

NCAT case 2024/00454780
COMMENTARY AND SERIOUS CONCERNS - Stan Pogorelsky Directions Hearing 11Apr2025
The Applicant Statements submitted on 11 April 2025

This afternoon third Directions Hearing was conducted online. The outcome of the Directions Hearing is a single line:

"The Tribunal makes the following interim orders The Tribunal declines to make any further orders in relation to the summons issued for Stan Pogorelsky to produce documents."

Here is the summary, in my own words:

1) The Tribunal member, who was accompanied by an unknown female witness, at the beginning of the session, asked Mr. Pogorelsky who was representing SP52948, and Mr. Pogorelsky stated that they (presumably committee members and Waratah Strata Management) felt they were not required to attend.

The Tribunal member failed to establish the fact that Mr. Pogorelsky, as a current committee member unless he recently resigned without public announcement, was legal representative for SP52948.

The Tribunal member did not establish the fact that Mr. Pogorelsky, as a committee member of SP52948, is considered a legal representative of the OC, acting on behalf of all owners.

2) Only Mr. Stan Pogorelsky attended this Directions Hearing, for his non-compliance with issue of summonses.

The summonses were issued by the NCAT Registrar on 7 March 2025, which, in spite of all efforts, Waratah Strata Management and committee members refused to publish or share with owners.

Once Mr. Pogorelsky failed to comply with the order, summonses and order for Directions Hearing were issued by the NCAT Registrar on 28 March 2025, which, in spite of all efforts, Waratah Strata Management and committee members refused to publish or share with owners.

3) The summonses files are very important not only for this NCAT case, but also the Police, NSW Fair Trading, and Office of Legal Services Commissioner and NSW Law Society (investigations of misconduct of Solicitor Adrian Mueller).

The Police notified me that Solicitor Adrian Mueller and Waratah Strata Management refused to co-operate with them and gave statements that the Tribunal would deal with Police Events 174560202 and E65804633, which I presented in evidence for Mr. Stan Pogorelsky.

4) Before this Directions Hearing, to avoid wasting court's and my time, Mr. Pogorelsky did not seem to have objected to issue of summonses on grounds like privileged files, medical records, personal information relating to a child, or information that is confidential to a business.

5) This is a third non-compliance with the Tribunal Orders by SP52948 and Mr. Stan Pogorelsky in 2025:

- Directions Hearing on 15 January 2025
- Directions Hearing on 20 February 2025
- Order for summonses on 7 March 2025

6) Mr. Pogorelsky claimed that he submitted some documents on 18 March 2025, for which there is still no verifiable evidence.

The only submission that was verified so far is that Bannermans Lawyers (without evidence of their legal representation) lodged their submission in afternoon of 20 March 2025.

Mr. Pogorelsky, unless he can prove the opposite, mislead the Tribunal about the date. At the Hearing on 22 April 2025, Mr. Pogorelsky will have an opportunity to answer this concern, under oath or affirmation.

7) After confirming that Mr. Pogorelsky did not provide any of the requested documents in summonses, the Tribunal member asked him if he had such documents, and Mr. Pogorelsky replied in the negative.

8) In other words, Mr. Stan Pogorelsky admitted not providing any of requested documents because "he did not have them" (including his own levy invoices) and was not responsible to have them, which was accepted by the Tribunal, in spite of clear knowledge in his "Witness Statement" dated 20 March 2025:

"3. I am authorised by the owners corporation to make this statement on its behalf.

4. I made this statement from my own knowledge and belief, save where otherwise stated."

His witness statement was then accompanied by Attachments 1 to 39. **A logical question is then how he obtained those strata files, but could not do it for any of the files in summonses? And since he provided and literally affirmed those Attachments, is not his excuse (which is difficult to accept by any reasonable person) further proof of his negligence and dysfunctional operation of SP52948.**

8.1) Detailed Revenue for financial year 2017 (period from 1 September 2016 to 31 August 2017) - proof Lot 181 was financial to vote and be a committee member.

