

Publication Date: 12 January 2023

## YSP Podcast Transcript: Episode 344. The 3 Types of Renovations in Strata - and how they're approved

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**Intro:** Welcome to Your Strata Property, the podcast for property owners looking for reliable, accurate, and bite-sized information from an experienced and authoritative source.

**Amanda Farmer:** Hello and welcome to this week's podcast episode. I am your host strata lawyer, Amanda Farmer, and it is my job here each week to help you make some sense of this often challenging, often confusing world that is strata living. Solo episode from me today. I'm going to be looking at the three different types of renovation works that we see in our residential strata buildings. Now, it has occurred to me that after almost seven years of hosting this podcast, this isn't something that I have looked at in any detail, renovation work. We have talked about it of course in many different episodes, chatting with guest experts about things to look out for. We've talked about legal responsibilities, what to do when work might be carried out by an owner without the necessary approval of the owners corporation, but I don't believe I've ever delivered for you the foundation piece. Where does an owner start when they want to carry out work at their strata property? What type of approval is required for different types of work, and where might you find the legal framework that helps to guide this process?

So that's what today's episode is. Back to basics perhaps for some of you, an essential piece of the puzzle for others. I'll be talking today specifically about New South Wales Strata Law and referring to relevant provisions of the Strata Schemes Management Act in New South Wales. It's important that I say I will also be speaking generally about our law, about common processes and procedures, and it's important if you are an owner in a strata building, looking at carrying out renovation work, however small, however significant that you do have a close look at these specific by-laws, procedures, guidelines that might be in place for your community. And I'll let you know the best way I think you can go about making sure you're on top of those before you start your work.

The other important point to highlight is that I am specifically talking about work at your property that affects the common property, and this is where we come to understand the importance of recognising the difference between lot property, which is owned by you as an owner and common property, which is owned by the owners corporation. Sometimes that difference, that boundary between lot property and common property is not quite so clear and it can be the source for some legal disputes in our world. And it's often hard to provide a clear and overarching definition of what lot property is and what common property is because every building is different. The starting point I say should always be your registered strata plan, that is the actual drawing of your building showing its precise location on the block of land where it sits, as well as the location and the boundaries of each lot in the building.

The strata plan itself may contain some written notations placed on there by the surveyor who drew the plan that can change the way we treat common property and lot property. So it's really important to have a look at your specific strata plan to find out where your lot ends and the common property begins, and therefore where you may have some responsibility to gain approval from your owners corporation before you commence renovation work. The other important place where we find a helpful definition of lot property and common property is our legislation. Interestingly, it is our Strata Schemes Development Act, not our Management Act that I mentioned earlier, but a different piece of legislation, the Strata Schemes Development Act in New South Wales that defines lot property as beginning at the upper surface of the floor and the under surface of the ceiling. You'll find that in Section 6 of the Strata Schemes Development Act.

So already we are alert, I hope, to the fact that embarking on a renovation project in strata is not as straightforward as it may otherwise be in a free-standing home. So gathering as much information and education as you can about the topic before you begin is a great idea. So you're in the right place. Three types of renovation work that can be done in strata or at least three ways we might categorise this work. To try and simplify our thinking about this area, I'm going to talk about cosmetic work, that's the first type, minor work, that's the second type, and what I call major work. You won't find that word in our legislation, but it is one I commonly use when talking to owners, to strata managers, to committees about renovation work in their buildings.

First to cosmetic work. Now in New South Wales, the owner of a lot in a strata scheme can carry out cosmetic work that affects the common property without getting any approval from the owners corporation. That's what's said in Section 109 of our Strata Schemes Management Act. What is cosmetic work? Well, Section 109 lists a few examples for us. It includes things like screwing

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hooks or nails into a wall to hang up a painting, installing or replacing handrails, painting the inside of your lot, filling in minor holes and cracks in internal walls, laying carpet, installing or replacing built-in wardrobes, installing or replacing internal blinds and curtains. Cosmetic work is not limited to just those examples, and you might find that in your building there is a specific by-law that has been registered that lists other items that your owners corporation may consider to be cosmetic work.

Now, even though you don't need the approval of the owners corporation before you carry out that work, our legislation does say that you are responsible as an owner for ensuring that any damage caused to any part of the common property when you're carrying out your cosmetic work is repaired and that both the work itself and any repairs you are carrying out is done in a competent and proper manner. Those are the words used in Section 109, competent and proper manner.

In addition to having a by-law that may specify other types of work as cosmetic, your building might have a by-law that requires you to notify the owners corporation via the strata committee or the strata manager, even the building manager if you have one, if you are going to be carrying out cosmetic work because even though it might be considered relatively insignificant work, it can still be noisy. I know there's been a number of occasions in my own building when someone has sent an email through to the strata manager saying, "Hey, I think somebody's drilling holes in the floor upstairs. I can hear something really loud going on. What's happening? Has approval been sought?" And when we investigate further, we find that somebody is simply putting up a bookshelf or hanging some new pictures on the wall, cosmetic work, but we know how easily noise can travel, especially in our older buildings. So having a process to give your neighbours the heads-up that you might be carrying out some cosmetic work can be a good idea.

