substantiate his statements.
22. Mr. Stan Pogorelsky, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that he was illegal member of the Executive Committee, provided misleading and false statements to CTTT in spite of being warned about CTTT Act 2001, Section 71 and Strata Schemes Management Act 1996 (SSMA), Section 167 in file SCS 12/05845 on 10 March 2012. He provided no evidence to substantiate his statements.
23. Mr. Stan Pogorelsky and Mr. Moses Levitt, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that they were illegal member of the Executive Committee, deliberately failed to provide Napier & Blakely professional building report to CTTT in 2012 and 2013 and owners (commissioned in 2012 at cost of \$12,500.00) which listed serious problems with the maintenance.
24. Mr. Jeffery Wang deliberately failed to provide Napier & Blakely professional building report to CTTT in 2012 and 2013 and owners (commissioned in 2012 at cost of \$12,500.00) which listed serious problems with the maintenance.

25. Mr. Stan Pogorelsky and Mr. Moses Levitt, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that they were illegal member of the Executive Committee, knowingly continued to waste owners' funds even though they were aware of the email of sent to BCS Strata Management stating that the strata agency should own funds to defend at CTTT:

It will be very important to determine in advance whether this is simply regurgitation of issues already tested. It is an immediate defence regarding the AGM for 2010 that the OC has not yet held a further GM at which the minutes would be ratified.

Finally I believe that this matter has now separated into two parts - one being an attack on the MA and it may be important to ensure that Raine & Horne have independent legal advice as it is not the job of the OC to defend the actions of the MA.

26. Mr. Jeffery Wang, knowingly continued to waste owners' funds even though they were aware of the email of sent to BCS Strata Management stating that the strata agency should own funds to defend at CTTT:

It will be very important to determine in advance whether this is simply regurgitation of issues already tested. It is an immediate defence regarding the AGM for 2010 that the OC has not yet held a further GM at which the minutes would be ratified.

Finally I believe that this matter has now separated into two parts - one being an attack on the MA and it may be important to ensure that Raine & Horne have independent legal advice as it is not the job of the OC to defend the actions of the MA.

27. Mr. Jeffery Wang provided misleading and false statements to CTTT in spite of being warned about CTTT Act 2001, Section 71 and Strata Schemes Management Act 1996 (SSMA), Section 167 in file SCS 12/05845 on 13 March 2012. He provided no evidence to substantiate his statements.

28. Mr. Moses Levitt, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that he was illegal member of the Executive Committee, provided misleading and false statements to CTTT in spite of being warned about CTTT Act 2001, Section 71 and Strata Schemes Management Act 1996 (SSMA), Section 167 in file SCS 12/50460 on 23 June 2013. He provided no evidence to substantiate his statements.

29. Mr. Stan Pogorelsky and Mr. Moses Levitt, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that they were illegal members of the Executive Committee, unanimously supported joint submission by the committee who provided misleading and false statements CTTT in spite of being warned about CTTT Act 2001, Section 71 and Strata Schemes Management Act 1996 (SSMA), Section 167 in file SCS 12/50460 on 24 June 2013. They provided no evidence to substantiate their statements.

30. Mr. Moses Levitt, based on available evidence (some financial years have been hidden by BCS Strata Management and Waratah Strata Management), failed to pay any levies for gas heating in FY 2004, 2008, 2012, 2013, and 2018 and refused to provide evidence that they were paid retrospectively with full 10% simple interest per year.

31. Mr. Moses Levitt paid only \$55.00 (GST inc) instead of \$220.00 for gas levies in period 2001 to 2015, excluding years 2004, 2008, 2012, 2013, and 2018, as confirmed in Mr. Stan Pogorelsky's email to Waratah Strata Management Director Robert Crosbie on 27 April 2017 where he stated:

*That Status report was from last year's charges. The first time we charged the \$220.00 per annum. I suppose it should be followed up... I have a feeling that we might have difficulty from some of them.*

32. Mr. Stan Pogorelsky, based on available evidence (some financial years have been hidden by BCS Strata Management and Waratah Strata Management) failed to pay any levies for gas heating in FY 2004, 2008, 2012, 2013, and 2018 and refused to provide evidence that they were paid retrospectively with full 10% simple interest per year.
33. Mr. Stan Pogorelsky paid only \$55.00 (GST inc) instead of \$220.00 for gas levies in period 1999 to 2015, excluding years 2004, 2008, 2012, 2013, and 2018, as confirmed in Mr. Stan Pogorelsky's email to Waratah Strata Management Director Robert Crosbie on 27 April 2017.
34. Mr. Moses Levitt and Mr. Stan Pogorelsky, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that they were illegal members of the Executive Committee, supported BCS Strata Management letter to owners on 7 September 2012, which prevented owners from having facts about undisclosed benefits to selective owners without Special Resolutions or By-Laws (reimbursements for private water and gas usage to selective townhouse owners and incorrectly collected levies for gas heating since 1999).
35. Mr. Moses Levitt and Mr. Stan Pogorelsky, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that they were illegal members of the Executive Committee, were actively involved in engaging Solicitor Adrian Mueller in period from 2012 to late 2019 (details for 2020 are undisclosed by the committee and Waratah Strata Management), at documented costs to owners corporation of at least \$80,000.00 without approval at any legally-convened general meeting, without proper Standard Costs Agreement disclosure to owners, and even against owners wishes as shown in report to BCS Strata Management and committee members on 17 May 2013.
36. Mr. Jeffery Wang was actively involved in engaging Solicitor Adrian Mueller in period from 2012 to late 2019 (details for 2020 are undisclosed by the committee and Waratah Strata Management), at documented costs to owners corporation of at least \$80,000.00 without approval at any legally-convened general meeting, without proper Standard Costs Agreement disclosure to owners, and even against owners wishes as shown in report to BCS Strata Management and committee members on 17 May 2013.
37. Mr. Thomas Karolewski, Mrs. Marianna Paltikian, and Mr. John Gore were actively involved in engaging Solicitor Adrian Mueller in period from 2017 to late 2019 (details for 2020 are undisclosed by the committee and Waratah Strata Management), at documented costs to owners corporation of at least \$80,000.00 without approval at any legally-convened general meeting, without proper Standard Costs Agreement disclosure to owners.
38. Mr. Moses Levitt, whilst unfinancial for not paying prescribed levies for gas heating, failed to declare it at general meetings and advise owners that he could not vote since 2001 and be a member of the Executive Committee in every year since 2011.

39. Mr. Stan Pogorelsky, whilst unfinancial for not paying prescribed levies for gas heating, failed to declare it at general meetings and advise owners that he could not vote since 1999 and be a member of the Executive Committee in every year since 1999.

40. Mr. Stan Pogorelsky and Mr. Moses Levitt, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that they were illegal members of the Executive Committee, prevented the following owners to vote at AGM 2013, although their outstanding amount owing was small:

Lot 98 (owing \$0.10)

Lot 111 (owing \$5.40)

Lot 203 (owing \$8.66)

Lot 212 (owing \$3.87)

... whilst allowing the following owners to be counted as valid at AG 2012:

Lot 160 (owing \$2.30)

Lot 195 (owing \$1.46)

Lot 203 (owing \$3.01)

In addition, the following owners were allowed to vote whilst unfinancial for not paying prescribed levies for gas heating:

Lot 3, Lot 62, Lot 147, Lot 148, Lot 167, Lot 181, Lot 209

41. Mr. Jeffery Wang prevented the following owners to vote at AGM 2013, although their outstanding amount owing was small:

Lot 98 (owing \$0.10)

Lot 111 (owing \$5.40)

Lot 203 (owing \$8.66)

Lot 212 (owing \$3.87)

... whilst allowing the following owners to be counted as valid at AGM 2012:

Lot 160 (owing \$2.30)

Lot 195 (owing \$1.46)

Lot 203 (owing \$3.01)

In addition, the following owners were allowed to vote whilst unfinancial for not paying prescribed levies for gas heating:

Lot 3, Lot 62, Lot 147, Lot 148, Lot 167, Lot 181, Lot 209

42. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to correctly publish and audit the gas heating connections, including prior knowledge:

- Available evidence shows only six owners received formal approval to install gas heating:

Lot 59, on 6 March 2013

Lot 62, EC meeting on 26 May 1999

Lot 88, on 19 September 2013

Lot 167, EC meeting on 28 August 2013

Lot 181, EC meeting on 26 May 1999

Lot 194, on 28 March 2011

- BCS Strata Management belated invoice for second gas connections in FY 2012 and 2013 payable on 1 August 2016: Lot 3, Lot 59, Lot 62, Lot 68, Lot 102, Lot 127, Lot 134, Lot 144, Lot 147 (Mr. Moses Levitt), Lot 148, Lot 163, Lot 167, Lot 181 (Mr. Stan Pogorelsky), Lot 182
- Voluntary self-reporting summary by BCS Strata Management on 13 May 2014: Lot 62, Lot 147 (Mr. Moses Levitt), Lot 181 (Mr. Stan Pogorelsky)
- Building manager audit on 21 March 2016: Lot 3, Lot 59, Lot 62, Lot 68, Lot 102, Lot 127, Lot 144, Lot 147 (Mr. Moses Levitt), Lot 148, Lot 163, Lot 167, Lot 181 (Mr. Stan Pogorelsky), Lot 182
- Waratah Strata Management - minutes EC meeting on 16 March 2017: Lot 3, Lot 8, Lot 59, Lot 62, Lot 68, Lot 102, Lot 127, Lot 144, Lot 147 (Mr. Moses Levitt), Lot 148, Lot 163, Lot 167, Lot 181 (Mr. Stan Pogorelsky), Lot 182, Lot 194, Lot 199, Lot 206, Lot 209
- Waratah Strata Management report found in strata files on 31 May 2019: Lot 3, Lot 8, Lot 59, Lot 62, Lot 68, Lot 102, Lot 127, Lot 147 (Mr. Moses Levitt), Lot 148, Lot 163, Lot 181 (Mr. Stan Pogorelsky), Lot 182, Lot 194, Lot 198, Lot 199, Lot 206, Lot 213
- Waratah Strata Management report found in strata files on 20 September 2019: Lot 3, Lot 59, Lot 62, Lot 68, Lot 102, Lot 127, Lot 147 (Mr. Moses Levitt), Lot 148, Lot 162, Lot 163, Lot 181 (Mr. Stan Pogorelsky), Lot 182, Lot 194, Lot 198, Lot 199, Lot 206, Lot 213

43. Mr. Stan Pogorelsky, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that they were illegal members of the Executive Committee in years that apply to them, failed to publish, fully audit, and collect overdue levies for gas heating from owners in any period so far.

44. Mr. Moses Levitt, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that they were illegal members of the Executive Committee in years that apply to them, failed to publish, fully audit, and collect overdue levies for gas heating from the owners in any period so far.

45. Mr. Jeffery Wang, failed to publish, fully audit, and collect overdue levies for gas heating from owners in any period so far.
46. Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to publish, fully audit, and collect overdue levies for gas heating for the following owners in any period from 2017 and apply them retrospectively for all periods so far.
47. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore did not respond, or take any actions to rectify the following statements on financial discrepancies and conflicting/dubious balance and income/expenditure reports since May 2019:
- Waratah Strata Management – Figures for SP52948 show no levies paid for second gas connections in FY 2018, as confirmed by Income and Expenditure Reports for March, April, and May 2019, and also in Minutes of the EC meeting on 21 March 2019 and 2 May 2019
  - Waratah Strata Management – Figures for SP52948 FY 2018 utility expenses on 10 October 2018
  - Waratah Strata Management – Figures for SP52948 FY 2018 utility expenses on 3 December 2018
  - Waratah Strata Management – Highly dubious figures for SP52948 FY 2018 utility expenses on 29 March 2019
  - Waratah Strata Management – Highly dubious figures for SP52948 FY 2018 utility expenses on 1 April 2019
  - Waratah Strata Management – Highly dubious figures for SP52948 FY 2018 utility expenses on 9 April 2019
  - Waratah Strata Management – Highly dubious figures for SP52948 FY 2018 utility expenses on 19 April 2019
  - Waratah Strata Management – Highly dubious figures for SP52948 FY 2018 utility expenses on 27 April 2019
  - Waratah Strata Management – Figures for SP52948 FY 2018 utility expenses on 3 May 2019
  - Waratah Strata Management – Figures for SP52948 FY 2018 utility expenses on 10 May 2019
  - Waratah Strata Management – Figures for SP52948 FY 2018 utility expenses on 29 May 2019
  - Waratah Strata Management – Figures for SP52948 FY 2018 utility expenses on 10 July 2019
  - Waratah Strata Management reporting loss of SP52948 strata files to Lot 158 on 1 March 2019
  - Waratah Strata Management allegedly sending letter reporting loss of SP52948 strata files to all owners on 12 March 2019
  - Screenshots from published SP52948 Minutes of the Executive Committee Meeting allegedly held on 21 March 2019 on notice boards by Waratah Strata Management

- Screenshots from published SP52948 Minutes of the Executive Committee Meeting allegedly held on 2 May 2019
- SP52948 – Extract from email by Waratah Strata Management to Fair Trading NSW in relation to lost USB and hacking attack on 17 May 2019
- Evidence of Waratah Strata Management website still having no SP52948 strata files on 29 March 2019
- Evidence of Waratah Strata Management website still having no SP52948 strata files on 19 April 2019
- Evidence of Waratah Strata Management website still having no SP52948 strata files on 27 April 2019
- Evidence of Waratah Strata Management website still having no SP52948 strata files on 3 May 2019
- Evidence of Waratah Strata Management website still having no SP52948 strata files on 10 May 2019
- Evidence of Waratah Strata Management website still having no SP52948 strata files on 29 May 2019
- Evidence of Waratah Strata Management website with very limited number SP52948 strata files on 10 July 2019
- Waratah Strata Management - Agenda for SP52948 Annual General Meeting 2018
- Waratah Strata Management – Web-generated report for SP52948 Income & Expenditure on 10 October 2018
- Waratah Strata Management – Web-generated report for SP52948 Income & Expenditure on 3 December 2018
- Waratah Strata Management – Web-generated report for SP52948 Income & Expenditure on 29 March 2019
- Waratah Strata Management – Web-generated report for SP52948 Income & Expenditure on 1 April 2019
- Waratah Strata Management – Web-generated report for SP52948 Income & Expenditure on 9 April 2019
- Waratah Strata Management – Web-generated report for SP52948 Income & Expenditure on 19 April 2019
- Waratah Strata Management – Web-generated report for SP52948 Income & Expenditure on 27 April 2019
- Waratah Strata Management – Web-generated report for SP52948 Income & Expenditure on 30 April 2019
- Waratah Strata Management – Web-generated report for SP52948 Income & Expenditure on 3 May 2019
- Waratah Strata Management – Web-generated report for SP52948 Income & Expenditure on 10 May 2019
- Waratah Strata Management – Web-generated report for SP52948 Income & Expenditure on 29 May 2019
- Waratah Strata Management – Web-generated report for SP52948 Income & Expenditure on 10 July 2019

48. Mr. Moses Levitt and Mr. Stan Pogorelsky, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that they were illegal members of the Executive Committee, did not allow my AGM 2016 Motion to engage forensic auditors to conduct review, in spite of Fair Trading NSW recommendation two times in 2015:

In your communication you have requested Fair Trading instigate proceedings against BCS as you allege, amongst other things, that the agency has been involved in misappropriating the schemes funds.

By way of background, Fair Trading in its role as the regulatory body for the Real Estate industry in New South Wales, as legislated by the *Property, Stock & Business Agents Act 2002* and associated *Regulation* must satisfy itself that any action undertaken is supported with evidence that will withstand scrutiny.

I would advise that should Fair Trading commence disciplinary action against a Licensee, they may apply to the Administrative Decision Tribunal to have the matter reviewed and if successful have it overturned.

Further, should Fair Trading issue a penalty notice for a possible breach of legislation, which is not supported with evidence, the Licensee may make representation to Fair Trading or State Debt Recovery to have the matter reviewed or have the matter dealt with in the Local Court.

Accordingly, to allow the owners corporation it's right to determine the most appropriate course of action, in relation to your allegations. You may wish to include a motion at the next properly convened general meeting to engage the services of a forensic auditor to scrutinise the schemes accounts. Should the audit identify failures to account or the misappropriation of the schemes funds the matter should be referred to Fair Trading.

49. Mr. Jeffery Wang did not allow my AGM 2016 Motion to engage forensic auditors to conduct review, in spite of Fair Trading NSW recommendation two times in 2015.

50. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore actively prevented my offer to provide forensic auditors (reputable Certified Practising Accountants (CPA)) to SP52048 for free in 2019 (an example is an email sent to Waratah Strata Management on 8 June 2019, when Mrs. Marianna Paltikian requested no correspondence to be sent to her).

51. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore supported and allowed committee membership by Mrs. Lorna Zelenzuk in 2017 without disclosing to owners that she did not pay any gas heating levies for 16 years, did not declare it in self-reporting request by BCS Strata Management in 2014, and even when she paid them in 2016, they did not include proper amounts.
52. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mrs. Marianna Paltikian, Mr. Thomas Karolewski. Mr. Jeffery Wang, and Mr. John Gore failed to comply with AGM 2016 Motion 24.1-1 requiring all members of the committee to complete free training on how to act as committee members.
53. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mrs. Marianna Paltikian, and Mr. John Gore failed to comply with AGM 2016 Motion 24.1-2 at most meetings since 2016, requiring all members of the committee to provide written declaration of any conflict of interest before each meeting or discussion of relevant agenda item, and provide written declaration before their nomination at general meetings that they did not have any conflict of interest that would preclude them from being committee members.
54. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mrs. Marianna Paltikian, Mr. Thomas Karolewski, Mr. Jeffery Wang, and Mr. John Gore failed to comply with AGM 2016 Motion 25.1 ever since 2016 requiring owners corporation to obtain OH&S Risk Assessment before each and every general meeting.
55. Mr. Moses Levitt, Mr. Stan Pogorelsky, and Mr. Jeffery Wang knowingly prevented access to many strata files, and failed to provide them in spite of repeated requests, in document searches on:
- 12 November 2012
  - 8 March 2013
  - 17 October 2013
  - 17 November 2014
  - 29 March 2015
  - 18 December 2015
  - 13 June 2017
  - 31 May 2019
  - 20 September 2019

56. Mr. Thomas Karolewski, Mrs. Marianna Paltikian, and Mr. John Gore knowingly prevented access to many strata files, and repeatedly failed to provide them in spite of repeated requests, in document searches on:

- 13 June 2017
- 31 May 2019
- 20 September 2019

57. Mr. Moses Levitt, Mr. Stan Pogorelsky, and Mr. Jeffery Wang declined to attend free mediation at Fair Trading NSW in the following cases:

- SM10\_1230 PK
- SM11/1348 DR
- SM12/1537 JR
- SM15/1226 RH

58. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore declined to attend free mediation at Fair Trading NSW in case 00351498 in March 2020.

59. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to offer assistance and co-operation with Fair Trading NSW investigations as directed by Hon Matthew Kean MP, Minister for Innovation and Better Regulation in 2017 and the following cases:

- Fair Trading NSW 9125004
- Fair Trading NSW 9761719
- Fair Trading NSW 9363613
- Fair Trading NSW 9333507
- Fair Trading NSW 9526772
- Fair Trading NSW 9562217
- Crime Stoppers Reference CAS-729649-W6PO (fraud and false statements to court)
- Police Event E65804633 (four fraudulent insurance claims collected by strata plan SP52948 from CHU Insurance for non-existent case "CTTT Defence Lot 3" (CTTT SCS 12/32675) in amount of \$24,919.31 (plus GST), Solicitor Adrian Mueller illegally represented SP52948, secret change of insurance policy in spite of warnings of high risks without owners knowledge and then making claim within weeks, huge increase in insurance premiums, hiding evidence to CTTT and hindering their investigations, unfinancial members of the Executive Committee providing false and misleading statements to NSW Fair Trading and CTTT multiple times, false statements by BCS Strata Management Peter Bone (prepared by Solicitor Adrian Mueller) in Statutory Declaration to CTTT on 19 April 2013, false statements in Affidavit by BCS Strata Management

Peter Bone to District Court on 31 January 2014, and CHU Insurance forced SP52948 to repay \$8,800.00 four years after the legal events)

- Australian Cyber Security Centre Report CIRS-20190810-40: Events and evidence related to alleged ransomware attack on Waratah Strata Management computers and SP52948 data losses in February 2019 (based on limited access to files, we believe that at least three other strata complexes experienced data losses: SP66099, SP5587, and SP61424)
- Australian Taxation Office for SP52948 failure to collect correct amounts of GST and support of black economy (cash books missing, allowing commercial use of tennis courts against the development regulation for use of common property, missing invoices, missing evidence of payments), lost evidence of payments and invoices, and avoidance of proper financial audits)
- Ryde Council case 2158948 that proved illegal use of public land over prolonged period of time and even attempts to force council staff to change their policy for parking in RE1 Public Recreation Zone Lot 202 DP848752
- NSW Fire Safety case FRN16/829 Job BFS19/749, BSF16/666, and BFS20/252 that showed continuous fire safety issues (even now, in spite of all warnings, the following owners had urgent replacement of smoke detectors on 14 August 2020 - four months after submission of compliance to authorities: Lot 51, 52, 64, 75, 77, 92, 109, 134, 148, and 183)

60. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to inform owners at Annual General Meeting in 2018 that major data losses were incurred due to allegedly lost USB key given to the Police in Event E65804633 in spite of loss happening in April/May 2018.

Owners were also not informed that Waratah Strata Management had no copies of backups for all strata files from 1996 to 31 January 2017.

61. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to offer assistance and co-operation with Australian Cyber Security Centre report CIRS-20190810-40 in relation to alleged ransomware attack on Waratah Strata Management computers in February 2019:

- It took Waratah Strata Management six weeks to report data losses to owners and three and half months to report it Fair Trading NSW,
- Waratah Strata Management declined to provide details of any insurance claims and Police reports,
- Owners were not informed about an unknown third-party paying Bitcoin ransom to the threat actor in amount of \$5,052.03,
- Owners were not given copy of Sententia's ransomware attack, which has many holes with dubious statements,
- 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 commissioned in March 2019 did not mention any data losses in Office 365 and Microsoft Azure and was not disclosed to owners,
- 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 possibly other strata complexes, like SP61424, SP66099, and SP5587 (statements from one of them has been obtained by me),
- Waratah Strata Management was repeatedly asked for evidence of their statements - they silently declined.

62. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore informed owners only in March 2019 that major data losses were incurred due to allegedly lost USB key given to the Police in Event E65804633 in spite of loss happening in April/May 2018 (almost a year earlier). This was given to owners in brief note after the second data loss due to ransomware attack happened in February 2019.

63. Mr. Moses Levitt, Mr. Stan Pogorelsky, and Mr. Jeffery Wang actively approved the following unfinancial owners to vote in spite of unpaid full levies for gas heating and two of them be allowed to be elected members of the committee at AGM on 1 November 2014 which did not satisfy the quorum:

- Mr. Yigal Zelenzuk (on behalf of Mrs. Lorna Zelenzuk)
- Mr. Steve Luxmore
- Mr. Moses Levitt (also held one proxy vote)
- Mr. Peter Yeend
- Mr. Peter Friede
- Mr. Stan Pogorelsky
- Mr. Upali Aranwela
- 27 owners were present in person and 39 via proxy. 36 proxies were given to a committee member, who along with selective group of 18 townhouse owners (out of 26 townhouses) received reimbursements for personal water and gas usage without Special resolution or registered By-Law in period between 1999 and 6 May 2013 and applied in non-compliance with Special By-Law since 6 May 2013. In spite of advance notice, BCS Strata Management refused to issue invoices for overpayments to two house owners.
- 10 nominations were submitted for the committee membership but ballot was not conducted.

- Special By-Law 13 was amended and registered with Land and Property NSW without valid quorum at the meeting.
64. Mr. Moses Levitt, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that he was illegal member of the Executive Committee, attended AGM 2014 and signed building management contract on 9 December 2014.
65. Mr. Moses Levitt and Mr. Stan Pogorelsky, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that they were illegal member of the Executive Committee, attended AGM 2017 and signed building management contract on 27 November 2017.
66. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to report to owners old and current events, and enforce compliance with By-Laws “Behaviour of Owners & Occupiers” and “Behaviour of Invites”, failed to enforce compliance with Section 6.3. ad 6.4 of building management contract dated 9 December 2014 and building management renewed contract dated 27 November 2017, and failed to assist Police in investigating the following Lot 158 reports for harassment, attempts to intimidate and cause harm, threats:
- Police Event E45617744 on 6 November 2011. Anonymous hate message in letterbox on 6 November 2011.
  - Committee member Ms. Sandy Quick assault on female owner of Lot 158 which lasted more than an hour. Police was trying to calm her on the phone. Mrs. Quick held my wife literally “locked” in our own garage. Police failed to record the event and apologized for lack of action in 2018.
  - Police Event E115593702 on 31 October 2015. Verbal attack and attempt to intimidate Lot 158 near elevator in Block A. BCS Strata Management failed to provide access to CCTV recording.
  - Police Event E59750519 on 18 November 2015. Evidence of mismanagement and fraud by a member of the committee and BCS Strata Management.
  - Police Event H6459706 on 14 May 2017. Maintenance staff continuously harassed and followed female owner of Lot 158 and when all pleas to them were ignored, committee members and Waratah Strata Management were ignored, I took a duty to protect my wife by approaching the staff in the office with intention to eliminate future risks to my wife. During several minute encounter, staff lightly assaulted me three times, but I decided not to retaliate in site of expertise in martial arts because I am bound by rule not to misuse my skills unless in grave danger. He was very agitated, rude, unprofessional, and his language was terrible. After the encounter, staff manager called me on the phone and spoke for a long time, where we agreed to move on and ensure no incidents happened on both side. Staff member, however, logged an assault and intimidation complaint with the Police. The assault attempt was dismissed in the court and I received caution to let the Police deal with it in the future. No criminal record was added.
  - Police Event E244254697 on 26 March 2018. One week after the alleged assault and intimidation case H6459706 was closed in court, maintenance staff again followed female owner of Lot 158, which was witnessed by a neighbor and partly recorded by dashboard camera in our car. She was very stressed and ended up in emergency ward of North Shore Hospital with blood pressure of 218/107. Waratah Strata Management failed to provide access to CCTV recording.

- Police Event E69860959 on 26 October 2018. Maintenance staff another attempt of intimidation and harassment.
- Police Event E265804296 on 14 November 2018. Two maintenance staff tried to intimidate me whilst collecting video and photo evidence of security and fire safety issues on common property. Waratah Strata Management failed to provide access to CCTV recording.
- Police Event E372820993 on 11 August 2019. Maintenance staff tried to stalk and intimidate female owner of Lot 158 and myself whilst collecting video and photo evidence of damaged tennis court. Waratah Strata Management failed to provide access to CCTV recording.
- I reported aggressive and rude maintenance staff to Waratah Strata Management on 29 September 2019. No action was taken.
- Police Event E74649451 on 17 October 2019. Committee member Mr. Jeffery Wang was illegally recording general meeting. In spite of three warnings, it took several minutes for him to stop such activity. He was approach via email to explicitly confirm he deleted all recordings and, did not share with anyone, but he never replied. There is no evidence that deleted the recordings.
- My request in email on 21 February 2020 to keep CCTV recording for event dated 13 February 2020 was ignored by Waratah Strata Management.
- Police Event E145042401 on 10 June 2020. Mr. Moses Levitt, in spite of warnings by female owner of Lot 158, wanted to enter the elevator and join her. She then left the elevator and let him go. Initially, request to access CCTV recording was ignored until 14 July 2020, where Waratah Strata Management provided forwarded message from Mr. Levitt where he confirmed he knew she did not want him in the elevator, and reiterated his intention to do as he pleased and if we “did not like it, we should move out of the complex”. CCTV recording was provided on 24 July 2020.
- Mr. Stan Pogorelsky deliberately followed female owner of Lot 158 and stayed too close in the letterbox area and even followed her back when she took the post on 29 June 2020. This was closely monitored and witnessed by me whilst waiting in the car. Request was sent to Waratah Strata Management with statements of the event, complaint about COVID-19 not keeping the safe distance, and access to CCTV recording. Waratah Strata Management responded only on 23 July 2020 stating that the CCTV recording of the event was overwritten.

67. Mr. Moses Levitt, Mr. Stan Pogorelsky, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that they were illegal member of the Executive Committee, failed to offer assistance and co-operation with the Office of Legal Services Commissioner for professional misconduct of Solicitor Adrian Mueller whilst engaged by SP52948 in files:

- 41366 in 2013
- 56561 in 2019

68. Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to offer assistance and co-operation with the Office of Legal Services Ombudsman for professional misconduct of Solicitor Adrian Mueller in file 56561 in 2019.

69. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore continuously ignored serious fire safety issues (of which some are still outstanding), which eventually had to be reported to NSW Fire in files:

- FNR16/829
- BSF19/749
- BSF16/666
- BSF20/252

Some of unreported problems to owners:

- BCS Strata Management secretly admitted not resolving any fire inspection issues for six months on 31 July 2013
- Lot 158 had doors which were not complaint with Safety Regulations 1905.1 and AS1530.4 for more than 10 years until we forced its replacement in 2016
- Ryde Council warnings BCS Strata Management about improperly submitted fire safety statement on 2 April 2014
- Ryde Council warnings to BCS Strata Management about fire safety with threat of penalties on 15 December 2014
- Ryde Council complaining to BCS Strata Management about repeatedly not responding to fire safety issues on 3 November 2016
- Waratah Strata Management confirming to Ryde Council deadline till January 2020 to fix fire safety issues on 20 September 2019
- Waratah Strata Management and committee members failed to provide response in compliance with SSMA 2015 Section 43 and based on strong statement with irrefutable evidence that lot 158 is legal member of the Executive Committee:

a) Copies of the four fire safety inspections and rectification work done in 2020 on:

28 January 2020

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

19 March 2020

6 April 2020

b) Evidence of owners who were sent notification "52948 - Notice to Residents - Smoke Detector Replacement.pdf" that smoke detectors are owner's private cost and NOT covered by common funds.

c) Evidence of owners who were sent notification about non-compliant door snakes, locks, and/or peep holes on external doors of the units.

70. Mr. Moses Levitt, Mr. Stan Pogorelsky, and Mr. Jeffery Wang failed to offer assistance and co-operation with the ACCC for complaints against BCS Strata Management in files:

- 1733927
- 2658878

71. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mrs. Marianna Paltikian, Mr. John Gore, Mr. Thomas Karolewski, and Mr. Jeffery Wang failed to allow Lot 158 Motion at AGM 2019 to ratify events related to Waratah Strata Management and building manager refusal to maintain proper air flow in bathroom in Lot 158 since June 2018

- Lot 158 orally submitted complaint to staff of building manager 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 16 June 2018 and 20 June 2018.
- Lot 158 submitted repeated complaint and request to resolve issue with poor ventilation in one bathroom 22 December 2018 and 31 January 2019. No reply was received or action taken by Waratah Strata Management and building manager.
- Video evidence was provided.
- Lot 158 collects video evidence of inappropriate level of fresh air in bathrooms of several units in Block A during 2019 and 2020.

72. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to inform owners about past contracts and conduct proper tender for elevator maintenance and upgrade contracts in 2017 and 2018:

- SP52948 had elevator maintenance contract without any tender in period 1996 to 2002,
- In contract renewal in 2002, BCS Strata Management obtained two other tenders (Otis and Schindler Lifts), and without decision at general meeting renewed the contact with Liftronic for another three years,
- In 2005, BCS Strata Management renewed the contract with Liftronic without tender, based on reduced price from \$30,938.36 to \$28,600.00 with forced five-year term.
- Liftronic lost contract with SP52948 due to lack of proper services and high cost in amount of \$31,228.00 per year in 2010,
- BCS Strata Management signed seven-year contract with ThyssenKrupp without prior full consultation with the committee members, and without general meeting on 18 June 2010, under very unfavorable conditions,
- Over seven-year period, performance by ThyssenKrupp was deemed as unacceptable and insufficient,
- In spite of documented and repetitive problems, planning for maintenance of elevators was delayed by Waratah Strata Management and the committee until year 2026 in SP52948 10-Year Capital Works Fund Plan in March 2017 without consultation with owners corporation,
- I warned Waratah Strata Management and the committee about BCS Strata Management vs Robinson lost indemnity case for poor elevator maintenance in 2004,
- Lot 158 Motion 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 Annual General Meetings in 2017 and 2018,
- Napier & Blakely assessment for elevators in July 2012 had strong recommendations to elevator upgrades in mid-term period, and was not disclosed to owners and at CTTT Hearing in 2012 and 2013,
- BCS Strata Management secretly asked ThyssenKrupp about spare parts on 5 June 2014, aware of ongoing problems with them,
- Frustrated staff of Universal Strata Services complained about lack of ThyssenKrupp spare parts on 1 September 2014,
- Details of ThyssenKrupp Elevator Australia assessment and quote for elevator major works in December 2013 were never disclosed to owners,
- Details of Vertical Transport Management Services assessment and quote for elevator major works in February 2014 were never disclosed to owners,
- Details of Thompson Elevator Consultancy Service report in March 2017 were never disclosed to owners,
- Few undisclosed problems with elevators:

