

Guide to consolidating by-laws for strata titles schemes in Western Australia

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Disclaimer

This guide has been prepared for the purposes of assisting strata owners in WA. Every effort has been made to ensure the information presented is accurate at the time of publication. Because it avoids the use of legal language, information about the law may have been summarised or expressed in general statements. This information should not be relied upon as a substitute for professional legal advice, nor relied upon as a guide for future legislation relating to strata in WA or in relation to current or future subdivision or development proposals, commercial transactions or dealings in strata title.



1 Overview



1.1 The purpose of this guide

As a result of the amendments to the *Strata Titles Act 1985* (STA), Landgate has created this guide to assist the Western Australian strata community with understanding the key changes to by-laws.

The aim of these changes is to:

- support the proper management of schemes,
- minimise disputes, and
- make living in strata fairer.

For the purposes of this guide, the below terms have the following meanings:

STA: *Strata Titles Act 1985* as amended by the *Strata Titles Amendment Act 2018*.

Scheme: a strata scheme or a survey-strata scheme.

Consolidation of by-laws: the creation of one document to include all current by-laws for the scheme in the one place. For schemes registered before the commencement of the STA on 1 May 2020, the process of consolidating the by-laws includes incorporating any changes arising from the strata reforms.

This guide will explain how a strata company can consolidate its by-laws, when it must do this, and when it does not have to.

1.2 By-laws – what you need to know

By-laws are the rules that everyone in the scheme must follow. This includes the strata company itself, which is a body corporate whose members are all the owners. It also includes each lot owner individually, and all the tenants in the scheme. It is as if each of these parties had signed an agreement to do what is set out in the by-laws. All strata companies can choose which by-laws they want to adopt for the scheme. This is done by putting forward a resolution to make, change or delete a by-law, and getting the required standard of vote. In this way, the creation, amendment and deletion (repeal) of by-laws is an important aspect of the strata company functioning as a self-contained democracy.

By-laws must be registered at Landgate within three months of being made, or they are not official – meaning that they cannot be enforced by the strata company.

It is the strata company's duty to enforce its by-laws. When someone has been breaching a by-law and this has caused a dispute, which cannot be resolved, the strata company or an owner in the scheme can make an application to the State Administrative Tribunal (SAT) to hear the matter. SAT can make orders for a person to stop breaching a by-law or fix the breach of the by-law. Beginning 1 May 2020, SAT may order a person to pay a penalty of up to \$2,000 for the breach of a by-law.

1.3 Finding the by-laws that apply to your scheme

Since all parties in the scheme must follow the by-laws, it's important to know what they are. You can get a copy of the by-laws for your scheme from Landgate by applying for a copy of the scheme plan. Any by-laws will be at the back of the plan, on a sheet labelled 'Form 8', listed under 'Schedule of Encumbrances'. The by-laws can be found under headings 'Management Statement' or 'Notification of change of by-laws'. What you find will depend on how your strata company has adopted its by-laws.

1.3.1 There are four different scenarios:

1. A strata company might have no by-laws registered with the plan. If this is the case, then the by-laws set out in Schedule 1 – Governance and Schedule 2 – Conduct of the STA, apply to the scheme. In this guide, the by-laws included in the STA at Schedules 1 and 2 are called the ‘default’ by-laws because they apply to all schemes that don’t have their own unique set of by-laws.

If your strata company uses only the default by-laws in the *Strata Titles Act 1985*, you don’t need to do anything to consolidate your by-laws.

You can stop reading now!

Example 1

Pretty Pond Strata Village was created in 2015, and didn’t have by-laws registered when it was first created. Its owners have never made any by-laws. So far, the only time they have needed to know what the by-laws were, was for the recent council election where there were more candidates than positions, so they had to know how the elections were conducted. They looked up what they needed to know in Schedule 1 of the STA.

2. A strata company might be bound overall by the default by-laws in the STA but have passed a resolution at a meeting to repeal one or more of the default by-laws, or adopt one or more new by-laws specific to the scheme.

Example 2

In 2017, the owners of Pretty Pond Strata Village decided to share the costs of maintaining the driveway in specific proportions, rather than unit entitlement. This was because the owner of one unit didn’t want to pay for maintenance for the main driveway, which they didn’t have access to. The other owners agreed, and the by-law was adopted by the required vote. Now Pretty Pond Strata Village has one by-law registered on the plan – and the other by-laws that apply are the default by-laws.

If the strata company has changed a lot of by-laws at different times, the by-laws that apply will be included in many separate documents. Any person who wants to know what the scheme by-laws are will have to access at least two separate documents to understand all the by-laws that apply to the scheme – the STA, and the specific by-law listed in the Schedule of Encumbrances on the plan.

3. A strata company might have a whole set of unique by-laws registered with the plan when the scheme was first created, and no changes have been made since. These might be similar to the default by-laws, or different.

Example 3

Acme Developments created a 10 lot scheme which was pitched to be attractive to young professionals. When they set up Acme Strata Scheme, they lodged a set of by-laws which were similar to the default Schedule 1 by-laws, but differed from the Schedule 2 by-laws in many ways. Also, they set out particular architectural and landscaping requirements, to create a certain look and feel to the scheme.

In this third scenario, if you apply at Landgate, you will find the entire set of by-laws that applies to the scheme in one document. The default by-laws in the STA are irrelevant to this scheme because they have their unique set (before the strata reforms, these were called 'management statements').

4. A strata company might have its own set of unique by-laws registered when the scheme was created, but then the by-laws have been changed over time. Perhaps some by-laws were deleted, some might have been amended, while some new ones were created. If you apply at Landgate, you will find the original set of by-laws, plus a sequence of the other changes that were made over time.

Example 4

The owners of Acme Strata Scheme have been busy creating new by-laws. In 2017 they introduced exclusive use by-laws setting aside parking areas on the common property for each owner.

In 2018 they lodged a new by-law setting out a special provision allowing the scheme to charge reasonable costs to an owner for recovering outstanding levies.

In 2019, they lodged an amendment to their by-laws, repealing Schedule 2, by-law 5 from the original set of by-laws that was lodged when the scheme was created.

In the above example, when the owners search at Landgate they will find the original by-laws registered with the scheme, the 2017 by-law about exclusive use parking spaces, the 2018 by-law about cost recovery and the 2019 by-law, which repeals Schedule 2, by-law 5 from the original set of by-laws. Please note this is essentially an instruction to ignore by-law 5, which is still listed in the original document.

If a strata company changes its by-laws over time, the possibilities for confusion increases as more changes are made. This is because there isn't one document including all the by-laws. Feedback from SAT has indicated that many disputes are caused by confusion around what by-laws apply in a scheme, due to such amendments.

For this reason, one of the changes introduced by the strata reforms is to require strata companies (under some circumstances) to gather all their applicable by-laws into one document, deleting all the by-laws that don't apply. Under some circumstances, strata companies will have to change their by-laws to reflect changes made in the strata reforms. Once a strata company has a consolidated set of by-laws, it will be easier for everyone in the scheme to understand what their rules are and to follow them.

