

CHECK BEFORE YOU RENOVATE

A GUIDE TO RENOVATION
PROCEDURES AND IMPROVEMENT
PROCESS TO YOUR LOT IN A STRATA
SCHEME

INTRODUCTION

Owners of properties in strata schemes from time to time wish to undertake renovations or improvements. These can range from minor issues such as the installation of new vanity taps or refreshing wall paint through to major changes of kitchens, bathrooms and lay out that may include the partial removing or replacement of a wall.

The issue in a Torrens Title property (free standing house) is a matter for the home owner to decide upon. And although there are industry recommendations on how to proceed it is really a matter for the home owner to determine. There are still local and utility authority requirements to comply with. As an example a home owner may be required to submit a Development Application (DA) to the local council for the improvements they wish to undertake.

However when it comes to a strata scheme an owner cannot proceed without the approval in most cases of the Owners Corporation first. The proposal may still require a Development Application to council and these generally require the application of the common seal of the DA.

You may be thinking *'Why do I need the approval of the Owners Corporation to undertake renovations or improvements in my own apartment or townhouse?'*

The answer is a little bit more complicated than you may think and requires an understanding of how strata schemes are constituted.

The owner of a lot in a strata scheme only owns the cubic space (air space) within the lot boundaries. The external walls, floors and ceilings are owned by the Owners Corporation. This is referred to as common property. The lot owner only owns the air space within their lot; the paint on the walls and ceilings and the floor coverings. The tiles on the floor of a bathroom or kitchen are common property also.

To simplify your reading we have addressed the basics under common headings. This is not intended to be a comprehensive and definitive document. It is intended as a guide only and having you think about what is required of you.

The best advice is for you to seek clarification from your strata manager who is there to provide you with advice, assistance guidance and support.

Like the Utilities companies promote "Call before you Dig" it is just as applicable that you also "CALL BEFORE YOU RENOVATE" when it is in a strata scheme. Failure to do so may result in significant anguish and costs against you.

It is important to bear in mind that all costs associated with your renovation are your costs. This can be an extensive list. Architect; Development Applications; Owners Corporation Meetings (if not part of a scheduled meeting); Builders; Application fees; By-law preparation and Owners Corporation legal review cost.

On top of all of the above do not overlook the Owners Corporations requirement for a bond.

What bond? you may ask. The bond an Owners Corporation requires for renovating lot owners to lodge before the works commence. It is a form of insurance for the Owner Corporation so when your contractors damage common property it can be repaired without causing an expense to all the other owners in the scheme. This also applies to cleaning of the site on completion of the works.

Remember you are responsible for the actions of contractors you employ.

And at the end of it all the lot owner will then bear the cost of any on-going maintenance even if it was previously an Owners Corporations responsibility. This will generally be an inclusion in any by-law drawn up for your works.

It is expected that if you have purchased a lot in an existing strata scheme that you undertook your due diligence thoroughly. Any renovations or alterations to the lot prior to your purchase becomes your problem on settlement. So make sure you check that appropriate applications and approvals were conducted. This can be achieved through a search of the Owners Corporations records and most often done by a strata search company.

It may serve you well to do a search of the Owners Corporation as a preliminary to your planning process even if you have been a long standing owner in a scheme. Remember that there are statutory charges applicable to all owners to undertake a strata search.

BY-LAWS – THE FIRST PORT OF CALL

Before undertaking any renovation or alterations you need to check the by-laws for your scheme.

By-laws are the rules by which your scheme is governed – in association with the Strata Schemes Management Act 2015 and the Strata Schemes Regulations 2016.

A copy of your current by-laws is accessible through the web portal on our web-site. If you are not an owner in a scheme managed by Platinum Strata Management a copy of your by-laws should have been supplied to you in your contract of sale. These are also available from the NSW Lands Registry Service.

