

Question: Our body corporate wants to create 6 extra visitor car parks. These car parks will be very close to our unit. What can we do?

Our body corporate wants to use common property in our entrance courtyard to create 6 extra visitor car parks. These car parks will be very close to our bedroom windows and will cause noise issues of a night with visitors coming and going.

Is there a rule about how close visitor parking can be to private space? Visitors using these spaces will be able to look directly into our bedrooms. We are very distressed with this potential issue.

Answer: You are entitled to vote 'no' to the motion and to encourage others to do the same.

The body corporate legislation does not regulate how close visitor car parks can be to lots.

We recommend that you:

1. liaise with your local Council to determine whether there are any rules which would restrict how close visitor car parking may be to a residential lot; and
2. write to the body corporate to express your concerns about the proximity of the proposed visitor car parks to your lot.

If the committee puts forward a motion to owners in respect of the additional visitor car parks, you are entitled to vote 'no' to the motion and to encourage others to do the same. In the event the motion is passed, you may challenge the reasonableness of the decision in the Commissioner's Office, including seeking interim orders that the motion is not implemented until such time that the requested final orders are considered by an adjudicator.

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Question: We recently bought a top floor unit and where told to be extremely careful about the waterproof membrane on the roof above. Now body corporate wants to turn this space into a rooftop entertainment area for all. What rights do we have?

We bought our top floor unit in September 2020. At the time, the estate agent insisted the rooftop common area was sealed with a special waterproof membrane and we had to be careful not to damage it. We were not to place sharp objects on it to cause penetration of the membrane, wear high heel shoes when walking on it, take our BBQ up there, or place chairs or tables up there with legs that may damage the membrane.

Now the body corporate wants to construct a rooftop entertainment area above our unit. We are concerned about water leaks into our unit caused by breakdown of membrane and also noise problems from possible gatherings.

The body corporate is yet to put it to a vote, but indications are that the majority of owners want the rooftop area to be constructed. What rights do we have?

Answer: The body corporate may make an improvement to the common property if authorised by the appropriate resolution.

The body corporate may make an improvement to the common property, such as installing an entertainment area on the rooftop, if authorised by the appropriate resolution.

The body corporate is responsible to maintain all waterproofing membranes that provide protection for lots and/or the common property in a building format plan scheme. Accordingly, in the event the waterproof membrane is damaged, the Body Corporate will be responsible to repair the waterproof membrane and any damage caused, including to your unit.

We recommend that you write to the body corporate and express your concerns about the proposed rooftop entertainment area, including as to safety, noise and the potential for the waterproof membrane to be damaged.

If the committee put forward a motion to owners in respect of the rooftop entertainment area, you are entitled to vote 'no' to the motion and to encourage others to do the same. In the event the motion is passed, you may challenge the reasonableness of the body corporate's decision in the Commissioner's Office, including seeking interim orders that the motion is not implemented until such time that the requested final orders are considered by an adjudicator.

If the proposal is approved, occupiers still need to comply with s.167 of the Body Corporate and Community Management Act 1997 and the by-laws regarding nuisance/unreasonable interference from the use of the rooftop entertainment area.

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