30 July 2014: Trapped passenger in elevator 3

22 November 2014: Intermittently trapped passengers in elevator 2

15 December 2014: Trapped passenger in elevator 3

- 10 May 2017: Hoisting rope in Lift 4 in Block A was replaced more than three years after the Vertical Transport Management Services recommendation in February 2014,
- Waratah Strata Management sent letter on 23 March 2017 to ThyssenKrupp with contract termination notice on 30 June 2017,
- Waratah Strata Management sent request for remediation work to ThyssenKrupp on 19 April 2017,
- Minutes of EC meeting on 16 March 2017 confirming elevator contract was expiring on 30 June 2017,
- Minutes of EC meeting on 20 April 2017 asking Thompson Elevator Consultancy Services to conduct tender and oversee remediation work by ThyssenKrupp before their contract ended,
- Notice of EC meeting dated 26 June 2017 was never sent to owners or listed on notice boards (non-compliant with Strata Schemes Management Act 2015, Schedule 2, Part 4 Notice of meetings for large strata schemes),
- Minutes of this meeting were not published or sent to owners who requested them (non-compliance with Strata Schemes Management Act 2015, Schedule 2, Part 9 Decisions at meetings),
- SP52948 Executive Committee meeting on 30 June 2017, approving 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 could attend (11:00 hours in the morning),
- Liftronic maintenance tags were put in four elevators on 4 July 2017,
- Email reply from Waratah Strata Management to Thomson Elevator Consultancy Services on 10 July 2017 confirmed that they were not able to open the Liftronic contract sent to Thomson Elevator Consultancy Services on 30 June 2017 which Thomson Elevator Consultancy Services only forwarded to Waratah Strata Management on 10 July 2017,
- Written notice by Robert Crosbie from Waratah Strata Management for Executive Committee meeting scheduled for 20 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 send the original to unfinancial committee member Mr. Moses Levitt due to unpaid full levies for gas heating connection, confirmed that ThyssenKrupp continued to be paid for period 1 July 2017 to 30 September 2017 in spite of contract ended on 30 June 2017,
- Agenda of Executive Committee meeting sent to owners on 13 July 2017, with intention to discuss elevator maintenance contract at Executive Committee meeting scheduled for 20 July 2017 contained little details,
- ThyssenKrupp confirmed all but one item repaired for elevators on 13 July 2017,

- Minutes of the Executive Committee meeting on 20 July 2017 contained information that the strata manager was approved to sign the contract with Liftronic,
- The EC meeting on 20 July 2017 was attended by three members who were listed with levies owing:

Mr. John Gore, Lot 200, owing \$218.55  
 Mrs. Maureen McDonald, owing \$1,344.25  
 Mrs. Marianna Paltikian, owing \$1,344.25

One member did not attend but she was also listed being in arrears:

Mrs. Lorna Zelenzuk, owing \$1,258.40

- The EC meeting on 20 July 2017 listed four members who had gas heating:

Mrs. Lorna Zelenzuk, unfinancial for not paying prescribed levies for gas heating and not declaring that she was illegal members of the Executive Committee

Mr. Moses Levitt, unfinancial for not paying prescribed levies for gas heating and not declaring that he was illegal members of the Executive Committee

Mr. Stan Pogorelsky, unfinancial for not paying prescribed levies for gas heating and not declaring that he was illegal members of the Executive Committee

Mrs. Marianna Paltikian, undeclared gas heating connection and not declaring if she actively used it

- Waratah Strata Management overpaid ThyssenKrupp in spite of advanced knowledge of cancelled contract until 13 September 2017. Strata manager Mr. Simon Wicks, issued request to ThyssenKrupp to reimburse owners corporation for invoice 8067023552 in amount of \$6,812.520,
- Waratah Strata Management discovered Liftronic contract was not signed as of 15 September 2017 and asked for revised contract which they signed without owners corporation approval at any meeting,
- Lot 158 requested a copy of elevator contract with Liftronic on 27 November 2017, which was silently denied,
- Liftronic upgrades were confirmed as of 9 May 2019 but kept secret from owners till late June 2019,
- SP52948 owners were not notified about elevator upgrades although internet websites were full of information since early June 2019,
- Lot 158 Motion about lack of proper 10-Year plans in SP52948 were not included by Waratah Strata Management at AGM in 2017 and 2018,
- Lot 158 Motion about lack of details of tenders for elevator maintenance contract in 2005, 2010, and 2017 were not included at AGM in 2017 and 2018 by Waratah Strata Management,

- Thompson Elevator Consultancy Services assessment and quote for elevator major works were sent to Waratah Strata Management on 16 November 2017 but presented to owners the expired quote one year later in agenda for AGM in October 2018,
- Waratah Strata Management failed to report the following in the minutes of AGM 2018, as requested by Lot 158, who was the only person in the complex with significant electrical/electronics knowledge attending the meeting in person:
  - o The original plan by Waratah Strata Management and EC members was to approve quote by Liftronic in amount of \$550,000.00 (plus GST), for elevator upgrades that excluded Option E and F.
  - o Thompson Elevator Consultancy Services wrongly listed art E and F as Optional expenses. Both of them were compulsory:
    - Part E: replacement for lift mains of lifts 1, 2, and 3 due to non-compliance with fire rating requirements
    - Part F: replacement of lift machines including ropes
  - o Waratah Strata Management failed to notify owners in the agenda for AGM 2018 that ropes for lift 4 in Block A were replaced on 10 May 2017 and that was the only lift which had such work done in 22 years.
  - o After discussion at the meeting, which agreed to include Options E and F, EC members arbitrarily raised the allegedly approved value of the contract with Liftronic from \$766,371.00 to \$900,000.00 (plus GST), an increase above 17%.
  - o Waratah Strata Management failed to disclose to owners corporation in minutes of AGM 2018 that Lot 158, due to high value of \$900,000.00 which was not planned before AGM 2018, requested to convene general meeting if the elevator upgrades exceed \$900,000.00 by any amount, to prevent further up to 10% increases that Strata Schemes Management Act 2015 Section 102 (2) allows.
  - o Elevator travelling cable is a specialized multi-conductor cable continually in motion with generally accepted lifespan of 20 years or 3,000,000 flex cycles.
  - o In 2018, the complex was 22 years old, without any major upgrades of works done on four elevators.
  - o Waratah Strata Management and Thompson Elevator Consultancy Services failed to disclose to owners the Liftronic Standard Terms & Conditions , which included these day labour and engineering rates in the tender:
 

Normal time:	\$217.00
Time & Half:	\$268.00
Double time:	\$319.00
  - o Waratah Strata Management and Thompson Elevator Consultancy Services failed to disclose to owners that Liftronic may take photos or video of its equipment for the purposes of advertising and promotion or training. SP52948, by default, gives permission to Liftronic to use these images in printed, digital and on social media platforms. Liftronic would arrange with SP52948 mutually agreeable times for access for the capturing of any images.

- The quote by Thompson Elevator Consultancy Services dated 16 November 2017 was more than 10 months old (from the date of tender), making it invalid for proper consideration by owners as the tender was open for 30 days from 16 November 2017.
- Thompson Elevator Consultancy Services listed maintenance for the new equipment be done only during business hours without charge for the first 12 months.
- Thompson Elevator Consultancy Services listed that Liftronic, may, at its discretion, act as an agent for the owners corporation where delivery is requested and all costs for cartage and insurance would be for the owners corporation to cover.
- Thompson Elevator Consultancy Services listed that changes to drawings would incur extra costs to owners corporation.
- Thompson Elevator Consultancy Services listed that only one inspection prior to hand-over would be free. Costs of additional inspections would be for the owners corporation to cover.
- Thompson Elevator Consultancy Services listed that rectification of warranty-identified defects would be done without charge by Liftronic personnel or contractors during normal business hours.
- If maintenance and/or service calls are required to be provided outside of Liftronic normal working hours then these will be subject to additional charge to owners corporation.
- Thompson Elevator Consultancy Services listed that the warranty was conditional upon the installation being maintained by Liftronic, hence preventing competitive services by any other company.
- Thompson Elevator Consultancy Services did not list precise details of the warranty periods.
- Thompson Elevator Consultancy Services listed that Liftronic would be entitled to an extension of time for all delays beyond its control and if the delay was due to act, default, or omission of the owners corporation, Liftronic would be entitled to claim additional cost which it incurred (act of government, industrial dispute, lockouts, malicious damage, fire, explosion, flood, riot, terrorism, tsunami, storm, Act of God, or any Force Majeure event).
- Thompson Elevator Consultancy Services listed that Liftronic reserved the right to adjust the contract price for imported materials without specifying if and how much of the equipment was planned from imports.
- Waratah Strata Management did not report deposit in amount of \$160,000.00 for elevator upgrades to owners on 7 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 21 March 2019.
- Waratah Strata Management failed to report large deposit given to Liftronic from Capital Works Fund and the start date of the upgrades in Minutes of the EC meeting held on 2 May 2019.

- Waratah Strata Management failed to report large deposit given to Liftronic from Capital Works Fund, the start date of the upgrades with alleged final costs of \$880,000.00 plus GST in Minutes of the EC meeting held on 20 June 2019.
- Waratah Strata Management failed to notify all SP52948 owners and tenants about elevator upgrades on notice boards and through correspondence in June 2019.
- Waratah Strata Management conducted AGM 2018 without valid quorum and disallowed owners to have information about Liftronic contract at AGM 2019.
- We had six elevator breakdowns in 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.
  - o On 9 December 2019, building manager tried to dismiss repeated complaints about poor operation of elevators in the complex and gave promise that Liftronic would address it in the following two weeks ("SP52948-promise-for-elevator-maintenance-and-forced-to-deliver-due-to-repeated-failures-two-months-later-on-19Feb2020.png"). That did not happen in December 2019, nor in January 2020, but on 19 February 2020 - almost two and half months later.
  - o Around 13:43 hours on 19 February 2020, I was unable to use elevator in Block A. Normally, one of the fire doors in Block A would be open for owners to walk up from garage areas and make their access to upper floors convenient and easy but that did not happen this time.
  - o More breakdowns were documented to Waratah Strata Management, who refused to notify owners in 2020:
    - o 23 May 2020, Block A. Tenants from Lot 160 in Block A level 2 were moving into new house they just purchased. They were using elevator for furniture. It got stuck on level 6 at around 08:30 hours in the morning and was repaired only at around 15:00 hours in the afternoon. No notice board updates or information near elevators for owners. Whilst Liftronics staff was on site, they got a call about another emergency where passenger was stuck in elevator, so he had to leave SP52948 complex and delay work.
    - o 26 June 2020, Block B. Elevator out of order for several hours as of 14:20 hours. Two vehicles from Liftronics on site. Their staff were not sure when the problem would be resolved. No notice board updates or information near elevators for owners.
    - o Noisy door on level 2 Block A in July 2020.

73. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to inform owners about illegal short-term letting in the complex and issue compliance notices. 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.

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.

74. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to inform owners and respond to these inquiries for Covid-19 compliance:

- World Health Organization (WHO) recommends level of 15mg.min/liter of chlorination in the pools. It said it is enough to kill all enveloped and non-enveloped viruses in the swimming pool. Who is assigned duty to keep the register of DAILY levels of chlorination in our pool?
- Where is such register displayed?
- How does building manager monitor it?
- Before dipping in the pool proper personal hygiene is required, especially when everyone is at risk from just touching various surfaces like the changing benches, doors, and handles. How does building manager monitor it?
- Swimmers should be reminded to regularly shower before and after swimming in the pool and never forget to disinfect their hands after touching door handles in the area. How does building manager monitor it?
- Handwashing is also critical. Properly and thoroughly washing hands for at least 20 seconds with soap and water. How does building manager monitor it?
- Experts also highly advise the public to wash and maintain clean swimming kits and towels by using at least a high 60-degree wash to kill any bacteria or bugs. How does building manager monitor it?
- Until recently, swimming lessons with visitors outside of complex were silently allowed. How does building manager monitor it now?

75. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to inform owners about past contracts and conduct proper tender for strata manager contract in 2017 and 2019:

- Never since EC meeting on 17 June 1998 has strata plan SP52948 properly managed or run tenders for major contracts with transparency and duty of care.
- Raine & Horne Strata Sydney (later acquired by BCS Strata Management) became strata manager at the adjourned Extraordinary General Meeting held on 11 May 1999 without tender.
- Contract with Raine & Horne Strata Sydney was signed on 16 June 1999 and was valid until they were removed from managing the complex at AGM on 24 October 2016.
- Minutes of Extraordinary General Meeting held on 23 August 2000 introduced GST from 1 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 5 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.
- Privately, some members of the committee were not happy with their services - angry note from EC members to BCS Strata Management about their poor services on 9 October 2011 was not disclosed to owners.
- Greg Freeman from Pica Group (parent company of BCS Strata Management) agreeing contract renewal without tender by offering alleged loyalty discount in private agreement with a single member of the committee, from \$33,499.00 to \$29,900.00 per annum on 10 October 2011.
- Based on my investigations and reports of abuse of power, EC members complained to BCS Strata Management about loyalty discount not applied for two years on 31 January 2013.
- 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 7 November 2014.
- Minutes of the AGM held on 26 November 2014 approved building manager and BCS Strata Management contract renewals without proper tenders.
- Ryan Strata offered superior strata management services on 10 May and 27 June 2016, which was disallowed to be even listed in notice for AGM by unfinancial owner Mr. Stan Pogorelsky.
- BCS Strata Management failed to sign the Tenderer's Declaration at AGM 2016.
- Minutes of AGM on 19 October 2016 confirmed removal of BCS Strata Management and approved contract with Waratah Strata Management with base value \$21,800.00 and \$13,300.00 for disbursements per year.
- Mr. Moses Levitt, Mr. Stan Pogorelsky, and Mr. Jeffery Wang failed to inform owners that Waratah Strata Management intended to employ Mr. Simon Wicks to manage the complex, in spite of him being removed from managing our complex due to poor performance whilst employed by BCS Strata management in 2011.

- Unfinancial EC members Mr. Moses Levitt and Mr. Stan Pogorelsky ran secret meetings without agenda and minutes being sent to owners to discuss BCS Strata Management contract renewal before AGM on September/October 2016. BCS Strata Management changed fees for these meetings although minutes and agendas of these meetings do not exist and were never sent to owners.
- AGM 2016 failed to satisfy quorum and allowed the following unfinancial owners to vote and three of them be elected on the committee in spite of unpaid full levies for gas heating. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mrs. Marianna Paltikian, Mr. John Gore, and Mr. Jeffery Wang actively approved the following unfinancial owners to vote in spite of unpaid full levies for gas heating and four of them be allowed to be elected members of the committee at AGM on 4 November 2016:

Mrs. Lorna Zelenzuk (also held two proxy votes)

Mr. Marianna Paltikian

Mr. Moses Levitt (also held five proxy votes)

Mr. Peter Yeend

Mr. Peter Friede (also held one proxy vote)

Mr. Stan Pogorelsky (also held 41 proxy votes)

Mr. Upali Aranwela

Mr. Andrew Park

Mr. Robert Lev

20 owners (one with two lots) were present in person and 50 via proxy. Of 50 proxies 10 should have been declared invalid because owners were present in person.

10 nominations were submitted for the committee membership and ballot was conducted on non-compliant forms.

- Contract with Waratah Strata Management was signed by Mr. Moses Levitt and Mr. Stan Pogorelsky who were unfinancial to vote and be committee members due to unpaid full levies for gas heating, and secretly increased base value from \$21,800.00 to \$23,110.00 without owners knowledge on 14 December 2016 . Waratah Strata Management tried to argument that the total value of the contract stayed the same but that was valid because default year increase of their contract of 5% applied to base value.
- BCS Strata Management analysis of why they lost contract with SP52948 on 21 November 2016 confirmed that EC members had no intention to change them.
- Mr. Stan Pogorelsky confirmed BCS Strata Management had provided very poor services in email on 27 of April 2017.

- Waratah Strata Management prevented Lot 158 Motion about their prior relationship with BCS Strata Management at AGM on 24 October 2017.
- AGM on 24 October 2017 approved Waratah Strata Management contract renewal without tender or disclosure of its increased value.
- AGM 2017 failed to satisfy quorum and allowed the following unfinancial owners to vote and three of them be elected on the committee in spite of unpaid full levies for gas heating. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mrs. Marianna Paltikian, Mr. John Gore, and Mr. Jeffery Wang actively approved the following unfinancial owners to vote in spite of unpaid full levies for gas heating and two of them be allowed to be elected members of the committee at AGM on 24 October 2017:

Mrs. Lorna Zelenzuk (also held seven proxy votes)

Mr. Marianna Paltikian

Mr. Moses Levitt (also held three proxy votes)

Mr. Peter Yeend

Mr. Peter Friede

Mr. Stan Pogorelsky (also held four proxy votes)

Mr. Upali Aranwela

Mr. Andrew Park

Mr. Robert Lev

Mrs. Anne Chow

Seven proxy votes were given to Waratah Strata Management Mr. Robert Crosbie, who voted for his own contract renewal.

Lot 5 was misquoted in two places: on page 1 of the Minutes with one name and on page 2 listed as different name. Waratah Strata Management refused to clarify it.

10 nominations were submitted for the committee membership and ballot was conducted on non-compliant forms.

