

# *Newstead Terraces News*

## *November 2019*



It's beginning to feel a lot like Christmas! Doogie and I wish you the very best of the holiday season. We hope you get lots of quality time with friends and family, and enjoy all the lovely facilities that Newstead Terraces has to offer. Just some reminders ....

### **FESTIVE SEASON PROTOCOLS**

It's here already, the warmer weather, the special events, the extra kilo's and the hangovers.

Just a quick reminder to be mindful of your actions' impact on your very close neighbours.

- Smokers – mindful of smoke drift and butt disposal. No smoking in common areas please!
- Late night chats on the balcony – remember noise travels to those trying to sleep
- Late night/ all night movie marathons with the balcony doors open and the volume up.
- Parties in the common area – welcome, but please let your neighbours know in advance
- Guests – leaving with a skin full and glass in their hands. It's your responsibility to make sure they leave quietly and don't put the empty bottle (or half full) in the garden bed whilst waiting for the UBER/OLA/DIDI/ Santa's Sleigh!

You may have a few days off work, but the neighbour upstairs has the life changing career presentation at 8.30am interstate and really, really, really needed a good night sleep. With a little polite notice to the neighbours, alternatives may be planned.

Most importantly, enjoy the festive season, and be kind to each other.

### **CHRISTMAS GIFT IDEA**

Why not shout your flatmate/better half a remote fob for Christmas. The rain will have to start sometime and what better way to get into the garage and keep dry than a remote control for the garage door. They are \$195 each and I have limited quantities in stock. Early bird gets the worm.

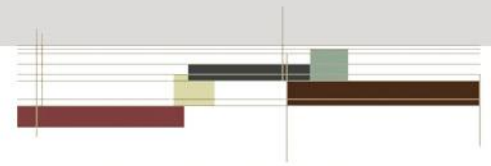
### **LOOKING FOR VOLUNTEERS**

I am heading up to the beach for a few days over the Christmas/New Year period and am looking for anyone staying home whom might have some time to water the pot plants and make sure the umbrella's are put down at night. If you are going to be around and think that you might like to be part of a group of residents that can help out please give me a call or send a quick email.

### **CHRISTMAS OFFICE HOURS**

The office will be open till Friday 20<sup>th</sup> December. It will reopen Monday 6<sup>th</sup> January. I will be in the office on Thursday 2<sup>nd</sup> January to run the End of Month and pay all the landlords their December rent. **Landlords** you will receive the rent on 3<sup>rd</sup> January. Please make arrangements to cover any mortgage payments required before 3<sup>rd</sup> January. **Tenants**, please be aware of the impact of public holidays on your rent payments and make them in advance if necessary.

A few thoughts on community living for the new year.....



## RENTING IN STRATA FAQ'S

By [Commissioner Chris Irons](#) on November 12th, 2019

**Do tenants have the same rights as the owners in a body corporate and what are they?** These are common questions of both tenants and owners to the Commissioner's office. In this article I answer some of the common enquiries to help you understand your obligations.

Keep in mind that obligations and rights of tenants and landlords also fall under the Residential Tenancies Authority, you can contact them by visiting their website <http://www.rta.qld.gov.au/>. The below information is in relation only to the *Body Corporate and Community Management Act 1997* (the BCCM Act) and its regulation modules.

### **Q1. Do the by-laws in our scheme apply to both tenants and owners?**

Yes, both tenants (occupiers, as they are known under body corporate legislation) and owners must abide by the body corporate's by-laws.

### **Q2. I am a tenant in a body corporate, my neighbour has loud parties all the time which are becoming a nuisance. I know there is a by-law about nuisance, what can I do?**

As an occupier of a lot, you can take steps to ask the body corporate to enforce the by-laws. You can complete a [BCCM Form 1](#) and give it to your body corporate committee asking them to enforce the by-laws. Refer to [Practice Direction 6](#) for more information about by-law enforcement applications.

### **Q3. I am a landlord and have given approval to my prospective tenant to have a pet but the body corporate has said no. They are good tenants and I don't want to lose them, what can I do?**

If the by-laws for the scheme allow a pet on approval and your body corporate has said no to the pet application, you should first attempt self-resolution to resolve the dispute. You should go back to the committee and ask why it rejected the application. The committee may provide reasons which your tenant could accommodate. If self-resolution is not successful, you can make a dispute resolution application to our office, listing the tenant as an affected person, if you think the decision is unreasonable.

When renting a lot in a body corporate, tenants need to be mindful that they need both the landlord AND the body corporate's approval.

