NCAT rules by-law to restrict communications between a committee and owners invalid

Often committee members are faced with a volume of emails and correspondence they would rather not address given they are performing a voluntary role and there are valid ways to moderate and create effective communication protocols via a by-law.

In New South Wales & Administrative Tribunal (the "Tribunal") case of *Kentwell -v- The Owners – Strata Plan no. 2056 [2025] NSWCATCD ("Kentwell")*, the Tribunal established that it is paramount that an owners corporation ensure that any such communications by-law does not exceed what is permissible and cross into the realm of being harsh, oppressive, or unreasonable.

In Kentwell, the Tribunal struck down a communications by-law that could not reasonably operate in practice. The by-law imposed strict standards on how lot owners could communicate and allowed the strata committee or managing agent to ignore messages they deemed non-compliant, without informing the sender. If a message went unanswered, owners weren't permitted to follow up and were instead required to submit a formal motion for the next general meeting, even for urgent matters.

If an owner elected to send the same subsequent communication, the by-law rendered that owner liable for enforcement costs. This lack of transparency and practical recourse left well-intentioned owners at risk of breaching the by-law simply for seeking clarification or pursuing legitimate concerns.

The case illustrates the critical importance of ensuring that communications by-laws are not only reasonable in their objectives, but also procedurally fair and workable in the day-to-day operation of a scheme. At Bannermans Lawyers, we have extensive experience in drafting clear and enforceable communications by-laws that withstand legal scrutiny, while promoting respectful and efficient communication within a strata community.

It is also worthwhile noting that section 232(2) of the Strata Schemes Management Act 2015 provides that an owners corporation is not deemed to have refused to consent to a communication for a period of 2 months. Bear in mind though, different rules regarding convening meetings, pet and renovation applications

If your strata scheme is experiencing issues with owners who ignore reasonable communication boundaries, look no further than Bannermans Lawyers. We can assist with preparing a tailored and legally enforceable communications by-law to moderate and create effective communication protocol.

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Key takeaways

- The Kentwell case illustrates the importance of reasonable and fair communications by-laws in strata schemes.
- Strict communication protocols can lead to confusion and potential breaches by well-intentioned owners.
- Bannermans Lawyers can assist in drafting enforceable communications by-laws that promote effective communication.
- Section 232(2) of the Strata Schemes Management Act 2015 outlines the owners corporation's obligations regarding communication.
- Clear communication protocols are essential for the smooth operation of strata communities.

****The information contained in this article is general information only and not legal advice. The currency, accuracy and completeness of this article (and its contents) should be checked by obtaining independent legal advice before you take any action or otherwise rely upon its contents in any way.*

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