

Changing By-laws

Drafting, Amending and Repealing By-laws in Strata

Amending, adding or removing by-laws requires approval from the owners corporation through a special resolution. The changes will be considered at a general meeting or an extraordinary general meeting.

To change strata by-laws, the suggestion to change must be presented to the owners corporation as a **motion** (see also Getting retrofits approved by owners corporation). If the motion is passed (agreed upon) at the general meeting, then the motion will become a **resolution**, and the by-law changes can be made.

There are four steps to getting changes to by-laws passed; drafting the by-law or amendments, getting on the agenda, getting the by-law motion approved and registering the by-law changes.

STEP 1 – Drafting, Amending and Repealing a By-law

“As the actual wording in a by-law...can mean the difference between compliance and non-compliance, it's strongly advised to have a specialist strata lawyer draft up any new by-laws or any amendments to existing by-laws to avoid any ambiguities. Yes, I realise that will cost the scheme (and/or the lot owner) some money BUT, it's very, very important to make sure the by-law is expressed as clearly and as correctly as possible”

Strataman

There are restrictions on the content of by-laws, and these restrictions need to be considered before drafting. For details on the wording of the by-law, you should consult other owners, strata manager, building manager and any external professionals that might help. If you have a strata manager or strata lawyer, they can help you draft the by-law.

Before drafting changes to the by-laws, it's a good idea to informally establish the level of owner support there is for the proposed changes to the building. Communication with other owners might provide ideas on how to word the by-law changes, and give an indication of how likely it is that the changes will be approved. You will also need to consider if your

proposed by-law affects or requires the amendment or repeal of existing by-laws, or creation of additional by-laws.

Once the wording of the by-law is decided upon, a motion needs to be drafted to present the by-law changes to the owners corporation (see also [Getting retrofits approved by owners corporation](#)).

STEP 2 - Getting on the Agenda of the General Meeting

To get on the agenda, you should email or mail the [statement of intent](#) to the [secretary of the committee](#) four to six weeks before the next general meeting. Alternatively, if you have a strata manager, they can help you get the motion to change your by-law on the agenda. This may be some time away depending on if your committee meets monthly, quarterly or irregularly.

You can either attend the meeting and watch the discussion, or present your case for by-law amendments at the meeting. If you plan to present a case, you should make the secretary and/or strata manager aware so they can allocate time on the agenda. If your request to present at the meeting is refused, you can still circulate your statement of intent and other documents to the strata committee, and put them up for discussion at the meeting.

STEP 3 - Getting a By-law Approved

All owners are asked to vote on the motion to change the by-law at the general meeting. For a by-law to be changed, no more than 25% of owners present at the meeting must vote against.

If you opt to present a case for the by-law changes in the meeting, try to relay the information that you have as clearly and concisely as possible, as you may not have much time to present. Listen to any concerns that are presented, and try your best to answer them.

If the by-law changes are **resolved** the by-law will be implemented. This means the strata committee will need to register the by-law.

If the by-law changes are **defeated** consider if it's possible to reword the by-law taking on the other owner's concerns, and attempt to get the revised by-law passed at the next meeting.

If your proposal will require work to be carried out on common property that will benefit one or more individual lots, a common property rights by-law will be needed. For example, the installation of solar panels connected directly to individual lots that are to be placed on the roof of the building. To make a common property rights by-law the owners corporation will require the written consent of each owner on whom the by-law will provide a right or special privilege. The owners corporation will also need to pass a special resolution. The common property by-law must state whether the owners corporation will continue to be responsible for the proper maintenance of the property or whether they will impose the responsibility for maintenance and upkeep on the owner(s) of the lot(s).

STEP 4 - Registering an Approved By-law

By-law changes that are resolved will not come into effect until they have been registered and recorded by the Registrar-General. The changes must be registered by the owners corporation or strata manager within 6 months of the vote. To register your by-law changes, fill out the Consolidation/Change of By-laws Form and submit the completed form to NSW Land Registry Services.

Additional Resources:

- Strata By-laws, Strataman
- How is a new by-law for a Strata Scheme created? Land Registry Services