

By-law reforms

Important reforms to strata law will help better manage issues in strata in areas like overcrowding, pets, parking, and smoke drift, tailored to strata living today. This is part of an information series explaining the amendments in greater detail.

Streamlined approval for owner renovations

Current laws make it very difficult for owners to make even minor renovations to their lot. Even inserting a picture hook requires the approval of the owners corporation.

Changes will establish a common sense approach to owner renovations to help improve day-to-day living in strata.

The following three-tiered approval process for owner-renovations will apply:

- for **cosmetic changes** (like installing a picture hook) the owner will not need to seek approval. (The by-laws can specify additional work which can be considered cosmetic)
- for minor **renovations** (such as installing timber floors), only general resolution approval is required. (50% of those entitled to vote)
- for **renovations that change the external appearance of a lot** or are likely to affect waterproofing or structural changes, special resolution approval will be needed before the work could begin. (75% of those entitled to vote).

Fair Trading will develop further information to help lot owners and owners corporations understand and apply these new requirements.

Better parking control

The reforms will provide more options for owners corporations to control unauthorised parking on common property. As part of the changes, owners corporations will be able to enter into an agreement with the local council to manage unauthorised parking on the common property.

Current options already available to owners corporations to address unauthorised parking include by-law enforcement, signage and barriers and calling the police if an individual is thought to be trespassing.

Helping owners corporations address noise and short-term letting

Online booking services have become an increasingly popular way to let accommodation for short-term stays. Sometimes this can result in overuse of common property, like lifts, and in excess noise and other disruption detrimental to long term residents and owner occupiers. Most schemes already have by-laws about noise and the behaviour of residents.

Owners corporations are able to enforce these by-laws, and seek an order in the Tribunal. The reforms will make it easier for owners corporations to enforce by-laws and increase penalties available to the Tribunal to better deter poor behaviour. Fair Trading has further information available on its website for landlords and renters.

Measures to prevent overcrowding

Overcrowding can impact on the amenity of residents living in a strata scheme and pose significant health and safety risks. Common problems that arise can include noise problems, excessive water use, and insufficient parking in the complex. It can also place a strain on facilities and common property, and create fire hazards.

The reforms allow owners corporations to make a by-law limiting the number of people who can reside in a lot (but schemes must still allow no fewer than two adults per bedroom), so that strata schemes are able to better manage overcrowding.

Schemes wanting to impose such a limit will be able to introduce a by-law by passing a special resolution.

If any owner or tenant breaches the by-law after the notice has been issued, the owners corporation will be able to apply to the Tribunal, and impose penalties of up to \$5,500 for the first offence and \$11,000 for each and every subsequent offence detected within 12 months of the imposition of the earlier penalty. Larger families will

not be discriminated against because the by-law will not apply to children and an overcrowding by-law cannot be inconsistent with the planning approval for the building.

Pet-friendly model by-laws

During consultation on the reforms it was highlighted that, in some cases, people can be forced to choose between their pet and living in a strata building. Reforms will amend model by-laws to make it easier to keep pets as opposed to automatically prohibiting pet ownership in a scheme.

The strata reforms will remove any reference to a ban in the model by-laws. Schemes will also be actively encouraged to review their by-laws and to consider whether their existing ban should be lifted.

The strata reforms will not remove a scheme's ability to make its own rules about pets. Schemes could place reasonable conditions on keeping pets (eg. its access to common property). If the model by-law were adopted, the request to keep a pet could not be unreasonably refused. For example, schemes could not unreasonably refuse the keeping of a small pet, such as a cat, particularly if it is kept indoors. Each case would be considered on its merits.

A by-law cannot ban an owner from keeping guide dogs and other assistance animals. The by-law can require the owner to provide legal proof that the animal is an assistance animal. The reforms expand the category of assistance animals to include dogs or other animals that provide other assistance such as for those with a psychiatric disability. However, if an animal is causing a nuisance or hazard, NCAT can make an order that it can't stay in the lot.

Strengthening the ban on nuisance or hazardous smoke

Current strata law prevents residents from causing a nuisance or hazard that can interfere with another person enjoying their lot or common property. Individuals already have the power to take a resident who smokes to the Tribunal if their actions are thought to create a nuisance or hazard.

These powers will remain in the new Act and be strengthened by specifically noting that smoking can be considered to be a nuisance or hazard.

For the first time, the reforms include a proposal to introduce a model by-law that would allow them to ban a resident from allowing smoke to drift into another person's lot.

The by-law amendments will allow owners corporations to enforce the ban by issuing a notice to comply and ultimately seek an order in the Tribunal. The owners corporation would be able to breach offenders rather than leaving this to individual owners.

Increase in penalties

Under current strata law, residents who breach a by-law face a maximum fine of \$550 for each offence. The new Act doubles the maximum penalty to \$1,100 for each offence.

If the Tribunal believes a person has broken a by-law within 12 months of the Tribunal issuing a fine for breaching the same by-law, the Tribunal will have the power to issue a fine of up to \$2,200 for each offence.

Currently, before the Tribunal can impose monetary penalties for breaching a by-law, the owners corporation must serve a 'notice to comply' on the owner or occupier, requiring them to comply with the by-law. This will continue to be required for a first breach. However, if a second breach of the same by-law occurs within 12 months after the Tribunal has imposed a penalty, the owners corporation will be able to automatically apply to the Tribunal for a penalty without issuing a 'notice to comply'. The owners corporation will be able to breach offenders rather than leaving this to individual owners.

Fines will be payable to the owners corporation, unless the Tribunal instructs otherwise. This will help to remunerate the owners corporation for the offence (eg. compensating for any needed repairs to common property).

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