

# By-laws in Residential Strata Schemes

The *Strata Schemes Management Act 1996* and regulations contain a number of short form by-laws to assist to regulate the conduct of owners and occupiers.

Owners corporations and developers frequently create and adopt much more tailored by-laws to deal with the particular scheme and the specific issues that they encounter.

## Regulating Conduct

The table below addresses by-laws frequently made to regulate conduct and the frequent types of modifications made.

Authorising works by owners is dealt with further below under the heading “Works by Owners”.

Type of by-law and its operation	Frequent modifications to the by-law
<b>Access keys</b> This by-law regulates access.	<ul style="list-style-type: none"><li>○ Number of access keys per lot.</li><li>○ Process of applying for another access key.</li><li>○ Cost for additional access keys.</li></ul>
<b>Air-conditioning</b> This by-law regulates the installation of air conditioning units within lots.	<ul style="list-style-type: none"><li>○ Location of split-system or inverter split-system unit.</li><li>○ Specific manufacturer, model, size and colour.</li><li>○ Not to produce unreasonable level of noise.</li><li>○ Must be of an appearance in keeping with the rest of the scheme.</li><li>○ Location of air conditioning compressor and dripper.</li></ul>
<b>Building management contract</b> This by-law discloses the key terms for the building manager.	Matters disclosed include: <ul style="list-style-type: none"><li>(a) duration;</li><li>(b) price;</li><li>(c) scope of services; and</li><li>(d) other relevant information.</li></ul>
<b>Alcohol consumption</b>	Prohibits the consumption of alcohol on or in:

<b>Type of by-law and its operation</b>	<b>Frequent modifications to the by-law</b>
This by-law regulates the consumption of alcohol on certain parts of common property.	<ul style="list-style-type: none"> <li>(a) the pool area;</li> <li>(b) the barbecue area; or</li> <li>(c) the common areas.</li> </ul>
<p><b>Exclusive Use</b></p> <p>An Exclusive Use By-Law grants a right to owners to use any area that forms part of the common property to the exclusion of all others.</p>	<p>Parts of common property may include:</p> <ul style="list-style-type: none"> <li>(a) roof voids;</li> <li>(b) car parking spaces; or</li> <li>(c) storage spaces.</li> </ul>
<p><b>Fire safety compliance</b></p> <p>This by-law regulates compliance by owners or occupiers with fire safety requirements for the scheme.</p>	<ul style="list-style-type: none"> <li>○ Restricts change of locks.</li> <li>○ Deals with maintaining fire alarms within lots.</li> <li>○ Provides indemnities for costs associated with non-compliance.</li> </ul>
<p><b>Flooring</b></p> <p>This by-law regulates the flooring systems.</p>	<ul style="list-style-type: none"> <li>○ Types of flooring systems permitted/prohibited.</li> <li>○ If a change is proposed the requirement for acoustic testing and standard of compliance being established.</li> </ul>
<p><b>Green initiatives</b></p> <p>This by-law regulates the type of green initiatives that may be permitted.</p>	<ul style="list-style-type: none"> <li>○ Solar panels.</li> <li>○ Water tanks.</li> <li>○ Other initiatives.</li> </ul>
<p><b>Moving and storing goods or furniture</b></p> <p>This by-law regulates the transportation or storage of goods on the common property.</p>	<ul style="list-style-type: none"> <li>○ Consent of owners corporation required.</li> <li>○ Times which transportation of goods is permitted.</li> <li>○ Bond payable.</li> <li>○ Access.</li> <li>○ Liability for any damage.</li> <li>○ Indemnities for losses.</li> <li>○ Prohibit storage of hazardous materials.</li> </ul>
<p><b>Overcrowding of lots</b></p> <p>This by-law regulates the amount of residents per lot.</p>	<ul style="list-style-type: none"> <li>○ No more than two residents in a one bedroom or studio, excepting children.</li> <li>○ No more than four residents in a two bedroom, excepting children.</li> <li>○ Not to contravene any law or LEP applicable to the scheme.</li> </ul>
<p><b>Pets</b></p> <p>This by-law regulates the keeping of pets on lots or common property.</p>	<ul style="list-style-type: none"> <li>○ Prohibit all pets.</li> <li>○ Allow certain pets.</li> <li>○ Allow pets subject to certain conditions and the</li> </ul>