1.4 Does my strata company need to consolidate its by-laws?

If the strata company only uses the default by-laws in the STA, and never makes any changes to its by-laws, then nothing needs to be done. All the necessary changes were made during the strata reforms.

If your strata company has any of its own, unique by-laws registered at Landgate, then there are three different scenarios around whether it consolidates its by-laws or not:

1. If the strata company is not seeking to make, amend or repeal any by-laws, it doesn't have to consolidate its by-laws if it doesn't want to.
2. If the strata company feels it would be worthwhile to consolidate its by-laws, it can do so.
3. If the strata company is seeking to make new by-laws, or amend or repeal existing ones, it triggers the requirement to consolidate.

The reason for having these different options was Landgate didn't want to impose the requirement to consolidate on every scheme in WA. While having by-laws scattered across different documents can make things difficult for some schemes, the majority of schemes don't appear to have problems. Registering the consolidated by-laws with Landgate represents an expense for the strata company - please check the Landgate website for current fees.

Beginning 1 May 2020, any scheme seeking to make, amend or repeal a by-law must consolidate its by-laws. The reason behind this is the strata company was already going to incur the expense of registering a by-law, and there is no additional charge for lodging a full consolidated set at the same time. If the strata company is adding, amending or repealing by-laws in an existing set, it is a good opportunity to reduce confusion and complexity by creating one set of by-laws, which represents a single source of truth. If everyone in the scheme follows the rules, it's good to know what they are.

If an existing strata company has made a lot of by-law changes over time, the first time they consolidate will be the hardest. After a consolidated version has been created, it shouldn't be too difficult in future to consolidate again when any subsequent by-laws are changed. Beginning 1 May 2020, every single time a by-law is changed, a strata company must lodge a consolidated set of by-laws.

Please note if the strata company came into existence after 1 May 2020, there are no old by-laws to consolidate. However, if they make any changes to their by-laws in the future, they will have to register them as a consolidated set.

1.5 Consolidation can be done without a vote in some circumstances

Usually, if a strata company makes any changes to its by-laws, it needs to hold a vote to do so. It needs to have a 'resolution without dissent' to change any Schedule 1 by-laws, and a 'special resolution' to change any Schedule 2 by-laws. (See section 123 of the STA for a detailed description of what these votes entail).

The strata reforms introduced three special categories of changes to by-laws. If a strata company is consolidating its by-laws and only making these types of changes, then it can consolidate its by-laws without having a vote. This is only allowed because the *Strata Titles (General) Regulations 2019* has a special 'transitional' provision to allow strata companies to do this, at regulation 180 clause (3).

A 'transitional' arrangement in an Act helps people make the transition from the old Act to the new Act. In this case, there are transitional arrangements in Schedule 5, clause 4, which allows strata companies to update their by-laws to reflect the changes made in the strata reforms. This is only for strata companies that existed before 1 May 2020, and are only consolidating their by-laws in three specific, limited ways. In this case, a vote is not needed to make these changes.

1.6 The three ways the reforms changed the by-laws

To be able to properly consolidate their by-laws, strata companies need to understand the strata reforms made three key changes in relation to consolidation of by-laws. If the by-laws are being changed in these three ways, then a vote of the strata company is not required to change the by-laws.

The three changes introduced by the strata reforms are:

1. that certain types of by-law are invalid
2. the introduction of new categories for by-laws – 'governance' and 'conduct'
3. several changes have been made to the default by-laws in the STA.

1. Some types of by-laws are invalid

If a strata company is thinking of consolidating its by-laws, there are several things they must keep in mind as they review them. One of these is on or after 1 May 2020, section 46 of the STA, 'Invalidity of scheme by-laws' sets out that by-laws are invalid if:

- **There was no power to make them**

This means neither the STA or any another written law gives you a power to make the by-law.

For example, you can't make a by-law imposing certain behaviour on a neighbour who isn't in the scheme. You can't make a by-law requiring lot owners to pay money to a particular charity, or set out that only blue cars are allowed in the car park – because there isn't a written law that gives you power to do these things.

- **They are inconsistent with the STA, or any other law**

For example, you can't make a by-law stating council members can vote on matters where they have a conflict of interest – because this is inconsistent with the STA, which says they can't, in section 137(3).

Another example: if the local planning scheme (a written law that isn't the STA) doesn't allow short stay accommodation, and the strata company has a by-law that does allow it, the by-law is invalid.

- **They limit the right of an owner to vote on a resolution (except as set out in the STA)**

It's important not to limit the rights of owners to vote, because this is how people have a say over the running of the scheme. The exceptions are listed in the STA, which sets out that owners can't vote on most resolutions if they owe money to the strata company, at section 120(2).

- **They prohibit or restrict someone selling their lot**

For example, a by-law stating no lot owners can sell their lot for five years would be invalid. Allowing by-laws like this would severely limit the value of the lot as an asset.

- **They prohibit the use of an assistance animal**

For example, if a by-law prohibits the use of a seeing eye dog in the scheme, it is invalid. Please note the animal in question must be a registered 'assistance animal', as defined in the Disability Discrimination Act 1992.

- **They are unfair, discriminatory, oppressive or unreasonable**

This is an important new provision, which puts an obligation on the strata company to behave in an ethical manner. For example, an unfair and discriminatory by-law might be one that prohibits the owner of lot three from using the pool (whereas, it is arguably reasonable to create a by-law stating owners who have not paid the levies relating to pool maintenance cannot use the pool). Or, it could be considered oppressive and unreasonable to create a by-law stating that no occupier in the scheme may play music. (Whereas it might be perfectly reasonable to create a by-law stating no occupier in the scheme may play music resulting in a certain decibel level being heard in other lots or the common property.)

In the following, less common scenarios, a by-law is invalid if:

- **They change a restricted use condition**

A 'restricted use condition' is a condition that is noted on the scheme plan (or attached document), which restricts the purposes the land can be used for. One example of a restricted use is that the strata company must be a retirement village. Restricted use conditions must be approved by the Western Australian Planning Commission. It's not within the power of the strata company to change such conditions. However, they may apply to the Western Australian Planning Commission to have the condition changed.

- **They are inconsistent with the strata lease, if it's a leasehold scheme**

For example, the strata lease will set out that the owner of a lot must maintain and repair the lot and keep it in a good condition, which means a by-law cannot be created allowing the owners of leasehold lots to neglect their property.

- **They discharge an easement**

For example, the plan may include a right of way easement allowing someone in a neighbouring property to pass over the land to get to their house. The strata company can't make a by-law which removes the easement.

It is important to know if your strata company has by-laws which breach the validity requirements set out in section 46 the STA, because neither the strata company nor SAT can enforce an invalid by-law. If there is a push to enforce the by-law and a dispute is taken to SAT, SAT will have the final say over whether it was valid or not.

