



Building Works In Your Lot **Bylaw**

What you need to know...

1. You Own the Air-Space Within Your Lot

Unless otherwise stated on the strata plan or registered by-laws, you own the air space in your lot, and the boundary walls, floor and ceilings form part of the common property, as you would generally share these with other lot owners and occupiers.

Some items within the lot may also form part of the original structure of the strata plan and be considered common property, such as bathroom, kitchen and laundry tiles or flooring, hot water heaters, air-conditioning units etc., which if removed, relocated, added to or altered, will affect the common property.

2. Alterations, Additions and Erection of Structures that Affect Common Property Require 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.

When a lot owner wants to add to, alter or erect a structure on the common property, for their sole benefit, the written approval of the owners corporation is provided via a special by-law specifically for the lot.

The lot owner must seek approval under section 52 of the Act for the creation of a new special by-law.



3. Unauthorised works may have to be removed

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 at your expense.

4. Special Privileges, Rights of Exclusive Use or Privileges & Exclusive Use

Generally, works that are solely within the lot, and can not be seen or affect the outside appearance of the strata plan, can be conferred via special privilege by-law, as the owner does not require exclusive use of the common property, as it is already within their lot and not accessible to any other lot owners or occupiers in the scheme. Examples of this could include retiling and waterproofing of bathroom, kitchen and laundry walls and floors, removal of internal walls and electrical and plumbing within the lot etc.

However, if the works affect the common property, can be accessed by other lot owners and / or may affect their use and enjoyment of the common property, a right of exclusive use to the common property may also be included in the special by-law. For example, you want to install a pergola and deck in the common courtyard area adjacent to your lot but want it for your own exclusive use, an exclusive use and special privileges bylaw can be made to confer rights to exclusively use the courtyard and privileges to install and keep the pergola and deck on the courtyard area.

5. Have a Specialist Strata Solicitor Prepare your By-law

A special by-law can protect you as much as it can protect the Owners Corporation. Any good strata solicitor would ask for a detailed scope of works. The details have to be an adequate description of the works to be undertaken on the lot, as it is these works that you will ultimately become responsible to repair and maintain.

Contact **Building Bylaws** to prepare your special lot by-law accurately to ensure your interests and the interests of the Owners Corporation are protected equally.