

# Living in a scheme

## By-laws

## Other responsibilities



## By-laws

### ► What are by-laws?

All strata and survey-strata schemes have a set of by-laws, or 'rules' that owners, occupiers and in some cases, visitors must follow. By-laws cover issues such as parking, noise restrictions and the conduct of residents and visitors.

The strata company can enforce these rules through the State Administrative Tribunal (SAT), which may penalise a person who breaches a by-law.

### Types of by-laws

There are two types of by-laws in a strata titles scheme, governance by-laws and conduct by-laws.

### Governance by-laws

Governance by-laws deal with the:

- governance of the scheme
- subdivision or development of the land subdivided by the scheme (other than landscaping)
- exclusive use of common property in the scheme (exclusive use by-laws).

Examples include by-laws concerning the constitution or procedures of the strata council and officers of the strata company and, by-laws concerning contributions, levies, or money payable by an owner to a strata company.

Governance by-laws may only be made, amended, or repealed by a resolution without dissent.

### Conduct by-laws

Conduct by-laws deal with the conduct of an owner or occupier in the scheme, or the management, control, and enjoyment of a lot or common property in the scheme.

Examples include by-laws concerning pets, parking, behaviour of owners and occupiers on common property and use of common property.

Conduct by-laws may only be made, amended, or repealed by a special resolution.

## ► Learn which by-laws apply to your scheme

If you're not sure what the by-laws are for your strata titles scheme, the best place to start is by asking your strata company or strata manager.

They should be able to resolve your enquiry without you having to look any further.

One of the three scenarios described below will apply to your strata titles scheme and its by-laws.

What you'll see through these scenarios is that

some schemes follow the by-laws set out in the *Strata Titles Act 1985* (STA), with a variation depending on when your scheme was registered, and others register their own by-laws with Landgate. Each is legally valid.

It's important to note that STA was amended on 1 May 2020. These amendments included changes to the 'default by-laws' that were in Schedule 1 and 2 of the STA immediately before it was amended on 1 May 2020. These changes clarified the language used, classified by-laws as governance or conduct, and deleted by-laws that were no longer required.

### Scenario

# 1

#### Applies to:

- **Schemes registered on or after 1 May 2020** for which no by-laws were lodged for registration as a scheme document.

#### Your scheme's by-laws are:

- The governance by-laws in Schedule 1 and conduct by-laws in Schedule 2 of the STA that have been in effect since 1 May 2020. A reference copy of these by-laws is provided within this information sheet.

### Scenario

# 2

#### Applies to:

- **Schemes registered before 1 May 2020** that use the by-laws in the STA and whose strata company has not registered its own by-laws with Landgate.

#### Your scheme's by-laws are:

- The by-laws as amended by Schedule 5 clause 4 of the STA. A copy of these by-laws can be requested from your strata company or by sourcing a historical version of the STA via the [Western Australian Legislation website](#) and consolidating them with Schedule 5 clause 4 of the STA.

### Scenario

# 3

#### Applies to:

- **Schemes who have registered their own by-laws with Landgate.** A strata company has broad powers to make, amend and repeal by-laws and may create and register their own by-laws that are different to the by-laws in Schedule 1 and 2 of the STA. These by-laws cannot be inconsistent with the STA, the Regulations or any other written law.

#### Your scheme's by-laws are:

- Available through your strata company or strata manager (on behalf of the strata company) or you can order a copy online via [Landgate's website](#) at the Certificate of Title/associated documents page. To order, you will need the scheme by-law document number that is endorsed on the last page of your strata/survey-strata plan.

## ► Tenants and by-laws

All residents, including tenants, must follow a scheme's by-laws. If someone is breaching a by-law, tenants can inform the secretary of the strata council or strata manager of the strata titles scheme. A 'notice to comply' may be served on the person responsible for the breach.

## ► Breaching the by-laws

If an owner or tenant has been breaching a by-law and the strata company wants to take enforcement action, it must first provide a written notice to the person who is alleged to be acting in breach of the by-law.

