

Subject: SUMMARY NCAT 2024/00454780 and latest fire safety issues on 1 April 2025  
From: SP52948 Lot 158 owner  
Date: 1/4/25, 09:11  
To: Alex Tomasko, Robert Odenthal, Stan Pogorelsky  
Robert Crosbie, Heath Crosbie, Nicolas Cosic  
Cc: Carlos Fornieles Montoya, Uniqueco Property Services  
Jeffery Wang, Ramesh Kamini, Andrew Ip, Genelle Godbee, Joe Spatola, Basil Gionea

Good morning,

SP52948 continue to be plagued by serious fire safety and OH&S issues. You are requested to promptly notify all owners (on notice boards, on Waratah Strata website, and via emails/ letters to ALL owners), insurance broker, and the insurance company. Lot 158 will ensure that this information is presented to NCAT and NSW Fair Trading too.

1) On 31 March 2025, City of Ryde issued the following letter to Waratah Strata Management.

*Good morning Waratah Strata,*

*"Council has received a compliant regarding ongoing issues that have been brought to our attention. We acknowledge Councils orders for the non-compliances of SP52948, within the order request the Owners corporation to follow the Core Consulting fire Engineers report.*

*The complainant, speaks about the lack of transparency in communication with owners. Correspondence from yourself on the 19/03/2025 states that an alternative Consultant will be overseeing the work that Core consulting has recommended. To ensure transparency please inform all owners that the work is going to be done in accordance with Core Consulting report. Once the work has been completed the work will need to signed off by either Core Consulting or a registered A1 Certifier or Fire Engineer who is registered with the Building Commissioner's Office.*

*The matters raised, particularly outstanding fire safety work orders are to be followed up by the Strata Manager, The compliant also has issues with the process for remediation works, and the reported inconsistencies in work order listings on the Waratah Strata website. Additionally, we will investigate the reported unauthorized renovations in Lot 79 and assess whether they pose safety risks.*

...

*Looking forward to hearing from you regarding the above."*

2) On 30 March 2025 at around 17:50 hours, tenant in Lot 191 was witnessed riding electric scooter (and without the helmet too) in basement of Block A at significant speed. He then

took the scooter up to floor 7, presumably to keep it inside the unit and maybe even charge it.

Whilst waiting for the elevator, Lot 191 tenant was warned about riding the scooter on common property. CCTV recordings can easily confirm this event and it is duty of Uniqueco Property Services to follow up on this event.

Waratah Strata Management and Uniqueco Property Services ignore safety concerns, and even events where Fire and Rescue NSW (FRNSW) was warning of an alarming spike in lithium-ion battery fires after responding to four separate e-bike and e-scooter fires in Sydney within the past 12 hours on 6 February 2025:

<https://www.fire.nsw.gov.au/incident.php?record=rechBPsUIwd2UjGoh>

Last year, Solicitor Adrian Mueller was allegedly engaged to provide these services at non-compliant committee meeting on 2 April 2024, without any results ever being published for owners:

- (i) provide advice in relation to recent communication from Lot 158; and
- (ii) draft additional by-law for storage of electric bikes, scooters and other electric lithium battery powered mobility equipment.

One year later, such By-Law has never been produced or presented at any legally-convened meeting.

Scooter riders, just as other road users, must comply with all applicable NSW road rules.

- Personal e-scooters remain illegal on NSW roads and road-related areas, including footpaths, shared paths and bicycle lanes.
- One can only use scooters on private property.
- E-scooter shared schemes are being trialled in designated local government areas in NSW.
- Person must be 16 years or older to hire and ride a shared e-scooter within a trial area. Hired shared scheme e-scooters are only able to be used on roads and road-related areas in the designated e-scooter trial areas. It is illegal for privately owned e-scooters to be ridden on NSW roads or road related areas, including in trial areas.
- Safety rules in trial areas: hire a shared e-scooter only from the selected provider in the trial area, use a shared e-scooter on selected roads, bike paths and shared paths, in the trial area stay under 10km/h on shared paths and 20km/h on the road, always wear an approved helmet, not carry passengers, and not use a mobile phone whilst riding.
- There were a few trials in the following areas: in Albury from 15 December 2023 to 14 November 2024, in Western Sydney Parklands and Australian Botanic Gardens Mount

Annan from the end of July 2022 to the end of October 2022, and in Lake Macquarie from December 2022 to May 2024.

- The Kogarah trial started on 10 January 2024.

3) Annual fire safety statements have never been shared with owners since 1997.

4) Short-term letting is still happening, in spite of repeated warnings, including Lot 158 Motion at EGM 2023:

<https://www.nswstratasleuth.info/SP52948-Motions-by-Lot-158-EGM-public-30Oct2023.pdf>

Waratah Strata Management is well aware of this obligation since they took office on 1 February 2017. SP52948 is continuously using common property for short-term leases (hotel-like services), in non-compliance with Residential Tenancy Act 1987, as per Lot 158 emails to Waratah Strata Management on 26 March 2020 and 19 April 2021.

<https://www.nswstratasleuth.info/SP52948-Lot-93-short-term-holiday-letting-servicedapartmentsonline.com.au-26Mar2020.pdf>

Short-term tenants are allowed ONLY if owner stays and lives in property and shares it with visitors. In that case they still have to get Ryde Council approval.