- Contract with Waratah Strata Management was signed by Mr. Moses Levitt and Mr. Stan Pogorelsky who could not prove they were financial owners on the same evening when AGM was conducted on 24 October 2017 and increased base value to \$24,310.00.
- SP52948 – Master contract admin expenses for Strata Manager in period FY 2014 to 2019 (GST exclusive):

FY (1 September to 31 August) Amount

2014	\$53,835.00
2015	\$52,683.00
2016	\$50,684.00
2017	\$49,898.00
2018	\$43,919.00
2019	\$46,914.00

- AGM 2019 failed to satisfy quorum and allowed the following unfinancial owners to vote and three of them be elected on the committee in spite of unpaid full levies for gas heating. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mrs. Marianna Paltikian, Mr. John Gore, and Mr. Jeffery Wang actively approved the following unfinancial owners to vote in spite of unpaid full levies for gas heating and two of them be allowed to be elected members of the committee at AGM on 17 October 2019:

Mr. Yigal Zelenzuk (on behalf of Lorna Zelenzuk) (also held seven proxy votes)

Mr. Marianna Paltikian (also held five proxy votes)

Mr. Moses Levitt (also held eight proxy votes)

Mr. Peter Yeend

Mr. Peter Friede

Mr. Stan Pogorelsky (also held nine proxy votes)

Mr. Upali Aranwela

Mr. Andrew Park

Mr. Robert Lev

Mrs. Anne Chow

- Waratah Strata Management contract was renewed without tender at AGM 2019.
- Waratah Strata Management refused to provide access to their contract since AGM 2019.

76. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to inform owners about past contracts and conduct proper tender for building manager contract in 2017:

- Raine & Horne Strata Sydney (later became part of BCS Strata Management) and EC members promoted cleaners to become new caretakers without tender at EC meeting on 21 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 3 November 1999.
- EC meeting decision to seek other tenders for security services contract on 22 March 2000.
- EC meeting decision to evaluate security services options on 24 May 2000.
- Undisclosed EC meeting (agenda and minutes not sent to owners) on 2 August 2000.
- At the Executive Committee meeting held on Saturday, 2 December 2000, it was alleged that four quotes were tendered for security services but no details provided to any owner.
- EC meeting held on 14 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 Services in 2004 was 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 25 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 the incumbent caretaker in 2005 was \$10,505.00 (around 5% of the full contract only), with the emphasis that the new proposal offered more services. The second secret tender was also attractive but not disclosed by BCS Strata Management to most members of the committee.
- EC meeting on 18 August 2004 - legal case with previous caretaker, by own admission Mr. Moses Levitt was involved.
- Contract with Universal Strata Services without tender or owners decision at AGM, valued at \$255,712.92 (plus GST) per year was approved on 1 May 2006.
- Contract with Universal Strata Services without tender or owners decision at AGM, valued at \$268,498.56 (plus GST) per year was approved on 1 May 2008.
- Renewed contract with Universal Strata Care without tender or owners decision at AGM, valued at \$268,498.56 per year with extra 2% increase for three years (plus GST) was approved on 1 August 2010.
- Secret email exchange asked EC members to approve Universal Strata Services contract renewal for three years without tender on 8 September 2010.
- Call-out charges by Universal Strata Services were undefined item in the contract but paid out as per invoice on 29 April 2013.
- Renewed contract with Universal Strata Services without tender or owners decision at AGM, approved on 12 March 2014.
- Standard Costs Agreement with Shakenovsky & Associates for legal services to prepare contract with building manager was issued on 4 December 2014 and signed by two SP52948 EC members (one of them –

Mr. Moses Levitt, was not financial due to unpaid full levies, including 10% simple interest for overdue payments), day later on December 2014.

- Contract RS/RH 081394 with building manager executed on 7 December 2014.
- SP52948 – Contract value with building manager valued at \$289,000.00 signed on 7 December 2014.
- AGM 2014 – BCS Strata Management Mr. Russell Young confirmed that Universal Strata Services was paid for services for night security but failed to reimburse owners corporation for undelivered services.
- EC member wrote email to Universal Property Services advising them of lost contract on 7 December 2014, with wishes of EC members to stay with them due to “personal connections”.
- Minutes of EC meeting held on 21 March 2016, renewed Caretaker’s contract for another year without any tender or decision at general meeting, although it was going to expire on 7 December 2016, more than nine months later.
- building manager contract value increased by 2% without owners corporation decision at AGM or tender on 22 April 2016.
- Master contract expenses for Building Manager (Caretaker) in period FY 1999 to 2018 (GST exclusive):

The only details of the Caretaker’s contract (as like for all other expenses) were provided to owners in one-page balance sheet at general meetings

Financial Year Building Manager master contract (GST exclusive)

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

- Master contract expenses secretly increased by 4% per year building manager in period FY 2018 to 2021 (well above the CPI) - unapproved by owners corporation at any meeting (GST exclusive):

1 January 2018 to 31 January 2019: \$311,000.00

1 February 2019 to 31 January 2020: \$323,440.00

1 February 2020 to 31 January 2021: \$336,377.60

The contract was signed by Mr. Moses Levitt and Mr. Stan Pogorelsky on 27 November 2017, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that they were illegal members of the Executive Committee.

77. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore were directly involved in preventing owners from having information about lack of tender for roof maintenance in four buildings and decreased warranties (from 15 to just 5 years) due to long-term neglect:

- 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 or allow voting on this Motion at AGM 2017, 2018, and 2019.
- BCS Strata Management failed to provide Napier & Blakely building report to CTTT in 2012 and 2013 and owners (commissioned in 2012 at cost of \$12,500.00) 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 29 August 2012.
- Insurance companies rejected claims for water damages multiple times since 2012. One of them was on 14 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 23 December 2018 and multiple times since then. Waratah Strata Management did not respond and did not inform owners.
- BCS Strata Management and Waratah Strata Management failed to disclose to owners since 2012 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 starting August 2012.
- Without tender, Kintyre Bulding Services was paid \$28,892.00 for basic roof repairs in Block A, B, C, D and all townhouses (re-bed and re-point all ridge cappings, new tiles replacing chipped ones) as per invoice dated 27 March 2012.
- On 9 June 2014, Dural Building Services (DBS) submitted the quote DBS Q14-048 for SP52948 roof repairs on Block B to BCS Strata Management. That information was known to building manager staff, as employees of Universal Strata Services.
- BCS Strata Management paid their invoice in amount of \$385.00 six months after it was submitted.
- DBS quote reported that complete roof of Block B (above unit 47) would be properly waterproofed and repaired at cost of \$74,800.00 (GST inclusive).
- That quote was never presented to owners and was not even included at General Meeting on 26 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 27 February 2015 provided only five year material warranty for the work due to excessive cracking, and water ponding on the existing concrete substrate.
- BCS Strata Management and EC members withheld crucial information that the work order was secretly signed off with Kintyre on 17 September 2014, two months before the approval happened at the AGM on 26 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 expired 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 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 24 February 2016. They stated 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 1 February 2017, seven repairs were done in Lot 191 (statistics for 2019 and 2020 is kept secret by Waratah Strata Management).
- Waratah Strata Management and building manager failed to obtain three quotes for roof repairs in Block A and C, and half of Block B, and start overdue work on those buildings.

78. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore were directly involved in not selecting office bearers, leaving role of Chairperson, Treasurer, and Secretary fully delegated to Waratah Strata Management at AGM 2017, 2018, and 2019, until first meeting in February the following year.

79. Mr. Moses Levitt and Mr. Stan Pogorelsky, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that they were illegal members of the Executive Committee, actively prevented Motions from Lot 158 from being listed in the agenda of general meetings, not allowed Explanatory Notes to be published, approved the Motions to be misconstrued so that they failed, or voted against them whilst unfinancial:

- Motions for AGM 2013
- Motions for AGM 2014
- Motions for AGM 2015
- Motions for AGM 2016
- Motions form AGM 2017
- Motions for AGM 2017
- Motions from AGM 2018
- Motions for AGM 2019

80. Mr. Jeffery Wang actively prevented Motions from Lot 158 from being listed in the agenda of general meetings, not allowed Explanatory Notes to be published, approved the Motions to be misconstrued so that they failed, or voted against them:

- Motions for AGM 2013
- Motion s for AGM 2014
- Motions for AGM 2015
- Motions for AGM 2016
- Motions form AGM 2017

- Motions for AGM 2017
- Motions from AGM 2018
- Motions for AGM 2019

81. Mr. Thomas Karolewski, Mrs. Marianna Paltikian, and Mr. John Gore actively prevented Motions from Lot 158 from being listed in the agenda of general meetings, not allowed Explanatory Notes to be published, approved the Motions to be misconstrued so that they failed, or voted against them:

- Motions for AGM 2017
- Motions from AGM 2018
- Motions for AGM 2019

82. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to correctly publish information about electricity supply contract, conduct tender for renewals, and seek owners corporation at general meetings:

- SP52948 – Correspondence between three EC members on 4 October 2012, confirming the electricity supply contract expiring on 30 September 2015.
- BCS Strata Management Mr. Simon Wicks, who was removed from managing SP52948 in 2011 due to poor performance, was approached by Energy Action to renew electricity supply contract for number of strata plans on 11 March 2015.
- BCS Strata Management Mr. Gary Mills, without decision at general meeting, without official decision by the committee, and without evidence of tender, signed the electricity supply contract for three-year period on 8 July 2015, two months before the expiration of the contract.
- Waratah Strata Management secretly confirmed electricity supply contract expired in email to Energy Action on 24 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 18 October 2018.
- SP52948 – 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 1 November 2018.
- Partial office bearers were elected five months after the AGM at EC meeting on 21 March 2019.
- Waratah Strata Management confirmed that committee members recently received electricity supply at EC meeting on 21 March 2019.

83. Mr. Moses Levitt, Mr. Stan Pogorelsky, and Mr. Jeffery Wang were actively involved in suppressing Special By-Law being listed in SP52948 By-Laws which granted exclusive rights to common property at adjourned Extraordinary General Meeting on 24 January 2003 to Mrs. Lorna Zelenzuk (registered on 24 July 2003):

- Without the involvement of the majority of the Executive Committee, on 12 December 2002 (very close to Christmas) the managing agent from BCS Strata Management (originally Raine & Horne Strata Sydney)

circulated the agenda for Extraordinary General Meeting to be held on 2 January 2003 at 10.00am. The date of the meeting: straight in the middle of the school holidays and on the first day after Christmas and New Year celebrations. It was Thursday and in prime business hours, when most of owners could not attend,

- One of the members of the committee, late Dr. Edye, voiced strong opposition due to the fact that Mrs. Lorna Zelenzuk had already made the change to the common property before getting the approval. This report dated 12 January 2003 was not disclosed to owners,
- Due to lack of quorum the EGM failed, and at adjourned meeting on 28 January 2003 Special By-Law was approved through invalid proxy vote count: the total number of votes (ALL PROXIES) was 74. Nobody but one owner was allegedly present in person. No details about how many votes were in favour or against the motion. The quorum in this large strata scheme is satisfied if around 55 owners are present, so since the first general meeting failed, it was impossible to count 74 owners at the adjourned meeting as valid. That was AN INVALID VOTING as it breached the NSW Strata Management Act 1996.

The proxy votes can only be counted at the first GM. The rest of the votes at the adjourned GMs must be delivered in person, or, if not expired, counted from the previous AGM. The quorum for a general meeting of a Strata Scheme (with more than 2 lots) in NSW is detailed in Clause 12 of Schedule 2 to the Act where it states that the quorum is at least 1/4 of the number of persons entitled to vote either being present in person or by way of proxy or at least 1/4 of the aggregate unit entitlement of those entitled to vote either being present in person or by way of proxy. In the event that a quorum is not achieved, or at some point a meeting lapses for want of a quorum – after a period of a half-hour – the meeting stands adjourned for a period of at least 7 days with notice of the rescheduled time and place being served by the secretary on the OC members at least 1 day prior to the rescheduled meeting. In this latter case, at the adjourned meeting if a quorum is not achieved within a period of half-hour of the time that was fixed for the commencement of the meeting, it can go ahead with those in attendance who are eligible to vote,

- Special By-Law was registered at owners corporation expense in spite of benefiting a single owner only,
- Special By-Law was hidden from all owners and investors until mid-2017 (for 14 years), and not available in the following document searches as per SSMA 1996 S108:

12 November 2012

8 March 2013

17 October 2013

17 November 2014

29 March 2015

18 December 2015

84. Mr. Moses Levitt, Mr. Stan Pogorelsky, and Mr. Jeffery Wang failed to offer assistance and co-operate with the Telecommunications Industry Ombudsman complaint reference 2014/10/0358 about illegal ISP running

business since 31 January 2014, and incurring serious financial losses due to unfulfilled obligations in the contract since 2005 (losses amounting to several hundred thousands dollars):

- Through campaign with hidden agenda, on 1 October 2003, a few members of the Executive Committee and strata manager persuaded owners to approve Special By-Law that allowed the Executive Committee to enter into internet services contracts without decisions at general meetings.

19 owners were present in person and 35 via proxy on 1 October 2003.

Strata manager failed to declare the meeting invalid due to lack of quorum. Of 35 proxies, 19 were given to an EC member, who, along with a selective group of 17 (out of 26) townhouse owners (including two other members of the Executive Committee) received reimbursements for personal water and gas usage without Special Resolution or registered By-Law, hence directly decreasing their voting entitlements and being unfinancial. These undeclared reimbursements that started in 1999 were never provided in accounting books even as late as 2016. Six proxy votes were given to strata manager himself, who voted for his own increased remuneration at the meeting.

Three votes were allowed from unfinancial members in spite of unpaid full levies for gas heating:

Mr. R.D. Craig (Lot 163)

Mr. Upali Aranwela (Lot 63)

Mr. Stan Pogorelsky (Lot 181)

Meeting was non-compliant with SSMA 1996 Schedule 2 Section 12 2 (a) and (b), SSMA 1996 Schedule 2 Section 10 (8), SSMA 1996 Schedule 2 Section 11 (7A) and (7B), and SSMA 1996 Section 183,

- BCS Strata Management coerced owners corporation to allow the strata manager and the Executive Committee to sign off the contract with wireless internet service provider (ISP) SkyNet Global without tender, and without decision being made at a general meeting in 2004,
- The ISP contract was signed by strata manager on 8 December 2003, eight days before the ISP representative signed themselves,
- BCS Strata Management misplaced (by own admission: lost) the paperwork of the contract with the wireless ISP for nine and a half years (until December 2013),
- BigAir Group Ltd (BigAir) and its predecessor WHome wireless service provider failed to comply with the commercial agreement with the large strata scheme:
- Have not reimbursed owners corporation an amount equal to 5% of all income twice a year from April 2005 till June 2018,
- Since 15 November 2013 the ISP ran the business without any legal rights as original WHome contract was cancelled by the owners corporation officially,
- The ISP did not pay 10% interest on unpaid amounts to owners corporation from April 2005 till June 2018,

- The ISP failed to ensure all required certifications were provided to the owners' representative within five business days of completion of installation,
- The ISP was:

Not paying for electricity usage to owners corporation.

Not paying for renting common property in the complex. In 2010, the owners corporation rejected Optus' proposal to rent common property for small mobile tower in amount of \$22,000.00 (GST inclusive) per year. Using that average figure for BigAir, it means owners corporation incurred losses for unpaid income of at least \$270,000.00 over eleven years.

Not serving the needs of the owners (there were no users who subscribed to BigAir services in the complex). The last one was supposed to be the caretaker, who, according to the secret email exchange on 1 March 2013 and 22 August 2013 was instructed by strata manager to move to another provider.

- Correspondence between EC members and BCS Strata Management on 10 October 2012, confirming no income from BigAir ISP,
- Correspondence between EC members confirming no income received, and fair annual income from BigAir to be \$20,000.00, blaming BCS Strata Management on 1 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 31 January 2013,
- Photos taken of BigAir equipment on Block C on 6 October 2014,
- Decision to engage Telecommunications Ombudsman and enforce eviction of BigAir at AGM on 26 November 2014 was never followed by the committee and strata managers,
- Lot 158 Motion for recovery of lost income from BigAir was 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 14 February 2018,
- Waratah Strata Management email to BigAir on 16 February 2018,
- Waratah Strata Management desperate email to Grace Lawyers on 8 March 2018,
- Waratah Strata Management email to BigAir asking for proposal on 6 April 2018,
- Waratah Strata Management email to EC members with proposal from BigAir on 10 April 2018,
- Waratah Strata Management email to BigAir with proposal requesting payment in amount of at least \$20,000.00 on 1 April 2018,

- Waratah Strata Management email to EC members with BigAir counter offer with payment in amount of \$12,000.00 on 3 of May 2018,
- Email from Waratah Strata Management to BigAir requesting payment in amount of \$20,000.00 on 18 May 2018,
- BigAir offer of settlement with only \$12,000.00 payment using bullying language on 5 June 2018,
- Email from Waratah Strata Management to EC members BigAir asking for confirmation if \$12,000.00 was sufficient and planning discussion at EC meeting scheduled for 21 June 2018 on 6 June 2018,
- Document search at Waratah Strata Management on 31 May 2019 found no evidence of EC members formally approving BigAir offer via emails or letters,
- Waratah Strata Management signed BigAir Settlement Deed 15 June 2018 without planned discussion at EC meeting scheduled for 21 June 2018,
- Waratah Strata Management issued Tax Invoice to BigAir on 15 June 2018 without planned discussion at EC meeting scheduled for 21 June 2018,
- Extract from Minutes of EC meeting on 21 June 2018 alleging that the offer was accepted at that meeting without disclosure that Waratah Strata Management had already signed the Settlement Deed on 16 June 2018,
- During 2018, three members of the committee failed to declare or confirm fully paid levies for gas heating in their units:
  - Mr. Moses Levitt
  - Mr. Stan Pogorelsky
  - Mrs. Marianna Paltikian
- Waratah Strata Management refused to notify owners about Australian Taxation Ruling 2015/3 since 2018.