Do not rely on advice from lot owners in other schemes, potential suppliers or real estate agents. It is you, as the owner, who will have to address the consequences of any renovations or alteration that fails to meet the requirements of your Owners Corporation or the legislation.

Some issues may not be covered with your current by-laws. You may need to seek clarification with your strata manager who is there to provide you with assistance, advice, support and guidance. Your strata manager is not there to put obstacles in your way but to ensure both lot owner and the Owners Corporation are compliant with legislative requirements and protected.

FLOORS

Bathroom and kitchen tiles form part of the common property because they are fixed permanently to the floor. If your lot was tiled throughout as part of the original development then the Owners Corporation must be consulted. Replacing or installing hard floor surfaces need to address acoustic transmission issues. Always bear in mind the issue of water membrane when renovating a bathroom and providing the Owners Corporation with the appropriate certificate.

BALCONIES

Balconies are also common property although only your lot has access. Each lot is provided exclusive use. In other words although it's common property only your apartment can use that part of common property. If you study the strata plans you

will notice a small squiggle between your lot space and the balcony. This is referred to as vinculum and is used to denote exclusive use to that lot only.

This means that you as the lot owner cannot make any alterations, additions or inclusions unless you have the permission of the Owners Corporation.

Perhaps who are thinking of changing the balcony tiles. That's possible. But don't think you can just lay new tiles over old. This raises several issues. Waterproof membrane and Building Codes of Australia floor to railing minimum height codes. Both must be met and the Owners Corporation needs to be consulted prior to any works being undertaken.

WINDOWS & DOORS

Windows, doors and their frames on the external walls of your lot form part of the common property and a lot owner again cannot alter or add to these unless approved by the Owners Corporation. This includes the doors/windows to balconies and internal common walls on a common hallway.

Doors located in common walls are the responsibility of the Owners Corporation as is all the door hardware – locks, knobs, closers. None of these should be altered or change without the Owners Corporations approval. Door closers must not be removed or detached as they form part of the Fire Safety code. Spy glasses should not be placed in doors unless approval is provided by the Owners Corporation. The majority of entry doors are fire doors and should not be adjusted or altered by any person other than a certified fire door contractor.

Old fire doors contain asbestos and should not be penetrated by any unauthorised person. The lot owner may paint the internal surface of the door.

WALLS

Whilst the external walls of a lot are common property the paint on the surface within the lot is not. The lot owners is responsible for the painting.

Internal walls are contained within the lot and their maintenance and repair are the responsibility of the lot owner. However it is more than possible that these may provide a structural aspect to the building. Whole or partial removal should be considered only after having a structural engineer's written report certifying the walls composition and structural relationship to the overall building. The cost of the structural engineers report is borne by the lot owner. In fact all costs are borne by the lot owner when alterations or renovations are being considered to your lot.

KITCHENS & BATHROOMS

All kitchen and bathroom cabinetry is a lot owner's responsibility even though they are permanently fixed; and most often to a common wall.

Vanities, baths, spas, shower screens and toilet suites do not form part of the Owners Corporations responsibility either.

All plumbing within the cubic space (that is not within a common wall, floor or ceiling) is the responsibility of the lot owner.

However, if it is your wish to relocate any of the plumbing services you first require the permission of the Owners Corporation. The relocation may require core drilling and ultra sound imaging to ensure that other services (e.g. electrical or telecommunication cabling; air-conditioning ducts) nor the structural integrity of the floor are not compromised.

There is no obligation on the Owners Corporation to update floor tiling for cosmetic purposes. Floor tiling forms part of the common property. That doesn't mean that the Owners Corporation bears the cost simply because you think the tiling may be old or unfashionable.

Nevertheless the Owners Corporation has a statutory obligation to maintain the building and there is a water membrane requirement that they must ensure protects the building. As the lot owner you need to make application and you are required to bear the costs.