This notice provides fairness and must set out:

- the by-law that it is claimed that the person has breached,
- the facts relied on as evidence of the breach,
- the action that the person must take to avoid breaching the by-law, or
- an explanation of the powers of SAT if an application is made to SAT to enforce a by-law.

The strata company can apply to SAT to enforce a by-law. A strata company can make an application to SAT if the:

- person breaching the by-law has been given the written notice referred to above and has contravened the notice
- contravention has had serious adverse consequences for another person
- person has contravened the by-law on at least three separate occasions.

SAT has power to make any order it considers appropriate to resolve the by-law enforcement proceeding. If SAT is satisfied the by-laws have been contravened, SAT has power to make an order that requires one or more of the following:

- pay a specified amount to the strata company by way of penalty,
- take specified action within a period stated in the order to remedy the contravention or prevent further contraventions, or
- refrain from taking specified action to prevent further contraventions.

The maximum amount SAT can impose by way of penalty is \$2000. Penalties of this nature can only be imposed by SAT and cannot be applied directly by a strata company.

## ► Invalid by-laws

New by-laws, amendments of by-laws and repeals of by-laws are only valid and effective if they are registered at Landgate. This registration needs to occur within three months of the by-law being made, amended or repealed by a relevant resolution.

It is also important to note that there is no presumption that a by-law is valid just because it is registered and the STA sets out where a by-law is invalid. Reasons under the STA that a by-law will be invalid includes, but is not limited to, where a by-law is:

- unfairly prejudicial to, or unfairly discriminatory against a lot owner or multiple lot owners,
- oppressive or unreasonable, or
- inconsistent with the STA or any other written law.

# Reference copy of WA's default by-laws

Schedules 1 and 2 of the STA contain the default by-laws for strata titles schemes in Western Australia.

They will only apply to your scheme if it was registered on or after 1 May 2020 and your strata company hasn't registered its own by-laws.

If you are unsure if these by-laws apply to your scheme, please:

- Check with your strata company or strata manager.
- Review the 'Learn which by-laws apply to your scheme' section of this information sheet.

## Schedule 1 - Governance by-laws

Any reference within these by-laws to 'the Act' or to 'The *Strata Titles Act 1985*' refers to the *Strata Titles Act 1985* as amended by the *Strata Titles Amendment Act 2018*.

### 1. Duties of owner

(1) The owner of a lot must —

- (a) immediately carry out all work that may be ordered under a written law in respect of the lot other than such work as may be for the benefit of the building generally and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of the lot;
- (b) maintain and repair the lot, and keep it in a state of good condition, reasonable wear and tear, and damage by fire, storm, tempest or act of God excepted.

(1A) The owner of a lot must —

- (a) notify in writing the strata company immediately on becoming the owner of the lot, including in the notice the owner's address for service for the purposes of this Act; and
- (b) if required in writing by the strata company, notify the strata company of any mortgage or other dealing in connection with the lot, including in the case of a lease of a lot, the name of the lessee and the term of the lease.

### 2. Deleted by *Strata Titles Amendment Act 2018*

### 3. Power of strata company regarding submeters

- (1) If the supply of gas or electricity to a lot is regulated by means of a submeter, the strata company may require the owner or occupier of the lot to pay the strata company by way of security for the payment of charges arising through the submeter an amount not exceeding \$200 and, if any amount so paid is applied by the strata company under sub-by-law (3), to pay such further amount or amounts by way of such security as may be necessary to maintain the amount of the security as, subject to this sub-by-law, the strata company may require.
- (2) The strata company must lodge every sum received under this by-law to the credit of an interest-bearing ADI account and all interest accruing in respect of amounts so received must, subject to this by-law, be held on trust for the owner or occupier who made the payment.
- (3) If the owner or occupier of a lot in respect of which a submeter is used for the supply of gas or electricity refuses or fails to pay any charges due for the supply of gas or electricity to that lot, the strata company may apply in payment of those charges all, or such part as is necessary, of any amount paid to the strata company by that owner or occupier under this by-law, including any interest that may have accrued in respect of that amount.
- (4) If a person who has paid an amount under this by-law to a strata company satisfies the strata company that the person is no longer the owner or occupier of a lot and that the strata company no longer has any liability or contingent liability for the supply of gas or electricity to that lot during the period when that person was an owner or occupier of the lot, the strata company must refund to that person the amount then held on the person's behalf under this by-law.

