

# RENOVATION GUIDE



H+D Property Group have prepared a guide for Owners to assist them through the approval process when wanting to make changes to their Lot, whether it be minor or major renovations.

An Owner has no entitlements to make alterations to common property. Any approval is a privilege and not a right, despite most Owners Corporations wanting every owner to enjoy their property.

We appreciate the patience of owners during the application process as major renovations can take a considerable amount of time, require meetings of the strata committee, owners, and sometimes the local Council.

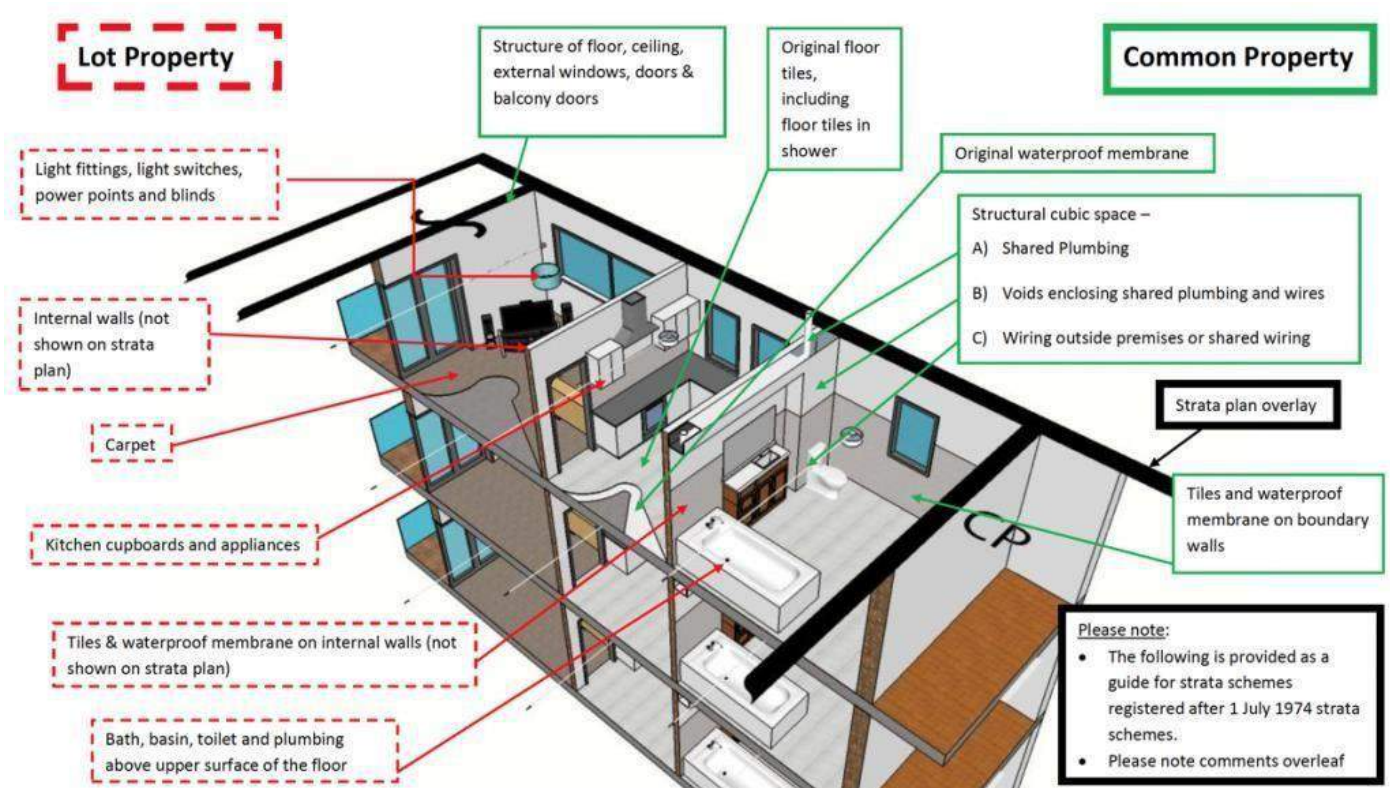
## WHAT IS "THE LOT" & WHAT IS "COMMON PROPERTY"?

Lot Property and Common Property is defined by the Strata Plan for your strata scheme. Common Property is defined as everything that is not allocated to a Lot. Thick lines on your Strata Plan are Common Property boundaries. These boundaries, and anything lying within them such as windows, doors, plumbing are not owned by the Lot Owner as these are Common Property of the Owners Corporation.