85. Mr. Moses Levitt, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that he was illegal member of the Executive Committee, at Extraordinary General Meeting that did not satisfy quorum on 4 December 2013 introduced and voted for Motion 5 without disclosure of losses and illegal activities:

**MOTION 5:** That the Owners Corporation ratifies all the acts of the Strata Managing Agent on behalf of the Owners Corporation up to and including the date of the last general meeting.

M Levitt moved that Motion 5 be amended to read:

That the Owners Corporation ratifies all the acts of the Strata Managing Agent on behalf of the Owners Corporation up to and including the date of the last general meeting, and for the avoidance of doubt in particular ratifies any

- a. contracts for caretaking, gardening, security and pool maintenance;
- b. agreements for elevator or other equipment maintenance;
- c. appointments of solicitors to defend claims and appeals by Owners Corporation to CTTT;
- d. claims on insurances submitted;
- e. supply of goods or services contracts or pricing agreements;
- f. payments made to owners under gas and water rebate schemes;
- g. gifts or donations made to contractors as customary seasonal tips;
- h. agreements or purchases made regardless of the amount being above \$30,000;
- i. permissions granted to lot owners in respect of keeping pets;
- j. permissions granted to carry out minor refurbishment works affecting common property but inside a lot;
- k. permission granted to use common property;
- l. instructions given to on-site caretakers;
- m. legal actions to pursue recovery of costs from lot owners in respect of monies owed to the Owners Corporation; and
- n. minor procedural or strict administrative compliance matter where the Owners Corporation has suffered no financial loss not subsequently recovered;

but not including any omission or failure to act that would have ordinarily been expected to occur in the absence of referring the matter to the Executive Committee or the Owners Corporation for guidance and/or approval.

**Resolved** that the proposed amendment to Motion 5 be approved.

**Resolved** that Motion 5, as amended, be approved.

**Carried.** (1 vote NO and 1 abstain)

86. Mr. Stan Pogorelsky, whilst unfinancial for not paying prescribed levies for gas heating and not declaring that he was illegal member of the Executive Committee, at Extraordinary General Meeting that did not satisfy quorum on 4 December 2013 introduced and voted for Motion 6 without disclosure of losses and illegal activities:

**MOTION 6:** That the Owners Corporation ratifies all the acts of the Executive Committee up to and including the date of the last general meeting.

S Pogorelsky moved that Motion 6 be amended to read:

That the Owners Corporation ratifies all the acts of the Executive Committee up to and including the date of the last general meeting, and for the avoidance of doubt in particular ratifies any

- a. appointment of and renewal of appointment for a Strata Managing Agent;
- b. negotiations or tender process regarding such appointment conducted by any member of the committee;
- c. expenditure authorised on additions to or repair or replacement of common property regardless of the total amount being above \$30,000 and regardless of whether multiple quotes were obtained;

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- d. amendments to the timing, frequency or scale of repairs, maintenance and replacements of Common Property include in the long term Sinking Fund plan;
- e. submissions made on behalf of the Owners Corporation to the CTTT in respect of defence of claims and appeals by [redacted];
- f. banks chosen to place funds on deposit;
- g. amounts placed on deposit for any term and at any rate of interest;
- h. valuers chosen to provide insurance replacement valuations;
- i. consultant selected to provide advice on any matter;
- j. reliance placed on the audited accounts prepared by the Strata Managing Agent;
- k. any determination of rules regulating use of pool, gym or tennis court; and
- l. any decision reached in Executive Committee Meetings and recorded in minutes.

**Resolved** that the proposed amendment to Motion 6 be approved.

**Resolved** that Motion 6, as amended, be approved.

**Carried.** (1 vote NO and 1 abstain)

87. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to correctly publish and inform owners about illegal use of Ryde Council land for parking in unnamed park, Lot 202 , DP848752 at 440 Lane Cove Road and continued to abuse public land in spite of repeated warnings as per Ryde Council Reference 2158948 on 4 January 2019:

- Ryde Local Environmental Plan 2014 (Ryde LEP 2014) was notified on the NSW Legislation Website on the 12 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.
- By providing illegal thoroughfare to the council land, Waratah Strata Management and building manager created additional risks: discrimination against people who live outside the complex (because they are not allowed to use public land in the same manner) and noise from parking in the evenings and early mornings.
- Ryde Council rejected request for resident parking scheme within Zone 5 in Fontenoy Road – 26 November 2009.
- Executive Committee and BCS Strata Management attempted to persuade Ryde Council to use public land for parking at EC meeting on 20 July 2011. The request was rejected.
- In early 2014 (invoice 1083 by H&F West dated 20 January 2014), the new gate between the council land and the complex was silently installed at undisclosed and unapproved cost of \$4,136.00 (owners never learned about real expenses and needs for it).
- building manager, without approval of the owners corporation, allowed illegal parking on council land in 2015. building manager first time opened gates towards M2 motorway council land in April 2015, without notification to owners corporation or decision made at any valid Executive Committee or Annual General Meeting.
- building manager allowed unauthorised parking on council land towards M2 motorway noise barrier until mid-January 2016.
- Response from Ryde Council after inquiry about approval to use public land for parking in SP52948 on 26 June 2015 confirmed the land was recreational and could not be used for parking.
- building manager, Waratah Strata Management and the committee members, without approval of Ryde Council, allowed illegal parking on council land from late October 2018.
- Response from Ryde Council after inquiry about approval to use public land for parking in SP52948 on 6 December 2018 reconfirmed the land was recreational and could not be used for parking.

- Disallowed and undisclosed Lot 158 Motion for council land parking by Waratah Strata Management at AGM 2017.
- Disallowed and undisclosed Lot 158 Motion for council land parking by Waratah Strata Management at AGM 2018.
- building manager, two and a half years since previous attempt, again opened gate towards council land M2 motorway noise barrier on 29 October 2018 and kept it open until 10 March 2019.
- Waratah Strata Management provided false statements about use of council land for parking in Minutes of EC meeting 21 March 2019 and published on six notice boards in the complex over period of around one month (until 29 April 2019).
- On 29 April 2019, I politely asked Waratah Strata Management and building manager to made corrections in these statements, which they ignored.

88. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to include this Motion at AGM 2017, 2018, and 2019, and prevented owners to have information about poorly run tender for major painting and maintenance works in 2017 and previous tender in 2004/2005:

- BCS Strata Management ran building painting tender where two companies (Five Star Painting and MPA) had the exactly the same quote up to a cent (\$446,380.00). Third quote was in amount of \$480,010.00 (Advanced Programmed Maintenance).

Strata Manager personally favored Five Star Painting.

BCS Strata Management persuaded Executive Committee (EC) members to vote without general meeting and select the company they had preferred.

The general meeting was scheduled only two weeks after the vote, without providing owners any details. A single committee member in his notice to owners before the AGM 2004 stated that the winning contract was \$464,000.00, plus GST, whereas the real quote was \$446,380.00 INCLUSIVE of GST.

The final expenses grew to \$556,640.00, of which \$43,160.00 is still unaccounted for.

The poor quality of the painting is proven through additional fact: Professional Dulux consultant resigned after several months in 2005 as he was unhappy with the wall preparation before painting. He felt that his advice were ignored by painters and pointless for him to continue, so without charging for his services, he left the assignment.

- AGM 2016 on 19 October 2016 approved expenditure for the painting project in 2017, failed to satisfy quorum.
- Townhouses were repainted in 2011 at cost of \$61,490.00 without tender or decision at a general meeting.
- Over 20 years (as of year 2017), townhouses were fully repainted three times. In the same period, building blocks were fully repainted two times.

- BCS Strata Management and EC members failed to respond to enquiries about scope of work for painting of buildings, townhouses, swimming pool, and other structures duly submitted to Secretary of the EC before AGM 2016.
- The Agenda and Minutes of the AGM 2016 held on 4 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 4 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 3 March 2017:
  - Block A: \$117,700.00 (including GST)
  - Block B: \$117,700.00 (including GST)
  - Block C: \$117,700.00 (including GST)
  - Various Structures: \$66,000.00 (including GST)
  - Townhouses: \$92,950.00 (including GST)
  - Total cost: \$629,750.00 (including GST).
- Motion 3 in the Minutes of EC meeting held on 20 July 2017 shows that around half of the project cost having been paid to date. Allegedly three quotes from RJ Bird Services to carry out remedial repairs required prior to painting were accepted at a total cost of \$27,580.00. No details of the "remedial repairs", and no evidence or statements about multiple quotes being sought from different providers were provided to any owner.
- Motion 3 in the Minutes of EC meeting held on 28 September 2017 shows that the painting project was complete and all accounts had been paid except the 5% retention amounts totaling \$28,187.00 + GST.
- Agenda for the AGM 2017 sent to owners contained information that the total costs for the painting project were \$646,200.00 plus GST (totaling \$710,820.000).
- Waratah Strata Management listed total costs in the Agenda for AGM 2017 on page 25 (Capital Works Fund) as \$610,357.26 (plus GST). If one adds figure of \$28,187.00 (retention amount of 5% as per Motion 3 in Minutes of EC meeting held on 28 September 2017), it totals \$638,544.00 (plus GST).
- The costs listed in the approved Minutes of the AGM 2016 differ from costs listed in the payment schedules dated 3 March 2017, and also differ from what Waratah Strata Management listed in the agenda for AGM 2017.

- Waratah Strata Management failed to provide full details of the tenders for painting work at paid document search of strata files on 13 June 2017.
- BCS Strata Management and EC members failed to provide details of what would be considered for painting on “townhouses, swimming pool, and other structures”, as per their agenda and minutes of the AGM 2016 (Director of Waratah Strata and building manager stated on 1 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.
- As 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).
- Numerous additional repairs on garden beds, BBQ area, and other areas in 2018, 2019 and 2020 (I have evidence of it) shows that the project was run and executed poorly, without proper warranties.

89. Waratah Strata Management and committee members were repeatedly asked to 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 requests, the latest one on 25 March 2020.

90. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to include this Motion at AGM 2017, 2018, and 2019, and prevented owners to have information about smoke detectors and non-compliance with fire safety regulations:

- Lot 158 orally complained to Waratah Strata Management and building manager multiple times in 2017, 2018, 2019, and 2020 about expired smoke alarms in their unit. Waratah Strata Management and building manager did not take corrective actions.
- Lot 158 sent email to Waratah Strata Management and building manager on 1 March 2019 with reminder about expired smoke alarms in Lot 158. Waratah Strata Management and building manager did not respond.

- Waratah Strata Management provided the following deliberately misleading and false statement to owners in minutes of EC meeting on 21 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, 2 April 2018, at cost of \$150.00 (GST exclusive)

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

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

Lot 83, 30 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, 2019, and later in 2020 too.

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 21 March 2019. Waratah Strata Management did not inform the owners and did not update the minutes of the meeting with correct information.

- On 17 June 2019, Lot 158 sent email to Waratah Strata Management and building manager documenting misleading and misconstrued statements by Waratah Strata Management for owners at EC meeting on 21 March 2019. Waratah Strata Management and building manager did not respond.
- Lot 158 sent email to Waratah Strata Management and building manager on 7 July 2019 with photos showing:

Smoke alarm in one bedroom expired in 2005

Smoke alarm near second bedroom expired in 2018

Lot 158 also provided a report on "SP52948-random-check-of-fire-safety-late-June-and-early-July-2019".

Waratah Strata Management and building manager did not respond.

- On 21 May 2019, building manager provided misleading and inaccurate information to Ryde Council in regards to fire safety issues, which Lot 158 refuted with evidence:
  - a) building manager 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.

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

c) building manager and 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 building manager and Waratah Strata Management for almost nine months. Repeated complaints were ignored.

Document "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).

Documents (all of them are undisclosed by strata managers and committee members):

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

And more in 2020

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

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) building manager 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. building manager was reminded about them several times but decided to ignore the requests.

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

j) Not true that building manager 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.

- 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.

91. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to allow voting on this Motion at AGM 2017, 2018, and 2019, and prevented owners to have information about unlicensed security guards operating in the complex on several occasions and not providing names of building manager staff:

- Owners corporation enforced requirement for building manager (caretaker) to have only licensed staff on site at EC meeting on 10 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 10 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 and building manager about unlicensed security guards on 3 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 and building manager about unlicensed security guards on 1 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 16 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, 2018, and 2019 about insurance and safety risk with night shift duties attended by unlicensed building manager 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 3 July 2018, evidence was collected that a security guard left premises well before 5:00am (dash camera showing that the security guard car spot was occupied at 02:30am and empty at 04:13am). Request to Waratah Strata Management and building manager to explain it was not answered or reported to owners.
- During FY 2018 and 2019, there were at least four documented examples of building manager staff working in night shift without proof of security license:

17 December 2017

3 May 2018

1 September 2019

15 September 2019

- Lot 158 reported unlicensed staff to building manager in phone conversation on 23 March 2018 at 07:41 hours, who admitted it and tried to justify that shortage of staff in emergency case caused it. He declined to notify owners corporation about it and continued to apply the same practice later on.
- 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:

5 October 2017

17 December 2017

18 February 2018

10 July 2018

25 August 2018

1 September 2019

16 September 2019

22 September 2019

21 July 2020

Waratah Strata Management and building manager 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 building manager.

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 1 September 2019 and 16 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, building manager 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 by building manager 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 building manager 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?*

92. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to allow voting on this Motion at AGM 2019, and prevented owners to have information about non-compliance with By-Law on smoking:

- 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 25 and 26 November 2018. No reply was received.
- Lot 158 sent email to Waratah Strata Management and building manager with complaint about smoking in basement area behind Fire Door 2 in Block A on 20 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 and building manager with complaint about smoking in basement area behind Fire Door 2 in Block A on 18 January 2019. No reply was received and Waratah Strata Management failed to inform owners about it.

- Lot 158 sent email to Waratah Strata Management and building manager with complaint about smoking in basement area behind Fire Door 2 in Block A on 25 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 31 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 9 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 4 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 19 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 29 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 9 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 18 June 2019 and 19 June 2019.

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

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

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

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

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

- Waratah Strata Management and building manager were 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:
  - o Deliberate nuisance to owners, especially in Block A,
  - o Smoking facility which is not approved by owners corporation at any legally-convened meeting,
  - o Discrimination against owners in Block A as such smoking facility is not setup in other building blocks in the complex,
  - o Serious health hazard for fragile owner of Lot 158 due to smoke drift into two bedrooms and the balcony,
  - o Secondhand smoke - harmful to health, and there is no safe level of exposure (Cancer Council NSW),
  - o Damage to furniture and cloths in Lot 158 due to persistent cigarette smell,
  - o Regular obstruction of fire door 2 in Block A,
  - o Poor disposal of cigarette butts,
  - o Problems by not ensuring that emergency exits are adequate at all times,
  - o Non-compliance with EC decision at meeting on 12 April 2018,
  - o Security risk at night since Fire Door 2 is actively used for smoking but not monitored for access,
  - o Noise because a notorious smoker constantly uses mobile phone,
  - o 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,
  - o 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 were close or near the fire doors.

Many fire doors do not have proper notices, including warnings about penalties.

The worst example was Fire Door 2 below Block A, which was, among the other issues, kept open by an owner every day. Where occupants prop open the main fire door it was 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.

- building manager was forced to rectify some of the ongoing fire safety issues on 10 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 2019 and 2020, the following smoking issues in basement near Block A were reported by Lot 158:

1 August 2019

25 August 2019

1 September 2019

11 September 2019

12 September 2019

16 September 2019

25 August 2019

6 October 2019

16 October 2019

25 October 2019

12 December 2019

23 January 2020

14 February 2020

23 February 2020

7 March 2020

8 March 2020

26 March 2020

1 August 2020

After that time, Lot 158 decided there were enough complaints and stopped communicating with Waratah Strata Management and the committee.

- 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 15 September 2019 and 28 September 2019.

93. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to respond to Lot 158 multiple times in effort to help Fair Trading NSW and Police conduct their investigations. Latest one was the email urging them to provide assistance to Police and Fair Trading NSW on 29 July 2020:

*Based on below brief statements, we are giving you an opportunity to take proper actions now:*

*a) Provide written statements to Lot 158 in next 24 hours that you were personally misled about these events by Solicitor Adrian Mueller in the past and that you did not know about fraudulent activities, and now offer full support for investigations to proceed.*

*b) Provide written authorization to Lot 158 in next 24 hours to represent owners corporation and deal with:*

*Office of Legal Services Commissioner case 56561 (professional misconduct by Solicitor Adrian Mueller)*

*Police Event E65804633*

*Fair Trading NSW cases (there are seven of them)*

*Pending NCAT case (if you persist in defending the indefensible)*

*c) Provide written authorization to Lot 158 in next 24 hours to assist with access to any strata file that has been listed in previous document searches.*

*d) Issue immediate order to Solicitor Adrian Mueller to reimburse owners corporation for all SP52948, of which \$26,500.00 will promptly have to be repaid to Lot 158 (plus around \$4,000.00 for legal costs).*

*e) Notify owners about these events.*

*f) As a friendly advice, you might consider if your position as committee member is justifiable any longer.*

*Since 24 April 2020, you have been requested to respond to our Civil and Criminal lawyers and failed to attend free mediation at Fair Trading NSW. You declined to inform owners about the details of the request and also failed to provide each and every owner with copy of the Standard Costs Agreement within 14 days for all legal engagements in last three years (practice you did so many times with Solicitor Adrian Mueller too).*

*You are herewith provided with two pieces of information (we now have much more) that prove:*

*a) Solicitor Adrian Mueller intentionally provided false and misleading statements to Fair Trading NSW and hid information from them to hamper their investigations*

*b) Solicitor Adrian Mueller intentionally provided false and misleading statements to CTTT and hid information from them to hamper their investigations*

*c) Solicitor Adrian Mueller intentionally mislead District Court to obtain personal benefits and protect selective group of owners and strata managers*

*d) Mr. Peter Bone intentionally provided false and misleading statements in Statutory Declaration to CTTT (the document was written by Solicitor Adrian Mueller)*

*e) Mr. Peter Bone intentionally provided false and misleading statements in Affidavit to District Court*

*f) Mr. Stan Pogorelsky and Mr. Moses Levitt provided misleading and false statements in their submissions to CTTT, without disclosure that they were unfinancial and could not be legal members of the committee*

*g) Mr. Jeffery Wang provided misleading and false statements in his submissions to CTTT*

*h) Other owners and previous members of the committee provided false and misleading statements to CTTT*

*Here are two pieces of crucial evidence:*

*Solicitor Adrian Mueller illegally represented SP52948 in SM12/1537 and CTTT SCS 12/50460*

*1. CTTT SCS 12/50450 interim order to stop Annual General Meeting 2012 due to serious misconduct was dismissed until after Annual General Meeting and CTT forced SCS 12/50460 to go to mediation on 10 September 2012*

*2. Lot 158 sent email to Solicitor Adrian Mueller about facsimiles sent to CTTT SCS 12/32675, 12/50450, and 12/50460 on 19 October 2012*

*3. NSW Fair Trading forwarded files to BCS Strata Management Peter Bone in CTTT SCS 12/50460 mediation events on 17 January 2013*

*4. On 6 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)*

*5. Solicitor Adrian Mueller was paid invoices which included work for mediation case SM12/1537 and CTTT SCS 12/50460*

*6. In spite of all involvement, Solicitor Adrian Mueller claimed not knowing about CTTT SCS 12/50460 in email sent to BCS Strata Management on 6 May 2013*

*7. Solicitor Adrian Mueller issued Standard Costs Agreement for CTTT SCS 12/50460 on 6 May 2013*

*8. Letter from CTTT in file SCS 12/50460 sent to Solicitor Adrian Mueller about non-compliance order for SP52948 Secretary and Solicitor on 7 May 2013*

*9. Solicitor Adrian Mueller invoice charging for involvement in CTTT SCS 12/50460 mediation events at NSW Fair Trading on 10 May 2013 without owners corporation approval or Standard Costs Agreement*

10. Lot 158 repeated complaints about false representation by Solicitor Adrian Mueller and expenses in CTTT SCS 12/50460 on 13 May 2013
11. Lot 158 provided summary of owner's votes against any engagement of Solicitor Adrian Mueller to BCS Strata Management on 17 May 2013
12. 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 Solicitors costs if CTTT case is rejected on 22 May 2013
13. BCS Strata Management requesting extension of time to respond in CTTT SCS 12/50460 and confirmed that Solicitor engagement had to be approved at Extraordinary General Meeting on 24 May 2013
14. Lot 158 repeated requests to Solicitor Adrian Mueller to return files due to false representation by Solicitor Adrian Mueller in CTTT SCS 12/50460 on 1 June 2013
15. Lot 158 Folder 12 submission in CTTT SCS 12/50460 with evidence of illegal engagement of Solicitor Adrian Mueller on 4 June 2013
16. Lot 158 request to access strata files for CTTT file SCS 12/50460 on 5 June 2013
17. Mr. Moses Levitt email confirming he was fully aware of Lot 158 rights to access strata files on 5 June 2013
18. Lot 158 request to BCS Strata Management and committee about their refusal to organise general meeting and accept owners wishes for CTTT file SCS 12/50460 on 6 June 2013
19. SP52948 CTTT SCS 12/50460 decision on 2 September 2013
20. EC member confirming Solicitor Adrian Mueller not engaged for CTTT 12/50460 on 2 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

Mr. Peter Bone and Solicitor Adrian Mueller statement to CTTT (other references to false statements will not be shared with you yet!)

21. Statutory Declaration by Mr. Peter Bone (written by Solicitor Adrian Mueller) on 19 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.*

22. Solicitor Adrian Mueller letter to CTTT on 19 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.*

*(EC meeting on 22 August 2012 introduced Mr. Peter Bone as new strata manager!)*

94. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to respond to Lot 158 multiple times to provide notices and minutes of the alleged committee meeting on 9 July 2013 in unit of Mr. Stan Pogorelsky, which was listed in BCS Strata Management Mr. Peter Bone's Statutory Declaration to CTTT on 19 April 2013. Last email from me to the committee and strata management was on 23 July 2020:

*Another current EC member attended EC meeting on 22 August 2012: Mr. Jeffery Wang, so he would be in position to help as well.*

*Two more EC members who are not current owners can be contacted as they attended the same EC meeting on 22 August 2012 and they carried office bearers roles at the time.*

*Very important update for Ms. Maureen McDonald's involvement: she was Assistant Treasurer during FY 2012, when it was officially found out much later that BCS Strata Management failed to collect gas levies, effectively allowing owners to vote whilst unfinancial and be on the committee, without disclosure to owners, Fair Trading NSW, CTTT, and District Court.*

*Failure to assist is direct attempt to pervert the course of justice in Police Event E65804633 and other official reports for suspected fraud, and other activities deemed to be of criminal nature.*

*On 22/7/20 9:25 pm, Lot 158 wrote:*

*>*

*> Good evening,*

*>*

*> Multiple document searches at BCS Strata Management and Waratah Strata Management since 2012 have not found notice and minutes of alleged EC meeting in unit of Mr. Stan Pogorelsky on 9 July 2012, which allegedly approved engagement of Solicitor Adrian Mueller.*

*>*

*> Currently, on Waratah Strata website there are lot of unusual gaps in displayed minutes and notices of meetings. It does not make sense to have, for example, details of some meetings in 2000, 2001, 2005, and then jump to 2011, with lot of missing documents in between and afterwards.*

>

> Of special interest is page 8 in Documents folder, which lists notice for EC meeting 13 June 2012 and the next one is minutes of EC meeting 22 August 2012.

>

> The attached "SP52948-Notice-EC-meeting-13Aug2012-organised-by-BCS-Strata-Management-Paul-Banoob-and-not-containing-minutes-of-EC-meeting-9Jul2012.pdf" clearly shows that even members of the EC did not receive copy of the minutes of EC meeting dated 9 July 2012.

>

> The attached "SP52948-EC-Meeting-Invitation-13Aug2012.pdf" that was sent to owners also did not contain any details of the EC meeting dated 9 July 2012 (owners never received notice and minutes of such meeting, were never given a copy of the Standard Costs Agreement, and never voted for solicitor engagement at the general meeting in 2012).

>

> At EC meeting on 22 August 2012, Mr. Peter Bone was introduced as new strata manager, so he was not involved in managing the complex beforehand, and neither he organized that meeting.

>

> The evidence accidentally found in recent months shows, without any doubt, that Solicitor Adrian Mueller and BCS Strata Management Peter Bone deliberately provided misleading and what we allege false statements to CTTT, Fair Trading NSW, and District Court, were/are involved in perverting the course of justice, participated in illegal activities, gain financial advantage for themselves and selected parties, discriminated against many owners by providing different services, failed to collect rightful amounts of GST by not collecting correct levies (example: second gas connections), and more. In that process, they were supported by EC members, of which some were unfinancial and not legal to be on the committee for many years.

>

> You are kindly requested to obtain unredacted copies of notice and minutes of EC meeting dated 9 July 2012. That should be easy because current alleged EC members Mr. Stan Pogorelsky and Mr. Moses Levitt, and ex-member Ms. Joane Hessink should offer assistance. Contacting them immediately would be a prudent choice. We have their official statements to CTTT (along with all other statements from owners, strata manager, and EC members).

>

> Lot 158 emphasizes: we have always been open to resolutions and sensible outcomes without legal system. which were resolutely rejected by other parties so far.

95. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to respond to Lot 158 multiple times to prove that I was/am not legal member of the Executive Committee based on evidence of unfinancial owners who did not pay prescribed levies for gas connections (including 10% simple interest in each year) or did not declare having such connection,

- FY 2013, two unfinancial members on the committee: Mr. Moses Levitt, Mr. Stan Pogorelsky (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: Mr. Moses Levitt, Mr. Stan Pogorelsky (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: Mrs. Marianna Paltikian, Mr. Moses Levitt, Mr. Stan Pogorelsky (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: Mrs. Marianna Paltikian, Mr. Moses Levitt, Mr. Stan Pogorelsky (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: Mrs. Marianna Paltikian, Mr. Moses Levitt, Mr. Stan Pogorelsky (total number of candidates: 10, selected 9, three not valid, hence Lot 158 should have been automatically elected)
- In all other years since 2012, I would have been a member of the committee by default, because there were no candidates to oppose it.
- I conducted number of document searches since 2012. For the financial years I was a legal member of the Executive Committee, SP52948 illegally charged for the access to files. They should have been free-of-charge.

12 November 2012

8 March 2013

June 2013

16 September 2013

17 October 2013

31 May 2019

20 September 2019

96. Mr. Moses Levitt and Mr. Stan Pogorelsky, whilst unfinancial for not paying prescribed levies for gas connections (including 10% simple interest in each year) and not declaring having such connection to owners, prevented Lot 158 who was legal member of the committee in FY 2013 to organize EGM in May/June 2013.

Email sent on 12 May 2013 at 12:01 hours to BCS Strata Management and members of the committee was ignored by them

Email sent on 12 May 2013 at 11:50 hours to BCS Strata Management and members of the committee was ignored by them

Email sent on 10 June 2013 at 16:45 hours to BCS Strata Management and members of the committee was ignored by them

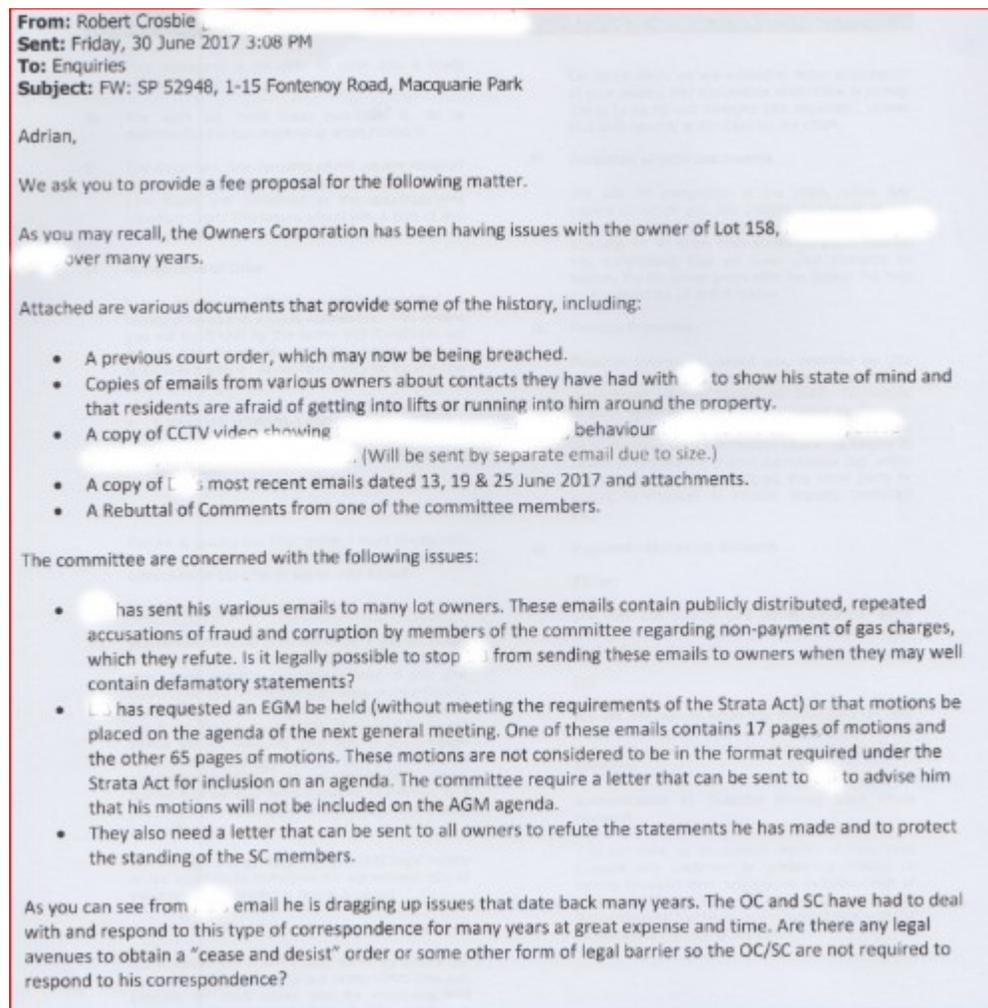
Email sent on 10 June 2013 at 17:02 hours to BCS Strata Management and members of the committee was ignored by them

Email sent on 22 November 2013 at 20:47 hours to BCS Strata Management and members of the committee was ignored by them whilst they organized EGM on 4 December 2013 which did not satisfy quorum and failed to provide owners with crucial evidence

97. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore prevented Lot 158 who was legal member of the committee in FY 2017 to organize EGM in July 2017.

Email sent on 25 June 2017 at 13:19 hours to Waratah Strata Management and members of the committee was ignored by them

Secret email sent by Waratah Strata Management to Solicitor Adrian Mueller on 30 June 2017:



98. Mr. Moses Levitt and Mr. Stan Pogorelsky, whilst unfinancial for not paying prescribed levies for gas connections (including 10% simple interest in each year) and not declaring having such connection to owners, failed to act on number of Lot 158 reports of discrimination, to list a few:

Email sent on 11 November 2013 at 09:33 hours to BCS Strata Management and members of the committee was ignored by them (related to peaceful and dignified celebration of Diwali festive season)

Lot 158 Motion about building manager deliberately singling out a specific Asian community on notice boards ignored at AGM 2018

Mr. Moses Levitt called my wife and myself “non-believers”, suggesting that their religion was supposedly superior to our rights to be atheists (that was submitted to Police in case against Mr. Levitt for event on 31 October 2015)

Mr. Moses Levitt and his wife were fully aware that my wife did not want them to join her in the elevator and yet, they persisted in attempts to intimidate and follow her, which is documented in Mr. Levitt’s secret email to members of the committee on 13 November 2014 at 16:41 hours which was never sent to Lot 158:

*I am aware of your latest diatribe making false accusations and innuendos.*

*I also understand that you maintain that "peaceful enjoyment" of living in this complex is compromised by the actions of certain individuals.*

*I must point out, and bring to the attention of all concerned, that it is your behaviour that is causing stress and resentment in what was once a very happy community.*

*Mrs B, who is probably twice my size, and half my age, has on a number of occasions closed the elevator door in my face as I was about to enter the elevator behind her. On these occasions I reopened the door, probably putting myself at some risk. This behaviour on her part is reprehensible, inconsiderate, and can in no way contribute to peace and harmony in the complex. I know of some residents who will sit in their cars waiting for her to disappear before coming out and waiting for the elevator to return.*

*I am not wasting time asking for an apology as I would not accept anything that she says in good faith. We have lived in this complex for 14 years and out of 200 plus residences the occupants of only one unit have consistently acted in a confrontational manner. Mr B has sworn at residents and behaved in a threatening way. He has made false accusations in front of my friends in my presence. He also seems to think that he has the right to monitor who our friends are and who we associate with. This is not STASILAND and I suggest that he minds his own business.*

*I will not hesitate to bring his behaviour to the attention of the wider public in this complex and will raise the matter of his behaviour at the AGM if he persists.*

99. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to respond to Lot 158 multiple times to prove AGM 2019 was conducted legally:

- Only 18 owners present in person (out of 218 properties)
- 68 owners presented in total (50 via proxies)
- 9 proxies were given to Mr. Stan Pogorelsky (Lot 181) who is not financial due to unpaid full levies and 10% simple interest for second gas connection (in total 10 owners not valid to vote)
- 8 proxies were given to Mr. Moses Levitt (Lot 147) who is not financial due to unpaid full levies and 10% simple interest per each year for second gas connection (in total 9 owners not valid to vote)
- 5 proxies were given to Mrs. Marianna Paltikian (Lot 88) who is not financial due to undeclared second gas connection and unpaid full levies and 10% simple interest per each year for second gas connection (in total 6 owners not valid to vote)

- Mrs. Lorna Zelenzuk (Lot 3) has second gas connection since 1997, not financial due to unpaid full levies and 10% simple interest per each year for second gas connection
- Mr. Upali Aranwela (ex long-term Treasurer, Lot 62) has second gas connection as approved on 26 May 1999, not financial due to unpaid full levies and 10% simple interest per each year for second gas connection
- Lot 148 has second gas connection as per approval on 13 August 2007, disconnected on 9 September 2019, not financial due to unpaid full levies and 10% simple interest per each year for second gas connection
- Lot 163 has second gas connection at least from 2012 as per BCS Strata Management invoice sent in 2016, not financial due to unpaid full levies and 10% simple interest per each year for gas connection
- Lot 167 has second gas connection at least from 2012 as per BCS Strata Management invoice sent in 2016, not financial due to unpaid full levies and 10% simple interest per each year for gas connection
- Lot 182 has second has connection since 2009, not financial due to unpaid full levies and 10% simple interest per each year for gas connection
- Two proxy votes given to Waratah Strata Management (Chairperson), who, without tender or competitive quotes, approved own contract renewal for period of two years, four months before the official end of the current contract (same happened at AGM 2017)
- Amendment of Motions disallowed the meeting In spite of Lot 158 advance notice to provide owners with detailed agenda to allow them to make informed decisions, Waratah Strata Management disallowed all of them
- Evidence exists that AGM 2017, 2018, and 2019 were not conducted as per strata laws and could not be considered valid (same applies to meetings in previous years, but of special importance are those since 2012)
- All meetings in 2019 and 2020 failed to satisfy the current Interpretation Act 1987 and SSMA 2015
- Motion 16 (LOT 158 MOTIONS) disallowed all Lot 158 Motions.

