

APRIL 2020

# BODY CORPORATE NEWS

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## ESSENTIAL SERVICES

**Article by Scott McElwaine, Grosvenor Engineering Group**

Of late, with the COVID-19 pandemic getting the majority share of the attention, there has been a lot of discussion related to who is providing an essential service.

Unrelated to COVID-19 – I wanted to talk about Essential Services, What they are and how they relate directly to the fire safety of occupants within buildings, but particularly - high rise accommodation.

Essential services are in essence any installation or system within a building that was installed to improve the level of fire safety within the building. These systems are required by the various legislative requirements to safeguard occupants from illness or injury while evacuating during a fire and to provide facilities for occupants and Queensland Fire and Rescue Service (QFRS) to undertake fire-fighting operations.

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your home**

**Are by-laws enforceable?**



These installations can also prevent the spread of fire between floors or compartments of a building. If you have a prescribed fire safety installation in your building you must comply with the code requirements relevant to the equipment. This may require performance testing or just a visual inspection, but all systems and equipment will require some form of regular inspection or testing as required intervals to ensure they are capable of doing what they were installed to do.

## What do Essential Services do?

They are your first line of safety mechanisms that assist in reducing risk to life and property in the event of an emergency, such as a fire, or other emergencies. "Not all Essential Services are specifically for Fire Safety" e.g. Car park exhaust systems / Smoke and Heat Ventilation systems.

## What are they?

Essential services include equipment and protective devices such as; The obvious fire safety installations: Emergency & exit lighting, Fire Extinguishers, and Fire Hose Reels, Fire Detection and Alarm Systems (Including Smoke Alarms) Evacuation system or occupant warning system, Fire Sprinkler System, and Fire Hydrant system fire hose reels and fire detection and alarm systems.

But also includes the less obvious installations such as Stairwell pressurisation systems, smoke, and heat ventilation systems, passive fire protection such as Fire/Smoke Wall and Doors, Fire-Rated service penetrations, Paths of Egress (Exits).

## How do we identify what is in our building?

The Queensland Fire and Emergency Services provide a helpful tool that was designed to assist owners and occupiers in managing their compliance with the Fire and Emergency Services Act 1990 and the Building Fire Safety Regulation 2008. It is also a handy tool to assist building owners and occupiers in identifying what essential services may be in their buildings and make some reference to the required maintenance practices. This tool is available here:

<https://www.qfes.qld.gov.au/buildingsafety/documents/FSMT.pdf>

But this may not help you accurately identify what is or is not an essential service. For certainty, I would recommend engaging a reputable and professional person or company to attend your building and review the services installed along with a review of both the performance requirements and any maintenance records available for each system to ensure there are no gaps in performance and or compliance. In the case that gaps in maintenance are found, they could also guide you in preparation of tender documents that will ensure that contractors bidding for the maintenance of these systems, are aware of the exact requirements that the body corporate committee is needing to be fulfilled.

# INSURANCE – IT MAY BE BORING BUT IT COULD SAVE YOUR HOME

Article by Strata Advise Insurance Brokers

The recent bushfires and severe storm events over the summer period left thousands of Australian residents with damaged properties, massive clean-up costs and in dire need of compensation from their insurers. Some had cover, many did not.

These events stand as a strong reminder of the importance of Building & Contents Insurance, in restoring people homes, lifestyles and financial positions.

It is important to be aware that the Bodies Corporate Insurance provides cover for the building's structure and common property. From an insurance perspective, this means that the Body Corporate is responsible for all common areas and the structural elements of the building. Owners are typically responsible for the internal contents of their lot/unit

## Strata Building Insurance – The Basics

Strata insurance generally covers common or shared property, as defined on the title of the property. This might include common areas, lifts, pools, car parks, gardens, wiring, balconies, bathroom and kitchen fixtures, walls, windows, ceilings and floors.

Strata insurance is like any other form of insurance, in that there are restrictions to the policy expressed as exclusions. Each insurer has different exclusions, policy terms and conditions, and you may wish to speak with StrataAdvise Insurance Brokers for advice and clarifications on your Strata insurance cover.

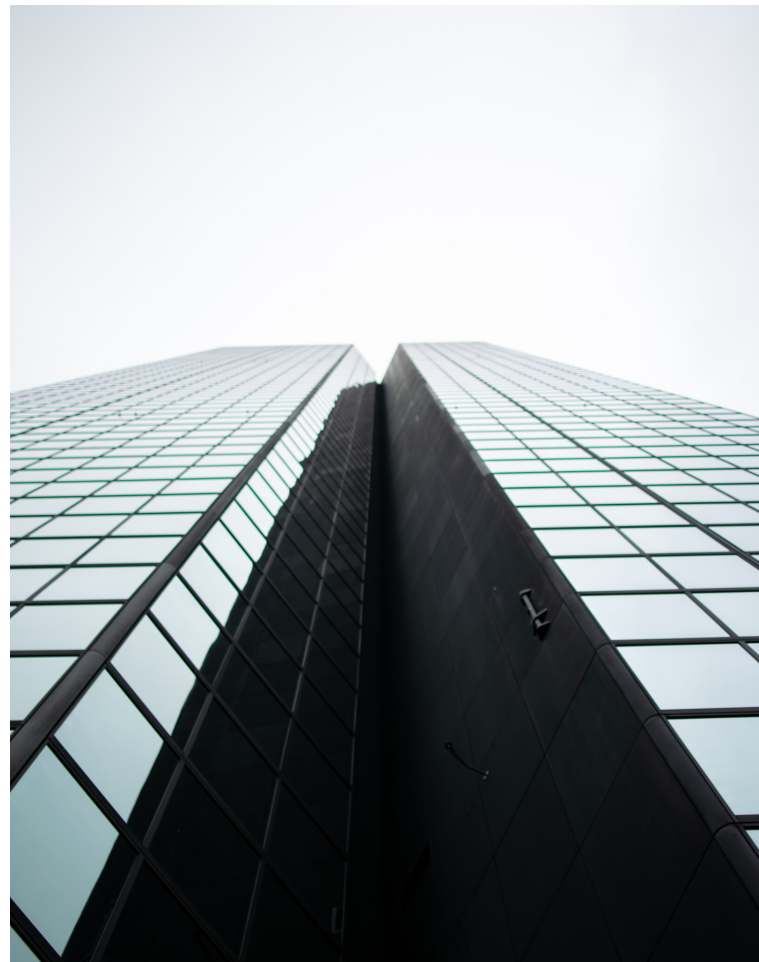
Is this the only cover I need as a resident? No. You should make sure you have appropriate contents cover for your belongings and for those things strata insurance does not protect.

