

The Deadline is Looming – Have You Reviewed Your By-Laws?

Owners corporations that existed at 30 November 2016 are required to conduct a review of their by-laws before 30 November 2017.

Things to consider when conducting a Review

Keys areas include:

1. In older schemes, authorising renovation work which did not have the required approval of the owners corporation.
2. Amending conflicts between the new legislation and model by-laws (as elaborated below).
3. Amending general by-laws that may not be relevant for the scheme.
4. Adopting new by-laws that are suitable for the scheme.

Conflict Arising From the New Legislation

As with all new legislation, there are a number of issues that have arisen, importantly:

- Clause 4(2) of the transitional provisions at schedule 3 of the SSMA 2015 states that a by-law continued in force by this Act is taken to be a valid by-law if it was a valid by-law immediately before the commencement of this clause.
- Section 136(2) of the SSMA 2015 provides that a by-law is of no force and effect to the extent that it conflicts with the SSMA 2015 or any other legislation.
- We will await the Supreme Court's view as to whether by-laws registered before 30 November 2016 that conflict with the SSMA 2015 are of any force or effect.

Further detail in relation to potential issues can be obtained from the below link:

[Strata Reform: Will it Break Your By-Laws?](#)

Popular Additional Amendments to By-Laws

We are seeing owners corporations use the review of by-laws as an opportunity to consider further by-laws that may be of use, for instance:



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1. Amending the damage to common property by-law (often by-law 5) and replacing it with a by-law that reflects the correct legal position to avoid confusion about when it applies.
2. Making a new by-law to authorise the strata committee to approve Minor Renovations under section 110 of the SSMA 2015.
3. Making a by-law restricting short term letting, or limiting maximum occupancy.
4. Making a by-law restricting smoking.
5. Amending pets by-laws to impose a requirement to produce evidence that an animal is an assistance animal.
6. Making by-laws regulating the use of visitor parking.
7. Making the further types of by-laws as set out in the below link:

[What are some of the sorts of By-Laws Owners are adopting during the By-Law Review](#)

Reviewing and amending the scheme's by-laws can address these considerations and avoid uncertainty.

Bannermans is available to advise and assist in relation to the above matters.

Prepared by Bannermans Lawyers

8 June 2017



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