

## By-laws in your strata scheme

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Each strata scheme has its own by-laws, which are a set of rules that owners, tenants and, in some cases, visitors must follow. By-laws cover the behaviour of residents and the use of common property.

They can cover issues such as whether pets are allowed on the scheme, how smoking is regulated, parking and noise levels. The by-laws can vary significantly from scheme to scheme and it is important to understand which by-laws apply to your scheme.

Owners corporations can determine the by-laws that suit the preferred lifestyle of the strata scheme. A by-law must not be harsh, unconscionable or oppressive. No by-law is capable of restricting a dealing in a lot, including restricting short-term letting. By-laws cannot restrict children or assistance animals.

A copy of your scheme's by-laws is kept on the strata roll and is available from either the Secretary of the owners corporation or from your managing agent. You can obtain copies of by-laws from inspecting the records or contacting [NSW Land Registry Services](#).

The by-laws that apply to your strata scheme depend on the date the strata plan was registered.

## Review of all strata by-laws

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All strata schemes should have reviewed their by-laws by 30 November 2017 if they had not already done so since 30 November 2016. Schemes can use the model by-laws (see below) as a guide when reviewing their own by-laws.

If your scheme proposes changes to the by-laws, these must be put to a special resolution vote at a owners corporation meeting. The new by-laws also need to be registered with NSW Land Registry Services within six months after the special resolution has been passed. This can be done by lodging a [Consolidation/Change of By-Laws form](#). Tenants must also be notified of any change in by-laws.

## Model by-laws

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Owners corporations can choose to adopt the sample model by-laws or make changes to them to manage issues in strata like overcrowding, pets, parking, and smoke drift. Schemes are not required to adopt or adapt any of the model by-laws, they are available to assist

schemes in reviewing and making by-laws to suit their scheme. Model by-laws need to be approved by the owners corporation and registered with NSW Land Registry Services.

The model by-laws include options for:

- permitting pets
- dealing with nuisance or hazardous smoking
- helping owners corporations address noise and short-term letting
- measures to prevent overcrowding.

View or download a copy of the model by-laws in the Strata Schemes Management Regulation 2016 from the [NSW Legislation website](#).

## Pets

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The model by-laws provide owners corporations with options to control whether pets are allowed, and on what terms. For example, the owners corporation may choose to have a by-law which:

- bans pets on the property altogether (other than assistance animals)
- allows owners to keep a pet and simply provide 14 days notice from when the pet has started living on the lot owner's property, or
- allows a pet with the written permission of the owners corporation. This particular model by-law states that the owners corporation cannot unreasonably refuse the request. If they do refuse, they must give the owner written reasons outlining why the pet is not being permitted.

In all cases if pets are allowed, the lot owner must still supervise their pet, clean any common property that is soiled, and ensure their pet is not noisy or negatively impacting on other residents. Even if a strata scheme allows pets, a tenant always needs their landlord's permission first.

## Assistance Animals

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No by-law should prevent someone using a trained and certified assistance animal, even if the by-laws prohibit other pets on the scheme. Go to the [guide dogs and other assistance animals page](#) for more information.

## Nuisance smoking

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Owners corporations can pass a by-law to ban smoking on the common property and require an owner or occupier to make sure that second-hand smoke does not enter other lots or the common property. Alternatively, the owners corporation can pass a by-law to designate smoking areas within the common property.

## Common property rights by-law

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A common property rights by-law can be created if a lot owner requests personal use of common property for renovations or another type of use. An owners corporation can only make a common property rights by-law if it has the written consent of each owner.

The common property by-law must state whether:

- the owners corporation will continue to be responsible for the proper maintenance of the property or,
- impose on the owner or owners of the lots the responsibility for that maintenance and upkeep.

## What by-laws are in place at your scheme?

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Strata owners can inspect the owners corporation's records to confirm what by-laws are in place. Potential owners can get a copy of the by-laws through a [section 184 Certificate \(PDF, 171.46 KB\)](#). Landlords must give their tenants a copy of the current by-laws within seven days of the tenancy agreement being signed.

## Complying with by-laws

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All owners and occupiers in a strata scheme, including tenants, are legally obliged to comply with the by-laws of the scheme.

## Dealing with by-law breaches

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If an owner or resident breaches a by-law, the strata committee should first contact the resident and ask them to stop.

If it continues, the owners corporation can serve a notice to comply with a by-law. This notice advises the resident of the breach and asks for the conduct to cease immediately. The notice can be a letter or email and must include the details of the by-law that has allegedly been breached. Download a copy of the [notice to comply with a by-law \(PDF, 279.38 KB\)](#).

The notice can't be given without a majority vote at a meeting of the owners. However, the owners corporation can delegate their responsibility for issuing notices to comply to the strata committee or the strata managing agent.

## Penalties and fines

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The owners corporation can apply to the NSW Civil and Administrative Tribunal if a notice to comply has been issued and the conduct continues. If the Tribunal believes that there has been a breach of a by-law and the notice was given validly, they can issue a penalty of up to \$1,100. If the Tribunal has already fined the owner or occupier within the last 12 months for a breach of the same by-law, the penalty imposed by the Tribunal can double to a maximum of \$2,200. In this case, the owners corporation does not have to issue another notice to comply before applying to the Tribunal to impose the fine.

## Changing by-laws

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The owners corporation must decide by special resolution at a general meeting to make or change a by-law.

This means no more than 25 percent of votes can go against the motion. Notification of any new or changed by-law must be given to NSW Land Registry Services. A by-law has no force or effect if it is inconsistent with the *Strata Schemes Management Act 2015*, or any other laws.

## Other important responsibilities of strata residents

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There are other obligations for strata residents under the Act. Residents must not:

- interfere with or impact another person's lot, including services provided to them or the common property. This includes doing anything to affect another lot owner's water, sewage, drainage, gas, electricity, garbage, air conditioning, heating or telecommunications services
- cause a nuisance or hazard to another resident, such as playing loud music
- use the common property in a way that interferes unreasonably with others in the scheme using and enjoying it.

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