

Renovating Strata Units – New Laws, New Opportunities

Owners of investment properties will, from time to time, carry out renovations. In fact, an investment property owner may even have acquired the property with a view to carrying out renovations and making a gain on sale of the property. At the least, an investment property owner will want to maintain the condition of the property to comply with obligations under tenancy laws and to maximise the rental value of the property.

Where the investment property is a strata unit, renovations can be complicated. Apart from the potential need for council approval, it may be necessary to obtain the approval of the owners corporation for the strata scheme. Even if approval is not required, there may still be restrictions and/or notice requirements.

There have, however, been some changes in the law that may make things simpler for investment property owners. In particular:

There have been changes in the laws relating to exempt development and complying development, which have the effect of making a broader range of works fall within one of these categories.

Put simply, many renovations will constitute exempt development that doesn't require approval or complying development, which can be approved by the relatively simple mechanism of the complying development certificate.

The Strata Schemes Management Act 2015 has been passed by the NSW Government and is set to commence 30 November 2016. The new act introduces substantially different rules, including:

- Provision for “cosmetic work” not to require approval. This term is defined in the act and there are some exclusions, but basically it means minimal impact works such as painting, laying carpet, installing built-in wardrobes and use of hooks/screws/nails to hang curtains, paintings, decorations, etc.
- Provision for “minor renovations” to require approval, but only an ordinary resolution is required and it can't be unreasonably withheld. Further, there's provision for a by-law to be passed delegating this function to the strata committee, i.e. in some buildings there will be a by-law permitting certain kinds of renovation, meeting specified guidelines, to require approval only of the strata committee, removing the need for a general meeting.
- Provision for the owners corporation to be potentially liable to lot owners for failing to discharge statutory duty to maintain the common property. This can be a real issue for property investors, where lack of maintenance of common property can affect rental returns or even result in claims by tenants.

If you're experiencing difficulties in these areas, e.g. getting the owners corporation to properly maintain the common property or getting approval for proposed renovations, you should obtain legal advice as soon as possible, as there are a number of options available to you.

Key takeaways

- Recent changes in NSW law simplify the process for strata unit renovations.
- Cosmetic work may not require approval under the new Strata Schemes Management Act 2015.
- Minor renovations can be approved by the strata committee without a general meeting.
- Owners corporations may be liable for failing to maintain common property, impacting rental returns.
- Legal advice is recommended for property owners facing difficulties with renovations or maintenance.

Bannermans Lawyers is a NSW strata law firm advising owners corporations, strata managers and lot owners.

****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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