



## CPD COURSES

### Goulburn

Sales & Prop Mgnt  
**Thu 26th Oct**

### Sydney

Strata Management  
**Fri 27th Oct**

### Sydney

Business Broking  
**Thu 2nd Nov**

### Blue Mountains

Sales & Prop Mgnt  
**Thu 2nd Nov**

### Castle Hill

Sales & Prop Mgnt  
**Fri 3rd Nov**

### Bateman's Bay

Sales & Prop Mgnt  
**Fri 3rd Nov**

### Castle Hill

Sales & Prop Mgnt  
**Fri 3rd Nov**

### Bathurst

Sales & Prop Mgnt  
**Mon 6th Nov**

### Sydney

Prop Mgnt  
**Thu 16th Nov**

### Dee Why

Sales & Prop Mgnt  
**Fri 23rd Nov**

## And we're talking about short-term accommodation... Again.

A question we are asked quite frequently from Strata Managers is, how do we stop Airbnb and other short-term letting models being used within our strata schemes? The question is usually accompanied by complaints of excessive wear and tear to common property, noise and security complaints as well as concerns for the change of usage from residential to commercial space without the authority from local council to do so.

In answer to these strata managers, a recent decision was handed down in the NSW Civil and Administrative Tribunal (NCAT) that explored the types of by-laws that an Owners Corporation can approve regarding short term holiday lettings, particularly through companies such as Airbnb.

The case heard in the tribunal was concerned with one owner who had rented her lot out through Airbnb for a period of twelve months while she had gone travelling.

With only a couple of small complaints regarding her "tenants", the Owners Corporation decided they would adopt a by-law that restricted the owners from using their lots for short-term lettings, rather than take the risk that more tenants could be problematic. During the Tribunal hearing, the representative for the Owners Corporation cited some of the following reasons as to why the by-law was adopted:

- Luggage would be continuously moved in and out of the apartment and common areas leading to a higher rate of wear and tear;
- Obligations under s. 258 of the Strata Schemes Management Act to notify the scheme in relation to the change in tenancy but there was no evidence to suggest that this section had not been complied with; and
- Issues of security and control of errant short-term occupiers including abatement of noise

The lot owner whose usage was being restricted argued that the Owners Corporation did not have the authority to adopt a by-law relating to her leasing out her lot and cited both materials released by Fair Trading as well as section 139 of the Strata Schemes Management Act 2015:

# CPD 2 HOUR SEMINARS

(8am - 10am unless otherwise specified)  
Pre-reading required.

**Full 12 points!!**

**Parramatta**  
Strata Management  
**Thu 26th Oct**  
(8.30am - 10.30am)

**Parramatta**  
Sales & Prop Mgmt  
**Thu 2nd Nov**  
(8.30am - 10.30am)

**Parramatta**  
Strata  
**Wed 15th Nov**  
(8.30am - 10.30am)

**Sydney**  
Trust Accounting  
**Fri 17th Nov**

**Campbelltown**  
Sales & Prop Mgmt  
**Wed 22nd Nov**

**Bankstown**  
Sales & Prop Mgmt  
**Tue 28th Nov**

**Sydney**  
Strata  
**Mon 27th Nov**

**Bankstown**  
Sales & Prop Mgmt  
**Tue 28th Nov**

**Newcastle**  
Sales & Prop Mgmt  
**Thu 30th Nov**

s139 restriction on by-laws

(1) by-law cannot be unjust. A by-law must not be harsh, unconscionable or oppressive. Any such by-law may be invalidated by the Tribunal (see s. 150).

(2) by-law cannot prevent dealing in relation to lot. No by-law is capable of operating to prohibit or restrict the devolution of a lot or a transfer, lease, mortgage or other dealing relating to a lot.

The NSW Tribunal determined that a short-term letting does in fact fit within the definition of a lease because a leasehold interest is created under the relationship of landlord and tenant arises whenever one person (the landlord) gives another (the tenant):

- (i) the legal right to exclusive possession of the land or property.
- (ii) for a period (term) less than the term for which the landlord holds the property.
- (iii) the term being certain or at least capable of being rendered certain.
- (iv) with the intention of giving the tenant an interest in the land as opposed to a mere privilege. Usually a lease hold interest is granted in return for "rent" (Burns v Dennis [1948] NSWStRp 8; [1948] 48 SR (NSW) 266).

The decision of the Tribunal was that the Owners Corporation did not have the authority to restrict the lease within the lot owners lot.

From all of the discussion that this case has caused, we are expecting an appeal on this matter. It has been claimed by some specialist strata lawyers that precedents regarding by-laws have been ignored, as well as planning laws. It will certainly be interesting for both property managers and strata managers alike to watch for the outcome. As soon as we have an update, we will let you know.

