

Common Property Rights By-Laws/ FAQ

What is a common property rights by-law?

This is a right, given by way of a by-law, to exclusively use and enjoy a specific area of common property which other owners are to be prohibited from using. They used to be called exclusive use by-laws.

When should I get a common property rights by-law?

You need a common property rights by-law when there is a part of common property in your strata scheme that is not on your title but no one uses the area except you and you want to formalise your use of this part of the common property.

What should be included in a common property rights by-law?

- A detailed description of area including marked strata plan to show exclusive use area
- Who has the liability for repair and maintenance of the exclusive use area?
- An indemnity to owners corporation for damage to exclusive use area

What is the process of getting a common property rights by-law?

1. All concerned owners must consent in writing to the passing of an exclusive use by-law in relation to common property before the by-law motion is considered at the general meeting.
2. A motion is submitted to a general meeting of an owners corporation must not be considered unless there is a quorum present to consider and vote on the motion.

3. A special resolution must be passed at the general meeting by a poll where 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.
4. .We register the by-law for you with the government within 6 months.

Can my common property rights by-law ever be revoked?

Your common property rights by-law will pass from you to subsequent owners when you sell. An owner can only lose the benefits of such a by-law only where:

- (a) the by-law contains provisions for its termination, or
- (b) the by-law contains provisions for its expiry, or
- (c) there are surrounding circumstances where the owners corporation can revoke the by-law, or
- (d) where the owners corporation passes a repealing by-law and you consent in writing the by-law being repealed, or
- (e) the disputes Tribunal makes an order to repeal or invalidate the by-law

How do I get an exclusive use by-law?

Call Bylaws Online on 02 0402852145 or email service@bylawsonline.com.au

About BylawsOnline

BylawsOnline provides rules for strata titled owners corporations and communities to live by. We do this in a cost effective and convenient way by providing them online with explanatory notes to aid strata managers, communities and lot owners. Our bylaws are fair to all parties and are written to help strata people live happily.

This document was written by strata lawyer Michael Teys (www.michaelteys.com) and the BylawsOnline service is operated by his law firm , Block Lawyers (www.blocklawyers.com.au)

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