2. New terms: 'governance' and 'conduct' by-laws

Another change to the by-laws that can be made while consolidating, which does not require a vote of the strata company, is categorising the current by-laws as governance or conduct by-laws. In the Strata Titles Act 1985 prior to 1 May 2020, the phrases 'governance by-law' and 'conduct by-law' were not in use. It was implied that by-laws included in Schedule 1 should be about governance of the scheme, and by-laws about conduct should be included in Schedule 2.

Landgate heard many complaints about strata companies introducing important new by-laws using the wrong standard of voting. This is undesirable because it is important the right type of vote is used to introduce a by-law, so lot owners get to have a fair say about the running of their scheme.

Beginning 1 May 2020, by-laws will be one of two different types:

- **Governance by-laws** set out how the strata company is run (governed). For example, these set out how meetings are run, how a strata council is formed and the role of office bearers of the council. Because these matters are important to the running of the strata company, the standard of vote to introduce, amend or delete this type of by-law is a resolution without dissent. This means no-one in the strata company votes against the proposal. Governance by-laws include the by-laws in Schedule 1 of the STA.
- **Conduct by-laws** set out how people are to behave in the scheme. For example, a by-law stating people must not park on common property. The standard of vote to introduce, amend or delete this type of by-law is a special resolution. This means at least 50 per cent of the lots vote for the proposal, and less than 25 per cent vote against it – counted both by number and by unit entitlement. This is an easier standard of vote to achieve than resolution without dissent. Conduct by-laws include the by-laws in Schedule 2 of the STA.

Beginning 1 May 2020, whenever a strata company makes a new by-law it will have to indicate whether it is a 'governance' or 'conduct' by-law when the by-law is registered with Landgate. Even though there is a different standard of vote for the two types of by-law, they are still rules to be followed by all the occupants.

The main significance of having the two types of by-laws is the standard of vote required to make, change or delete them. It is easier to make changes to conduct by-laws than to governance by-laws. The main concern is it would not be fair if a governance by-law is introduced with the lesser standard of vote used for conduct by-laws. If this happens it means a lot owner must follow a by-law, which sets out how the scheme must be run, even if they disagreed with it.

Any person consolidating the by-laws on behalf of the strata company must read the by-laws to ensure they have been included in the right category. A by-law that was included in Schedule 2, which relates to governance of the scheme, can be reclassified as governance. Similarly a by-law that was included in Schedule 1, which relates to conduct of the scheme, can be reclassified as conduct. These changes can be made as part of the consolidation process, and all the relevant sections re-numbered, without it having to be voted on by the strata company.

To help strata companies review their by-laws and understand whether they are classified correctly, the definitions are set out below in greater detail.

Governance by-laws

As set out in section 3(1) of the STA, governance by-laws include by-laws that:

- address the governance of the scheme
- are set out in Schedule 1 of the STA (that is, the default by-laws in the STA)
- deal with the constitution or procedures of the council
- deal with the officers of the strata company
- set out the procedures at meetings and the organisation of the affairs of the strata company
- relate to contributions, levies or money payable by lot owners to the strata company
- address the subdivision or development of the land (other than landscaping matters)
- set out that some owners have exclusive use of certain areas of common property
- leasehold by-laws, if it is a leasehold scheme
- relate to staged subdivision, if the scheme is, or has been built in stages
- set out planning conditions (for example, set by the local government or the Western Australian Planning Commission)
- set out architectural requirements designed to control or preserve the theme of the development
- specify plot ratio restrictions or open space requirements
- relate to the provision of, or payment for, internal fencing on the parcel or fencing to which the Dividing Fences Act 1961 applies
- exempt a 3, 4 or 5-lot scheme from the requirement to do certain things that larger schemes always have to do, these being: have an administrative fund, keep accounting records, keep minutes, have a letterbox for the strata company or keep a roll of the strata owners (see section 40 of the STA)
- deal with the carrying on of a business or trading activity by the strata company or the method of distributing and sharing any profit or loss
- are set out in the regulations as governance by-laws (at the moment, the regulations do not set out any matters as being governance by-laws).

Conduct by-laws

As set out in section 3(1) of the STA, conduct by-laws include by-laws that:

- deal with the conduct of an owner, occupier (ie, tenant) or any other person in the scheme
- deal with the management, control, use or enjoyment of a lot or common property
- are in the Schedule 2 by-laws (that is, the default by-laws in the STA)
- oblige owners of lots to meet certain landscaping requirements
- deal with the maintenance of water, sewerage, drainage, gas, electricity, telephone and other services
- relate to insuring the common property
- address safety and security matters
- set out procedures for the resolution of disputes
- are classified by the regulations as conduct by-laws (at the moment, the regulations do not set out any matters as being conduct by-laws).

With these detailed guides to assist them, the person consolidating the by-laws can ensure that each by-law is correctly classified as either a governance or a conduct by-law. This may involve relocating by-laws and renumbering them. Reclassifying a by-law does not give it more validity than it held before.

3. The strata reforms changed the default by-laws

The final type of by-law change, which can be made without a vote of the strata company, are those that 'mirror' the changes the strata reforms made to the default by-laws.

The strata reforms made some changes to the default by-laws with the aim of making it easier to manage schemes, make the STA easier to understand and increase fairness to all strata owners and occupiers. As previously mentioned, if a strata company is just using the default by-laws, they don't need to consolidate because these changes were made to the legislation. However if a strata company has its own by-laws, which were substantially based on the standard by-laws, they might have to make changes to mirror what was done during the reforms. Each of the changed by-laws will now be listed, to help the person consolidating the by-laws to understand whether they need to mirror these changes or not.

Moved: Schedule 1, by-law 1(2): Behaviour standards of owners, occupiers and visitors

Schedule 1, by-law 1(2) set out that an owner, occupier or other resident of a lot is not to use the common property in a way that interferes with the use and enjoyment of others, or use their lot in such a way as to cause a nuisance to others in the scheme. They must also ensure their visitors follow the same rules, as well as the rules for parking in the scheme.

The strata reforms moved this by-law from Schedule 1, and put it in Schedule 2 - Conduct, because it relates to the behaviour of people in the scheme. If a person consolidating their strata company's by-laws finds a by-law relating to the conduct of owners in Schedule 1, they can move it to Schedule 2.

Moved: Schedule 1, by-law 2: 'Power of proprietor to decorate etc.'

This by-law set out that a strata owner can decorate their own lot. The strata reforms removed this from Schedule 1 – Governance and put it in Schedule 2 - Conduct. This was done because it related to the conduct of a strata owner , rather than the governance of the scheme.

If a strata company finds that they have a similar by-law, which is in Schedule 1, in the consolidation process they can move it to Schedule 2 – Conduct.

