



Guide to Getting Your Special Privileges and/or Exclusive By-law Passed at General Meeting

1. Get your by-law on the agenda of the next general meeting

Once you have submitted your by-law to the strata manager for inclusion on the agenda for the next general meeting or have requested a general meeting be specially called to pass your by-law, it will be presented to all owners via notice and be voted on accordingly.

2. Make sure your motion includes all rights or privileges required

Ensure that your motion for by-law is in final form and includes all conditions required when put on the agenda for general meeting as it can not be amended at the meeting, unless all owners are present and notified of the amendment.

Where a motion is for special resolution at general meeting of the Owners Corporation, such as a motion for by-law, clause 32 (1) of Schedule 2 of the *Strata Schemes Management Act 1996* (“the Act”) requires that notice of a general meeting of the Owners Corporation be served at least 7 days before the meeting on each owner.

If a motion is amended at the general meeting, and not all owners were present, notification of those amendments would not be known to owners who were not in attendance. Therefore, where the amendments were of a material nature, owners that were not notified of the amendment may be able to challenge the motion as passed.

3. Sign the consent to making the by-law

Section 52 (1) of the Act requires the written consent of the owner or owners of the lot or lots concerned before making a special privileges or exclusive use by-law. This means your strata manager will most like



not place your motion on the agenda for general meeting until you sign the consent form to state that you consent to the special privileges or rights conferred under the proposed motion for by-law.

4. Quorum to be present at general meeting to consider the motion for by-law

A motion submitted at a general meeting of an owners corporation must not be considered unless there is a quorum present to consider and vote on the motion.

There is a quorum if –

1. at least 25% of all persons entitled to vote on the motion are present, either personally or by proxy, or
2. at least 25% of the aggregated unit entitlement of the strata scheme is represented by persons who are present and entitled to vote, either personally or by proxy.

5. By-law must be passed by special resolution via poll

It is a general misconception that you require 75% of all voters present (either personally or by proxy) to vote in favour of a proposed motion. In fact a special resolution is passed only after a poll is taken at the meeting and not more than 25% in value of the votes, by persons present (either personally or by proxy) and entitled to vote, are against the motion. The value of a vote cast by a person entitled to vote in respect of a lot is equal to the unit entitlement of that lot: clause 18(2) Schedule 2 of the Act.

For example, where there are 3 persons present and entitled to vote, each with equal unit entitlements, and 1 person votes against the motion, the motion will not pass, as the value of the votes cast against the motion is greater than 25% in value of the total votes cast. If 2 people vote for the motion and the third abstains, then the motion will be carried as a special resolution.



6. By-law must be registered on title of common property to be effective

Under s48 of the Act a by-law or, a new by-law, has no force or effect until the owners corporation has lodged a notification (a change of by-laws form) in the Registrar-General's office and the Registrar-General has made an appropriate recording of the notification on the Certificate of Title of Common Property.

We can arrange for your by-law to be registered via Bylaws Assist, our by-law registration agents, who will prepare all required documents for registration, liaising with your strata manager to obtain the original Certificate of Title of Common Property and personally lodge your notification at Land and Property Information.