8.2) Detailed Expenses for financial year 2017 (period from 1 September 2016 to 31 August 2017) - proof Lot 181 did not receive any payments from common funds.

8.3) Detailed Expenses for financial year 2025 (period from 1 September 2024 to date set by the Tribunal in NCAT case 2024/00454780-001 before the Hearing) - proof Lot 181 did not receive any payments from common funds.

8.4) Detailed Revenue for financial year 2025 (period from 1 September 2024 to date set by the Tribunal in NCAT case 2024/00454780-001 before the Hearing) - proof Lot 181 was financial to vote and be a committee member.

8.5) Levy invoices for Mr. Stan Pogorelsky (Lot 181) in period from 1 February 2017 to the date set by the Tribunal in NCAT case 2024/00454780-001 before the Hearing - proof Lot 181 was financial to vote and be a committee member.

8.6) Evidence and results of SP52948 obtaining independent legal advice in regards to Lot 158 claims of Solicitor Adrian Mueller's corruption and Lot 158 being a committee member, as recommended by the Solicitor himself in email to SP52948 representatives on 9 June 2022.

8.7) Evidence of SP52948 Barrister's response to O'Brien Criminal & Civil Solicitors (who acted on Lot 158 behalf) with answer if Lot 158 was valid committee member, as approved at committee meeting on 7 May 2020.

8.8) Evidence of Bitcoin payment in amount of \$5,052.03 for ransomware attack in February 2019 (including name of benefactor and proof of ransom payment, date the Police notified and the Event number, date mandatory data breach notification was completed with Australian Cybercrime Online Reporting

Network (ACORN) - proof that strata files for period prior to February 2017 were lost and Lot 181 had no files to prove he was financial to vote and be a committee member).

8.9) Current contract with Uniqueco Property Services – check if Lot 181 signed it while unfinancial to vote and be a committee member.

9) The Tribunal member concluded that this was sufficient for NCAT and no further actions would be enforced. Allegedly, other entity should have been issued with summonses.

In addition, the Tribunal member stated that I was not allowed to have access to this document, but could not explain why other owners or legal entity could not have it:

"Evidence and results of SP52948 obtaining independent legal advice in regards to Lot 158 claims of Solicitor Adrian Mueller's corruption and Lot 158 being a committee member, as recommended by the Solicitor himself in email to SP52948 representatives on 9 June 2022."

10) The Tribunal member did not offer any explanation why I should not have access to this document, for which I paid \$2,200.00 to O'Brien Criminal & Civil Solicitors and which committee meeting committed to provide on 7 May 2020:

"Evidence of SP52948 Barrister's response to O'Brien Criminal & Civil Solicitors (who acted on Lot 158 behalf) with answer if Lot 158 was valid committee member, as approved at committee meeting on 7 May 2020."

11) When Tribunal was asked why they did not, on their own initiative, seek those files in summonses, no real response was received. As per NCAT Procedural Direction:

8. In addition, the Tribunal itself can direct a registrar to issue a summons but this is likely to be mainly in cases where the parties cannot apply themselves.

12) When I made a verifiable claim that Mr. Pogorelsky has been unfinancial for 25 years and that I have been a valid committee member in the past, with privileges to access all documents, the Tribunal member did not offer any reasonable comment.

13) When asked about documents for Bitcoin payment in amount of \$5,052.03 for ransomware attack in February 2019 (including name of benefactor and proof of ransom payment, date the Police notified and the Event number, date mandatory data breach notification was completed with Australian Cybercrime Online Reporting Network (ACORN)) and proof that strata files for period prior to February 2017 were lost and Lot 181 had no files to prove he was financial to vote and be a committee member, Mr. Pogorelsky made a public statement (witnessed by a second person who accompanied the Tribunal member) said something along the lines that "he never heard of such incident". I promptly attached it as a false statement but Mr. Pogorelsky failed to correct his statement.