Deleted: Schedule 1, by-law 11: 'General meetings of strata company'

This by-law set out how frequently annual general meetings are to be held, how special meetings can be requested by the strata owners (the STA as it was before 1 May 2020 refers to this as the 'requisition' of a meeting), and that items given to the secretary are to be included on the agenda. The strata reforms removed this by-law because these matters were too fundamental to the fair and proper running of the strata company to remain as a by-law, which can be changed by the strata company. Instead these matters were included in the STA, so all strata companies must follow them. These matters can be found in the following sections of the STA:

- 127 in relation to the timing of annual general meetings of the strata company
- 128(2)(b) and 128(3), the process for owners to call for a special meeting
- 129(4) an owner may give an agenda item to a member of the council, for inclusion on the agenda.

If a strata company has by-laws which deal with these matters, they will be invalid if they are not consistent with the above provisions of the STA. This means they can be removed as part of the consolidation process.

Deleted: Schedule 1, by-law 12: 'Proceedings at general meetings'

This by-law set out what a quorum is for a meeting, that a chairperson can adjourn a meeting, and a strata owner can only move a motion or nominate a candidate for council if they are 'entitled to vote' – that is, they have paid their levies. These matters were too important to leave as by-laws, and are now included in the STA, instead, at the following sections:

- 130 sets out what a quorum is
- 132(1) sets out that the chair may adjourn a meeting
- 120(2) sets out that an owner cannot vote on a proposed resolution if they owe any money to the strata company (except in some circumstances where the vote is on a very important matter. The STA sets out that if it is a unanimous resolution, a resolution without dissent, a vote to postpone the expiry day for a leasehold scheme or a termination resolution, then even if the owner owes money, they can still vote.)
- 132(2), which restricts a 'non-financial' owner from nominating a council member.

If the strata company has any by-laws, which are inconsistent with the above provisions in the STA, they will be invalid – this means, for example, that SAT cannot enforce them. These invalid by-laws can be removed as part of the consolidation process.

Deleted: Schedule 1, by-law 13: 'Restriction on moving motion or nominating candidate'

This by-law was another one which restricted voting for people who owed money to the strata company. This is dealt with in section 120(2) of the STA, which sets out owners cannot usually vote when they owe money to the strata company. This is a good example of where the strata reforms aimed to make the STA easier to understand: rather than listing every single occasion when a 'non-financial' owner cannot vote, it summarised this in one statement at 120(2). If the strata company has a by-law like this, it can be removed.

Deleted: Schedule 1, by-law 14: 'Votes of proprietors'

This by-law set out that each lot owner gets one vote, and on a 'poll', their vote is as per their unit entitlement. There are some subclauses dealing with how proxies can be appointed, that non-financial owners cannot vote and who gets to vote when there is more than one owner of a particular lot. These matters were removed from the by-laws and placed into the STA, at section 120. The voting power of each strata owner is too important to leave in the by-laws where it can be changed. If the strata company does have a by-law like this, it should be removed.

Deleted Schedule 1, by-law 15: 'Common seal'

This by-law set out how the common seal of the strata company was to be used, which is how the strata company properly executes documents. This by-law was deleted, because it was quite restrictive and limited the ability of the strata company to conduct its affairs electronically. The use of the common seal is now set out in the body of the STA in section 118, 'Common seal and execution of documents'. This section now allows the strata company much greater flexibility in how it authorises the execution of documents. Any by-law inconsistent with section 118 is invalid and can be deleted.

Deleted: Schedule 2, by-law 5: ‘Children playing upon common property in building’

This by-law set out that no child could play on the common property unless accompanied by an adult exercising effective control. In the context of the strata reforms setting out that a by-law is invalid if it is unfairly prejudicial, discriminatory, oppressive or unreasonable, it was felt this by-law should not remain. For example, a scheme could have a playground specifically put in to attract families to the scheme. It does not seem reasonable to have a blanket ban on a well-behaved child being on the common property or walking across the driveway to get to their place of residence, unless supervised by an adult.

It is a different matter to have a by-law prohibiting children from dangerous areas, prohibiting excessive noise from certain areas or setting out evening hours as ‘quiet times’. Such by-laws would be perfectly reasonable. If a strata company has a by-law which is substantially the same as the old Schedule 2 by-law 5, the by-law should be removed as part of the consolidation.

1.7 A vote is needed for other changes

To recap, no vote is required if the strata company is consolidating its by-laws but only making the three types of changes introduced by the strata reforms, these being:

1. removing invalid by-laws
2. reclassifying by-laws as governance or conduct
3. reflecting changes to the default by-laws.

The strata company can also renumber the by-laws the above changes have been made.

However, if the strata company wants to make changes going beyond this, then it will need a vote. For example, perhaps the person consolidating the by-laws for the strata company does not like the by-law that the strata company introduced in 1989 setting out that people must not make noise on the common property after 6:00pm. They can’t just delete the by-law, or change ‘6:00pm’ to ‘8:00pm’. This would have to be a proposal that goes to the strata company as a vote. If the strata company votes by special resolution (because it is a conduct by-law) for the by-law to be deleted or changed, then this can be done.

2 Suggestions on how to consolidate



This section sets out a proposed way of consolidating the by-laws. This is provided to be helpful, but the STA is not prescriptive about how the consolidation of by-laws should occur. This is because it is the type of decision a strata company must make according to what best suits its needs. The strategy that is best for a 2-lot scheme may be completely inappropriate for a 150-lot scheme.

2.1 Who does the consolidation?

The strata company may be in a position where it wants to make, amend or repeal a by-law, or, if this is not the case, decides it wants to consolidate its by-laws. If it does, a decision will need to be made on who can do the consolidation.

There are several parties who might be able to consolidate the by-laws on behalf of the strata company:

- All members of the strata company (this might be suitable for a small scheme)
- All, or some of the members of the strata council
- An officer of the strata company (that is, the chairperson, secretary or treasurer)
- One of the lot owners
- A strata manager
- A lawyer engaged by the strata company
- Some other party with suitable expertise.

The entity deciding the best party to do the consolidation will either be the strata company or the strata council. The STA does not require the strata company to vote on who does the consolidation. Section 135 of the STA sets out that the functions of a strata company can be performed by the council, so the decision about who is to consolidate the by-laws can be made by the council, if there is one. However, the strata company can by ordinary resolution decide that the council is not to consolidate the by-laws.

At whatever level the decision is made, to avoid possible disputes it would be best for everyone in the strata company to be made aware of the need to consolidate and the proposed party to perform it.

2.2 No civil liability for officers of the council

If a lot owner undertakes the consolidation, it would be wise for them to do so on the basis that the consolidated by-laws will be tabled at a meeting of the strata council and formally adopted by the council. This way, the consolidated by-laws are adopted by parties who have the protection from liability that is set out in section 141, which is that:

- (2) No civil liability attaches to a person to whom this section applies for anything that the person has, in good faith, done or omitted to be done —
 - (a) in the performance of a function under this Act or scheme by-laws; or
 - (b) in the reasonable belief that the act or omission was in the performance of a function under this Act or scheme by-laws.

