

Process for Prince Henry Community Association By-Law Breaches

This document has been created by the Prince Henry Community Association (PHCA) to clarify the process applied to rectify by-law breaches.

It's important that all Prince Henry owners, residents, and visitors are aware that the Prince Henry site has a community title overlay with specific by-laws that ensure the Prince Henry Master Plan is preserved now and into the future. Randwick City Council supports the Prince Henry Master Plan and the Community Association's efforts to ensure its by-laws are adhered to. Council rangers will police all NSW legislated road rules throughout the Prince Henry site, the PHCA Executive Committee will endeavour to ensure by-laws are adhered to.

It's also important to note that the Prince Henry Community Association Executive Committee will always endeavour to resolve breach issues without consulting lawyers and without seeking an order from the NSW Civil and Administrative Tribunal (NCAT).

The breach process outlined below relates specifically to item 1) below: By-Law 11.4 Vehicles and Watercraft. However, the process can be applied to items 2) and 3) below as well as other by-law breaches that may be identified.

Common by-law breaches

1) By-Law 11.4 Vehicles and Watercraft:

Parking of boats, jet skis, mobile homes, caravans, trailers, campers or similar vehicles in public view

2) By-Law 11.1 Appearance

Signage, visible lack of verge/nature strip and/or on title landscaping maintenance, visible laundry on verandas/balconies, dumped rubbish outside properties, storing item on balconies, installing screening to fencing, roof antennae, visible satellite dishes.

3) By-Law 1.6 Approval Required for Building Works, Alterations etc.

Lot works that are visible such as alterations or additions, changes to exterior colours etc.

Breach Process Step 1

The PHCA managing agent receives a report of a breach in writing with a detailed description of the breach, photos, etc, from any of the following:

- EC members during routine site monitoring
- Neighbourhood Association Managing Agent or Secretary
- Strata Scheme Managing Agent or Secretary
- Individual Lot Owner (ie an owner that is not part of a subsidiary scheme)
- Other (eg Randwick City Council, Heritage Council, or other relevant authority)

Breach Process Step 2

- Breach that relates to item 1) parking breaches:
 - where the owner's contact details are not known, an EC member will place a coloured breach notice (breach notice number 1) on the non-compliant vehicle or watercraft and report in writing with a detailed description of the breach and location, photos, etc, to the PHCA managing agent, who will keep a detailed breach record.
 - where the owner's contact details are known, an EC member will place a coloured breach notice (breach notice number 1) on the non-compliant vehicle or watercraft and report in writing with a detailed description of the breach and location, photos, etc, to the PHCA managing agent, who will keep a detailed breach record. In addition, the PHCA managing agent will issue a breach letter to the vehicle owner, either directly in the case of an individual Lot Owner that is not part of a subsidiary scheme, or via the managing agent or secretary of a subsidiary scheme.
- Breach that relates to items 2) and 3):
 - where the owner is an individual lot owner, the PHCA managing agent will issue a breach letter to the lot owner
 - where the owner is a subsidiary scheme, the PHCA managing agent will issue a breach letter to the subsidiary scheme via the managing agent or secretary.

Breach Process Step 3 – still in breach after 21 days

- Breach that relates to item 1) parking breaches:
 - where the owner's contact details are not known, an EC member will place a second coloured breach notice (breach notice number 2) on the non-compliant vehicle or watercraft and report to the PHCA managing agent, with a detailed description of location and photos etc. The PHCA managing agent will update the breach record. The PHCA managing agent will write to neighbouring owners and subsidiary schemes requesting assistance to identify the owner. If unable to identify the owner, the EC member will continue to affix coloured breach notices from time to time and advise the PHCA managing agent accordingly. If the identity of the owner is determined, the CA managing agent will issue a breach letter to the individual owner or subsidiary scheme managing agent or secretary advising 21 days to rectify the breach.
 - where the owner's contact details are known, an EC member will place a second coloured breach notice (breach notice number 2) on the non-compliant vehicle or watercraft and report, with photo/s of the vehicle, to the PHCA managing agent, who will update the breach record. In addition, the PHCA managing agent will issue a second breach letter to the individual lot owner or the subsidiary scheme via the managing agent or secretary advising 21 days to rectify.
- Breach that relate to items 2) and 3):

The PHCA managing agent will issue a second breach letter to the individual lot owner or to the subsidiary scheme via the managing agent secretary advising 21 days to rectify.

Breach Process Step 4 – continued non-compliance

- Breach that relates to item 1) parking breaches:
 - where the owner's contact details are not known, an EC member will place another coloured breach notice (breach notice number 3) on the non-compliant vehicle or watercraft and report, with photo/s, to the PHCA managing agent who will update the breach record – this action may need to be repeated multiple times.
 - where the owner's contact details are known, the EC member will place another coloured breach notice (breach notice number 3) on the non-compliant vehicle or watercraft and report including photos to the PHCA managing agent, who will update the breach record. In addition, the PHCA managing agent will issue a third breach letter advising that the PHCA reserves the right to take necessary action in accordance with the by-law, including legal action, to have the breach rectified.
- Breach that relates to items 2) and 3):

The PHCA managing agent will issue a third breach letter advising that the PHCA reserves the right to take necessary action in accordance with the by-law, including legal action, to have the breach rectified.

Breach Process Step 5 – continued non-compliance

The PHCA Managing Agent will seek direction at an Executive Committee meeting:

- To issue a notice to comply, which is necessary before seeking an order from the NSW Civil and Administrative Tribunal (NCAT).

(in accordance with Community Land Management Act 1989 No 202 [NSW] Section 13A How can an association enforce the by-laws? and Division 6A Enforcement of orders of Adjudicators and Tribunal and certain notices)

Breach Process Step 6 – continued non-compliance

The PHCA Managing Agent will seek direction at an Executive Committee meeting to make an application to NCAT. An opportunity to enter into mediation with the Lot in breach is an important part of the NCAT process and is generally required first.

(in accordance with Community Land Management Act 1989 No 202 [NSW] Section 13A How can an association enforce the by-laws? and Division 6A Enforcement of orders of Adjudicators and Tribunal and certain notices.)