The second and, I think it might be safe to say, most common type of renovation work we see in our strata buildings is what we call minor work. Now, the term minor is used in our legislation. It is in Section 110 of our Strata Schemes Management Act. Minor renovation work includes things like renovating a kitchen, installing or replacing hard flooring, changing recessed light fittings, installing or replacing wiring, cabling or power points, the installation of a split system air conditioning unit, installing double or even triple glazed windows and installing ceiling insulation. That's not the full list that is in our legislation. You'll find that both in Section 110 of the Strata Schemes Management Act and also over in Regulation 28 in the Strata Schemes Management Regulation. Links to all of this legislation in the show notes for this podcast episode.

What kind of approval do you need to get if you want to carry out minor work? Well, Section 110 tells us that minor work is approved by an ordinary resolution at a general meeting of the owners corporation. There is another way to get minor work approved, and I'll tell you a bit about that in just a moment. The approval that is given for your minor work may be made subject to reasonable conditions, and I often see conditions relating to the time of day and the days on which work can be carried out, conditions relating to insurance and a condition that as the owner of the lot at which the work is being carried out, you take full responsibility for the future repair and maintenance of any new items you might be installing as part of your work. So if it is an air conditioning unit, one of the reasonable conditions of approval may be that if there is ever a problem with that unit, you will not look to the owners corporation to attend to or pay for the cost of that repair, but you will take full responsibility for that air conditioning unit.

Similar to cosmetic work, the list that you see in our legislation of the types of minor work is not exhaustive. Buildings can classify certain additional work as minor, and the best way to do that is bypassing a by-law that makes very clear what type of work is minor work. The other thing you can do if you have a by-law about minor work is to delegate to your strata committee the responsibility for approving minor work. So this is the other way that minor work can be approved. If you have a by-law that says your strata committee has delegated authority to approve minor work, then you don't need to go to a general meeting and get approval by ordinary resolution. You just need to apply to your strata committee and they can approve the minor work. That is usually a more efficient, quicker, less expensive process, and that's the reason why many buildings have adopted that process for approving minor work, it is certainly something I recommend.

Applications to install hard flooring are probably the most common type of minor work application I see, both in my practice as a lawyer and in my role as a committee member. And in my community we've actually established a standard set of flooring

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## **YSP Podcast Transcript: Episode 344. The 3 Types of Renovations in Strata - and how they're approved**

conditions that we require every owner who wants to install hard flooring to comply with. An important point about applications for the approval of minor work. Our legislation says that an owners corporation cannot unreasonably refuse permission for minor work, so it won't be good enough for a committee to simply say no to something like a request to install hard flooring. There have been cases before our tribunal where that has occurred, and the tribunal has said the decision to refuse permission has been unreasonable. That's especially the case when there are opportunities to put in place approval conditions like those relating to insurance, indemnities, future responsibility for repair and maintenance. It will be a rare case I think where an application to carry out minor work can be reasonably refused.

Now, when this new provision of our legislation commenced back in 2016, many buildings had strata lawyers prepare and register specific by-laws for them about minor work, listing the type of renovations that their building would consider to be minor work and the process that an owner needs to follow if they want to carry out minor work. That process usually includes making a written application, setting out the details of the work, including copies of any plans, any drawings, any diagrams, providing the details of the contractors who are going to carry out the work and what their qualifications are, and being clear on the arrangements that are in place to manage noise, dirt, rubbish removal from site. When we're talking about something like a kitchen renovation, that project can be significant, so it is entirely possible, if not likely, that your building has a by-law that deals with the process for carrying out minor work. Do make sure that you are across that, you understand what that process is before you commence so that you can follow it and ensure your application for approval has the best chance of success.

The third and final type of renovation work that I'm going to talk about today is what I am calling major work. Now, I said earlier that our legislation doesn't use the term major work. It certainly uses the terms cosmetic and minor. The third type isn't expressly given a helpful category, but I've come to call it major work and I think many other strata lawyers do the same. What our legislation says is work that involves structural changes, work that changes the external appearance of a lot and work that involves waterproofing cannot be cosmetic work and cannot be minor work, so it kind of defaults to this third position that I call major work. If your renovation work involves one or any of those three elements, I'll say them again, work involving structural changes, work that changes the external appearance of a lot or work that involves waterproofing, then it is work that is going to require approval by the owners corporation at a general meeting and a special resolution will be required to approve your work.

A special resolution, harder to achieve than an ordinary resolution where an ordinary resolution just needs more than 50% of owners present at a general meeting to vote in favour of an item. A special resolution needs 75% voting in favour, and that 75% is calculated based on unit entitlements rather than a show of hands. So put another way, if you have more than 25% of the unit entitlement that is present and voting at a general meeting opposing your major work, then you will not be able to achieve approval for that work.