If some other non-professional person performs the consolidation, they should also have their version of the by-laws adopted by the strata council, so that the protection from civil liability in section 141 applies.

If a strata manager or lawyer is given the task of consolidating the by-laws, they should have the protection of professional indemnity insurance, if later someone argues an error in the consolidation process caused them damage.

2.3 Search at Landgate for the by-laws

Once a person or persons have been given the task of consolidation, the start of the process is to do a search on the plan with Landgate and look at all the by-laws that have been lodged. This information is at the back of the plan, on a sheet titled 'Form 8'. Copies of the documents with the by-laws on them will have a document number on them, which looks something like L012345 or N599999. These numbered documents will be copies of any additions, amendments or repeals of the default by-laws, which formerly appeared in the STA, or the by-laws created for the scheme in a Management Statement, and any additions, amendments or repeals of those by-laws.

It's important to note the document number to make sure you can clearly describe where all the by-laws came from. Before 1 May 2020, when by-laws were lodged for registration with the plan it would be done with a 'Form 25 – management statement'. If it was a change to existing by-laws or a modification of the default by-laws, it was lodged as a 'Form 21 - Notification of change of by-laws'. Check that these form identifiers appear at the top of the document. As previously stated, if there are no by-laws endorsed on the Form 8, the default by-laws in the STA apply and your scheme does not need to consolidate their by-laws until making, amending or repealing a by-law.

2.4 Creating one document with the by-laws in it

It may be that the strata company already has an editable word processing document of the by-laws. But if not, it is highly advisable to create a version of the by-laws in a Word document, or other similar word processing software program. (Note that if the strata company has a document setting out the by-laws, you should check it against the documents registered at Landgate to ensure it is accurate. Only the registered by-laws count.)

The by-laws lodged at Landgate will be a scanned PDF. Unfortunately due to limitations in Landgate's systems, it is only a scanned copy and page numbers will be in reverse order. It might be possible to use software with Optical Character Recognition capabilities, in order to transfer the content into a Word document. If the scan of the by-laws is too poor for Optical Character Recognition to be used, or if some of the by-laws were handwritten, it might mean that some or all of the by-laws must be re-typed. It is possible to get the strata company to fund the cost of getting someone to type it out. While re-typing represents an inconvenience, it will only have to be done once, and will mean that in future the strata company members will be able to print out their by-laws at any time. If there is another consolidation in future, it will be much easier.

Once you have an electronic document setting out all the by-laws that currently exist in the scheme, be sure to keep this version, before making any changes. Record the document numbers and dates that the different by-laws were lodged at Landgate, to help keep track of where each by-law came from.

2.5 Reviewing the by-laws

Once the current by-laws have been gathered in one place, the first step is simply to read them and come to an understanding of what the rules of the strata company are. Consider how the by-laws compare with the strata reform changes discussed earlier in this guide. Come to a first impression around the following matters:

- Do any of the by-laws seem like they might be invalid? If so, make a note of them, and the reason why (from the list that was discussed earlier). Record the reasoning behind these views. Remember other people in the scheme might take a different standpoint.
- Do all the by-laws in Schedule 1 fall into the definition of governance by-laws, while those in Schedule 2 fall into the definition of conduct by-laws? It is very likely there will be several in the 'wrong' category, because the strata reforms introduced governance and conduct as new concepts. Mark down the ones that look like they are in the wrong category.
- Are any of the by-laws like the ones moved or deleted by the strata reforms? Look at the description in this guide that sets out which by-laws these are, and consider whether your scheme by-laws are now inconsistent with the STA. To assist you, there is a table at the back of this guide with a summary of what these changes are.

Be sure to thoroughly record why any changes are proposed. If any by-laws are in dispute later, it is important for there to be a record of why changes were made. The table at the end of this guide sets out a proposed way of organising your thoughts about the key changes.

Once all these steps have been taken, the person or persons consolidating the by-laws can create a new version of the document and make the changes. If by-laws are moved about, the by-laws can be renumbered. If a by-law refers to another by-law by number, check that the numbers referenced are correct. If a registered by-law amends an earlier by-law, the consolidation only needs to show the latest version of the by-law.

When a first draft of the consolidation has been completed, it is a good idea to show it to someone else to get another viewpoint, check for errors, and check that only the three types of change allowed under the strata reforms have been made. Remember that the changes to the by-laws can't include anything beyond the elements discussed in this paper as being part of the strata reforms, unless this is done with the required vote by the strata company. This includes errors and duplications.

2.6 Presenting the consolidated by-laws to the strata company

If the person who has prepared the consolidated by-laws is a member of the strata company but not a member of the council, they should present the draft consolidated by-laws to one of these entities. The officer of the strata company or member of the council can then endorse the document and declare it to be the consolidated set of by-laws for the scheme.

A suitable way of ensuring that members of the strata company know about the proposed consolidated by-laws would be to include them in the agenda papers for the next meeting, so that all lot owners can come to the meeting having already read it. The matter could also be dealt with 'out of session', by emailing it to the lot owners. In either case, it would be a good idea to include a description of the changes made and why the strata reforms made it necessary to make them. This guide can also be included, so people can see why the changes were made. While the STA does not set out that the strata company needs to see or vote on the consolidated set of by-laws, it is only fair for lot owners to understand the set of rules they are supposed to follow.

It is quite possible the members of the strata company haven't given a lot of thought to the by-laws before, and may even propose some of the by-laws be changed in a way that is not set out as part of the strata reforms. If this happens, a vote is needed to change the by-laws. The vote that is required to change a governance by-law is a resolution without dissent, and for a conduct by-law it is a special resolution. Also, the vote can only be properly made if people were given the required notice of the matter to be voted on. If it seems likely that the by-laws will be changed in a way which is not part of the strata reforms consolidation process, check the STA at section 123 to see the requirements necessary for these votes to be properly passed.

If it is proposed to remove invalid by-laws, it is quite possible for owners to have differing views on what is and isn't valid. For example, during the public consultation phase of the strata reforms, many strata owners objected to the deletion of the by-law which set out that children could not play on common property without an adult present. They commonly put forward arguments that safety concerns made the by-law reasonable. In this case, Landgate took the view that a by-law addressing safety concerns would be more appropriate than banning all children.

However this demonstrates it is possible there will be disagreements about whether a by-law is invalid or not. In such cases, it might be best to leave it in. Keep in mind that where the consolidation is complex or contentious it is advisable to seek advice from an appropriate professional with expertise in strata.

If in the future any of the lot occupiers question the validity of the by-law and the matter ends up in SAT, SAT will have the final say on whether the by-law is valid.

After having the opportunity to see the consolidated by-laws adopted by the strata council, hopefully lot owners will agree the changes proposed are proper, or at least not raise any objections to them. The strata company or a member of the strata council should then fill out the approved form for lodging the consolidated by-laws, then lodge it and the consolidated by-laws with Landgate.