This was sent to owners in the Minutes:

*Resolved that the motions provided by co-owner of Lot 158 were tabled and discussed as a single item. Further resolved that all motions were NOT approved as proposed.*

As almost all Motions were RATIFICATIONS OF CURRENT CONTRACTS AND MAJOR DECISIONS, by not approving them meant none of the events (including contracts) are valid

- Capital Works fund: Waratah Strata Management disallowed discussion about required funds for major upgrades and works and publicly stated that problems like "leaking roof membranes" would be treated when they become major problem. They refused to put it in the Minutes.

- Waratah Strata Management admitted not having Standard Costs Agreement for alleged costs of around \$150,000.00 but failed to include that statement in the Minutes of the meeting and allowed voting in Motion 9

Waratah Strata Management failed to inform the owners that Solicitor Adrian Mueller earned possibly above \$80,000.00 so far already, without formal approval at any legally-convened general meeting

Waratah Strata Management prevented owners from having knowledge about various investigations underway for complex mismanagement, and Solicitor Adrian Mueller and Waratah Strata Management failed to co-operate/provide files to Police in alleged fraud since 2017

- Auditor's reports for FY 2017 has never been found in spite of repeated requests, event through lawyers
- There are discrepancies in allegedly audited data for FY 2018 and 2019 (document "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, Mrs. Marianna Paltikian 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, allowed Motion 14 to be voted before Motion 4 (allowing unfinancial owners Mr. Moses Levitt and 181 Mr. Stan Pogorelsky yet again to be elected on the committee) and declined to report it in the minutes of the meeting
- Motions voted out of order to allow unfinancial owners to vote and be on the Executive Committee. At the meeting, Waratah Strata Management, upon request by Mr. Moses Levitt, approved Motion 14 to be voted before Motion 4:

Motion 4 STRATA COMMITTEE

Motion 14 ADDITIONAL GAS POINT CHARGES

Resolved 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.

In basic mathematics, Motion 4 comes before Motion 14, but they decided to "waive" the unpaid levies for gas heating (including 10% simple interest per year), which, as per Executive Committee's own admission at the meeting would amount to between \$10,000.00 and \$20,000.00 (my calculation is higher), and then prevented owners to know about that loss in the Minutes

## b) STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 150

### Orders invalidating By-Law 11 “Unreasonable Communications”:

100. Section 139(1) of SSMA 2015 provides that a by-law must not be “harsh, unconscionable or oppressive”. A person entitled to vote on a motion making a by-law may apply to the NSW Civil and Administrative Tribunal (“NCAT”) for an order invalidating such a by-law.

101. Establishing that a by-law is “harsh, unconscionable or oppressive” involves a higher bar than demonstrating that the by-law is unreasonable:

- The By-Law is “harsh” because it is a blunt instrument which imposes a complete prohibition upon the owners’ rights to express concerns about management of the complex and share it with other owners and investors, with no exceptions, provides no means by which the special circumstances of particular lot owners might be considered and it is based on the interests of only one side of the issues associated with the upkeep of the complex and financial management.
- The By-Law is “unconscionable” because it quite unreasonably and unnecessarily precludes the exercise of a right of habitation with equal privileges and rights which the Tribunal considers is part of contemporary community standards associated with the rights of owners and occupiers of lots in strata schemes, provides no opportunity for consideration to be given to the rights and needs of individual lot owners, and it is unbalanced and operates only in the interests of those who are opposed to the proper management of the complex and wish not to disclose financial documents.
- The By-Law is “oppressive” because it does not involve or permit a balanced consideration of the interests and needs of all lot owners or occupiers and operates only in the interests of lot owners who are opposed to the proper management of the complex and wish not to disclose financial documents, and provides no process by which a lot owner could be able to effectively report problems and share them with all owners and investors thus operates only in the interests of those opposed to the proper management of the complex and wish not to disclose financial documents.
- The By-Law is “unreasonable” because:
  - o It is designed to victimize, humiliate, undermine, and even threaten owners who have strong reasons to complain and report issues related to mismanagement of the complex.
  - o Reasonable person (objective test), having regards to the circumstances, will see this By-Law as unreasonable.
  - o The By-Law is deliberately ambiguous, ill-defined, and allows absolute powers to committee members and strata manager without scrutiny.
  - o The By-Law is not using good judgement.

102. Solicitor Adrian Mueller was engaged without formal approval at a meeting where four owners were unfinancial due to unpaid full levies for gas heating or not declaring the facility, and not disclosing that they could not be members of the committee (Mr. Stan Pogorelsky, Mr. Moses Levitt, Mrs. Lorna Zelenzuk, Mrs. Marianna Paltikian) on 27 July 2017 to provide:

- o Legal advice to restrain Lot 158 from publishing defamatory material at a cost of \$3,500.00 (plus GST).
- o 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 also 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 Lot 158...*

103. In Solicitor Adrian Mueller's response on 2 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.*

104. In Solicitor Adrian Mueller's response on 10 October 2017, the following was stated, contradicting his own statements made on 2 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.*

105. Resolution was made at AGM 2017 without quorum being satisfied. 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 in 2018, 2019, and 2020.
106. Consolidated By-Laws were registered on 30 October 2017 by Waratah Strata Management without disclosure to owners and without providing access via web site at [lookupmystrata.com.au](http://lookupmystrata.com.au).
107. Screenshot of Waratah Strata Management website on 26 April 2018 confirmed that owners and tenants 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).
108. The Consolidated By-Laws dated 30 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 30 October 2017 were illegal (including one member of the Executive Committee, Mr. John Gore 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.
109. The response from Waratah Strata Management on 21 June 2018 did not acknowledge they had already registered Consolidated By-Laws on 30 October 2017.
110. Crittenden Lawyers declined to answer how much they were paid for By-Laws reviews.
111. Waratah Strata Management silently refused to provide access to Consolidated By-Laws as requested by Lot 158 on 23 November 2017.
112. Lot 158, at own expense in amount of \$18.00, obtained copy of Consolidated By-Laws on 27 April 2018.
113. 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 insurance claims and false statements by strata manager and Solicitor Adrian Mueller in Statutory Declaration to CTTT, and instead stated on 8 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.*

114. Mr. John Gore, wrote the following email to Waratah Strata Management and committee members on 9 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.*

*Further to by-law 13. There is a full explanation (sent to Critenden) of the new by-law which being proposed at the net AGM meeting which gives and acknowledges the existing right of the Strata Committee to act “with absolute discretion”. Critenden has included some of this background information in the proposed new By-Law (see latest draft By Law 12).*

115. Waratah Strata Management prevented Lot 158 Motion at AGM 2018 and 2019 to be reimbursed for Consolidated By-Law expenses.

116. Resolution for updated Consolidated By-Laws was made at AGM 2018 without quorum being satisfied. 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 in 2019 and 2020.

117. 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 13 February 2014. Waratah Strata Management refused to inform owners about it.

118. 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 19 April 2013 was based on valid emails.

119. Waratah Strata Management and committee members prevented voting on Lot 158 Motion that by SPECIAL RESOLUTION, pursuant to Section 141 of the Strata Schemes Management Act 2015, repeal Special By-Law 11 “Unreasonable Communication”.

120. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore relied on this Special-By Law to prevent Lot 158 Motions at AGM 2017, 2018, and 2019, effectively preventing proper management of the complex and in accordance with strata act, and preventing Fair Trading NSW, Police, ATO, and Office of legal Services Commissioner to conduct their investigations.

**c) STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 150**

**Orders invalidating By-Law 10 “Gas, water, and sewerage charges for services and supply”:**

121. Section 139(1) of SSMA 2015 provides that a by-law must not be “harsh, unconscionable or oppressive”. A person entitled to vote on a motion making a by-law may apply to the NSW Civil and Administrative Tribunal (“NCAT”) for an order invalidating such a by-law.

122. Establishing that a by-law is “harsh, unconscionable or oppressive” involves a higher bar than demonstrating that the by-law is unreasonable:

- The By-Law is “harsh” because it is a blunt instrument which imposes a complete prohibition upon the 192 owners to pay reasonable and equal reimbursements to all 26 townhouse owners for their private water and gas usage to compensate for shared gas and water meters in buildings, with no exceptions, provides no means by which the special circumstances of particular lot owners might be considered and it is based on the interests of only a group of townhouse owners associated with the water and gas reimbursements.
- The By-Law is “unconscionable” because it quite unreasonably and unnecessarily precludes the exercise of a right of habitation with equal privileges and rights which the Tribunal considers is part of contemporary community standards associated with the rights of owners and occupiers of lots in strata schemes, and it is unbalanced and operates only in the interests of a group of townhouse owners associated with the water and gas reimbursements.
- The By-Law is “unconscionable” because it has been implemented in such way that in any given year only 16-18 townhouse owners were reimbursed, making their gross contributions to levies smaller than their neighbors who have same voting rights and entitlements.
- The By-Law is “oppressive” because it does not involve or permit a balanced consideration of the interests and needs of all lot owners or occupiers and operates only in the interests of only a group of townhouse owners associated with the water and gas reimbursements.
- The By-Law is “unconscionable” it has been voted at general meetings since 2012 that failed to satisfy quorum and allowed unfinancial owners to vote or be members of the committee.
- The By-Law is “unreasonable” because:
  - o It has not provided equitable benefits to all 26 townhouse owners since 6 May 2013

Examples:

AGM 2013. These are townhouse owners who received benefits for private water and gas usage (19 owners out of 26 townhouses in total):

MX	\$2,104.45
AL	\$1,267.85
YC	\$1,066.85
FD	\$910.13
SMH	\$820.66
PJ	\$759.52
HR	\$752.74

KH	\$734.21
RB	\$658.18
AC	\$609.10
AN	\$602.88
ZZ	\$466.37
HHY	\$427.18
AP	\$413.19
JY	\$344.43
AL	\$611.79
Lot 202	\$242.91
YG	\$234.57
SHW	\$142.55

AGM 2014. These are townhouse owners who received benefits for private water and gas usage (18 owners out of 26 townhouses in total):

PJ	\$1,415.26
SW	\$1,262.45
AC	\$1,114.97
AL	\$1,021.84
KH	\$957.02
SMH	\$895.28
XL	\$839.67
AL	\$784.70
Lot 202	\$736.30
JL	\$733.42
RB	\$588.61
YC	\$490.23
ZZ	\$466.32
JG	\$327.88
MX	\$196.69
HHY	\$109.00
AP	\$82.38
JY	\$77.03

AGM 2016. These are townhouse owners who received benefits for private water and gas usage (15 owners out of 26 townhouses in total):

HHY	\$1,401.99
XL	\$1,119.39
KH	\$1,115.32
PJ	\$1,042.79
DN	\$886.43
SMH	\$840.78
SL	\$788.17
ZZ	\$771.85
AC	\$709.70
JL	\$599.04
JG	\$470.87
Lot 202	\$426.27
RB	\$254.90
SW	\$101.50
LM	\$70.55

AGM 2019. These are townhouse owners who received benefits for private water and gas usage (18 owners out of 26 townhouses in total):

XL	\$726.08
AL	\$628.25
HOJ	\$603.20
SMH	\$549.91
HR	\$478.85
ZZ	\$335.81
JG	\$332.34
PJ	\$329.96
ATK	\$295.89
GH	\$292.49
AL	\$274.16
SMW	\$273.89
HHY	\$258.89
KY	\$120.64
AC	\$116.48
DY	\$99.84
AHY	\$83.66
FD	\$79.89

- o The By-Law was not applied as per rules in the registration.
- o The scheme was secretly used, without disclosure, Special By-Law, or Special Resolution in period 1999 to 6 May 2013.

Lot 217 wrote a submission to BCS Strata Management in February 2008 stating that he did not know about it for seven years and requested retrospective reimbursements for period 25 September 2006 to 3 January 2008 for personal gas usage and for period 15 December 2006 to 18 December 2017 for personal water usage.

- o It is designed to undermine rights of 192 owners in buildings to not waste own levies for inequitable benefits to selective townhouse owners.
- o Reasonable person (objective test), having regards to the circumstances, will see this By-Law as unreasonable.
- o The By-Law is deliberately ambiguous, ill-defined, and gives absolute powers to committee members and strata manager without scrutiny.
- o The By-Law is not using good judgment.

123. Committee members and strata managers deliberately prevented the following Lot 158 Motions from being voted at general meetings:

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

SPECIAL BY-LAW "Equitable Sharing of gas usage Costs for townhouse owners"

#### d) STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 150

##### Orders invalidating By-Law 9 "Control of Common Gas Supply":

124. Section 139(1) of SSMA 2015 provides that a by-law must not be "harsh, unconscionable or oppressive". A person entitled to vote on a motion making a by-law may apply to the NSW Civil and Administrative Tribunal ("NCAT") for an order invalidating such a by-law.

125. Establishing that a by-law is "harsh, unconscionable or oppressive" involves a higher bar than demonstrating that the by-law is unreasonable:

- The By-Law is "harsh" because it is a blunt instrument which imposes a complete prohibition upon the 192 owners to enforce those owners with gas heating connections to pay reasonable levies for their private use, with no exceptions, provides no means by which to audit such connections every year, and it is based on the interests of only a group of owners associated with gas heating connections.
- The By-Law is "unconscionable" because it quite unreasonably and unnecessarily precludes the exercise of a right of habitation with equal privileges and rights which the Tribunal considers is part of contemporary community standards associated with the rights of owners and occupiers of lots in strata schemes, and it is unbalanced and operates only in the interests of a group of owners associated with the gas heating connections.
- The By-Law is "unconscionable" because it has been implemented in such way that in any given year since 6 May 2013, it failed to collect prescribed levies and 10% simple interest for late payments, making their gross contributions to levies smaller than their neighbors who have same voting rights and entitlements.