The most common type of major work that I see in strata are bathroom renovations, that is work involving waterproofing. Indeed, if you are ripping up the old tiles, replacing with new, there is going to be impact to waterproofing and the need for new waterproofing. That's what pushes bathroom renovation work out of the category of minor work. Structural changes, if you're removing a load-bearing wall, many owners in older buildings want to open up that old-fashioned kitchen, have some open-plan living into the dining room. That often involves the removal of a load-bearing wall, the need to install a supporting beam, the need for engineering reports and engineering advice to make sure that's all done properly, that's work involving structural changes.

And work that changes the external appearance of a lot. This is an interesting one because sometimes this is where we see minor work pushed up into the category of major work. Air conditioning units are an example that come up again and again where a split system air conditioner is going to be installed, and the outdoor compressor unit needs to go on the balcony. Sometimes that can change the external appearance of the lot because the balcony is visible from street level, from other parts of the building, and it's hard to make that outdoor unit blend in and remain in keeping with the rest of the building. What would otherwise be minor work under Section 110 because it is changing the external appearance of a lot can be pushed up into the category of major work and require that special resolution at a general meeting.

Now, it's important that I say in the modern context where many environmentally conscious owners may be looking at installing

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infrastructure to allow for solar power, electric vehicle charging, other types of sustainability measures. We do have a separate approval regime for that type of work in New South Wales. Indeed, it is easier to get that type of work approved even if that work is going to affect waterproofing, involve a structural change or change the external appearance of a lot. If it relates to the installation of sustainability infrastructure, then the work will only require an ordinary resolution, not a special resolution. There is a definition for sustainability infrastructure in our legislation and a bit of a checklist of the items that you do need to cover off when you are seeking approval for the installation of sustainability infrastructure. A topic that is outside the scope of today's podcast, but I do have some resources available on that topic that I'm happy to direct you to if you'd like to reach out to me via email, [amanda@yourstrataproperty.com.au](mailto:amanda@yourstrataproperty.com.au).

Now, for those of you in the know experienced strata dwellers, committee members, strata managers, you will be attuned to the fact that this has been a very high-level summary of the three types of renovation works that may be carried out in strata and the general approval processes for each of those. Like many things in strata, the devil is in the detail. The detail is not something that I am covering today. I have been asked by some of the pro members inside our online membership community, strata managers they are to cover off this topic in an hour-long webinar training session. I'm going to be putting that one together over the next couple of months.

If you are a strata manager wanting to understand more clearly how our legislation applies to different types of renovation works in strata, what the interaction between cosmetic work, minor work, as I call it major work is and how to clearly explain that to your lot owner clients with reference to the relevant sections of the legislation. Then do reach out to me and let me know that you're interested in that training session too. I'll let you know how you can get access to that one. [amanda@yourstrataproperty.com.au](mailto:amanda@yourstrataproperty.com.au) is the best way to reach out.

I've also mentioned a few times today the importance of by-laws in the context of renovation works. I've reminded you to check in with your building to see what types of relevant by-laws may be in place before you start your work to make sure you're following any unique process that your building may have. But if your building doesn't yet have a by-law that deals with renovation work, you may want to check out my own template, Renovation Works by-law. This is a by-law that, all in the one document, explains what types of work are cosmetic, minor, and major, and does that job of delegating authority to the strata committee to approve those types of work that it is legally able to approve.

My template sets out the standards for work to be carried out by owners and make sure that owners are responsible for their work and for the common property that they are impacting. I like to call this template a Global Renovation Works by-law template. It is the place that you can point new owners to when they are inquiring about the process for carrying out renovation work at your building. If you're a member inside our online membership community, then this template is absolutely free for you, just log in and check out your templates library. If you're not a member and want to get your hands on this template, it is just \$147 with access over at [yourstrataproperty.com.au/renovations](https://yourstrataproperty.com.au/renovations).

And if you are an owner wanting to carry out specific renovation work for which you need a special resolution and your strata manager, your committee has told you that you also need a by-law, then I've got a template for you too. This is one of our most popular templates over on the website, a by-law that approves specific types of renovation work. The template is available to you in a fully editable Word document so you can insert the type of work that you are completing, whether it's a bathroom renovation, the installation of an air conditioning unit on the balcony, the removal of a load-bearing wall. The template contains all the standard conditions that I know your owners corporation and your strata committee are going to want to see presented to the general meeting. For access to that template specifically approving lot owner renovation work, head over to [yourstrataproperty.com.au/ownerrenovations](https://yourstrataproperty.com.au/ownerrenovations). That's one word, ownerrenovations. Those links all for you in the show notes to this episode. That is your flying visit through the three types of renovation works in strata. That's all for this week. I'll catch you next time.

**Outro:** Thank you for listening to Your Strata Property, the podcast which consistently delivers to property owners reliable and accurate information about their strata property. You can access all the information below this episode via the show notes at

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