Lot Property is primarily the air-space between the inner surface of the boundary walls, under the ceilings and above the floor. Anything within this air-space (including dividing walls), floor coverings and fixtures are the property of the Lot Owner.

**Note:** there are some exceptions for schemes that were registered prior to 01/07/1974 which will be advised by your Strata Manager.

The below diagram has been provided by Bannermans Lawyers to assist you:



## TYPES OF RENOVATIONS & APPROVALS

There are three categories of renovations under the Strata Schemes Management Act 2015 (NSW) which are considered as follows:

### COSMETIC WORK

The following work will generally not require approval:

- Installing hooks, nails or screws for hanging paintings on walls.
- Installing/replacing handrails
- Painting
- Filling minor holes/cracks in internal walls
- Laying carpet
- Installing/replacing built-in wardrobes
- Installing/replacing internal blinds & curtains.

The following is ***not cosmetic work***:

- Work categorised as "minor renovations"
- Work involving structural changes
- Work that changes the external appearance of a lot or common property, including fire safety systems
- Work involving waterproofing
- Work involving plumbing
- Work involving exhaust systems
- Work involving reconfiguring walls

### OTHER RENOVATION WORK

The following work will generally require a special resolution at a general meeting of the Owners Corporation and the drafting of a special by-law:

- Work involving waterproofing
- Working involving structural changes
- Work involving reconfiguring load-bearing walls
- Work that changes the external appearance of a lot
- Work that requires the permanent occupation of common property
- Work that is not categorised as "cosmetic work" or "minor renovations"

### MINOR RENOVATIONS

The following work will generally require a resolution at a general meeting of the Owners Corporation:

- Renovating a kitchen
- Changed recessed light fittings
- Installing/replacing wood or other hard floors
- Installing/replacing wiring, cabling or power points
- Work involving reconfiguring non-loadbearing walls
- Removing carpet or other soft floor coverings to expose underlying wood or other hard floors
- Installing a rainwater tank
- Installing a clothes line
- Installing a reverse cycle split system air-conditioner
- Installing double or triple glazed windows
- Installing a heat pump
- Installing ceiling insulation

The following is ***not a minor renovation***:

- Work categorised as "cosmetic work"
- Work involving structural changes
- Work that changes the external appearance of a lot
- Work involving waterproofing
- Work that must be authorised by a by-law

### IMPORTANT NOTES

From time to time, the Owners Corporation may pass a special by-law that can place certain types of renovations into either the "cosmetic work" or "minor renovations" categories.

It is important that owners read and understand all by-laws registered for their scheme.

# APPLICATION FORM (PART 1)

TO BE COMPLETED BY THE LOT OWNER



## OWNER DETAILS:

Full Name(s) \_\_\_\_\_

Strata Plan \_\_\_\_\_

Address \_\_\_\_\_

Phone No. \_\_\_\_\_

Unit No. \_\_\_\_\_

Email Address \_\_\_\_\_

## PROPOSED RENOVATION DETAILS:

Please provide the scope of proposed works to be carried out to your Lot. Please attach any proposed plans/diagrams with the application or scope of works if more space is required:

Commencement date	_____	Expected duration of works	_____
Proposed method of removing trade waste & debris	_____		
Proposed method of delivering materials	_____		
Proposed method of contractor parking	_____		

## CHECKLIST

### I have attached:

- A copy of the proposed contractor's licence
- A copy of the proposed contractor's insurances
- Sketches/diagrams depicting the layout prior to works
- Sketches/diagrams depicting the layout on completion of works

This form was completed by:

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Signature

Dated:    /    /

### I understand that it is my responsibility to:

- Notify the strata manager of any changes to the proposed contractor and work times
- Circulate notices to my neighbours informing them of the work times, rubbish, delivery & parking arrangements
- Ensure the contractor protects the common areas & cleans all common areas daily
- If requested, provide the Strata Committee with access to inspect before and after the works.

# COMMENCEMENT OF WORKS (PART 2)

TO BE COMPLETED BY THE LOT OWNER



## CONFIRMED RENOVATION DETAILS

Commencement date	<input type="text"/>	Duration of works	<input type="text"/>
Method of removing trade waste & debris	<input type="text"/>		
Method of delivering materials	<input type="text"/>		
Method of contractor parking	<input type="text"/>		

## CHECKLIST

I have:

- Read and understood any further instructions/conditions for approval provided by the Strata Committee/ Owners Corporation.
- Placed a notice on the notice board or prominent place in the building informing my neighbours for the work times, rubbish, delivery and parking arrangements.
- Advised the contractor to protect all the common areas and clean common areas daily.
- Provided the Strata Committee with the opportunity to access and inspect my Lot prior to renovations.
- Obtained all necessary consent from the local council or any other authority required.

