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(1) An owners corporation for a strata scheme must properly maintain and keep in a state of good and serviceable repair the common property and any personal property vested in the owners corporation.

(2) An owners corporation must renew or replace any fixtures or fittings comprised in the common property and any personal property vested in the owners corporation.

(3) This section does not apply to a particular item of property if the owners corporation determines by special resolution that:

(a) it is inappropriate to maintain, renew, replace or repair the property, and

(b) its decision will not affect the safety of any building, structure or common property in the strata scheme or detract from the appearance of any property in the strata scheme.

(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.

In spite of documented evidence to maintain fences in the complex, especially those towards the neighbouring complex below townhouses and the townhouse colorbond fences, Waratah Strata management and EC members, without consultation with owners corporation allegedly approved the 10-Year Capital Works Fund plan in March 2017, which, among the other concerns, delayed maintenance of fences until year 2025.

The additional problem with these delays is that the current projected expenses for this work in amount of \$65,000.00 will increase to \$120,310.00 in year 2025:

10 Year Capital Works Fund Forecast – Costs Estimates (includes GST)													Page 3	
Capital Works Fund Forecast for:		1-15 Fontenoy Road, North Ryde				Date commencing:		31 August 2017			Strata Plan:		SP52948	
											Today's date:		31 March 2017	
					End of Year 1	End of Year 2	End of Year 3	End of Year 4	End of Year 5	End of Year 6	End of Year 7	End of Year 8	End of Year 9	End of Year 10
22	Fences	\$65,000	8	\$120,310								\$120,310		

**Motion: Lack of Proper 10-Year Sinking Fund – Now Called Capital Works Fund**

The Owners Corporation SP52948 by GENERAL RESOLUTION (A ONE LOT/ONE VOTE FORMAT), confirms the following:

- BCS Strata Management and EC members failed to maintain and update 10-Year Sinking Fund that matches real capital works in the complex since 1999,
- BCS Strata Management and EC members provided a copy of alleged 10-Year Sinking Fund, dated 31<sup>st</sup> of August 2010 in agenda for AGM 2016 for the first time to owners,
- BCS Strata Management and EC members had obligation to plan how they would repair and maintain common property and raise sufficient funds to cover the costs, and submit the 10-year Sinking Fund Plan for approval by owners at an annual general meeting (AGM) and be reviewed and adjusted, if required, in the first five years, which did not happen in SP52948,
- BCS Strata Management staff admitted they did not have copy of 10-Year Sinking Fund Plan in email to EC member on 11<sup>th</sup> of April 2014,
- Agenda for AGM 2014 contained misconstrued and misleading statement that 10-Year Sinking Fund was reviewed in 2014 and every five-years beforehand,
- BCS Strata Management and EC members failed to provide even relatively accurate predictions for major repairs and failed to attend to most of the alleged planned activities,
- BCS Strata Management and EC members failed to disclose major professional building reports that highlighted needs for repairs since year 2000,
- Without evidence of tender, or its disclosure to owners, Biv Reports Pty Ltd was commissioned to prepare new 10-Year Capital Works Fund assessment in late March 2017. It failed to address major works in proper manner:

Comprehensive risk and hazard assessment in line with Australian Elevator Association guidelines.

Comprehensive lifecycle report, so its findings can be factored in to the fund forecast.

Undisclosed costs, warranties, and work completed in complex painting project in 2017 – unexplained alleged costs for townhouses in amount of \$92,950.00

Townhouses had four major repairs and painting works since 1996. The one in April 2011 is listed herewith, as displayed in the Minutes of EC meeting on 13<sup>th</sup> of April 2011:

**ITEM 11:** That a quotation of \$61,490 from Robertson's Painting & Decorating be approved to repaint the townhouses and rear pergolas.

Having considered alternative proposals, this quotation was approved. The committee had regard to the fact that this contractor has previously carried out the work in the tower blocks and has good carpentry skills in staff.

In 2017, a new project was commissioned, with priority being four buildings and garden beds.

Details of the contracted values for the painting, including undisclosed details what painting was done on 26 townhouses which already had THREE paintings of pergolas over 20 years (against one poorly-done painting of buildings). In spite of all efforts, EC members and Waratah Strata Management could not provide any valid justification why painting of 26 townhouses that do not even have render cost owners corporation \$84,498.00 (plus GST) against each seven-storey building (including roof tops) which required minimum two coats of Dulux paint, massive number of repairs for cracks and paint blistering at cost of \$107,000.00 (plus GST).

In addition, five lattices in townhouses were erected without approval by owners corporation and are not part of common property: Lot 194, Lot 197, Lot 199, Lot 202, and Lot 216.

