

---

## Topic 1 - What are by-laws?

### General by-laws

By-laws are a set of rules that a community titles scheme adopts that regulate the use of common property and lots within the scheme. By-laws for a community titles scheme are provisions that appear in the community management statement (CMS) for the scheme, under the heading of "BY-LAWS" (A s168).

The body corporate has the power to make specific by-laws allowing it to administer, manage and control common property and body corporate assets and regulate the use and enjoyment of lots, common property (including utility infrastructure), assets, services and amenities supplied by the body corporate (A s169).

By-laws usually regulate matters such as the keeping of animals, noise, parking and appearance of lots. The body corporate may either adopt standard by-laws as set out in the BCCM Act or alternatively make specific by-laws that better suit the schemes individual circumstances. Owner/occupiers are usually required to seek written approval to meet the conditions set out in the by-law, for example By-law 9 of the standard by-laws under the BCCM Act provides in part;

#### **9 Storage of flammable materials**

*(1) The occupier of a lot must not, without the body corporate's written approval, store a flammable substance on the common property.*

The restricted issues for committees, defined in Section 42 of the Standard Module provide, in part, that the committee is restricted from making a decision on a matter that may only be passed by resolution without dissent, special resolution or ordinary resolution of the body corporate. For example Section 139 of the Standard Module provides that the body corporate must, by *ordinary resolution*, adopt 2 budgets for each financial year.

However, the absence of any wording in the by-laws requiring these types of resolutions would indicate that the committee has the authority to give its written consent to, or refusal of, a request for approval. An exception would be if the body corporate has previously passed an ordinary resolution to restrict the committee from granting approval in by-laws.

### House rules

On many occasions bodies corporate pass motions (usually by ordinary resolution) at general meeting that they refer to as "house rules". However, there is no provision in the legislation that gives the body corporate power to enforce "rules".

### Exclusive use by-laws

An exclusive use by-law attaches to a lot in the scheme, and gives the occupier of the lot exclusive rights and enjoyment (or other special rights) to a part of the common property or a body corporate asset. Exclusive use by-laws are usually contained in Schedule E of the CMS. The body corporate may impose conditions on the granting of an exclusive use by-law. For example, the owner may be asked to make payments for car parking or a requirement that the person with the exclusive use carries out the maintenance (A s170).

### Where is the CMS held?

The CMS is effectively a "blueprint" for the scheme and is a document recorded in the Land Registry of the Department of Natural Resources and Water. Along with the by-laws, the CMS also contains other relevant information about the scheme including the scheme name, the regulation module applying to the scheme and the Schedule of Lot Entitlements. On modern CMS's by-laws are shown at Schedule C.

## **Land Registry locations**

For information on your closest Land Registry Office, forms and lodgement fees please phone: 13 13 04 or go to [www.derm.qld.gov.au/contactus/property.html](http://www.derm.qld.gov.au/contactus/property.html)