# COMPLETED WORK (PART 4)

TO BE COMPLETED BY THE LOT OWNER

## CHECKLIST

I have:

- Completed my renovation work.
- Inspected the common areas to ensure they are not damaged and free from debris as a result of the renovations.
- Supplied any waterproofing certificates and/or engineering certificates to the Strata Manager.
- Provided the opportunity for the Strata Committee to access and inspect after the completed works.

## LOT OWNER SIGN-OFF

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Signature

Dated:    /    /

# WHAT APPROVALS DO I NEED TO RENOVATE MY UNIT?



## APPROVAL OF RENOVATIONS

Owners of lots in strata title schemes often wish to undertake renovations and the approvals required to carry out and use those works varies from scheme to scheme. Fortunately, this approvals process has been simplified for some works by the Strata Schemes Management Act 2015 (“**SSMA 2015**”) and Regulations under that SSMA 2015. However:

- This article assumes that the Owners Corporation has adopted the model by-laws contained in the Regulations under the SSMA 2015, or former Regulations under the Strata Schemes Management Act 1996, and different requirements may apply if the owners corporation has adopted different by-laws.
- This article does not represent an exhaustive list of all approvals which might be required. One should always consider whether any of the following additional approvals are required:
  - Statutory approvals, including development consent/complying development certificate, construction certificate and occupation certificate from Council or a private certifier and plumbing approvals from a water services coordinator.
  - Notification to the architect who designed the building, in some cases, where the architect’s moral rights under the Copyright Act 1968 might otherwise be infringed.
  - Community Association approval, where the property forms part of a community title scheme.
  - Building Management Committee (“BMC”) approval, where the owners corporation is a member of a BMC administering properties of its members under a strata management statement.
  - The last two are much more likely where the works are visible from outside the lot, e.g. works in relation to roofing, balconies or windows, which could be seen as impacting on the visual theme of the area.
- Other options may need to be considered. For example, a strata subdivision (to transfer part of the common property to the relevant lot), rather than a section 108 approval/section 143 by-law, may be more appropriate in the case of substantial works.

## CLASSIFICATION OF WORKS, AND APPROVALS REQUIRED?

Under the SSMA 2015 and Regulations under that SSMA 2015, works are now separated into the following separate classifications, each having particular approval requirements:



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## 1. COSMETIC WORKS – SECTION 109 – NO APPROVAL REQUIRED

**Types of works:** Cosmetic works are very minor internal works to common property such as:

- installing or replacing hooks, nails or screws for hanging paintings and other things on walls;
- installing or replacing handrails;
- painting;
- filling minor holes and cracks in internal walls;
- laying carpet;
- installing or replacing built-in wardrobes;
- installing or replacing internal blinds and curtains;

However, certain classes of works are excluded, such as:

- minor renovations for the purposes of section 110;
- work involving structural changes,
- work that changes the external appearance of a lot;
- work that detrimentally affects the safety of a lot or common property;
- work involving waterproofing or the plumbing or exhaust system of a building;
- work involving reconfiguring walls; and
- work for which consent (for example development consent or complying development certificate) or another approval is required under any other Act. The State Environmental Planning Policy (Exempt of Complying & Development Codes) 2008 may be applicable and if so is worthwhile considering, especially it for things like air conditioning, wherein for instance air-conditioning above 1.8 units from existing ground level or which reduces the existing fire resistance level of the wall, is not exempt development: see link: <http://www.legislation.nsw.gov.au/#/view/EPL/2008/572>;

**Approvals and notifications required:** No approval or notifications required. An owner may simply undertake the works.

## 2. MINOR RENOVATIONS – SECTION 110 AND SECTION 28 – APPROVAL BY ORDINARY RESOLUTION AT A GENERAL MEETING

**Types of works:** Minor renovations to common property in connection with the owner's lot include but are not limited to work for the purposes of the following:

- renovating a kitchen,
- changing recessed light fittings,
- installing or replacing wood or other hard floors,
- installing or replacing wiring or cabling or power or access points,
- work involving reconfiguring walls,
- removing carpet or other soft floor coverings to expose underlying wooden or other hard floors,
- installing a rainwater tank,
- installing a clothesline,
- installing a reverse cycle split system air conditioner,
- installing double or triple glazed windows,
- installing a heat pump, and
- installing ceiling insulation.