When a consolidated set of by-laws is lodged, it does not delete the record of the old by-laws that were previously adopted by the strata company. This means if there is a dispute about a by-law at some point after the consolidation has been registered, it will be possible to go back through the records and see all of the changes made, including any mistakes made in the consolidation.

2.7 Filling out the forms

Once the process of consolidating the by-laws is complete, the by-laws must be lodged at Landgate using the approved form, which is called: **Scheme By-laws - First Consolidation**.

Click on www.landgate.wa.gov.au/for-individuals/forms-and-fees or go to the Landgate website for this form. This form will be made available on 1 May 2020.

Print the completed form and sign, ensuring all signatories include their full names and the number of the lot they own. They also need to indicate what position they hold, such as owner, council secretary, etc. Take this document to Landgate for registration by the Registrar of Titles. Lodgement fees apply.

Please note there are other forms in relation to lodging by-laws, which don't relate to consolidation of the by-laws of an existing scheme:

- 1. Scheme By-laws - New Scheme** – only for new schemes being registered on or after commencement, where the scheme by-laws differ to the standard by-laws
- 2. Scheme By-laws – Application to Amend** – for registered schemes that already have registered consolidated by-laws and are now applying to register new by-laws or amendments or repeals.
- 3.** If any by-laws were made between the start of 2 February 2020 and the end of 30 April 2020, they do not need to meet the requirements to consolidate or be classified as governance or conduct by-laws as discussed in this guide. They can be lodged using one of the new forms, or the old form 21, as it was in the Strata Titles General Regulations 1996. These by-laws will automatically be classified as governance or conduct by-laws without the strata company having to do anything extra. (Note that the strata company must register a by-law within 3 months of it being made. For example, if the strata company made a new by-law on 1 February 2020, the opportunity to register it will have lapsed by 1 May 2020.)

3 Appendices



3.1 Table summarising strata reform changes

You may wish to use a table to track the changes that you have made, such as the one set out below. Make sure you keep a record of the changes were made during the process.

Example: completed renumbering and classification table					
Former Schedule, By-law no.	Doc. No	Topic/ heading	Governance/ conduct	New Schedule By-law No. Or deleted	Comments
Sch. 1 1(2)		Behaviour standards of owners, occupiers and visitors	Conduct	Sch. 2 BL 2	This was a Schedule 1 by-law. The strata reforms reclassified it as a Schedule 2 – Conduct by-law.
Sch. 1 by-law 2	N/A	Power of proprietor to decorate etc.	Conduct	Sch. 2, BL 15	This was a Schedule 1 by-law. The strata reforms reclassified it as a Schedule 2 – Conduct by-law.
Sch. 1 BL 11	N/A	General meetings of strata company	N/A	deleted	Key provisions moved into the STA at the following sections: s127 in relation to the timing of annual general meetings of the strata company s128(2)(b) and 128(3), the process for owners to call for a special meeting s129(4) an owner may give an agenda item to a member of the council, for inclusion on the agenda.
Sch. 1 BL 12	N/A	Proceedings at general meetings	N/A	deleted	Key provisions moved into the STA at the following sections: s130 sets out what a quorum is s132(1) sets out that the chair may adjourn a meeting s120(2) sets out that an owner cannot vote on a proposed resolution under most circumstances if they owe the strata company money s132(2), which restricts a ‘non-financial’ owner from nominating a council member.
Sch. 1 BL 13	N/A	Restriction on moving motion or nominating candidate	N/A	deleted	s132(2) sets out that a person cannot move a motion or to nominate a candidate for election unless entitled to vote. s120(2) sets out that owners cannot usually vote when they owe money to the strata company.

Example: completed renumbering and classification table (Cont.)

Former Schedule, By-law no.	Doc. No	Topic/ heading	Governance/ conduct	New Schedule By-law No. Or deleted	Comments
Sch. 1 BL 14	N/A	Votes of proprietors	N/A	deleted	Key provisions moved to s 120.
Sch. 1 BL 15	N/A	Common seal	N/A	deleted	Key provisions moved to s118 'Common seal and execution of documents'.
Sch. 2 BL 5	N/A	Children playing upon common property in building	N/A	deleted	Removed by the strata reforms, on the grounds that it was unfair/ discriminatory/oppressive.

How the table might look if the scheme changed its unique by-laws, to reflect the strata reforms:

Former Schedule, By-law no.	Doc. No	Topic/ heading	Governance/ conduct	New Schedule By-law No. Or deleted	Comments
Sch. 1 BL 17	G44 7117	Use of BBQ facilities	Conduct	BL 22	By-law reclassified
	G44 7117	Gatherings of 3 or more people prohibited on common property	N/A	Deleted	By-law was deleted due to being invalid – oppressive/ unreasonable.

3.2 The default by-laws beginning 1 May 2020

Set out below are the default by-laws in the STA, as they will appear on 1 May 2020

Schedule 1 - Governance by-laws

Any reference within these by-laws to ‘the Act’ or to ‘The Strata Titles Act 1985’ refers to the Strata Titles Act 1985 as amended by the Strata Titles Amendment Act 2018.

1. Duties of owner

(1) The owner of a lot must —

- (a) immediately carry out all work that may be ordered under a written law in respect of the lot other than such work as may be for the benefit of the building generally and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of the lot;
- (b) maintain and repair the lot, and keep it in a state of good condition, reasonable wear and tear, and damage by fire, storm, tempest or act of God excepted.

(1A) The owner of a lot must —

- (a) notify in writing the strata company immediately on becoming the owner of the lot, including in the notice the owner’s address for service for the purposes of this Act; and
- (b) if required in writing by the strata company, notify the strata company of any mortgage or other dealing in connection with the lot, including in the case of a lease of a lot, the name of the lessee and the term of the lease.

2. Deleted by Strata Titles Amendment Act 2018

3. Power of strata company regarding submeters

- (1) If the supply of gas or electricity to a lot is regulated by means of a submeter, the strata company may require the owner or occupier of the lot to pay the strata company by way of security for the payment of charges arising through the submeter an amount not exceeding \$200 and, if any amount so paid is applied by the strata company under sub-by-law (3), to pay such further amount or amounts by way of such security as may be necessary to maintain the amount of the security as, subject to this sub-by-law, the strata company may require.
- (2) The strata company must lodge every sum received under this by-law to the credit of an interest-bearing ADI account and all interest accruing in respect of amounts so received must, subject to this by-law, be held on trust for the owner or occupier who made the payment.
- (3) If the owner or occupier of a lot in respect of which a submeter is used for the supply of gas or electricity refuses or fails to pay any charges due for the supply of gas or electricity to that lot, the strata company may apply in payment of those charges all, or such part as is necessary, of any amount paid to the strata company by that owner or occupier under this by-law, including any interest that may have accrued in respect of that amount.
- (4) If a person who has paid an amount under this by-law to a strata company satisfies the strata company that the person is no longer the owner or occupier of a lot and that the strata company no longer has any liability or contingent liability for the supply of gas or electricity to that lot during the period when that person was an owner or occupier of the lot, the strata company must refund to that person the amount then held on the person’s behalf under this by-law.

