

## **SPECIAL PRIVILEGES TO MAKE IMPROVEMENTS TO YOUR LOT (NSW) FREQUENTLY ASKED QUESTIONS**

### **What is the problem?**

You want to make improvements to your lot and your strata manager or owners corporation has directed you to get a by-law.

### **Why do I need a by-law?**

By-law 5 of the model by-laws in Schedule 1 of the *Strata Schemes Management Act 1996* (the Act) prevents an owner or occupier from “damaging or defacing” any structure that forms part of the common property, unless the written approval of the owners corporation is first obtained.

If the works are of “minor” nature an ordinary resolution motion can be passed at a general meeting of the owners corporation. An ordinary resolution requires a simple majority vote to pass. Minor works includes affixing nails or screws to hang pictures or cupboards, or replacing items such as taps, bathtubs and sinks in a bathroom or kitchen.

If works involve additions to common property or change the character of common property, the owner must seek approval under s.52 of the Act for the creation of a new by-law.

Additions would include improvements such as the installation of enclosures and awnings, air-conditioners, flooring, fences and any other items affixed or attached to common property. Removal of items such as load bearing walls within a lot also affect the structure of the building and require the creation of a new by-law for the lot.

### **What makes the Teys Lawyers by-law unique?**

- ✓ Fixed cost for preparation of the by-law
- ✓ Simple language
- ✓ Provides a detailed description of the improvements being made
- ✓ Outlines the owners corporation’s consent requirements
- ✓ Includes maintenance and indemnity provisions regarding improvements
- ✓ Includes a by-law consent form for the lot owner’s completion
- ✓ Includes an information sheet on the procedure for passing the by-law

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### **What will happen if I do not get a by-law?**

If an alteration or addition is made to your lot that effects or changes the character of the common property, and you have not received the owners corporation's consent for that alteration or addition, you may be in breach of the by-laws. The owners corporation may take action against you to have that alteration or addition removed and the common property restored back to its original condition.

### **Once I get the by-law drafted can I start works?**

No. You must have the written consent of the owners corporation before commencing works and the by-law must be passed by special resolution at a general meeting of the owners corporation. The by-law should also be registered prior to commencing works, as the by-law is not effective until it is registered on the certificate of title of the common property of the scheme.

### **What if the owners corporation refuses my by-law?**

If the owners corporation refuses to grant approval to carry out works, you should attempt mediation with the owners corporation. If that process is unsuccessful you may then lodge an application with an adjudicator to seek an order to approve the works.

### **What information will we need to prepare the by-law?**

In order to assist us in preparing an improvements by-law for your lot we will need a copy of your strata plan, the current by-laws, specifications of works being done, any drawings or diagrams and the full name of the lot owner for the by-law consent form.

### **How do I get a by-law for the purpose of making improvements to my lot?**

Call TEYS Lawyers on 02 9562 6500 or email [simone@teyslaws.com.au](mailto:simone@teyslaws.com.au) for an estimate to prepare and register this additional by-law for your strata scheme.