

# **E-bikes and E-Scooters – Can You Ban Them?**

## **Is it Possible to Ban E-bikes and E-scooters?**

There have been a recent spate of fires in Sydney apartment buildings caused by the charging of e-bikes and e-scooters. Those fires have resulted in a number of strata buildings introducing by-laws to ban or regulate e-bikes and e-scooters. But is it possible to ban e-bikes and e-scooters?

An owners corporation has a broad power to make by-laws to manage, control and administer the use of the lots and common property in its building. This enables an owners corporation to make a by-law that stipulates what residents can and cannot do within their lots.

However, there are some restrictions on the by-law making power of an owners corporation. In particular, a by-law cannot be harsh, unconscionable or oppressive. Any by-law that is, is unenforceable.

In 2020, the NSW Court of Appeal handed down a ruling providing guidance on the circumstances in which a by-law will be harsh, unconscionable or oppressive. In that case, the Court said that if a by-law prohibits an activity that is capable of being carried out in a manner that does not have a detrimental impact on the use and enjoyment of the lots and common property by residents, then the by-law will be harsh, unconscionable and oppressive.

In that case, the Court concluded that a by-law banning pets in a strata building was harsh because it was possible for residents to keep some types of pets in the building without

having a detrimental impact on the amenity of other residents: see *Cooper v SP 58068* [2020] NSWCA 250.

This begs the question:

## **Can a By-law Prohibit the Charging of E-bikes and E-scooters in a Strata Building?**

The answer to that question is most likely “no”. This is because it is possible to charge e-bikes and e-scooters without creating a fire risk or otherwise having a detrimental impact on the use and enjoyment of the lots and common property by other residents. Indeed, any by-law that bans e-bikes and e-scooters is not likely to be enforceable.

So what are the options for any owners corporation that wants to reduce the fire risk created by the charging of e-bikes and e-scooters? There is nothing wrong with an owners corporation introducing a by-law that restricts the right of residents to charge e-bikes and scooters. For example, a by-law could require residents to apply to and obtain the consent of the owners corporation to charge e-bikes and e-scooters in the building.

Further, a by-law could introduce rules that must be obeyed by residents to minimize the fire safety risk created by the charging of e-scooters and e-bikes. For instance, a by-law could stipulate that residents need to ensure that their e-bikes and e-scooters (including the lithium batteries that power them and the chargers for them) comply with the applicable Australian standards, that residents periodically monitor their e-bikes and e-scooters whilst they are being charged and residents otherwise take all reasonable steps to minimize a fire safety risk created by the charging of e-bikes and e-scooters.

Whilst it can be difficult to police by-laws that regulate the

charging of e-bikes and e-scooters, doing so is not impossible and these by-laws at least give owners corporations the right to control the charging of e-bikes and e-scooters and to do something when residents disobey the by-law.

## **Can an E-bike and E-Scooter By-law Protect the Owners Corporation?**

Further, these types of by-laws can provide the owners corporation with protection in the event that a resident disobeys the by-law and causes a fire when charging an e-bike or e-scooter. For instance, a by-law could require the resident to indemnify the owners corporation against any property damage that is caused by such a fire and to cover the costs the owners corporation incurs repairing any damage caused by the fire.

Ultimately, the use of e-bikes and e-scooters is on the rise and this means that is now necessary for many owners corporations to grapple with the problem created by the charging of e-bikes and e-scooters. Introducing an appropriately worded by-law is best practice and will provide an owners corporation with the greatest amount of protection to minimize the risk of a fire caused by the charging of an e-bike or e-scooter.

[DO YOU NEED AN E-BIKE AND E-SCOOTER BY-LAW?](#)



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Since 2002 Adrian has specialised almost exclusively in the area of strata law. His knowledge of, and experience in strata law is second to none. He is the youngest person to have been admitted as a Fellow of the ACSL, the peak body for strata lawyers in Australia. [Profile](#) I [Linked](#)

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