#### 4. Constitution of council

- (1) The powers and duties of the strata company must, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the council of the strata company and a meeting of the council at which a quorum is present is competent to exercise all or any of the authorities, functions or powers of the council.
- (2) Until the first annual general meeting of the strata company, the owners of all the lots constitute the council.
- (3) If there are not more than 3 lots in the scheme, the council consists of all of the owners of the lots and, if there are more than 3 lots in the scheme, the council consists of not less than 3 nor more than 7 of the owners of the lots, as is determined by the strata company.
- (4) If there are more than 3 lots in the scheme, the members of the council must be elected at each annual general meeting of the strata company or, if the number of lots in the scheme increases to more than 3, at an extraordinary general meeting convened for the purpose.
- (5) If there are co-owners of a lot, 1 only of the co-owners is eligible to be, or to be elected to be, a member of the council and the co-owner who is so eligible must be nominated by the co-owners, but, if the co-owners fail to agree on a nominee, the co-owner who owns the largest share of the lot is the nominee or, if there is no co-owner who owns the largest share of the lot, the co-owner whose name appears first in the certificate of title for the lot is the nominee.
- (6) Except if the council consists of all the owners of lots in the scheme, the strata company may by special resolution remove any member of the council before the expiration of the member's term of office.
- (7) A member of the council vacates office as a member of the council —
  - (a) if the member dies or ceases to be an owner or co-owner of a lot; or
  - (b) on receipt by the strata company of a written notice of the member's resignation from the office of member; or
- (c) at the conclusion of an annual general meeting of the strata company at which an election of members of the council takes place and at which the member is not elected or re-elected; or
- (d) in a case where the member is a member of the council by reason of there being not more than 3 owners of lots in the scheme, on an election of members of the council (as a result of there being an increase in the number of owners to more than 3) at which the member is not elected; or
- (e) if the member is removed from office under sub-by-law (8); or
- (f) if the Tribunal orders that the member's appointment is revoked and the member is removed from office.
- (8) The remaining members of the council may appoint a person eligible for election to the council to fill a vacancy in the office of a member of the council, other than a vacancy arising under sub-by-law (9) (c) or (d), and any person so appointed holds office, subject to this by-law, for the balance of the predecessor's term of office.
- (9) Except if 1 person is the owner of all of the lots in the scheme, a quorum of the council is 2 if the council consists of 3 or 4 members; 3, if it consists of 5 or 6 members; and 4, if it consists of 7 members.
- (10) The continuing members of the council may act even if there is a vacancy in the council, but so long as the number of members is reduced below the number fixed by these by-laws as the quorum of the council, the continuing members or member of the council may act for the purpose of increasing the number of members of the council or convening a general meeting of the strata company, but for no other purpose.
- (11) All acts done in good faith by the council, even if it is afterwards discovered that there was some defect in the appointment or continuance in office of any member of the council, are as valid as if that member had been duly appointed or had duly continued in office.

## 5. Election of council at general meeting

The procedure for nomination and election of members of a council must be in accordance with the following rules —

- (1) The meeting must determine, in accordance with the requirements of by-law 4(3) the number of persons of whom the council is to consist.
- (2) The chairperson must call on those persons who are present at the meeting in person or by proxy and entitled to nominate candidates to nominate candidates for election to the council.
- (3) A nomination is ineffective unless supported by the consent of the nominee to the nomination, given —
  - (a) in writing, and furnished to the chairperson at the meeting; or
  - (b) orally by a nominee who is present at the meeting in person or by proxy.
- (4) When no further nominations are forthcoming, the chairperson —
  - (a) if the number of candidates equals the number of members of the council determined in accordance with the requirements of by-law 4(3), must declare those candidates to be elected as members of the council;
  - (b) if the number of candidates exceeds the number of members of the council as so determined, must direct that a ballot be held.
- (5) If a ballot is to be held, the chairperson must —
  - (a) announce the names of the candidates; and
  - (b) cause to be furnished to each person entitled to vote and present in person or by proxy, a blank form in respect of each lot in respect of which the person is entitled to vote for use as a ballot form.
- (6) A person who is entitled to vote must complete a valid ballot form by —
  - (a) writing on the form the names of candidates, equal in number to the number of members of the council so that no name is repeated; and
  - (b) indicating on the form the number of

each lot in respect of which the person's vote is cast and whether the person so votes as owner or first mortgagee of each such lot or as proxy of the owner or first mortgagee; and

- (c) signing the ballot form; and
- (d) returning it to the chairperson.