Type of by-law and its operation	Frequent modifications to the by-law
	consent of the owners corporation. <ul style="list-style-type: none"> <li>○ Owner responsibilities in relation to their pet.</li> </ul>
<b>Restriction of use</b> This by-law prohibits certain activities in a lot or on common property, subject to any impact of certain legislation.	<ul style="list-style-type: none"> <li>○ Specifically restricted commercial activities.</li> <li>○ Specifically restricted retail activities.</li> </ul>
<b>Security devices</b> This by-law regulates the installation of security devices.	Restriction of types of security devices, such as, fly screens, security bars on doors.
<b>Smoking</b> This by-law regulates smoking.	Prohibit smoking on or in either or all of: <ul style="list-style-type: none"> <li>(a) the common property;</li> <li>(b) the lots; or</li> <li>(c) courtyards or balconies of the lots.</li> </ul>
<b>Storage units in car parking spaces</b> This by-law regulates the installation of storage devices in the car parking space of a lot.	<ul style="list-style-type: none"> <li>○ Type of product, manufacturer, colour, materials and model.</li> <li>○ Prohibits storage of hazardous materials.</li> </ul>
<b>Foxtel equipment</b> This by-law regulates Foxtel equipment.	<ul style="list-style-type: none"> <li>○ Regulate requests for installation.</li> <li>○ Regulate connection to a lot.</li> </ul>
<b>Use of common property</b> This by-law regulates the use of common property by owners or occupiers.	<ul style="list-style-type: none"> <li>○ Rules relating to the use of barbecue/pool area.</li> <li>○ Not to create disruption to peaceful enjoyment of other owners or occupiers.</li> <li>○ Remove rubbish and clean the area immediately after use.</li> </ul>
<b>Works program</b> This by-law regulates the application for consent process for proposed works by owners.	Specifies: <ul style="list-style-type: none"> <li>○ Documents required.</li> <li>○ Consents to be obtained.</li> <li>○ Prohibited works.</li> <li>○ Insurance and bond requirements.</li> <li>○ Permitted materials, colours and brands.</li> <li>○ Conduct whilst works are in progress, e.g. hours of operation and transportation of materials.</li> <li>○ Certification of works.</li> <li>○ Indemnities for losses.</li> </ul>

## Works by Owners

Works by an owner usually require some form of authorisation from the owners corporation. There is a great deal of confusion in the sector as to what form of authorisation is required. The table below provides a non-exhaustive guide in this regard.

Types of Authorisation	Comments
<b>Standard by-law 5 contained in Schedule 1 of the Act or the Regulations</b>	<ul style="list-style-type: none"> <li>○ By-law 5 authorises damage to the common property in certain circumstances but does not authorise additions to the common property.</li> <li>○ By-law 5 is subject to sections 52 and 65A below.</li> </ul>
<b>Section 52 by-law</b> <i>Conferring right of exclusive use or special privilege</i>	<ul style="list-style-type: none"> <li>○ Section 52 by-laws can be used to authorise the exclusive use or confer a special privilege in relation to common property or specified parts of common property and may transfer the obligation to the owner and subsequent owners to maintain and upkeep the works on common property.</li> </ul>
<b>Section 65A by-law</b> <i>Authorising improvements to common property</i>	<ul style="list-style-type: none"> <li>○ Section 65A of the Act provides for the method of approval of the owners of the owners corporation to make improvements to the common property.</li> <li>○ A by-law made under section 65A may transfer the obligation to the owner and subsequent owners to maintain the works on the common property.</li> </ul>
<b>Other forms of consent</b>	Other forms of consent or authorisation may be suitable, such as subdivision and transfer.

This is a highly specialised area of the law and if you require further details or assistance in relation to these issues, please contact us.

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