### **Q4. I am a tenant and I want to install lattice inside my balcony. The owner said that I can, do I need approval of the body corporate?**

The body corporate may have a by-law about changing the appearance of your lot. You should check the by-laws for your scheme to see if you need approval. If you do, then write to the committee seeking the approval.

If the committee says no you can ask it for reasons. If self-resolution is not successful, you can make a dispute resolution application to our office if you think the decision is unreasonable.

### **Q5. I am a tenant and have been given a contravention notice by the body corporate, what happens next?**

The body corporate can issue you with a contravention notice if it reasonably believes that you have breached a body corporate by-law. If you have been given a continuing contravention notice ([BCCM Form 10](#)) then you should cease contravening the by-law within the timeframe provided on the notice. If you have been given a future contravention notice, then you should not repeat the contravention within the notice period – three months or a lesser time provided in the notice. If you do not comply with the notice, the body corporate may make a dispute resolution application with our office or start proceedings with the Magistrates Court to enforce the notice.

If you do not believe that you have been breaching the by-law, you could respond to the body corporate advising your reasons why you do not believe you are contravening the by-law.

**Q6. I am a tenant, the body corporate says they can enter my lot. I thought only the landlord's property manager could enter the lot, is this correct?**

No, the body corporate is authorised to enter the lot under [section 163 of the BCCM Act](#). However it can only enter for the purpose of inspecting the lot to find out whether work the body corporate is authorised or required to carry out is necessary, or to carry out that work. It must give you seven days' written notice, unless it is in an emergency. If you are given a notice under section 163 you must not obstruct the authorised person from entering the lot, otherwise penalties can apply.

**Q7. I am a tenant in a body corporate, there is a gate leading to the mailboxes that has been broken for months. The body corporate hasn't done anything about it, what can I do?**

The body corporate must maintain the common property in good condition. You can write to the body corporate and ask it to fix the gate. As an occupier you are not able to submit a motion to be considered by the body corporate, however the owner – your landlord – can. If the committee does not respond to your request you could try to get the owner to put forward a motion.

If these options fail, you may be able to lodge a dispute resolution application with our office.

**Q8. I am an owner/occupier in a body corporate, there is a tenant that lives next door to me who parks their car in a visitor car space. The committee says they have contacted the property manager and they can't do anything more. Is this correct, surely the committee can take action?**

If an occupier is parking their car in a regulated parking area, this is likely a breach of your scheme's by-laws. The body corporate is responsible under the BCCM Act for enforcing its by-laws not the landlord's property manager. You should give a [BCCM Form 1](#) to your body corporate asking that it issue a contravention notice to the tenant. If it does not respond to you within 14 days advising that it has issued a contravention notice, or it advises that they will not be issuing a notice, you may be able to lodge a dispute resolution application with our office. Refer to [Practice Direction 6](#) for more information about by-law enforcement applications.

You may need to ask for a copy of the body corporate roll to find out the name of the tenant. More information about accessing body corporate records can be found on our [website](#).

**Q9. I am a tenant, the body corporate refuses to communicate with me. They say that I can only contact them through my landlord or property manager/letting agent, is this true?**

No, there is no reason why you cannot have direct contact with the body corporate committee. Ask your letting agent for the contact details of the body corporate manager if there is one. Or if you already have the details of the committee, talk or write directly to it. There is nothing in the body corporate legislation that prohibits this.

**Q10. Can our body corporate restrict tenants from using certain parts of the common property by putting in a new by-law? We as owners think we should have more rights!**

No, a by-law cannot discriminate between types of occupiers (see [BCCM Act, section 180](#)).

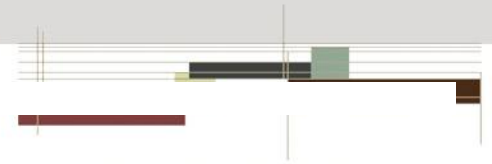
**Q11. I am an owner/landlord and I have been asked to breach my tenants because they are not complying with the by-laws. Is this correct, I thought the body corporate enforced the by-laws?**

It is the body corporate's responsibility to enforce the by-laws. The BCCM Act does not obligate you to do so. The body corporate can issue your tenant with a contravention notice. If it does, it must also give you a copy of the notice.

For this reason it is important that you update the body corporate roll if you have tenants with a lease of six months or more. This is a requirement under section [193 of the Standard Module](#).

*This article was contributed by Chris Irons, Commissioner for [Body Corporate and Community Management](#)*

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