- (7) The chairperson, or a person appointed by the chairperson, must count the votes recorded on valid ballot forms in favour of each candidate.
- (8) Subject to sub-bylaw (9), candidates, being equal in number to the number of members of the council determined in accordance with by-law 4(3), who receive the highest numbers (in terms of lots or unit entitlements as required under the *Strata Titles Act 1985* section 122) of votes are to be declared elected to the council.
- (9) If the number (in terms of lots or unit entitlements as required under the *Strata Titles Act 1985* section 122) of votes recorded in favour of any candidate is the lowest of the numbers of votes referred to in sub-bylaw (8) and —
  - (a) that number equals the number of votes recorded in favour of any other candidate; and
  - (b) if each of those candidates were to be declared elected the number of persons elected would exceed the number of persons required to be elected, as between those candidates, the election must be decided by a show of hands of those entitled to vote and present in person or by proxy.

## 6. Chairperson, secretary and treasurer of council

- (1) The members of a council must, at the first meeting of the council after they assume office as such members, appoint a chairperson, a secretary and a treasurer of the council.
- (2) A person —
  - (a) must not be appointed to an office referred to in sub-bylaw (1) unless the person is a member of the council; and
  - (b) may be appointed to 1 or more of those offices.

(3) A person appointed to an office referred to in sub-bylaw (1) holds office until the first of the following events happens —

- (a) the person ceases to be a member of the council under by-law 4(9);
- (b) receipt by the strata company of a written notice of the person's resignation from that office;
- (c) another person is appointed by the council to hold that office.

(3A) The remaining members of the council must appoint a member of the council to fill a vacancy in an office referred to in sub-bylaw (1), other than a vacancy arising under by-law 4(9)(c) or (d), and any person so appointed holds office, subject to this by-law, for the balance of the predecessor's term of office.

(4) The chairperson is to preside at all meetings of the council but, if the chairperson is absent from, or is unwilling or unable to preside at, a meeting, the members of the council present at that meeting can appoint 1 of their number to preside at that meeting during the absence of the chairperson.

## **7. Chairperson, secretary and treasurer of strata company**

(1) Subject to sub-bylaw (2), the chairperson, secretary and treasurer of the council are also respectively the chairperson, secretary and treasurer of the strata company.

(2) A strata company may at a general meeting authorise a person who is not an owner of a lot to act as the chairperson of the strata company for the purposes of that meeting.

(3) A person appointed under sub-bylaw (2) may act until the end of the meeting for which the person was appointed to act.

## **8. Meetings of council**

(1) At meetings of the council, all matters must be determined by a simple majority vote.

(2) The council may —

- (a) meet together for the conduct of business and adjourn and otherwise regulate its meetings as it thinks fit, but the council must meet when any member of the council gives to the other

members not less than 7 days' notice of a meeting proposed by the member specifying in the notice the reason for calling the meeting; or

(b) employ or engage, on behalf of the strata company, any person as it thinks is necessary to provide any goods, amenity or service to the strata company; or

(c) subject to any restriction imposed or direction given at a general meeting of the strata company, delegate to 1 or more of its members such of its powers and duties as it thinks fit, and at any time revoke the delegation.

(3) A member of a council may appoint an owner of a lot, or an individual authorised under the *Strata Titles Act 1985* section 136 by a corporation which is an owner of a lot, to act in the member's place as a member of the council at any meeting of the council.

(4) An owner of a lot or individual may be appointed under sub-bylaw (3) whether or not that person is a member of the council.

