



Structural alteration of a lot: Strata Schemes Best Practice Guideline

Reference: SCAWA400

This Practice Guideline has been developed for Strata Community Managers by SCA (WA) and Lavan.

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Chapter One: Approval of the strata company required before an owner can structurally alter their own lot

- 1 An owner in a strata scheme is required to obtain the approval of the strata company before the owner can structurally alter their lot. That approval is by a resolution without dissent: section 87 of the *Strata Titles Act 1985 (Act)*.
- 2 The structural alteration of a lot means:
 - 2.1 the erection of a structure within the lot;
 - 2.2 an alteration of a structural kind to a structure within the lot; or
 - 2.3 an extension of a structure within the lot: section 86 of the Act.
- 3 A structure for the purposes of the Act is very broadly defined and includes things like latticework attached to a fence¹.
- 4 If an owner makes a structural alteration to their lot (such as constructing a pergola within a part lot courtyard) and does not obtain the approval of the strata company to that structural alteration, another owner or the strata company can apply to the State Administrative Tribunal (**SAT**) for an order requiring the owner to remove the structural alteration: sections 197 and 200(2)(n) of the Act.

- 5 To minimise the risk of disputes occurring within the strata scheme about whether owners have obtained approval to structurally alter their lot, the council of the strata company (**Council**):
 - 5.1 reminds owners that they must apply for approval of the strata company to structurally alter their lot; and
 - 5.2 has prepared a template application that an owner can submit to the strata company to seek approval for the structural alteration (**Template Application**).

Chapter Two: Process to obtain strata company approval for a structural alteration of a lot

- 1 Prior to commencing the structural alteration of their lot, an owner must:
 - 1.1 properly complete the Template Application with all the required information, plans and specifications (Complete Application); and
 - 1.2 submit the Complete Application to the strata company through the strata manager.
- 2 If the Complete Application has been properly prepared and given to the strata company, the Council will arrange for the

¹ See the decision of the State Administrative Tribunal in *The Owners of Arbor North Strata Plan 67510 and Sun* [2020] WASAT 28, which found that latticework attached to a fence was a structure.

strata company to vote on the proposed structural alteration of the lot as detailed in the Complete Application (**Proposal**):

- 2.1 in a general meeting of the strata company; or
 - 2.2 outside of a general meeting (Circular Resolution).
- 3 If the strata company approves the Proposal by a resolution without dissent, the owner can begin construction of the structural alteration.
 - 4 There are limited grounds on which another owner can object to a Proposal and those grounds are specified in the approved form that is contained within the Template Application.

Local government approval may also be required

- 5 Note that the owner may also need to obtain development approval from the local government before they commence the lot alteration.

Chapter Three: Calculating open space and plot ratio

Calculating open space

- 1 Open space means the area of a lot that is not occupied by a building, calculated in accordance with the regulations: section 3(1) of the Act.
- 2 To calculate the open space of a lot in a strata titles scheme, the open space of the parcel that is the subject of the strata titles scheme is to be apportioned between lots:
 - 2.1 in accordance with the scheme by-laws; or

- 2.2 if the scheme by-laws do not provide for that apportionment, in accordance with the pro rata entitlements of each lot: regulation 7(1) of the Regulations.

- 3 The open space of the parcel that is the subject of the strata titles scheme is calculated as follows:
 - 3.1 if the parcel is a residential development to which the R-Codes apply, in accordance with the R-Codes;
 - 3.2 if the above paragraph does not apply, in accordance with the relevant local planning scheme; and
 - 3.3 if neither of the two paragraphs above apply, in the same way as it would be determined by the local government if a development application (within the meaning given in the *Planning and Development Act 2005* section 4(1)) were made for approval of a structural alteration of the lot: regulation 7(2) of the Regulations.
- 4 The *State Planning Policy 7.3 Residential Design Codes (R-codes)* define open space as:

“Generally that area of a lot not occupied by any **building** and includes:

 - 4.1.1 open areas of accessible and useable flat roofs and outdoor living areas above natural ground level;
 - 4.1.2 areas beneath eaves;
 - 4.1.3 verandahs, patios or other such roofed structures not more than 0.5m above natural ground level, unenclosed on at least two sides, and covering no more than 10 per cent of the site area or 50m² whichever is the lesser;

4.1.4 unroofed open structures such as pergolas;

4.1.5 uncovered driveways (including access aisles in car parking areas) and uncovered car parking spaces;

but excludes:

4.1.6 non-accessible roofs, verandahs, balconies and outdoor living areas over 0.5m above natural ground level; and/or

4.1.7 covered car parking spaces and covered walkways, areas for rubbish disposal, stores, outbuildings or plant rooms.”

5 The R-codes define building as:

“Any structure whether fixed or moveable, temporary or permanent, placed or erected on land, and the term includes dwellings and structures appurtenant to dwellings such as carports, garages, verandahs, patios, outbuildings and retaining walls, but excludes boundary fences, pergolas and swimming pools.”

6 Note that the R-codes contain definitions for words and phrases such as unenclosed, verandah, site area, outbuildings and other words used in the R-codes.

7 The pro rata entitlements of a lot are calculated on the proportion that the area of a lot bears to the area of the parcel: regulation 7(3) of the Regulations.

Calculating plot ratio

8 Plot ratio of a parcel

8.1 Parcel means the land subdivided by the strata scheme (section 3(1) of the Act), which is all the land within the boundary of the strata plan.

8.2 Plot ratio of a parcel, means the ratio of the gross total of the areas of all floors in any building on the parcel to the total area of the parcel, and is to be calculated as provided by regulation 8 of the Regulations: section 3(1) of the Act.

8.3 To calculate the plot ratio in relation to the parcel, the gross total of the areas of all floors in any building on the parcel is to be calculated as follows:

8.3.1 if the parcel is a residential development to which the R-Codes apply, in the same way as plot ratio area is calculated under the R-Codes; or

8.3.2 if the parcel is not a residential development to which the R-codes apply, in the same way as floor area is calculated under the relevant local planning scheme: regulation 3(1) of the Regulations.

8.4 The R-codes define plot ratio as:

8.4.1 “The gross total area of all floors of **buildings** on a development site, including the area of any internal and external walls but not including:

- (a) the areas of any lift shafts;
- (b) stairs or stair landings common to two or more dwellings;
- (c) machinery, air conditioning and equipment rooms;
- (d) space that is wholly below natural ground level;

- (e) areas used exclusively for the parking of wheeled vehicles at or below natural ground level;
- (f) storerooms;
- (g) lobbies, bin storage areas, passageways to bin storage areas or amenities areas common to more than one dwelling; or
- (h) balconies, eaves, verandahs, courtyards and roof terraces.”

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9 Plot ratio of a lot

- 9.1 Plot ratio of a lot, means the ratio of the gross total of the areas of all floors in any building on the lot to the total area of the lot, and is to be calculated as provided by regulation 8 of the Regulations: section 3(1) of the Act.
- 9.2 To calculate the plot ratio in relation to a lot, the gross total of the areas of all floors in any building on the lot is to be calculated by apportioning the gross total of the areas of all floors in any building on the parcel between lots in accordance with the pro rata entitlements of each lot: regulation 8(2) of the Regulations.
- 9.3 The pro rata entitlements of a lot are calculated on the proportion that the area of a lot bears to the area of the parcel: regulation 8(3) of the Regulations.
 - 9.3.1 For example, Lot 1 has a total area of 100 sqm and the parcel has a total area of 2000 sqm. The pro rata entitlements of Lot 1 are 1 of 20 or 5%.

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