4. Constitution of council

- (1) The powers and duties of the strata company must, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the council of the strata company and a meeting of the council at which a quorum is present is competent to exercise all or any of the authorities, functions or powers of the council.
- (2) Until the first annual general meeting of the strata company, the owners of all the lots constitute the council.
- (3) If there are not more than 3 lots in the scheme, the council consists of all of the owners of the lots and, if there are more than 3 lots in the scheme, the council consists of not less than 3 nor more than 7 of the owners of the lots, as is determined by the strata company.
- (4) If there are more than 3 lots in the scheme, the members of the council must be elected at each annual general meeting of the strata company or, if the number of lots in the scheme increases to more than 3, at an extraordinary general meeting convened for the purpose.
- (6) If there are co-owners of a lot, 1 only of the co-owners is eligible to be, or to be elected to be, a member of the council and the co-owner who is so eligible must be nominated by the co-owners, but, if the co-owners fail to agree on a nominee, the co-owner who owns the largest share of the lot is the nominee or, if there is no co-owner who owns the largest share of the lot, the co-owner whose name appears first in the certificate of title for the lot is the nominee.
- (8) Except if the council consists of all the owners of lots in the scheme, the strata company may by special resolution remove any member of the council before the expiration of the member's term of office.
- (9) A member of the council vacates office as a member of the council —
 - (a) if the member dies or ceases to be an owner or co-owner of a lot; or
 - (b) on receipt by the strata company of a written notice of the member's resignation from the office of member; or
 - (c) at the conclusion of an annual general meeting of the strata company at which an election of members of the council takes place and at which the member is not elected or re-elected; or
 - (d) in a case where the member is a member of the council by reason of there being not more than 3 owners of lots in the scheme, on an election of members of the council (as a result of there being an increase in the number of owners to more than 3) at which the member is not elected; or
 - (e) if the member is removed from office under sub-bylaw (8); or
 - (f) if the Tribunal orders that the member's appointment is revoked and the member is removed from office.
- (10) The remaining members of the council may appoint a person eligible for election to the council to fill a vacancy in the office of a member of the council, other than a vacancy arising under sub-bylaw (9)(c) or (d), and any person so appointed holds office, subject to this by-law, for the balance of the predecessor's term of office.
- (11) Except if 1 person is the owner of all of the lots in the scheme, a quorum of the council is 2 if the council consists of 3 or 4 members; 3, if it consists of 5 or 6 members; and 4, if it consists of 7 members.
- (12) The continuing members of the council may act even if there is a vacancy in the council, but so long as the number of members is reduced below the number fixed by these by-laws as the quorum of the council, the continuing members or member of the council may act for the purpose of increasing the number of members of the council or convening a general meeting of the strata company, but for no other purpose.

- (13) All acts done in good faith by the council, even if it is afterwards discovered that there was some defect in the appointment or continuance in office of any member of the council, are as valid as if that member had been duly appointed or had duly continued in office.

5. Election of council at general meeting

The procedure for nomination and election of members of a council must be in accordance with the following rules —

- (1) The meeting must determine, in accordance with the requirements of by-law 4(3) the number of persons of whom the council is to consist.
- (2) The chairperson must call on those persons who are present at the meeting in person or by proxy and entitled to nominate candidates to nominate candidates for election to the council.
- (3) A nomination is ineffective unless supported by the consent of the nominee to the nomination, given —
 - (a) in writing, and furnished to the chairperson at the meeting; or
 - (b) orally by a nominee who is present at the meeting in person or by proxy.
- (4) When no further nominations are forthcoming, the chairperson —
 - (a) if the number of candidates equals the number of members of the council determined in accordance with the requirements of by-law 4(3), must declare those candidates to be elected as members of the council;
 - (b) if the number of candidates exceeds the number of members of the council as so determined, must direct that a ballot be held.
- (5) If a ballot is to be held, the chairperson must —
 - (a) announce the names of the candidates; and
 - (b) cause to be furnished to each person entitled to vote and present in person or by proxy, a blank form in respect of each lot in respect of which the person is entitled to vote for use as a ballot form.
- (6) A person who is entitled to vote must complete a valid ballot form by —
 - (a) writing on the form the names of candidates, equal in number to the number of members of the council so that no name is repeated; and
 - (b) indicating on the form the number of each lot in respect of which the person's vote is cast and whether the person so votes as owner or first mortgagee of each such lot or as proxy of the owner or first mortgagee; and
 - (c) signing the ballot form; and
 - (d) returning it to the chairperson.
- (7) The chairperson, or a person appointed by the chairperson, must count the votes recorded on valid ballot forms in favour of each candidate.
- (8) Subject to sub-by-law (9), candidates, being equal in number to the number of members of the council determined in accordance with by-law 4(3), who receive the highest numbers (in terms of lots or unit entitlements as required under the Strata Titles Act 1985 section 122) of votes are to be declared elected to the council.

- (9) If the number (in terms of lots or unit entitlements as required under the Strata Titles Act 1985 section 122) of votes recorded in favour of any candidate is the lowest of the numbers of votes referred to in sub-by-law (8) and —
- (a) that number equals the number of votes recorded in favour of any other candidate; and
 - (b) if each of those candidates were to be declared elected the number of persons elected would exceed the number of persons required to be elected, as between those candidates, the election must be decided by a show of hands of those entitled to vote and present in person or by proxy.

6. Chairperson, secretary and treasurer of council

- (1) The members of a council must, at the first meeting of the council after they assume office as such members, appoint a chairperson, a secretary and a treasurer of the council.
- (2) A person —
- (a) must not be appointed to an office referred to in sub-by-law (1) unless the person is a member of the council; and
 - (b) may be appointed to 1 or more of those offices.
- (3) A person appointed to an office referred to in sub-by-law (1) holds office until the first of the following events happens —
- (a) the person ceases to be a member of the council under by-law 4(9);
 - (b) receipt by the strata company of a written notice of the person's resignation from that office;
 - (c) another person is appointed by the council to hold that office.
- (3A) The remaining members of the council must appoint a member of the council to fill a vacancy in an office referred to in sub-by-law (1), other than a vacancy arising under by-law 4(9)(c) or (d), and any person so appointed holds office, subject to this by-law, for the balance of the predecessor's term of office.
- (4) The chairperson is to preside at all meetings of the council but, if the chairperson is absent from, or is unwilling or unable to preside at, a meeting, the members of the council present at that meeting can appoint 1 of their number to preside at that meeting during the absence of the chairperson.