(5) If a person appointed under sub-bylaw (3) is a member of the council the person may, at any meeting of the council, separately vote in the person's capacity as a member and on behalf of the member in whose place the person has been appointed to act.

## **9. Powers and duties of secretary of strata company**

The powers and duties of the secretary of a strata company include —

(a) the preparation and distribution of minutes of meetings of the strata company and the submission of a motion for confirmation of the minutes of any meeting of the strata company at the next such meeting; and

(b) the giving on behalf of the strata company and of the council of the notices required to be given under the Act; and

(c) the supply of information on behalf of the strata company in accordance with the *Strata Titles Act 1985* sections 108 and 109; and

- (d) the answering of communications addressed to the strata company; and
- (e) the calling of nominations of candidates for election as members of the council; and
- (f) subject to the *Strata Titles Act 1985* sections 127, 128, 129, 200(2)(f) and
- (g) the convening of meetings of the strata company and of the council.

#### **10. Powers and duties of treasurer of strata company**

The powers and duties of the treasurer of a strata company include —

- (a) the notifying of owners of lots of any contributions levied under the *Strata Titles Act 1985*; and
- (b) the receipt, acknowledgment and banking of and the accounting for any money paid to the strata company; and
- (c) the preparation of any certificate applied for under the *Strata Titles Act 1985* section 110; and
- (d) the keeping of the records of account referred to in the *Strata Titles Act 1985* section 101 and the preparation of the statement of accounts referred to in the *Strata Titles Act 1985* section 101.

### **Schedule 2 - Conduct by-laws**

#### **1. Vehicles and parking**

- (1) An owner or occupier of a lot must take all reasonable steps to ensure that the owner's or occupier's visitors comply with the scheme by-laws relating to the parking of motor vehicles.
- (2) An owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the written approval of the strata company.

#### **2. Use of common property**

An owner or occupier of a lot must —

- (a) use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment of the common property by other owners or occupiers of lots or of their visitors; and

- (b) not use the lot or permit it to be used in such manner or for such purpose as causes a nuisance to an occupier of another lot (whether an owner or not) or the family of such an occupier; and
- (c) take all reasonable steps to ensure that the owner's or occupier's visitors do not behave in a manner likely to interfere with the peaceful enjoyment of an owner or occupier of another lot or of a person lawfully using common property; and
- (d) not obstruct lawful use of common property by any person.

#### **3. Damage to lawns etc. on common property**

Except with the approval of the strata company, an owner or occupier of a lot must not —

- (a) damage any lawn, garden, tree, shrub, plant or flower on common property; or
- (b) use any portion of the common property for the owner's or occupier's own purposes as a garden.

#### **4. Behaviour of owners and occupiers**

An owner or occupier of a lot must be adequately clothed when on common property and must not use language or behave in a manner likely to cause offence or embarrassment to an owner or occupier of another lot or to any person lawfully using common property.

#### **5. Deleted by *Strata Titles Amendment Act 2018***

#### **6. Depositing rubbish etc. on common property**

An owner or occupier of a lot must not deposit or throw on that lot or any other lot or the common property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of an owner or occupier of another lot or of any person lawfully using the common property.



## **7. Drying of laundry items and signage**

An owner or occupier of a lot must not, except with the consent in writing of the strata company —

- (a) hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the building, other than for a reasonable period on any lines provided by the strata company for the purpose; or
- (b) display any sign, advertisement, placard, banner, pamphlet or like matter on any part of their lot in such a way as to be visible from outside the building.

## **8. Storage of inflammable liquids etc.**

An owner or occupier of a lot must not, except with the written approval of the strata company, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material, other than chemicals, liquids, gases or other materials used or intended to be used for domestic purposes, or any such chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

## **9. Moving furniture etc. on or through common property**

An owner or occupier of a lot must not transport any furniture or large object through or on common property within the building unless that person has first given to the council sufficient notice of their intention to do so to enable the council to arrange for its nominee to be present at the time when that person does so.

## **10. Floor coverings**

An owner of a lot must ensure that all floor space within the lot (other than that comprising kitchen, laundry, lavatory or bathroom) is covered or otherwise treated to an extent sufficient to prevent the transmission therefrom of noise likely to disturb the peaceful enjoyment of an owner or occupier of another lot.