- The Agenda and Minutes of the AGM 2016 held on 4<sup>th</sup> of November 2016 confirm that the estimated value of the painting contract with Townview Australia Pty Ltd was between \$600,000.00 and \$650,000.00.
- 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<sup>rd</sup> of March 2017:

Block A: \$117,700.00 (including GST)  
Block B: \$117,700.00 (including GST)  
Block C: \$117,700.00 (including GST)  
Block D: \$117,700.00 (including GST)  
Various Structures: \$66,000.00 (including GST)  
Townhouses: \$92,950.00 (including GST)

Total cost: \$629,750.00 (including GST).

- Motion 3 in the Minutes of EC meeting held on 20<sup>th</sup> of 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<sup>th</sup> of September 2017 shows that the painting project was complete and all accounts had been paid except the 5% retention amounts totalling \$28,187.00 + GST. No details of the total costs, warranties, and other details were provided to owners.
- Agenda for the AGM 2017 sent to owners contained information that the total costs for the painting project were \$646,200.00 plus GST (totalling \$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<sup>th</sup> of 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.

Request to Waratah Strata Management to provide details of the warranties that apply to the painting work has been declined so far.

Alleged work on townhouses cannot justify cost of \$92,950.00 (including GST).

Evidence of outstanding work (for example, rusted louvres still not properly treated and painted from the inside of the basement of the garages) is withheld from owners by Waratah Strata Management:

Block A	Contract value \$107,000.00 plus GST		\$117,700.00	
20%	\$23,540.00	\$23,540.00		
40%	\$23,540.00	\$47,080.00		
60%	\$23,540.00	\$70,620.00		
80%	\$23,540.00	\$94,160.00		
95% Practical completion	\$17,655.00	\$118,815.00		
100%	\$5,885.00	\$117,700.00		
Townhouses	Contract value \$84,498.00 plus GST		\$92,950.00	
	(Numbers have been rounded to avoided cents in the schedule)			
20%	\$18,590.00	\$18,590.00	7610	31/03/17
40%	\$18,590.00	\$37,180.00	7617	19/04/17 *
60%	\$18,590.00	\$55,770.00	7618	30/04/17 *
80%	\$18,590.00	\$74,360.00	7618	30/04/17 *
95% Practical completion	\$13,943.00	\$88,303.00	7630	26/05/17
100%	\$4,647.00	\$92,950.00	7631	Not approved
Note: Invoice 7631 - 100% claim - will sit until end of the defects liability period.				

UPDATED 29 MAY 2017 FOR PAYMENT OF ITEMS HIGHTLIT IN YELLOW – ML&SP

<b>Block B</b>	<b>Contract value - \$107,000.00 plus GST</b>		<b>\$117,700.00</b>	
Milestone completed	Payment	Progressive	Invoice	Approved
10% - project deposit	\$11,770.00	\$11,770.00	7606	04/03/2017
20%	\$11,770.00	\$23,540.00	7612	31/04/2017 *
40%	\$23,540.00	\$47,080.00	7618	24/04/2017 *
60%	\$23,550.00	\$70,620.00	7624	22/05/2017
80%	\$23,540.00	\$94,160.00	7624	22/05/2017
95% - Practical completion	\$17,655.00	\$111,815.00	7626	Not approved
100%	\$5,875.00	\$111,700.00	7629	Not approved

Notes: Claims for Practical Completion and retention are to and but the milestones have not been reached yet.

Claim 7626 - PC is eminent but not quite there yet.

Claim 7629 will not be approved until Contract End – 3 months after PC

<b>Block C</b>	<b>Contract value - \$107,000.00 plus GST</b>		<b>\$117,700.00</b>	
20%	\$23,540.00	\$23,540.00	7618	24/04/2017 *
40%	\$23,540.00	\$47,080.00	7625	22/05/2017
60%	\$23,540.00	\$70,620.00	7627	Not approved
80%	\$23,540.00	\$94,160.00	7627	Not approved
95% - Practical completion	\$17,655.00	\$111,815.00		
100%	\$5,885.00	\$117,700.00		

Note: Invoice 7627 is a composite claim for both the 60% and 80% milestones.

Whilst 60% has been achieved, 80% has not yet and approval deferred until reached

<b>Block D</b>	<b>Contract value \$107,000.00 plus GST</b>		<b>\$117,700.00</b>	
20%	\$23,540.00	\$23,540.00	7628	22/05/2017
40%	\$23,540.00	\$47,080.00		
60%	\$23,540.00	\$70,620.00		
80%	\$23,540.00	\$94,160.00		
95% Practical completion	\$17,655.00	\$111,815.00		
100%	\$5,885.00	\$117,700.00		



<b>Various structures \$66,000.00</b>		<b>Contract value \$60,000.00 plus GST</b>
20%	\$13,200.00	\$13,200.00
40%	\$13,200.00	\$26,400.00
60%	\$13,200.00	\$39,600.00
80%	\$13,200.00	\$59,400.00
90% Practical completion	\$6,600.00	\$59,400.00
100%	\$6,600.00	\$66,000.00

Waratah Strata Management and Uniqueco Property Services were requested to notify owners about this in October 2017, February 2018, and April 2018, which they silently declined:

- Owners to be notified about exact costs.
- Details of the alleged work on townhouses to be published.
- Details of the warranties to be published.