In one of many efforts to enforce it, I sent email to building manager and Waratah Strata Management on 16 June 2019 but they never responded or showed results of any action:

*SUMMARY: SP52948 Audit of second gas connections and conflicting information by Waratah Strata Management and building manager 16Jun2019*

*In accordance with SSMA 2015 Section 106 (Duty of owners corporation to maintain and repair property) and SSMA 2015 Sections 83, 84, 85, 86) (duty to issue levy notices and enforce payments with 10% simple interest per year for overdue invoices, maintain accounting records, prepare financial statements and other financial records, collect GST on behalf of ATO, and much more) and in compliance with Motion 19 at Annual General Meeting 2018 (strata affairs directly affecting Lot 158), it is requested that full audit on two items be conducted immediately and levies charged as per applicable laws:*

*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.*

*Register of items excluded from common-property (examples: exclusive rights to common property given to Lot 3 and Lots 136/137, windows and frames with double-glaze glass, windows and frames with solar heating panels, air-conditioning units on the balconies, modified light fittings in garages for Lot 147 and 151, five private lattices in front of townhouses Lot 194, Lot 197, Lot 199, Lot 202, and Lot 216, pergola modifications, second gas connections, Lot 10 fly screens on door and windows, and others).*

*Lot 158 has collected significant evidence (with full backing through strata files) that levies for second gas connections were deliberately mismanaged in order for strata managers and building managers to obtain personal benefits through contract renewals without tenders in spite of poor performance.*

*At present, the lack of proper actions by Waratah Strata Management and building manager create serious conditions:*

*a) Owners corporation is denied rightful income,*

*b) Owners corporation does not apply correct simple interest of 10% for late payments,*

*c) Owners corporation supports discriminatory behaviour where not all owners are treated equally,*

*d) Owners corporation does not collect correct GST for ATO. Strata title bodies corporate are treated as public companies under the tax law and must lodge a tax return for any year in which they derive assessable income,*

*e) Owners corporation provided reimbursements for gas usage to selected group of townhouse owners who have second gas connections ("doubledipping" from common funds),*

*f) Owners corporation risks higher insurance premiums due to possibility of litigation for unpaid levies for second gas connections over 20 years,*

*g) Owners corporation does not apply Special By-Law for second gas levies correctly.*

*h) Apart from financial implications, the additional risk is safety (carbon monoxide poisoning and other faults that can occur with heaters). Carbon monoxide has no smell, taste or colour. 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 needs to check the heater, flue and the surrounding environment for combustion gasses in the living space.*

- The By-Law is "oppressive" because it does not involve or permit a balanced consideration of the interests and needs of all lot owners or occupiers and operates only in the interests of a group of owners associated with the gas heating connections.
- The By-Law is "unconscionable" it has been voted at general meetings since 2012 that failed to satisfy quorum and allowed unfinancial owners to vote or be members of the committee.
- The By-Law is "unreasonable" because:
  - o It has not provided equitable obligations to pay levies on all owners with gas heating connections townhouse owners since 6 May 2013.
  - o The scheme was secretly used, without disclosure, Special By-Law, or Special Resolution in period 1999 to 6 May 2013.
  - o It is designed to undermine rights of 192 owners in buildings to not waste own levies for inequitable benefits to owners with gas heating connections.

- o Reasonable person (objective test), having regards to the circumstances, will see this By-Law as unreasonable.
- o The By-Law was not applied as per rules in the registration.
- o The By-Law is deliberately ambiguous, ill-defined, and allows absolute powers to committee members and strata manager without scrutiny.
- o Mr. Moses Levitt, Mr. Stan Pogorelsky, Mrs. Marianna Paltikian, and Mr. John Gore failed to comply with AGM 2016 Motion 24.1-2 at most meetings since 2016, requiring all members of the committee to provide written declaration of any conflict of interest before each meeting or discussion of relevant agenda item, and provide written declaration before their nomination at general meetings that they did not have any conflict of interest that would preclude them from being committee members.
- o The By-Law is not using good judgement.

126. Committee members and strata managers deliberately prevented the following Lot 158 Motion to amend Special-By 9 from being voted at general meetings:

*Special By-Law has not been applied in equitable manner since its registration on 6 May 2013.*

*Special By-Law did not take into account townhouse owners with second gas connections of whom some claimed reimbursements for private gas usage whilst not paying levies for second gas connections.*

*BCS Strata Management and Waratah Strata Management failed to comply with the Special By-Law to impose retrospective levies on lots found to have tapped the common gas supply without permission from the owners corporation, and any charge was to be at the absolute discretion of the owners corporation acting reasonably.*

*BCS Strata Management and Waratah Strata Management failed to disclose conflict of interest by EC members and exclude them from voting and deliberation on this item at EC and general meetings.*

*BCS Strata Management and Waratah Strata Management failed to calculate correct quorums and exclude owners with outstanding levies for second gas connection at general meetings.*

*BCS Strata Management and Waratah Strata Management failed to keep register of approvals for owners since decision made at Executive Committee meeting on 2nd of May 2001.*

*Secretary of the Executive Committee shall maintain register of approvals granted to owners for second gas connection and verify their status each year before the general meeting. The register must contain details of approvals by owns corporation, and photos or proof of disconnections by certified plumbers. Owners corporation shall make decision on changes in levy amounts at general meeting by Special Resolution.*

*Amend the following statement that was not approved by owners corporation:*

*The Chairman noted that this was 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.*

*... to state:*

*The Chairman noted that this was 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 now 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.*

## e) 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)

127. Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Thomas Karolewski, Mrs. Marianna Paltikian, Mr. Jeffery Wang, and Mr. John Gore failed to respond to Lot 158 multiple times to prove AGM 2019 was conducted legally:

- Only 18 owners present in person (out of 218 properties)
- 68 owners presented in total (50 via proxies)
- 9 proxies were given to Mr. Stan Pogorelsky (Lot 181) who is not financial due to unpaid full levies and 10% simple interest for second gas connection (in total 10 owners not valid to vote)
- 8 proxies were given to Mr. Moses Levitt (Lot 147) who is not financial due to unpaid full levies and 10% simple interest per each year for second gas connection (in total 9 owners not valid to vote)
- 5 proxies were given to Mrs. Marianna Paltikian (Lot 88) who is not financial due to undeclared second gas connection and unpaid full levies and 10% simple interest per each year for second gas connection (in total 6 owners not valid to vote)
- Mrs. Lorna Zelenzuk (Lot 3) has second gas connection since 1997, not financial due to unpaid full levies and 10% simple interest per each year for second gas connection
- Mr. Upali Aranwela (ex long-term Treasurer, Lot 62) has second gas connection as approved on 26 May 1999, not financial due to unpaid full levies and 10% simple interest per each year for second gas connection
- Lot 148 has second gas connection as per approval on 13 August 2007, disconnected on 9 September 2019, not financial due to unpaid full levies and 10% simple interest per each year for second gas connection
- Lot 163 has second gas connection at least from 2012 as per BCS Strata Management invoice sent in 2016, not financial due to unpaid full levies and 10% simple interest per each year for gas connection
- Lot 167 has second gas connection at least from 2012 as per BCS Strata Management invoice sent in 2016, not financial due to unpaid full levies and 10% simple interest per each year for gas connection
- Lot 182 has second has connection since 2009, not financial due to unpaid full levies and 10% simple interest per each year for gas connection
- Two proxy votes given to Waratah Strata Management (Chairperson), who, without tender or competitive quotes, approved own contract renewal for period of two years, four months before the official end of the current contract (same happened at AGM 2017)
- Amendment of Motions disallowed the meeting In spite of Lot 158 advance notice to provide owners with detailed agenda to allow them to make informed decisions, Waratah Strata Management disallowed all of them

- Evidence exists that AGM 2017, 2018, and 2019 were not conducted as per strata laws and could not be considered valid
- All meetings in 2019 and 2020 failed to satisfy the current Interpretation Act 1987 and SSMA 2015
- Motion 16 (LOT 158 MOTIONS) disallowed all Lot 158 Motions.

This was sent to owners in the Minutes:

*Resolved that the motions provided by co-owner of Lot 158 were tabled and discussed as a single item. Further resolved that all motions were NOT approved as proposed.*

As almost all Motions were RATIFICATIONS OF CURRENT CONTRACTS AND MAJOR DECISIONS, by not approving them meant none of the events (including contracts) are valid

- Capital Works fund: Waratah Strata Management disallowed discussion about required funds for major upgrades and works and publicly stated that problems like "leaking roof membranes" would be treated when they become major problem. They refused to put it in the Minutes.
- Waratah Strata Management admitted not having Standard Costs Agreement for alleged costs of around \$150,000.00 but failed to include that statement in the Minutes of the meeting and allowed voting in Motion 9

Waratah Strata Management failed to inform the owners that Solicitor Adrian Mueller earned possibly above \$80,000.00 so far already, without formal approval at any legally-convened general meeting

Waratah Strata Management prevented owners from having knowledge about various investigations underway for complex mismanagement, and Solicitor Adrian Mueller and Waratah Strata Management failed to co-operate/provide files to Police in alleged fraud since 2017

- Auditor's reports for FY 2017 has never been found in spite of repeated requests, event through lawyers
- There are discrepancies in allegedly audited data for FY 2018 and 2019 (document "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, Mrs. Marianna Paltikian 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, allowed Motion 14 to be voted before Motion 4 (allowing unfinancial owners Mr. Moses Levitt and 181 Mr. Stan Pogorelsky yet again to be elected on the committee) and declined to report it in the minutes of the meeting
- Allowing AGM in 2020 to ratify actions made at what we alleged to be a noncompliant AGM 2019 carries high risks of repeatable offence:
  - In 2012, CTTT refused to make interim orders to prevent AGM in file SCS 12/50450 in spite of voluminous evidence of irregularities before the meeting occurred. The basis for rejection was that mediation had to be attempted in the first instance.

We attempted to mediate and the responded rejected attendance.

- o During Hearings in file SCS 1232675, Solicitor Adrian Mueller (who we claim illegally represented owners corporation), made claims to CTTT that owners had a chance to ratify or amend minutes of AGM 2012 at subsequent general meeting in 2013. That was a false statement and minutes of AGM 2013 prove it.
- o Since 1996, there has been not a single instance of decisions made at general meeting being revoked or significantly amended at subsequent general meetings.
- o Since 1966, notices for general meetings deliberately prevent owners from having information t let them make informed decisions.
- Motions voted out of order to allow unfinancial owners to vote and be on the Executive Committee. At the meeting, Waratah Strata Management, upon request by Mr. Moses Levitt, approved Motion 14 to be voted before Motion 4:

Motion 4 STRATA COMMITTEE

Motion 14 ADDITIONAL GAS POINT CHARGES

Resolved 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.

In basic mathematics, Motion 4 comes before Motion 14, but they decided to "waive" the unpaid levies for gas heating (including 10% simple interest per year), which, as per Executive Committee's own admission at the meeting would amount to between \$10,000.00 and \$20,000.00 (my calculation is higher), and then prevented owners to know about that loss in the Minutes

**f) STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 232**

**Orders to resolve disputes and settle complaints:**

**128. Hold meetings with the accordance with the Act:**

- Lot 158 sent Motions for AGM 2019 on Saturday 28 September 2019 at 21:09 hours.
- At earliest, Waratah Strata Management would have dealt with it on Monday, 30 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 11 October 2019.
- If notices were sent on 1 October 2019 (the best-case scenario for Waratah Strata Management), the following would apply:

1 October 2019 not counted (day of postage)

7 October 2019 not counted (Labour Day in ACT, NSW & SA)

17 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, 16, and 17 October 2019 (six days, if 17 October 2019 is counted (day of AGM))

Days for notice of AGM: 12, 13, 14, 15, and 16 October 2019 (five days, if 17 October 2019 is NOT counted (day of AGM))

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

All these items make AGM 2019 seemingly 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.

If notices were sent by post on any other after 1 October 2019 (most probable scenario), the non-compliance is even more drastic.

- For Mediation case 00351498 and Fair Trading NSW Files 9363613 and 9761719 as initiated in late 2017 by Hon Matthew Kean MP, Minister for Innovation and Better Regulation, Waratah Strata Management appears to have failed to prove validity of the general meeting.

- Long-term issues with notification for meetings:

SP52948 has approximately 50% of owner-occupier and 50% rented properties. Notifying all owners and tenants in a timely manner is one of the most critical roles of the managing agent and the committee. Number of owners live interstate and overseas and many owners do not wish or provide email addresses for communication.

Agenda for EC meeting scheduled for 17 March 2020 was put on notice boards at around midday on 12 March 2020. In addition, excluding the day of postage (also confirmed by the screenshot from website) and the day of the meeting, it means ONLY two working days are between the agenda and the meeting. Lot 158 did not receive the notice of the meeting.

As for most meetings since Waratah Strata Management took office on 1 February 2017, Lot 158 DID NOT RECEIVE a copy (neither by email, nor by post, nor delivered in person). That was reported many times before and Waratah Strata management chose silence as response.

Two years ago, Lot 158 requested that all information to their property from Waratah Strata Management must be delivered by post.

Four cases were opened with Australia Post in the past two years and each time there was a resounding statement that no evidence of lost letters were detected or recorded for Lot 158.

In addition, the postman is personally very careful with deliveries to Lot 158 and there is absolutely no possibility of them misplacing or not delivering the mail for Lot 158. That is the first problem repeatedly reported again. It is unknown how many other owners might not have been sent the agenda.

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.

Examples of SP52948 EC meetings in last 12 months - 2019 and 2020 (Lot 158 has full evidence)

Agenda for EC meeting scheduled for 21 March 2019 was created on 18 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 2 May 2019 was created on 26 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 20 June 2019 was created on 17 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 5 September 2019 was created on 30 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 13 February 2020 was created on 7 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 12 March 2020 was created on 7 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 date when the meeting occurred on 17 March 2020.

Agenda for EC meeting scheduled for 7 May 2020 was created on 1 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 16 July 2020 was created on 1 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).

#### **129. Enforce compliance with the By-Laws.**

#### **130. 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.**

An example: Since 13 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

Details in document "SP52948-brief-log-of-events-related-to-risks-due-to-repetitive-water-leaks-without-proper-repairs.pdf".

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.

Planning for maintenance of elevators was delayed until year 2026 in 10-Year Capital Works Fund Plan in March 2017 without consultation with owners corporation. 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 was \$880,000.00 (plus GST) - granted to Liftronic without proper tender.

In spite of documented evidence to repaint buildings and garden beds (external painting), this work was delayed until year 2027. 10-Year Capital Works Fund Plan in March 2017 without consultation with owners corporation. 10-year Capital Works Plan was commissioned from Biv Reports Pty Ltd and the 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 \$710,820.00). 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 15 August 2020 is \$711,639.23.

**131. Provide documents as per document searches to Lot 158, with special emphasis to last seven years and requirement to update Police and Fair Trading NSW investigations:**

**12 November 2012**

**8 March 2013**

**17 October 2013**

**17 November 2014**

**29 March 2015**

**18 December 2015**

**13 June 2017**

**31 May 2019**

**20 September 2019**

- During document search n 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:
  - o Missing all cash book receipts for financials years between 2012 and 2020,
  - o Missing auditor's report for FY 2017,
  - o Missing almost all invoices for financial years between 2012 and 2020 (including invoices for second gas connection),
  - o Missing most of insurance claims for financial years between 2012 and 2020,
  - o 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 1 September 2018 and 2 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 16 October 2018. There were payments for FY 2019 but covering period only up to 2 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",
  - o Missing most of legal correspondence for years between 2012 and 2020,
  - o Missing most of emails for years between 2012 and 2020,
  - o Missing most of documents listed in Lot 158 request sent before the document search,
  - o Missing current Strata Roll,

- o 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 August 2020 (only email delegation for FY 2019 found),
- o Missing audit of items that are not common property any longer,
- o Missing register of approvals for owners,
- o Missing correspondence between Waratah Strata Management with the Police and other applicable enforcement agencies in regards to computer break-in in period 1 February 2019 to August 2020,
- o Missing correspondence between EC members, strata managers and the Police for any other security or legal matter in period 2014 to August 2020,
- o Missing up-to-date Bank Statements as on the day of Lot 158 visit,
- o Missing evidence of recovery of funds from parties responsible for frequent damages to car entrance gate,
- o Missing evidence of tender for elevator contract renewal in 2018,
- o Missing names of building manager staff and their license details,
- o Missing most of correspondence files (emails or hard copies),
- o Missing most of yearly Fire Safety inspection reports for FY 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and 2020,
- o Missing evidence of who made decision to undercharge BigAir ISP and approve Deed of Release and at which meeting,
- o Missing insurance claims,
- o 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, 2019, and 2020
- o Missing evidence and invoices for all work related to painting and major works on townhouses allegedly costing \$92,950.00 in 2017,
- o 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 10 June 2015 at 4:28 pm
- o 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 17 July 2015 at 12:51 pm (Subject line: "RE: S & T Pogorelsky - Gas charges paid from 1998 to 2015 - Strata Plan 52948"),

- o 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,
- o Missing files in Legal Matters folder,
- o Missing minutes for number of EC and general meetings,
- o Missing unredacted (unmodified) eight emails submitted in CTTT Statutory Declaration by BCS Strata Management on 19 April 2013 and District Court in February 2014,
- o Missing over 2,000 pages of evidence in CTTT folder for cases in 2012-2014 period,
- o 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).
- o Nine entries were found in a single cheque book and older cheque books were not found.

I make this solemn declaration by virtue of the Statutory Declarations Act 1959 as amended and subject to the penalties provided by that Act for the making of false statements in statutory declarations, conscientiously believing the statements contained in this declaration for NCAT file SC 20/33352 to be true in every particular.

Signed .....

Declared at ..... On .....

In the presence of authorized witness, who states:

I, ..... , a .....

certify the following matters concerning the making of this statutory declaration by the person who made it:

1. I saw the face of the person OR I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and

2. I have known the person for at least 12 months OR I have not known the person for at least 12 months, but I have confirmed the person's identity using an identification document and the document I relied on was .....

Signature of authorized witness: ..... Date: .....