## **11. Garbage disposal**

An owner or occupier of a lot must —

- (a) maintain within their lot, or on such part of the common property as may be

authorised by the strata company, in clean and dry condition and adequately covered, a receptacle for garbage;

- (b) comply with all local laws relating to the disposal of garbage;
- (c) ensure that the health, hygiene and comfort of an owner or occupier of any other lot is not adversely affected by their disposal of garbage.

## **12. Additional duties of owners and occupiers**

An owner or occupier of a lot must not —

- (a) use the lot for a purpose that may be illegal or injurious to the reputation of the building; or
- (b) make undue noise in or about the lot or common property; or
- (c) keep animals on the lot or the common property after notice in that behalf given to that person by the council.

## **13. Notice of alteration to lot**

An owner of a lot must not alter or permit the alteration of the structure of the lot except as may be permitted and provided for under the Act and the by-laws and in any event must not alter the structure of the lot without giving to the strata company, not later than 14 days before commencement of the alteration, a written notice describing the proposed alteration.

## **14. Appearance of lot**

An owner or occupier of a lot must not, without the written consent of the strata company, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.

## **15. Decoration of, and affixing items to, inner surface of lot**

An owner or occupier of a lot must not, without the written consent of the strata company, paint, wallpaper or otherwise decorate a structure which forms the inner surface of the boundary of the lot or affix locking devices, flyscreens, furnishings, furniture, carpets and other similar things to that surface, if that action will unreasonably damage the common property.

## Other responsibilities

### ► Rates and other amounts payable

If the default governance by-laws apply to the scheme, then it is the lot owner's responsibility to pay all rates, taxes, charges, outgoings, and assessments that may be payable in respect of the lot.

### ► Property maintenance and works

If the default governance by-laws apply to the scheme, then it is the lot owner's responsibility to maintain and repair the lot and keep it in good condition. Exceptions are made to this requirement for reasonable wear and tear, and where damage occurs because of fire, storm, or other natural disaster.

Under these by-laws, a lot owner must also carry out all work that may be ordered under a written law in respect of their lot. Lot owners are exempt from this requirement to the extent that the works required benefit the building generally.

### ► Pets

Whether pets are permitted in a strata or survey-strata scheme will depend on the by-laws registered for that scheme. If the default conduct by-laws apply to the scheme, then occupiers may keep animals in a strata titles scheme until the council issues a notice not to.

It is open to a strata company to make different by-laws regarding the keeping of pets, however it is important to note that it may be challenged, if it is argued that the by-law is unfair or discriminates against one or more lot owners, especially if it is found to be oppressive or unreasonable in nature.

### ► Assistance animals

The STA provides that a by-law is invalid if it prohibits or restricts the keeping on the lot of an animal that is used as an assistance animal by a person with a disability who is an owner or occupier of a lot.

The STA provides that an assistance animal has the meaning given in section 9(2) of the *Disability Discrimination Act 1992* (Commonwealth). The STA further provides that a by-law is invalid if it prohibits or restricts the use on the land in the scheme of an assistance animal by a person with a disability.

### ► Nuisance smoking

The STA does not include any specific provisions for banning smoking. However, owners and occupiers of a lot in a scheme must not use, or permit the use of, the lot or common property in a way that interferes unreasonably with the use or enjoyment of another lot or the common property by another person. In the alternative, it is open to a strata company to pass a by-law that prevents smoking on common property.

### ► Garbage disposal

The STA includes a default conduct by-law that controls how an owner or occupier of a lot must dispose of their garbage.

This by-law requires a lot owner or occupier to:

- maintain a clean, dry, and covered receptacle for their garbage
- keep the receptacle for their garbage within their lot or on the part of the common property authorised by the strata company for this purpose
- comply with all local laws regarding garbage disposal
- ensure the health, hygiene, and comfort of other lot owners and occupiers is not adversely impacted by the disposal of their garbage.

In addition, an owner or occupier of a lot must not deposit or throw on their lot, any other lot, or on common property any rubbish, dirt, dust, or other material that may interfere with the peaceful enjoyment of another owner or occupier's lot, or the common property.