Lot 158 Motion about undisclosed costs and warranties, work not completed in complex painting project in 2017, and unexplained alleged costs for townhouses in amount of \$92,950.00 not included at Annual General Meetings in 2017 and 2018 by Waratah Strata Management

Secretary of the EC failed to include this Motion at AGM 2017, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4).



SP52948 – Townhouse fences in December 2018











SP52948 – Wooden fences towards neighbouring property in October 2015



SP52948 – Wooden fences towards neighbouring property in December 2018





SP52948 – Unsafe rotten wooden railings behind townhouses on 10<sup>th</sup> of January 2019



SP52948 – Collapsed wooden railings behind townhouses on 19<sup>th</sup> of January 2019





SP52948 – Collapsed wooden railings behind townhouses on 30<sup>th</sup> of January 2019



SP52948 – Collapsed wooden railings behind townhouses on 19<sup>th</sup> of May 2019





SP52948 Light pole behind townhouses on unsafe grounds due to eroding soil







SP52948 Unsafe slope due to eroding soil and unrooted tree behind townhouses towards Fontenoy Road – photos taken in period 23<sup>rd</sup> of December 2018 to 18<sup>th</sup> of May 2019

























2019-02-24 07:20:44



SP52948 Motion by Lot 209 to replace townhouse carport lattices rejected at non-compliant AGM 2018 due to unfinancial owners allowed to vote

This is evidence that alleged expense in amount of \$92,950.00 (incl. GST) for painting and other work on townhouses and various structures in amount of \$66,000.00 (including GST) in 2017 was not completed:

<b>17</b>	<b>TOWNHOUSE LATTICE</b> Resolved that the correspondence from Mr Rob Brown, owner of Lot 209, to remove and replace the townhouses carports lattice was tabled and a decision made not to agree to that proposal.
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The Motion was rejected at the Annual General Meeting in October 2019 which did not satisfy quorum due to unfinancial owners who were allowed to vote and even be elected as Executive Committee members without disclosure.



SP52948 unstable fence behind townhouses since December 2018 and open gate without disclosure

Uniqueco Property Services for prolonged time (several months) were switching off security lights in the complex whilst still complete darkness. Lot 158 was closely monitoring the status and wondering when they would take action. The action was in fact forced by Lot 158 complaint:

<http://www.nswstratasleuth.id.au/SP52948-complete-darkness-due-to-lights-repeatedly-turned-off-before-daylight-in-front-of-townhouses-before-6am-1Jun2017.mp4>

Even after the official complaint, it happened again:

[SP52948-repeated-lack-of-duty-by-Building-Manager-Steve-Carbone-complete-darkness-due-to-early-lights-off-pathway-to-bus-stop-10Jun2017.mp4](#)

This was happening again in 2018 and now May 2019. Parts of complex towards townhouses and back of Block A are in complete darkness early in the morning.

Considering the fact that we had number of security incidents in the complex in the past, including an attempt of rape, and "Spider-style" (comic character) scaling of Block C to steal only a laptop from level 3, it is very dangerous to keep the lights off before daylight in any part of the complex.

Additional problem was undisclosed gate that allowed unretricted access to the complex behind townhouses (gate towards Fonteny Rod). Videos uploaded to a secure web site show the padbolt status:



Videos uploaded to a secure web site show the padbolt status:

SP52948-Waratah-Strata-Management-and-Uniqueco-Property-Services-undisclosed-and-unmonitored-unlocked-access-behind-townhouses-14Nov2018.3gp

SP52948-Waratah-Strata-Management-and-Uniqueco-Property-Services-undisclosed-and-unmonitored-unlocked-access-behind-townhouses-4Jan2019.mp4

The attempts to use "backdoor" access to the complex was documented several times in the past, like when intruders forcefully damaged fence behind Block A on 31<sup>st</sup> of July 2013 and 3<sup>rd</sup> of March 2015.

After lot of persistence by Lot 158, lock was put on the gate in late May 2019:



The whole fence behind townhouses is still unsafe due to fallen tree since December 2018. Waratah Strata Management and Uniqueco Property Services ignored the requests to repair it:







SP52948 removed safety railguards behind townhouses in May 2019 without repair

Instead of repairing/replacing the broken wooden rail guards, Waratah Strata Management and Uniqueco Property Services simply removed them in late May 2019 after persistent reports by Lot 158. The safety issue when walking behind townhouses on a very slippery and uneven soil is still present and obvious:

