

# Strata Renewal – Lot Owners’ Consent is Required for DA

## **Each lot owners’ consent is required for any DA relating to the ‘whole’ strata scheme**

Under the new Part 10 strata renewal provisions in the Strata Schemes Development Act 2015 (**SSDA 2015**) there is no special power given to an owners corporation to lodge a development application over all lots.

If an owners corporation is seeking approval for a development application over all lots, the consent of each lot owner is required prior to the Council approving the development application. The owners corporation can pre-emptively lodge the application without consent. However, although Council can assess the application, it cannot fully determine the matter and grant approval of the development application prior to consent being provided by the lot owners.

## **What if a lot owner refuses to give their consent?**

At this time there is little recourse for an owners corporation if a lot owner refuses to provide consent. An owners corporation does not have the same rights as a lot owner in seeking orders from the Tribunal against an owners corporation for a failure to provide consent to a development application relating to common property under section 232(1)(f) of the Strata Schemes Management Act 2015.

It may be possible to address this in the strata renewal plan and consequent court orders implementing the plan, i.e. formulate a plan providing for consent to be given. However, there would be significant problems with that. The plan would be approved and Court orders made before development consent is obtained, so they would generally need to be made conditional on obtaining that approval without unduly onerous conditions. Also, there would generally be a substantial delay involved in deferring development consent until after the making of the plan and orders.

## **When is a lot owner’s consent required to be obtained?**

Consent will be required prior to the development application being approved by Council. It is not needed prior to lodging the development application.

If an owners corporation proposes to apply for development consent relating to the whole strata scheme, the consent of the lot owners will be required prior to approval by Council of the development application. Please note that this is distinct from a Planning Proposal to create an environmental planning instrument by a planning authority or a Voluntary Planning Agreement.

If you require any further information please contact us for assistance.

**Prepared by Bannermans Lawyers  
20 September 2017**



T: (02) 9929 0226      M: 0403 738 996      ABN: 61 649 876 437  
E: [dbannerman@bannermans.com.au](mailto:dbannerman@bannermans.com.au)      W: [www.bannermans.com.au](http://www.bannermans.com.au)  
P: PO Box 514      NORTH SYDNEY NSW 2059      AUSTRALIA