

# Control of Unauthorised Parking – Common Sense Prevails

Bannermans Lawyers' clients recently achieved a great result in the NSW Civil & Administrative Tribunal ("Tribunal"), which we expect will bring to an end long standing parking problems.

Our clients are lot owners in a strata scheme at Bondi Beach. For an extended period, access to their garage has been blocked regularly by unauthorised parking. They attempted to remedy the situation by proposing a by-law involving installation of a swinging gate on the boundary line between the front of the strata property and the adjoining public footpath and road, which would deny unauthorised persons access to the relevant area.

The owners corporation refused to make this by-law, rejecting a motion that the by-law be made proposed at an extraordinary general meeting, giving our clients no real alternative but to apply to the Tribunal, for an order to the effect that the owners corporation had unreasonably refused to make the by-law and must make the by-law.

The application was successful and the Tribunal made those orders. In our view, the reason why our clients were successful is that is that they took care in framing their proposal and subsequent application, making a reasonable proposal and taking care to properly demonstrate that their proposal was reasonable and of benefit to the scheme as a whole. In particular:

- They presented a reasonable and clear solution, providing a contractor quotation and agreeing to pay half of the cost.
- Their proposal carefully considered benefits for the scheme and other owners, as well as impacts on other owners and how those might be addressed.
- Their proposal and their subsequent application was supported by comprehensive and persuasive evidence, including a report by an expert traffic engineer, addressing a range of issues, including:
  - The extent of the problem unauthorised parking was causing for the applicants, there having been at least 23 instances of illegal parking in a 12 month period.
  - The effectiveness and cost effectiveness of the proposed solution, not just for the applicants, but as a solution for ongoing problems affecting the scheme as a whole.
  - The inability of alternative measures, such as bollards, to deal adequately or at all with the underlying issue of illegal parking.
  - The lack of significant adverse impacts on other owners, e.g. access/egress by them.

Please refer to our article [Unauthorised Parking – What can Owners Corporations Do?](#) for more comprehensive information relating to control of unauthorised parking in strata schemes.

If you have any unauthorised parking problems please contact us directly as we have considerable experience with these issues and would be happy to help you manage difficulties in this area. For questions or legal assistance please contact us on 02 9929 0226 or at [enquiries@bannermans.com.au](mailto:enquiries@bannermans.com.au).

**Prepared by Bannermans Lawyers**

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