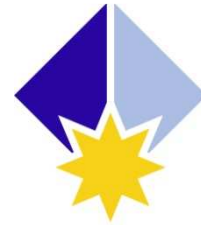


Common Property

Newsletter for professionals in the facilities management sector.



Checking with the DA



Edition: 11th November 2011

We have recently had an interesting question regarding the creation of a by-law to allow pets into a premises. This is not a newsletter about pets, but about the consequences of not checking your Development Approval (DA).

This client had been pushed by a particular lot owner to allow two small pets to be kept in the lot owner's apartment. The lot owner had an enormous amount of support from amongst the ranks of the Owners Corporation. This support may have been enough to have the by-law passed if it had reached the proposal stage.

We were able to obtain a copy of the development approval and checked this approval in relation to pets. What we found was that, because it was in an environment regeneration area, there were enormous restrictions placed on the ownership of pets. Most importantly, pets were limited to one pet per household and there were certain requirements that a lot owner needed to meet to keep that pet.

A by-law is subordinate to the development approval. If you make a by-law which contravenes the development approval, the by-law is effectively unlawful. If you look at the order of priority, the zoning of a property is the most vital document. Under that comes the development approval and this is followed by the by-law.

Hence, before you make a by-law, you should always refer to your DA to ensure that you are not breaching the development approval. Furthermore, you may need to look at the zoning certificate to ensure that your by-law is not breaching the zoning requirements. If your by-law breaches either the development approval or the zoning, your by-law can be rendered unlawful.

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

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