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Section 237 of SSMA 2015 empowers the NCAT the make an order that either all, or part, of the functions of the owners corporation are delegated to a compulsory strata manager. On 15 January 2025, at Directions Hearing, none of five strata managers and none of the nine committee members appeared. Tribunal member repeated several times that, based on brief readings of Lot 158 submissions, and numerous problems in the complex, there should be a Motion for removing (compulsory) strata manager. Lot 158 does not need to do it themselves, because NCAT has powers to appoint a strata manager on its own motion, by its discretion.

CTTT (the predecessor to the NCAT) Member Moore in *Coote v Sharpe, Wentzel & Owners Corporation Strata Plan 55434* stated that imposing a compulsory strata manager upon an owners corporation is a “draconian” measure as it “removes the democratic process which has been established” under the Act.

In case of *Bischoff & Ors v Rita Sahade & Anr* [2015] NSWCATAP 135, the Tribunal said:

The appointment of a compulsory strata manager is a very significant step which must not be taken lightly, because it removes from the owners corporation its ability to manage its own affairs and reposes all of the functions of the owners corporation into a single person.

Owners corporation already have all the evidence in electronic format, including files on Lot 158 secure website (safe, virus-free, reliable, and low-cost), available since 2015. As of January 2025, there are more than 29,200 files on website and they satisfy requirements for “beyond reasonable doubt” (criminal case) and “on the balance of probabilities” (civil case):

<https://www.nswstratasleuth.info/>

For selected group of protected documents, where applicable, login prompt will force NCAT and SP52948 to authenticate at this web link:

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/>

- They are indisputable, based on empirical research and quantifiable measures. They are not assertions and theories. They are easily proven through events that definitively occurred in the past.
- For exclusive private access to SP52948 files for owners and tenants in the complex, Lot 158 initially created website as early as 21 January 2012.
- Later on, whilst part of the name of Lot 158 website changed (due to changes in Australian licensing rights and domain name standards), the contents were made public since 8 January 2015. BCS Strata Management, committee members, and a group of owners received information about it on 12 January 2015.

- In addition, actions by BCS Strata Management and Waratah Strata Management were rated on renowned ProductReview website:

<https://www.productreview.com.au/reviews/1eda081f-3bd8-35d9-98af-a913c22b5e70>

<https://www.productreview.com.au/reviews/4be8a7eb-dc48-5a58-99a1-8ffb4e52d587>

Lot 158 states that compulsory strata manager is the only viable solution for SP52948 to clean up the current deadlocks and “move on” because:

- Tribunal puts high emphasis on “democratic processes” that should govern operation in strata schemes. In SP52948, irrefutable evidence exists that such processes are broken, primarily due to owners not being informed before making decisions, or information given to them being incomplete, false and misleading.
- Owners corporation is not able to resolve the issue themselves by voluntarily appointing a strata manager.
- Present owners corporation and strata committee do not function adequately.
- Reasons for a finding of dysfunction are based on objective evidence.
- Owners corporation was offered through Lot 158 Motions, almost every year at general meetings, to ratify past events and allow “democratic processes” to make decisions. Such efforts were prevented by strata managers (with special support by Solicitor Adrian Mueller). The ratification of a lawful contract has a retrospective effect, and binds the principal from its date, and not only from the time of the ratification, for the ratification is equivalent to an original authority, according to the maxim, that *omnis ratihabitio mandate aequiparatur* (ratification is equivalent to express command). As a general rule, the principal has the right to elect whether he will adopt the unauthorized act or not. But having once ratified the act, upon a full knowledge of all the material circumstances, the ratification cannot be revoked or recalled, and the principal becomes bound as if he had originally authorized the act. The ratification must be voluntary, deliberate, and intelligent, and the party must know that without it, he would not be bound. That process was broken by strata managers.

Some of instances where an order for compulsory strata management is highly justified because of dysfunctional operation by Waratah Strata Management are presented in various sections of Lot 158 documents, Lot 158 secure website, and ProductReview website:

- Continued failures to carry out required maintenance and repairs and keep properties in a state of good and serviceable repair as required by section 106 of SSMA 2015,
- Continuous attempts to disallow Lot 158 to be a member of the strata committee, whilst allowing unfinancial owners to vote and be committee members,
- Failures to comply with fires safety orders and/or delaying remediation work for many years,
- Involvement in insurance fraud in NCAT case SC 20/33352 and refusing to co-operate with previous four insurance frauds in CTTT case SCS 12/32675,
- Assisting with falsified evidence and statements given to NCAT, NSW Fair Trading, and the Police.
- Long history of acrimony, deep seated discord and violence in the scheme,
- Pattern of strata managers disallowing competitive quotes for strata and building management, and other major expenses. The fact that Waratah Strata Management “won” contract renewals without tenders since AGM 2016 whilst preventing tenders from various companies (and not disclosing the contract details) is sufficient enough to conclude that owners corporation is not able to resolve this issue themselves. This, by itself, is evidence that indicates the owners corporation is currently not functional,
- Hiding strata files from owners,
- Continuously organising committee and general meetings that do not comply with the Act,
- Allowing selective owners to obtain exclusive rights to common property without legally compliant meetings and/or By-Laws,
- Pattern of improper decisions making (decisions not made in accordance with the Act),
- Poor planning of levies, not raising sufficient levies, and not properly maintaining the Capital Works fund,
- Having significant negative balances in Admin Fund for the last two years, without providing evidence where money for it came from,
- Repetitive failures to conduct financial audits before general meetings,
- Falsifying data in financial audits,
- Discrimination and inequitable benefits to selective owners, including several committee members.
- Refusal to collect designated levies, including 10% simple interest per year for overdue payments, and more.