7. Chairperson, secretary and treasurer of strata company

- (1) Subject to sub-by-law (2), the chairperson, secretary and treasurer of the council are also respectively the chairperson, secretary and treasurer of the strata company.
- (2) A strata company may at a general meeting authorise a person who is not an owner of a lot to act as the chairperson of the strata company for the purposes of that meeting.
- (3) A person appointed under sub-by-law (2) may act until the end of the meeting for which the person was appointed to act.

8. Meetings of council

- (1) At meetings of the council, all matters must be determined by a simple majority vote.
- (2) The council may —
 - (a) meet together for the conduct of business and adjourn and otherwise regulate its meetings as it thinks fit, but the council must meet when any member of the council gives to the other members not less than 7 days' notice of a meeting proposed by the member specifying in the notice the reason for calling the meeting; or
 - (b) employ or engage, on behalf of the strata company, any person as it thinks is necessary to provide any goods, amenity or service to the strata company; or
 - (c) subject to any restriction imposed or direction given at a general meeting of the strata company, delegate to 1 or more of its members such of its powers and duties as it thinks fit, and at any time revoke the delegation.
- (3) A member of a council may appoint an owner of a lot, or an individual authorised under the Strata Titles Act 1985 section 136 by a corporation which is an owner of a lot, to act in the member's place as a member of the council at any meeting of the council.
- (4) An owner of a lot or individual may be appointed under sub-bylaw (3) whether or not that person is a member of the council.
- (5) If a person appointed under sub-bylaw (3) is a member of the council the person may, at any meeting of the council, separately vote in the person's capacity as a member and on behalf of the member in whose place the person has been appointed to act.

9. Powers and duties of secretary of strata company

The powers and duties of the secretary of a strata company include —

- (a) the preparation and distribution of minutes of meetings of the strata company and the submission of a motion for confirmation of the minutes of any meeting of the strata company at the next such meeting; and
- (b) the giving on behalf of the strata company and of the council of the notices required to be given under the Act; and
- (c) the supply of information on behalf of the strata company in accordance with the Strata Titles Act 1985 sections 108 and 109; and
- (d) the answering of communications addressed to the strata company; and
- (e) the calling of nominations of candidates for election as members of the council; and
- (f) subject to the Strata Titles Act 1985 sections 127, 128, 129, 200(2)(f) and (g) the convening of meetings of the strata company and of the council.

10. Powers and duties of treasurer of strata company

The powers and duties of the treasurer of a strata company include —

- (a) the notifying of owners of lots of any contributions levied under the Strata Titles Act 1985; and
- (b) the receipt, acknowledgment and banking of and the accounting for any money paid to the strata company; and
- (c) the preparation of any certificate applied for under the Strata Titles Act 1985 section 110; and
- (d) the keeping of the records of account referred to in the Strata Titles Act 1985 section 101 and the preparation of the statement of accounts referred to in the Strata Titles Act 1985 section 101.

Schedule 2 - Conduct By-Laws

1. Vehicles and parking

- (1) An owner or occupier of a lot must take all reasonable steps to ensure that the owner's or occupier's visitors comply with the scheme by-laws relating to the parking of motor vehicles.
- (2) An owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the written approval of the strata company.

2. Use of common property

An owner or occupier of a lot must —

- (a) use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment of the common property by other owners or occupiers of lots or of their visitors; and
- (b) not use the lot or permit it to be used in such manner or for such purpose as causes a nuisance to an occupier of another lot (whether an owner or not) or the family of such an occupier; and
- (c) take all reasonable steps to ensure that the owner's or occupier's visitors do not behave in a manner likely to interfere with the peaceful enjoyment of an owner or occupier of another lot or of a person lawfully using common property; and
- (d) not obstruct lawful use of common property by any person.

3. Damage to lawns etc. on common property

Except with the approval of the strata company, an owner or occupier of a lot must not —

- (a) damage any lawn, garden, tree, shrub, plant or flower on common property; or
- (b) use any portion of the common property for the owner's or occupier's own purposes as a garden.

4. Behaviour of owners and occupiers

An owner or occupier of a lot must be adequately clothed when on common property and must not use language or behave in a manner likely to cause offence or embarrassment to an owner or occupier of another lot or to any person lawfully using common property.

5. Deleted by Strata Titles Amendment Act 2018

6. Depositing rubbish etc. on common property

An owner or occupier of a lot must not deposit or throw on that lot or any other lot or the common property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of an owner or occupier of another lot or of any person lawfully using the common property.

7. Drying of laundry items and signage

An owner or occupier of a lot must not, except with the consent in writing of the strata company —

- (a) hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the building, other than for a reasonable period on any lines provided by the strata company for the purpose; or
- (b) display any sign, advertisement, placard, banner, pamphlet or like matter on any part of their lot in such a way as to be visible from outside the building.

8. Storage of inflammable liquids etc.

An owner or occupier of a lot must not, except with the written approval of the strata company, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material, other than chemicals, liquids, gases or other materials used or intended to be used for domestic purposes, or any such chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

9. Moving furniture etc. on or through common property

An owner or occupier of a lot must not transport any furniture or large object through or on common property within the building unless that person has first given to the council sufficient notice of their intention to do so to enable the council to arrange for its nominee to be present at the time when that person does so.

10. Floor coverings

An owner of a lot must ensure that all floor space within the lot (other than that comprising kitchen, laundry, lavatory or bathroom) is covered or otherwise treated to an extent sufficient to prevent the transmission therefrom of noise likely to disturb the peaceful enjoyment of an owner or occupier of another lot.

11. Garbage disposal

An owner or occupier of a lot must —

- (a) maintain within their lot, or on such part of the common property as may be authorised by the strata company, in clean and dry condition and adequately covered, a receptacle for garbage;
- (b) comply with all local laws relating to the disposal of garbage;
- (c) ensure that the health, hygiene and comfort of an owner or occupier of any other lot is not adversely affected by their disposal of garbage.

12. Additional duties of owners and occupiers

An owner or occupier of a lot must not —

- (a) use the lot for a purpose that may be illegal or injurious to the reputation of the building; or
- (b) make undue noise in or about the lot or common property; or
- (c) keep animals on the lot or the common property after notice in that behalf given to that person by the council.

13. Notice of alteration to lot

An owner of a lot must not alter or permit the alteration of the structure of the lot except as may be permitted and provided for under the Act and the by-laws and in any event must not alter the structure of the lot without giving to the strata company, not later than 14 days before commencement of the alteration, a written notice describing the proposed alteration.

14. Appearance of lot

An owner or occupier of a lot must not, without the written consent of the strata company, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.

15. Decoration of, and affixing items to, inner surface of lot

An owner or occupier of a lot must not, without the written consent of the strata company, paint, wallpaper or otherwise decorate a structure which forms the inner surface of the boundary of the lot or affix locking devices, flyscreens, furnishings, furniture, carpets and other similar things to that surface, if that action will unreasonably damage the common property.



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