The other valid options for a property to be occupied in our complex are:

1. Owner occupied, or
2. Subject to a lease under Residential Tenancy Act 1987.

Services like AirBnB, StayZ, and similar are not allowed in strata complexes by law as yet.

Simple checks of few websites today show that short-term letting is still being advertised for Lot 48 and 93:

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

<https://www.servicedapartmentsonline.com.au/apartment/fontenoy-road-north-ryde-mac-park-nsw-2/>

Under the NSW Environmental Planning and Assessment Regulation 2000 and the Building and Development Certifiers Act 2018, all commercial property owners also have a legal responsibility to ensure the safety of residents, tenants, staff and visitors.

Strata owner or managers must maintain essential fire prevention measures as outlined in the legislation and in accordance with Australian Standards AS1851-2021 and local council

requirements. They are also obligated to meet all compliance requirements, including Annual Fire Safety Statements.

Evacuation diagrams do not exist on common property in SP52948 and never did.

In non-compliance with strata plan registrations, number of properties are used for non-hosted short-term rental accommodation (short-term rental accommodation provided where the host does not reside on the premises during the provision of the accommodation) and they also have special requirements in regard to fire safety, which has never been checked or applied in SP52948.

The mandatory Code of Conduct for the Short-term Rental Accommodation Industry (Code) started on 18 December 2020. It is administered by the Commissioner for Fair Trading in the NSW Department of Customer Service. The Code sets out the legal responsibilities and creates new minimum standards of behaviour and requirements for all industry participants, including:

- booking platforms
- hosts
- guests
- letting agents and facilitators.

The Code also establishes the STRA Exclusion Register which commenced in August 2022. The Exclusion Register is a list of guests and hosts who have been excluded from participating in the short-rental accommodation industry.

5) There is no evidence that alleged major upgrades for fire safety are commissioned since AGM 2024 and owners have no information about them.

6) Issues in Lot 158, including water leakages in sunroom ceilings are still outstanding:

<https://www.nswstratasleuth.info/SP52948-unresolved-common-property-maintenance-issues-in-Lot-158.html>

<https://www.nswstratasleuth.info/SP52948-year-2025/SP52948-Lot-158-increased-sunroom-water-leak-near-electrical-lighting-unrepaired-since-late-2020-as-of-16Jan2025.mp4>

7) Recent rain showed continuous leakages in basements (and some private garages), including areas near fire exits:

<https://www.nswstratasleuth.info/SP52948-year-2025/SP52948-Block-B-basement->

[unrepaired-water-leaks-video-1-30Mar2025.mp4](#)

<https://www.nswstratasleuth.info/SP52948-year-2025/SP52948-Block-D-basement-unrepaired-water-leaks-video-2-30Mar2025.mp4>

<https://www.nswstratasleuth.info/SP52948-year-2025/SP52948-Block-B-basement-near-fire-exit-door-unrepaired-water-leaks-video-3-30Mar2025.mp4>

8) How serious are safety concerns is best shown by Fair Work Legislation Amendment (Closing Loopholes) Act 2023 in July 2024: New offence - Industrial manslaughter.

The Fair Work Legislation Amendment (Closing Loopholes) Act 2023, which passed parliament in December 2023, introduces a new offence of industrial manslaughter for the Commonwealth Work Health and Safety Act 2011.

Taking effect on 1 July 2024, the offence carries maximum penalties of \$18 million for bodies corporate or the Commonwealth and 25 years' jail for individuals, reflecting manslaughter penalties in the Criminal Code.

Creating a specific industrial manslaughter offence was a key recommendation of the 2018 review of the model work health and safety laws and responds to community concern that the WHS framework requires stronger penalties for the most serious breaches that result in workplace fatalities. How serious are safety concerns is best shown by Fair Work Legislation Amendment (Closing Loopholes) Act 2023 in July 2024.

SP52948 does not fall within an exemption clause 7 of the Work Health & Safety Regulation 2017 and therefore need to comply with WH&S obligations because common property area is used for visitor parking of the commercial vehicles, short term letting is allowed (against the City of Ryde Development Approval), and employs facilities managers and strata managers to fulfil their duties.

In one of the first prosecutions of its kind, an owners corporation of an industrial complex, strata manager and a business within the industrial complex have all been separately prosecuted and fined for breaching the Work Health and Safety Act 2011 (NSW) (WHS Act). The prosecutions followed a fatal incident at the industrial complex on 12 June 2020.

On 26 July 2023, a business within the industrial complex and employer of the deceased worker, was convicted and fined \$500,000 reduced to \$375,000 to reflect the early guilty plea (SafeWork NSW v Maluko Pty Ltd [2023] NSWDC 274).

On 11 July 2024, the Owners Corporation was convicted and fined \$300,000 reduced to \$225,000 to reflect the early guilty plea (SafeWork NSW v The Owners – Strata Plan No 93899 [2024] NSWDC 277).

On 22 August 2024, the strata manager was convicted and fined \$200,000 reduced to \$150,000 to reflect the early guilty plea (SafeWork NSW v Chris Darby Strata Pty Ltd [2024] NSWDC 360).

Regards,

—Attachments:—

SP52948-Lot-48-short-term-apartment-rental-1Apr2025.pdf	167 KB
SP52948-Lot-93-short-term-apartment-rental-1Apr2025.pdf	1.6 MB