However, certain classes of works are excluded, such as:

- cosmetic works for the purposes of section 109;
- work involving structural changes,
- work that changes the external appearance of a lot;
- work involving waterproofing;
- work for which consent (for example development consent or complying development certificate) or another approval is required under any other Act; and
- work that is authorised by a common property rights by-law or a by-law made under Part 6 of the SSMA 2015; and

**Approvals and notifications required:** Approval of the owners corporation given by ordinary resolution at a general meeting or approval of the strata committee if this function has been delegated to the strata committee by way of a by-law. A special resolution authorising the work is not required.

### 3. WORKS APPROVED UNDER A COMMON PROPERTY RIGHTS BY-LAW – SECTION 143 – SPECIAL RESOLUTION AND BY-LAW REQUIRED

**Types of works:** We anticipate that in relation to renovations and alterations, common property rights by-laws will be reserved for those situations where the works fall within the scope of section 108 and require approval by special resolution. Procuring such a by-law will provide the lot owner with benefits including that it will have a clearly documented and registered right to retain the works in place.

**Approvals and notifications required:** The grant of a common property rights by-law requires:

- Approval by special resolution at a general meeting; and
- The prior written consent of each owner on whom the by-law confers rights or special privileges.

### 4. WORKS CHANGING COMMON PROPERTY – SECTION 108 - OTHERWISE REQUIRING APPROVAL BY SPECIAL RESOLUTION AND POSSIBLY A BY-LAW

**Types of works:** Any works that include add to the common property, alter the common property or erect a new structure on common property for the purpose of improving or enhancing the common property, but excluding:

- Cosmetic works (under section 109); and
- Minor renovations (under section 110).

**Approvals and notifications required:** Approval under this section requires:

- Approval by special resolution at a general meeting; and
- If the lot owner is to be responsible for maintenance and repairs (as is common):
  - A by-law authorising the works and addressing the maintenance and repair obligations; and
  - The prior written consent of each owner on whom the by-law confers rights or special privileges.

# FREQUENTLY ASKED QUESTIONS



## 1. WHY BOTHER WITH A MOTION AND BY-LAW?

From the owners corporation's perspective:

- A by-law can create a clear and transferable right and obligation.
- A by-law can allocate maintenance obligations in relation to the owner and subsequent owners of the relevant lot.

From the lot owner's perspective:

- The owners corporation can require removal of works and reinstatement of the common property if works have not been approved and approval was required.
- An owner may not have a right of exclusive use of the works without a by-law.
- Registration of a by-law will make the lot more attractive to a buyer, removing a legal concern.

## 2. HOW DO I GET APPROVALS AND BY-LAWS?

Where approval is required, the lot owner should provide the owners corporation with the following for approval:

- details of the proposed works, including plans and specifications and ideally a report from an appropriate expert consultant, particularly if structural works are proposed;
- duration and times of the work;
- details of the persons carrying out the work, including qualifications to carry out the work; and
- arrangements to manage any resulting rubbish or debris.
- draft motions, approvals and where applicable, by-laws.

Once all required items are required, the owners corporation may convene a meeting for the purpose of considering and possibly passing motions effecting those approvals and where applicable, by-laws. However, unless certain requirements are satisfied, it would be open to the owners corporation to wait until the next general meeting rather than convene a special one for your works.



### **3. WHAT HAPPENS IF THE APPROVAL IS NOT GIVEN AND/OR THE BY-LAW IS NOT PASSED?**

In these circumstances, it may be necessary for the lot owner to make an application to the New South Wales Civil and Administrative Tribunal seeking appropriate orders.

### **4. WHAT DO I DO IF THE WORK HAS ALREADY BEEN CARRIED OUT WITHOUT A BY-LAW WHERE ONE WAS REQUIRED?**

A by-law conferring a right of exclusive use or a special privilege in respect of the relevant works can be made after the works have been carried out. Strictly speaking, approval of alterations/additions to common property under section 108 or 110 of the SSMA 2015 cannot be given retrospectively, but there are various options available depending on the specific circumstances and details should be provided to the owners corporation, so that appropriate action can be taken.

### **5. WHAT CAN THE OWNERS CORPORATION DO IF THE WORK CARRIED OUT HAS CAUSED DAMAGE?**

Section 132 of the SSMA 2015 allows for the Tribunal, on application by an owners corporation, to make the following orders if satisfied that work carried out by or for an owner or occupier has caused damage to common property or another lot:

- (a) to make an order that the owner or occupier performs the work or takes other steps as specified in the order to repair the damage,
- (b) an order that the owner or occupier pay to the owners corporation or the owner of the lot a specified amount for the cost of repairs of the damage and any associated costs, including insurance and legal costs.

# The 7 Easy Steps for your Renovation Journey

## STEP ONE: Draft the By-Law

Draft a by-law using DIY By-laws, or with the assistance of a strata lawyer. Your by-law should describe the renovation works, specifying the location of the works as well as any impact the works will have on common property.



