Do You Need Council Approval For Your Renovations?

Renovations to strata units may require council approval. This will depend on the nature of the renovations, as well as the council involved. It will differ from council to council, so it is always a good idea to check.

Owners Corporation approval may also be required and further information about that can be obtained here What Approvals Do I Need to Renovate My Unit?

It is common for owners not to consider whether council approval is required or to proceed without it. That is not advisable, due to the serious consequences involved. In particular, such owners expose themselves to the following risks:

- Works which required approval which was not obtained may constitute unauthorised development and result in substantial fines and even criminal prosecutions.
- Such works can result in Council issuing an order, even an order for reinstatement of the property to its original condition at the owners expense.
- Council may be able to approve the physical works retrospectively, but it can't approve a development retrospectively and an owner could be faced with an ongoing problem which can't be resolved, with many implications, e.g. availability of insurance.
- Such works can cause further problems down the track, e.g. when dealing with financial institutions in relation to finance secured over the property, when dealing with a tenant in relation to a lease of the property or when dealing with a purchaser in relation to a sale of the property.

On the other hand, owners may get a pleasant surprise to discover how much work can actually be done without approval as exempt development or with a straightforward approval process as complying development.

The basic legal framework is as follows:

- The State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 ("Code") specifies certain types of development to constitute "exempt development" not requiring approval or "complying development" subject to a greatly simplified process. The scope and consequences of this are discussed in more detail below.
- Each council will have a Local Environment Plan ("LEP)" specifying a zoning for land within Council's control and the requirements pertaining to each zoning. Typically, unless otherwise specified, all works will require development approval from Council. They may also require building approval, which is now typically dealt

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with by private certifiers, rather than Council. However, an LEP will also typically specify certain types of development to constitute "exempt development" or "complying development". These can be broader in scope than the corresponding categories under the Code") and it is worth checking with Council whether works which are not covered by the Code may constitute exempt development or complying development under the relevant LEP.

- Exempt Development includes many specified minor works, which do not require approval from Council or a private certifier, as long as specified standards are met. Some property types and works will be excluded, e.g. this is typically the case with properties with heritage significance.

  The precise works falling into this category and the standards which must be met are specified in the Code and where applicable the LEP. There are many categories, but the most common examples of works which may constitute exempt development, relevant to strata lots, would be in relation to installation of hot water systems, (courtyard) landscaping and minor internal building alterations, which can include kitchen and bathroom renovations. Further information can be obtained here Exempt Development.

- Complying Development includes many specified minor works which strictly speaking require approval, but by the relatively simple means of obtaining a complying development certificate ("CDC"). Again, some property types and works will be excluded, e.g. this is typically the case with properties with heritage significance. This category would normally be of lesser importance with a strata lot, but could apply to some internal alterations which do not constitute exempt development. Further information can be obtained here Complying Development.

Lot owners should, before undertaking renovations, consider what approvals are required and if in doubt obtain legal advice.

Key takeaways

- Renovations may require council approval depending on the nature of the work and the local council's regulations.
- Proceeding without necessary approvals can lead to significant fines and legal issues.
- Certain renovations may qualify as exempt or complying development, simplifying the approval process.
- Local Environment Plans (LEPs) may specify additional requirements for development approvals.
- Minor works may not require approval if they meet specific standards outlined in relevant legislation.

****The information contained in this article is general information only and not legal advice. The currency, accuracy and completeness of this article (and its contents) should be checked by obtaining independent legal advice before you take any action or otherwise rely upon its contents in any way.*

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