## ► Vehicle parking

The STA includes default conduct by-laws that relate to vehicle parking.

These by-laws are:

- an owner or occupier must take all reasonable steps to ensure that their visitors comply with a scheme's vehicle parking by-laws, and
- owners and occupiers must not park or stand any vehicle on common property without the written approval of the strata company.

A strata company is free to amend these by-laws or make new vehicle and parking by-laws that are different to these. A strata company may also enter into a contract or arrangement with a local government allowing them to enforce parking, and other local laws relating to roads within the scheme.

Vehicle parking by-laws and the *Perth Parking Management Act 1999*.

Strata titles schemes within the Perth parking management area (management area) are subject to the *Perth Parking Management Act 1999* (PPMA). The PPMA regulates and licenses parking in the management area as part of a government policy to provide a balanced transport network, manage congestion and provide an efficient transport system to, from and within the city centre.

Under the PPMA owners of land or buildings within the management area must not permit parking of a vehicle on the land or in the building unless:

- the land or building is used solely for private residential purposes, or
- the owner has a parking bay licence that permits the vehicle to be parked there, or
- the vehicle is a prescribed vehicle or is parked in prescribed circumstances.

Under the PPMA the strata company is taken to be the owner of the land and buildings in the strata titles scheme regardless of whether the land or building is common property, privately owned or subject to exclusive use by-laws.

The strata company of a strata titles scheme within the management area where the land or buildings in the scheme are not used solely for private residential purposes (for example a mixed-use scheme) may apply for a parking bay

licence to permit vehicles to be parked there. An individual owner of property within a strata titles scheme may not apply to license their bay separately from others in the scheme and licence variations will not be accepted from individual owners in relation to a parking bay they own.

The STA specifies that by-laws are invalid to the extent that they are inconsistent with the any other written law, and this includes the PPMA.

Schemes in the management area should seek advice on the application of the PPMA to their scheme and what by-laws may be appropriate to manage those obligations.

The Department of Transport can provide advice regarding the PPMA, and more information can be found on the Transperth website.

## ► Use of common property

Owners and occupiers of lots in a scheme must use common property in accordance with the STA and conduct by-laws of the scheme.

Under the STA, an owner or occupier of a lot must not:

- use, or allow someone else to use, common property in a way that unreasonably interferes with another person's use or enjoyment of another lot or the common property in the scheme, or
- use an area or space within the scheme in a manner that contravenes a restricted use condition set out on the scheme plan.

The default conduct by-laws within the STA require an owner or occupier of a lot to:

- use and enjoy common property in a way that does not unreasonably interfere with the use and enjoyment of the common property by other owners or occupiers of lots and their visitors,
- not use common property in a way that will cause nuisance to other lot occupiers (whether owners or not),
- take all reasonable steps to ensure that their visitors do not behave in a way that interferes with the peaceful enjoyment of another occupier's lot or the common property, and
- not obstruct the lawful use of the common property.

## ► No interference with utility conduits and utility services

The STA specifies that owners and occupiers of lots are not to interfere with utility conduits or utility services in a way that might impact the use and enjoyment of another lot or common property in the scheme. This includes not doing anything to affect water, sewage, drainage, gas, electricity, air conditioning, heating, communications and data services to other lots or common property.

## ► Short-stay accommodation

There is nothing in the STA that prohibits a strata company from allowing short-stay accommodation within their scheme. Lot owners generally have the right to use their property as a short-term rental, unless there are existing by-laws or local planning laws that prevent them from doing so.

The default conduct by-laws included in the STA don't include any by-laws relating to short-term rentals. Where a strata company wishes to prohibit or specifically allow short term accommodation within their scheme, they will need to make a by-law to facilitate this.

It is important to note that by-laws are subject to any other legislation. As a result, by-laws that allow short term accommodation will always have to conform with local planning legislation. That is to say that if the local planning scheme doesn't allow short-stay accommodation in the area a scheme is in, then a scheme cannot make a by-law to allow it.

The Department of Planning, Lands and Heritage or your local government can provide advice regarding the most recent legislative requirements around short term accommodation.