FLOORS COVERINGS

Carpets and floating timber floors are the responsibility of the lot owner. Although there is smooth edge secured to the floor (common property) it is not viewed legislatively as fixed. Floating floors are also not fixed to the common property floor. However you need to meet minimum acoustic requirements and will need an acoustic certificate from the installer to show that the minimum requirement is achieved. Fixing timber flooring permanently to the slab does not constitute floating flooring and must have approval of the Owners Corporation.

DEVELOPMENT APPLICATION & PROFESSIONAL REPORTS

Some renovations or alterations may require a Development Application (DA) through your local council. You need to check with them. If a DA is required it will require the Owners Corporation common seal before being lodged. The common seal being stamped on DA applications is not an approval by the Owners Corporation. It is a signal to the local approving authority that the Owners Corporation is aware of your application. You will find that a strata managing agent will not stamp any DA application unless there has been a minuted approval at a strata committee meeting.

Some works may also require professional reports, such as a dilapidation report; plans; layout drawings; engineer reports.

All of these are the responsibility of the lot owner to source and finance.

THE PROCESS

Once you have decided to proceed with any works, an application must be made to the Owners Corporation. This is always addressed to The Secretary and lodged with your strata manager.

Your application should include:

- An outline of the proposed works
- Plans, drawings, lay-out
- A Scope of Works (identifying what is to be done)
- Details of contractors/service companies involved.
 - This should include licences and registrations; their insurance documents

- A timetable of the proposed works
- Engineers report (if required)
- Details of home owners warranty (if required. This is dependent on the overall cost)
- A Dilapidation report
- Draft by-law (if required)
- Any other information that may support your proposed works

On completion of your project you will also be required to provide:

- Structural engineers certificate
- Water membrane certification
- Fire compliance certificate
- Plumbing certificate
- Electrical certificate.

Major and Minor Works applications attract a non-refundable \$77.00 administration fee. This is to cover the cost of researching by-laws and documents for presentation to the strata committee/ Owners Corporation.

BY-LAW REQUIREMENT

Dependant on the nature of your renovations or addition it is possible that a special by-law is required. Changes to the Strata Schemes Management Act 2015 (SSMA) has reduced the requirement for a range of works to have a special by-law. Some of your proposed works may be covered by a major or minor works by-law. This is one of the reasons for your preliminary checks.

However there is still a significant amount of owners proposed works that these do not cover and you will be required to have a by-law drafted for your circumstances. The cost of preparing a by-law is a lot owner's responsibility. You may also be required to pay the legal fees of the Owners Corporations solicitor to review it.

A by-law can only be approved at a general meeting of the Owners Corporation. All by-laws are a special resolution. A special resolution is a vote by unit entitlement which requires no more than 25% of a meeting quorum voting against it.

Once passed the by-law must be registered at the NSW Land Registry Services office for which there is a registration fee. The lot owner is obliged to pay the fee.

OWNERS CORPORATION MEETINGS

All decisions of an Owners Corporation are as a result of either a general meeting (AGM, EGM) or a strata committee meeting.

A strata committee can in some cases approve renovations or minor works applications but generally they must be present on the agenda of a general meeting. If there is no scheduled meeting proposed and you require decisions you will be required to pay for the cost of running an EGM.

Costs included in the running of the meeting are: Preparation and distribution of agendas, printing, postage, minute preparation and distribution.

If your application is included on the agenda of an AGM or a scheduled EGM with other items you do not incur those costs.

TIMEFRAMES

So you had this brilliant idea over the week-end and spoke to a contractor who says it's doable and they can start the middle of next week. Here's the reality check. It won't happen.

Whether we like it or not there is a bureaucratic process that we need to adhere to. The process is there to protect everyone. But it is where the majority of lot owners come unstuck.

Be realistic. Do your due diligence and prepare. Do your research, plan, review and replan. Find out what you have to do first and work through the stages step by step. Know well in advance what it is you have to do so you minimise your frustration, disappointments and time delays.