‘Til next time,  
Wishing you every success in your business ventures,  
Rosy

## Is it time to change your career?

### Diploma of Leadership and Management

BSB51915

Units taken from nationally accredited training qualifications from the BSB Business Services Training Package.

## CERTIFICATE OF REGISTRATION COURSES

Units taken from nationally accredited training qualifications from the CPP07

Property Services Training Package.

### Parramatta

Mon 30th Oct–Wed 1st Nov

### Batemans Bay

(Dist Ed + 1 day workshop)

Thu 2nd Nov

### Bathurst

(Dist Ed + 1 day workshop)

Tue 7th Nov

### Campbelltown

(Dist Ed + 1 day workshop)

Wed 8th Nov

### Coffs Harbour

(Dist Ed + 1 day workshop)

Thu 16th Nov

### Sydney

Mon 13th – Wed 15th Nov

## FINANCE AND MORTGAGE BROKING COURSES

Units taken from nationally accredited training qualifications from the FNS Financial Services Training Package.

### Cert IV in Finance & Mortgage Broking Sydney

Mon 20th - Wed 22nd Nov

### Dip of Finance & Mort Broking Mgmt

Upgrade for existing

Cert IV holders

### Sydney

Thu 23rd - Fri 24th Nov

# From the Office

It's been a fortnight of tireless travel for our trainers with CPD courses running in our CBD office, Baulkham Hills, Parramatta, Newcastle, Gosford, Orange, Gunnedah and Tamworth. We had an influx of students looking to complete their CPD training before the end of the year. The last two weeks in the office has also been a full house with our Certificate of Registration and our Staff Management courses being held.

Last Wednesday night at the College we had our usual Diploma of Leadership & Management course, which this fortnight covered the interesting topic of intellectual property. For many of the students in our Diploma course, this was the last of their modules to complete, after attending the classes every fortnight since the beginning of March. It was a sweet moment for our hardworking students, and not just because of the cake we had for our trainer's (James Xenidis) birthday. The Leadership and Management cycle will continue in the College, with the students who joined during the cycle continuing their studies and more students already enrolled to join before the next round commences again in mid-November.

It was a big weekend for our General Manager and auctioneer, John Roberts, who on Saturday conducted the auction of the Variety Freedom House in North Richmond. This was live to air on Sky News, so it was an exciting time for all involved. The Variety House was a charity project where all profits from the sale of the property go to Variety, which is a charity dedicated to supporting children and families facing challenges through illness, disadvantage and living with disability. The local community gathered for the occasion and John was able to produce a successful result for the auction, with the property being sold for \$895,000. Most importantly, this resulted in \$375,000 being raised for Variety, which will be essential for the charity to continue its work through funding services and programs. The College offers a big congratulations to all who have dedicated their resources, time and energy in making this project such a huge success.

[acop.edu.au](http://acop.edu.au)

**Enrol Now**

Click on the enrol now button to go to the College online enrolment forms (pdf versions of the newsletter only).

## Property Licence Courses

Units taken from nationally accredited training qualifications from the CPP07 Property Services Training Package.

**Financial Management  
Sydney CBD**  
Thu 23rd - Fri 24th Nov

**Staff Management  
Sydney CBD**  
Tue 21st - Wed 22nd Nov

**Stock & Station  
Agency Practices  
Sydney CBD**  
Mon 30th Oct - Fri 3rd Nov

**Strata Management  
Agency Practices  
Sydney CBD**  
Tue 7th - Fri 10th Nov

**Financial Management  
Sydney CBD**  
Thur 23th - Fri 24th Nov

**Sales for Real Estate  
Sydney CBD**  
Tue 28th Nov - Fri 1st Dec

**Auctioneer  
Accreditation  
Sydney CBD**  
Fri 1st Dec

**Experienced Agents  
Property Licence  
Program  
Sydney CBD**  
Mon 4th - Fri 8th Dec

**Trust Accounting  
Sydney CBD**  
Mon 4th - Wed 6th Dec

**Property Management  
Sydney CBD**  
Thu 7th - Fri 8th Dec

## FNS40815 Certificate IV in Finance and Mortgage Broking

Monday 20th - Wednesday 22nd November

## FNS50315 Diploma of Finance and Mortgage Broking Management

Thursday 23rd - Friday 24th November

## MAKE 2017 YOUR YEAR

With proposed reforms coming for the real estate and property industry, make 2017 the year that you get the qualification and obtain a full property licence

ACOP provides licensing training programs, and will recognise your prior learning and experience, for the following licence categories:

- ★ real estate agent's licence
- ★ strata manager's licence
- ★ business agent's licence
- ★ stock and station agent's licence
- ★ buyer's agent's licence
- ★ on-site residential property manager's licence

If you are seeking Recognition of Prior Learning (RPL) or Recognition of Current Competence (RCC), talk to us about the types of evidence that you will need to provide to seek these exemptions from training.

## Social Media

