

Fact Sheet

What Can Owners Corporations Require When Owners Renovate Apartments ?

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Owner renovations can cause many problems in strata schemes so owners corporations need to handle them properly and carefully.

This fact sheet helps owners corporations, their committees and managers understand the renovation requirements in a simple question and answer format.

How do we know or find out about renovations ?

In a variety of ways;

Many renovations do require notification of the owners corporation and most will need some kind of approval. So, a lot owner will often notify the owners corporation of renovations.

Sometimes, local council will also notify owners corporations of proposed renovations when they receive development or building applications.

And, in worst cases owners corporations will find out about renovations when the owners start work from neighbor or resident complaints.

What things need specific notice to the owners corporation ?

The following things need specific notice –

- changes to the structure of the building (walls, floors, ceilings, roofs, balconies, pipes and ducts,
- changes to floor coverings that are likely to increase noise or noise transmission, and
- any changes to the appearance of the lot or things in the lot that can be seen outside.

Do renovations need approval ?

Usually, renovations need owners corporation approval. That's because the renovations may affect the appearance of the building or cause noise for neighbouring lots. Such renovations may involve damaging common property floors, walls, ceilings

or services, occupy common property, involve additions to the common property or otherwise need approval under the by-laws.

What kind of approvals can owners ask for ?

There are a few levels of approval for renovations and an owner may need one or more of them depending on what they propose to do.

Simple or minor works need approval under by-law 5 which can be given by the committee, strata manager or at a general meeting.

More extensive works will need approval at a general meeting by special resolution as either permission under section 65A or under a by-law (see more about by-laws below).

When is a by-law needed for renovations ?

A by-law is required to approve renovations whenever they involve major changes to the common property such as new structures in common property areas in which case, the owners corporation will need to take over responsibility for the renovation works and affected common property. This happens more often than most owners corporations realise.

Can approvals contain conditions ?

Yes. Any kind of owners corporation approval can contain conditions,

The kinds of conditions are entirely up to the owners corporation to set in agreement with the owner and can cover elements of the renovations (like materials, etc), how and when the work is performed (like working hours, access arrangements, etc), payment (for security bonds, approval process costs, use of common property, etc) and allocation of responsibility for future maintenance or repair and damage caused by the renovation.

Sometimes by-laws can become very complicated.

And, it is usually in the owners corporation's best interests to include more (not less) conditions in an approval.

Why is a by-law a good idea for renovation ?

Even if you don't strictly need a by-law for the renovations, it may be a good idea because –

- it ensures that the owners corporation agrees to the work and renovation so any other owners' issues will be identified,
- the approval and details of the renovations will be permanently recorded on the common property title,
- future owners of the lot will become responsible for the conditions in the by-law,
- any issues about the renovations in the future (when the current owner sells or if there is a problem) can be avoided or more easily resolved,
- it doesn't cost much in comparison to the likely cost of the renovations.

Who should pay for the approval and any investigation ?

The owner who wants to renovate should be asked to pay all the reasonable costs incurred in considering and investigating their proposal.

They include the cost of calling special meetings, any strata manager charges, any legal, technical or other advice that is required and the registration costs if the approval is a by-law. Usually this is a condition of any approval but it may also be worth asking for some of the costs at the time of receiving the application.

Will the renovations also need council approval ?

Probably. In most local council areas anything more than redecorating will need local council approval (especially if affects the exterior appearance or involves work to structures and services). Owners should check with the local council before proceeding with renovations.

Local council approval is separate to and additional to owners corporation approval.

But, the owners corporation may also need to agree to the owner applying to local council for approval and the Owners corporation can demand necessary council approval as a condition of your consent.

Can we say no to renovations ?

Yes, you can refuse to approve renovations. But you need to have good reasons in case the owner challenges the decision. The best reasons for refusing renovations are adverse impacts on common property and other lots, lack of proper documentation or certification and inadequate protections during work processes for damage, security, etc.

Can owners contest a refusal or conditions ?

Yes. If the owners corporation refuses to approve renovations (including a request for a by-law) owners can have the decision revisited by an application to the Consumer Trader and Tenancy Tribunal and they will decide about it on merit reasons – considering the proposed works, the owners corporation’s reasons for refusal or the conditions imposed, the owner’s reasonable expectations of approval and the interests of other owners in the strata scheme.

That process can involve mediation, adjudication on written submissions and/or an appeal hearing.

There is some legal doubt about whether owners can contest an owners corporation’s refusal to agree to making an application to local council for approval.

How do we stop renovations where there is no notice or approval ?

If owners start renovations without required notices and/or approval you can stop the work in the following ways.

1. You can ask the owner to stop until they get appropriate approvals. Sometimes owners just didn’t know and are happy to co-operate when approached properly.
2. You can involve local council if the works require council approval who can ask and/or order the owner to stop the work. This can sometimes be very effective and quick.
3. You can apply for interim orders at the Consumer Trader & Tenancy Tribunal to stop the works if you can show there are urgent circumstances. This will take approximately 48 hours.

It’s worth stopping things before they go too far and getting the approvals in place to avoid problems later.

What other things should we consider for renovations ?

Each renovation is different but many will involve the following considerations.

- If the renovations involve structural matters, you should get structural certifications.
- If changes to floors occur you should get more details and get expert advice about noise and acoustic issues.

- Where the work is worth more than \$1,000 owners will need to use license builders and have a contract.
- Where the work is worth more than \$12,000 owners will also need Home Owners Warranty insurance
- Think about the impact of the renovations (during and after completion) on the direct neighbours.
- Think about how materials get transported in and out of the building whilst works proceed.
- Any plumbing work will need to be done by licensed plumbers and be done carefully to avoid water leaks that will adversely affect other lots.
- Any waterproofing works need to be undertaken by experienced people, who will perform the work properly and carefully to avoid water leaks that will cause damage to other lots and common property.
- Things that change the exterior of a building are likely to be more contentious as they affect appearance, views, privacy, shadowing, etc.
- Slow things down as much as you need to be ensure renovations are approved with due process. It's better to stop non-notified work and restart it later and it's better to take 2 weeks longer to check important things about renovations.

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