

# Common Property

Newsletter for professionals in the facilities management sector.



## Zoning and Puppy Dogs



Edition: 20<sup>th</sup> January 2012

We were requested last year to reply to a special request from a lot owner who wanted to keep two little dogs in their apartment. The Owners Corporation did not have a set opinion regarding whether having two puppies would be good or not. In the main part, they wanted to allow this woman to have her pets.

We looked into the by-laws and found that the by-law permitted one small dog, cat or bird. Obviously, we felt that what would be required would be an amendment to the by-laws.

We then further investigated the zoning requirements for the premises. We found that the complex was in a land regeneration area. In relation to that zoning, there was a prohibition on more than one pet per house hold. The Local Environmental Planning Policy (L.E.P.) when one step further and said that, if you wish to have a pet, you must comply with a range of requirements including for example, the installation of animal proof fences around the full complex.

The purpose of the L.E.P. was designed to stop animals running throughout the regenerating flora. This might remind us all of the nanny state we live in, but it is worth noting the impact of zoning on by-laws.

A by-law is subservient to any Local Environmental Planning Policy. Any by-law made which is in conflict with a zoning 149 Certificate, will be void. By-laws cannot be made which are unlawful or in contravention of any law.

Therefore, in these circumstances, therefore we had to provide the Owners Corporation with advice that they could not even consider a by-law in relation to two animals.

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If you are making a by-law in relation to the use of a building, for example the use of commercial premises, you must ensure that the approval you are about to give does not violate any Environmental Planning Policy. If there is a violation, you may see your by-law rendered void some time in the future.

**Cheers,  
Bailey Compton  
and the team at ACP/Leverage!**



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