*Strata insurance covers common or shared property only. This may include some of the fixed parts of your unit but will not cover everything. It is important lot owners have appropriate contents insurance to cover your personal belongings. You never know when you may need to rely on insurance to restore your life back to normal.*

## Loss Minimisation

It is extremely important to always protect your property and minimise the possibility of further damage occurring. This may involve a plumber, roofer or other trade being called to your property, to complete make safe works or rectify the source / cause of the damage.

The lot owner / Body Corporate should obtain a quote for the remainder of the repairs and submit these with photos showing the damage, to allow the Insurer to review before approval is granted.



# ARE BY-LAWS ENFORCEABLE?

Article by Peter Hunt, Mathews Hunt Legal

Yes, provided that the relevant by-law is valid.

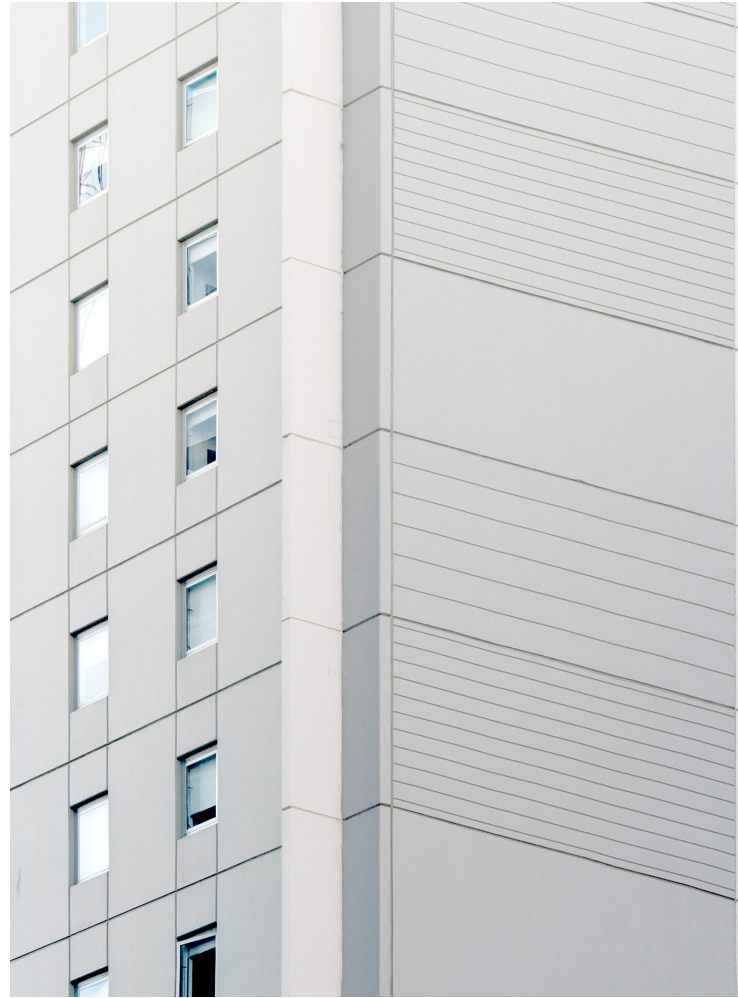
In order to be valid, a by-law must comply with the legislation which regulates the content of by-laws. Ensuring that the by-laws complies with recent legislation and developments in case law is therefore of great importance.

The *Body Corporate and Community Management Act 1997* states that bodies corporate must enforce their by-laws in accordance with the process set out in the legislation. Accordingly, bodies corporate should not turn a blind eye to meaningful by-law contraventions.

Essentially, the enforcement process involves the body corporate issuing a contravention notice requesting that a person either cease any ongoing contravention or not repeat the contravention.

If that step does not resolve the issue, then the body corporate should file a conciliation application with the Commissioner's Office. If the matter cannot be resolved at conciliation, then an adjudication application can be filed. An Adjudicator will then decide the matter. There is a penalty of up to approximately \$53,000 for breaching an Adjudicator's orders

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## Recent successful cases

There have been countless adjudication cases where bodies corporate have successfully enforced their by-laws, including:

1. For the removal of window tinting, where an owner had installed dark window tinting on his lot without approval in contravention of the by-laws;
2. For damage to common property, where owners had undertaken significant works to their lot and the common property (including the construction of a sizable rooftop structure) without approval; and
3. For nuisance, where the behavior of an occupier included throwing objects from her balcony, banging on doors of other lots, yelling at other occupiers and contractors and attempting to prevent contractors from completing their duties.