I emphasize Section 71 Civil and Administrative Tribunal Act 2013:

"Under section 71 of the Civil and Administrative Tribunal Act 2013 a person must not in any proceedings or application provide any information, or make any statement, to NCAT knowing that the information or statement is false or misleading."

To refute his blatant statement with simplest evidence:

- AGM 2019 Motions, which Mr. Pogorelsky, whilst unfinancial, voted against:

<https://www.nswstratasleuth.info/SP52948-Motions-by-Lot-158-prevented-from-voting-by-Waratah-Strata-Managament-without-legal-grounds-AGM-2019.pdf>

<https://www.nswstratasleuth.info/Waratah-Strata-Management-prevented-owners-from-receiving-amendments-for-SP52948-Motions-at-AGM-2019-with-consequence-of-not-ratifying-all-contracts-and-major-expenses.pdf>

- Letter by O'Brien Criminal & Civil Solicitors to SP52948 on 24 April 2020, which committee members, including Mr. Pogorelsky, committed to respond to at committee meeting on 7 May 2020:

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/OBrien-Criminal-and-Civil-Solicitors-letter-to-SP52948-24Apr2020.pdf>

- Lot 158 Statutory Declaration dated 18 August 2020, which committee members and Waratah Strata Management refused to share with owners/

- Email that Mr. Pogorelsky received on 8 June 2023:

[https://www.nswstratasleuth.info/NCAT-2024-00454780-001/20230609-Fwd_%20SUMMARY%20Insurance%20risks%20and%20mismanagement%20of%20strata%20plan%20SP52948%20with%20high%20concerns%20for%20safety,%20financial%20health%20\(bankruptcy%20risk\),%20and%20non-compliance%20with%20laws%20on%208Jun2023-2008.pdf](https://www.nswstratasleuth.info/NCAT-2024-00454780-001/20230609-Fwd_%20SUMMARY%20Insurance%20risks%20and%20mismanagement%20of%20strata%20plan%20SP52948%20with%20high%20concerns%20for%20safety,%20financial%20health%20(bankruptcy%20risk),%20and%20non-compliance%20with%20laws%20on%208Jun2023-2008.pdf)

- Evidence that he opened and read my email on 9 June 2023:

https://www.nswstratasleuth.info/NCAT-2024-00454780-001/20230609-Read_%20SUMMARY%20Insurance%20risks%20and%20mismanagement%20of-71554.pdf

14) In final comment, the Tribunal member refused to write statement that Mr. Pogorelsky admitted not having any of the documents in summonses. The tribunal member allowed Mr. Pogorelsky to prevent NCAT to publish this information in their decision and only submitted that she was presenting it orally (no public witnesses?)...

15) I partially predicted outcome of this Directions Hearing, seeing the possibility that some loopholes would be presented to NCAT to prevent the Tribunal to conduct proper investigations, as per document I submitted to NCAT on 10 and 11 April 2025:

NCAT-2024-00454780-Third-Directions-Hearing-risks-10Apr2025

NCAT-2024-00454780-Third-Directions-Hearing-amended-risks-11Apr2025

16) The interim order made at the Directions Hearing today will be addressed at the full Hearing on 22 April 2025 from three angles:

- A Tribunal member can issue a summons to require a person to attend a hearing and give evidence or produce documents. This can be done at the request of a party or on the Tribunal's own initiative if it deems the information relevant to the case.
- Hearing can decide whether to grant permission to issue a summons.
- Formally, I requested access to documents since 2 September 2024 in "Document 2: NCAT-2024-00454780-001-strata-documents-SSMA-2015-Sec188":

<https://www.nswstratasleuth.info/SP52948-year-2024/SP52948-Lot-158-request-access-to-strata-documents-2Sep2024.pdf>

Updated version for NCAT Hearing:

<https://www.nswstratasleuth.info/SP52948-year-2025/SP52948-Lot-158-request-access-to-strata-documents-Jan2025.pdf>