## STEP TWO: Before the Meeting

Send the draft by-law, motion and consent form to your strata manager to include in the agenda for the next general meeting.

Be sure to find out when the next general meeting is and if the timing of the next meeting doesn't suit your timeline, ask your strata manager about the costs of holding an additional meeting.



## STEP THREE: The Agenda

The notice of meeting agenda including your draft motion and by-law will be sent to all lot owners of your scheme, usually 21 days prior to the general meeting. Don't forget to send your strata manager your signed consent form before the general meeting.

## STEP FOUR: The General Meeting

The lot owners attending the general meeting will vote on each of the motions listed in the agenda, including your motion for your renovation by-law. Your motion will need to be specially resolved.



# The 7 Easy Steps for your Renovation Journey

## STEP FIVE: Consolidation

Every time a scheme makes a new by-law, the new by-law needs to be added to the list of the schemes existing by-laws before your by-law can be registered. This is called consolidating the by-laws. Speak to your strata manager and a lawyer to assist with this process, and to confirm whether costs will be covered by or shared between yourself and the owners corporation.



## STEP SIX: Registration

Before you start renovating you must confirm that your by-law has been registered with Land Registry Services. Speak to your strata lawyer to assist with this process. Your strata manager can confirm whether the costs of registration will be covered by or shared between yourself and the owners corporation.

## STEP SEVEN: Start your Renovations

You are now ready to start your renovations - good luck!



# WHAT IS LOT AND COMMON PROPERTY?



The important question of who owns what needs to be established, as the answer will dictate how a strata scheme is correctly managed and who is responsible for what parts of a strata scheme.

**COMMON PROPERTY** is the responsibility of the owners corporation, and **LOT PROPERTY** is the responsibility of the lot owner.

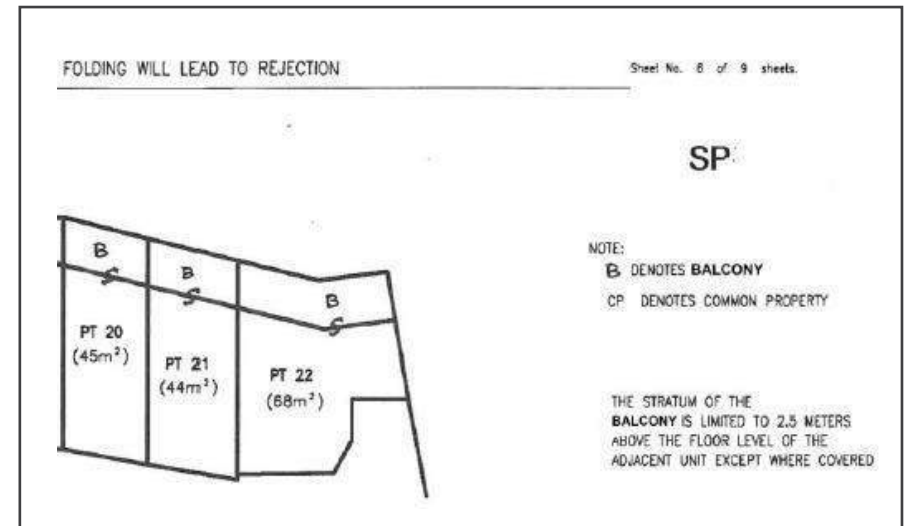
The picture adjacent is an extract from a typical strata plan. The strata plan does not tell you all of the details about what is common property and what is lot property. Further details are described by the relevant legislation and case law.

## GENERAL POSITION (SUBJECT TO EXCEPTIONS)

As a guide, the general rules applicable to the majority of strata schemes registered after 1 July 1974 are:

- o The structures located on the solid thick line at the registration of the strata plan are common property.
- o The ceiling, the structure of the floor including fixed tiles or floorboards, the electrical wiring located in the ceiling, external windows and balcony doors are usually all items of common property.
- o Internal walls, not shown on a strata plan are lot property and a structure located on a thin line is usually lot property.
- o Carpet, light fittings, blinds, curtains, toilet bowls, bath tubs and kitchen cupboards will all usually be lot property and the responsibility of a lot owner.

Liability limited by a scheme approved under Professional Standards Legislation.



## EXCEPTIONS

The following exceptions to the general position apply:

- o The general position does not apply to strata plans registered before July 1974.
- o To a limited extent notations on the strata plan can modify the general position.
- o Owners or owners corporations can with proper approval alter, add to or remove common property after the registration of the plan.

**There is no 'one size fits all' answer so if in doubt, ask an expert to work it out.**