NOISE AND TIME RESTRICTIONS

Noise transmission during renovation is a major source of conflict with other occupants. Power tools such as jack-hammers, and impact drills reverberate through-out any building and are the cause of significant disturbance to other occupants. Many strata schemes have time restrictions on the time these items can be used and how long for any particular period. Again, this needs to be part of your preliminary research.

The majority of multi-story strata schemes do not permit works to be conducted on Saturday, Sunday or Public Holidays. Make sure you check this out prior to works commencing.

DEBRIS REMOVAL

Lot owners undertaking any renovation are required to ensure the removal of all debris. Owners Corporation facilities are not provided for building debris. As the lot owner you need to either remove the material yourself or to make sure your service providers have it included in your contract. This needs to be addressed promptly and continually through the works and not accumulated on common property until the works are finished.

The use of skip bins for waste removal is common. However you will need to establish Owners Corporation permission to have on site; what is the timeframe permitted and any other conditions required. Clear access for other occupants must be maintained.

LIFT USE

In multi storing buildings with a lift, you need to establish what the procedure and times are for the use of a lift for your works. Most Owners Corporations have requirement of how and when a lift can be used. This is to ensure there is minimal disruption for the benefit of all occupants.

Make sure you establish what the procedure and timeframe is for the placement of lift protection curtains are. Also most strata schemes with lifts have time restriction on when a lift can be used for lot owner works.

UTILITIES

Often utilities such as water and power need to be closed down to enable some renovations to be completed. Consideration of all other building occupants must be taken into account. Service providers need to plan and notify well ahead of time and not just shut down the service because it suits their work situation.

INFORMING CONTRACTORS

It is the lot owners obligation to ensure that all service contactors engaged in your works are cognisant of all the time restriction, waste removal conditions, power tool time restrictions, lift rules of use and other Owners Corporation requirements prior to commencement of any works. It is your obligation to ensure this is advised at the negotiations or quoting stage.

CONTRACTOR SUPERVISION

Often when renovation work is undertaken the lot owner is nowhere to be seen. They are living or staying elsewhere or departed on a holiday. Experience has shown that unless contractors are closely supervised they will disregard the Owners Corporations requirements; disconnect services without notice; use impact power tools continuously and generally ignore any regard for other building occupants.

You as the lot owner have an obligation to ensure that there is as little disruption to the building as possible and maintain a vigilant observance of your contractors. If you cannot, you need to consider employing a project manager to do so on your behalf.

It is not the responsibility of the strata committee members, other owners or the strata manager to supervise your contractors' adherence to the established requirements.

SUMMARY

The process may seem daunting when you read through the above. But planning is essential when undertaking renovations. Plan, review, replan and make sure that your contactors are well informed about all of the above requirements. We suggest you prepare a document with all the conditions and provide it to your contractor and have them sign off on them. And you need to supervise them closely and that they adhere to the conditions. Many a relationship in strata scheme have soured with the Owners Corporation and other occupants because service contractors ignore the conditions.

Now you have the basic requirements go ahead and plan your works.

CHECK LIST

Following is a check list or guide for you to consider when preparing any renovations or applications. It is designed to assist you keep track of the various tasks and documents you require when undertaking major works to your lot. This is not a definitive check list but does capture the major items you need to address.

We wish you well and remember that the more you plan the luckier you will be.

REQ=Requested; PREPD=Prepared; REC=Received; SUBM=Submitted

Task/Document Required	REQ	PREPD	REC	SUBM	Comments
Application (Owners Corporation)					
Development Application (Local Council)					
Plans, Drawings, Designs, Layout					
Program of Works					
Scope of Works					
Draft By-law					
Home Owners Warranty Insurance Certificate					
Structural Engineers Report					
Dilapidation Report					
Contractors Engaged					
Contractor Documents: <i>Insurances</i> <i>Licenses</i>					
Motion for AGM/EGM					
O/C Meeting Requested					