



Strata Titles Amendment Act 2018 Fact Sheet

Sections 86-90

Structural alteration of lots

86. Terms used in this Division

In this Division —

structural alteration of a lot means —

- (a) the erection of a structure within the lot; or
- (b) an alteration of a structural kind to, or extension of, a structure within the lot;

structure includes anything classified as a structure by the regulations.

87. Structural alteration of lot in strata scheme

- (1) The owner of a lot in a 2-lot scheme that is a strata scheme must not cause or permit the structural alteration of the lot except with the prior written approval of —
 - (a) the owner of the other lot; and
 - (b) for a leasehold scheme, the owner of the leasehold scheme.
- (2) The owner of a lot in a strata scheme, other than a 2-lot scheme, must not cause or permit the structural alteration of the lot except —
 - (a) with the prior approval, expressed by resolution without dissent, of the strata company and, for a leasehold scheme, the prior written approval of the owner of the leasehold scheme; or
 - (b) if —
 - (i) the prior written approval to the structural alteration has been given by the owner of each lot in the scheme, and, for a leasehold scheme, the owner of the leasehold scheme; and

(ii) all approvals are either unconditional or are subject to the same conditions; and

(iii) a copy of each approval is served on the strata company.

(3) If an application is made under this section for approval for the structural alteration of a lot, the owner of any other lot in the strata scheme or the owner of the leasehold scheme may refuse to give approval on a ground permitted by subsection (5), but not otherwise.

(4) If an application is made to a strata company under this section —

(a) notice of the proposed resolution on the application must contain or be accompanied by a statement, in the approved form, of the effect of paragraphs (c) and (d); and

(b) if a vote on the resolution is taken at a general meeting, the chairperson must, before the vote is taken, read out the statement referred to in paragraph (a); and

(c) the vote for a lot may be cast —

(i) against a resolution to approve the application; or

(ii) in support of a resolution to refuse approval of the application,

on a ground permitted by subsection (5), but not otherwise; and

(d) a vote referred to in paragraph (c) is of no effect unless the person casting the vote discloses as a ground for the person's vote 1 or more of the grounds permitted by subsection (5).

(5) The grounds on which approval may be refused are —

(a) that the carrying out of the proposal will breach the plot ratio restrictions or open space requirements for the lot; or

(b) in the case of a lot that is not a vacant lot, that the carrying out of the proposal —

(i) will result in a structure that is visible from outside the lot and that is not in keeping with the

rest of the development; or

(ii) may affect the structural soundness of a building;

or

(iii) may interfere with a statutory easement;

or

(c) any other ground specified in the regulations.

89. Approvals and objections to structural alterations

- (1) An application for the approval of the structural alteration of a lot must set out details of the proposal and such other information as may be prescribed.
- (2) If an application is made to a strata company under subsection (1), voting on the application must open within 35 days after the application is received (the allowed period).
- (3) If voting on the application does not open as required by subsection (2), the applicant may convene a general meeting, in the same manner as nearly as possible as that in which meetings are to be convened by the council, and submit the application to that meeting.
- (4) Despite subsection (2), a council may submit an application to a general meeting convened by the council after the allowed period if that meeting is held before a meeting is convened by the applicant under subsection (3).
- (5) The owner of a lot or the owner of a leasehold scheme is taken to have approved the structural alteration of a lot as set out in an application for approval served on the owner if —
 - (a) the owner serves on the applicant written consent to the alteration; or
 - (b) the owner has not, at the end of 42 days after being given the application, made a written objection to the alteration; or
 - (c) for a strata scheme, the owner has made such an objection but the objection does not specify the grounds of the objection or the grounds specified are not grounds on which the owner may object under section 87.
- (6) A strata company is taken to have approved the structural alteration of a lot as set out in an application for approval served on the strata company if —

- (a) the strata company serves on the applicant written consent to the alteration expressed by resolution without dissent; or
- (b) despite section 87(2) —
 - (i) the strata company has not, at the end of 77 days after being given the application, made a written objection to the alteration; or
 - (ii) for a strata scheme, the strata company has made such an objection but the objection does not specify the grounds of the objection or the grounds specified are not grounds on which members of the strata company may object under section 87.

90. Order dispensing with approval for structural alteration of lot

- (1) The Tribunal may, on the application of an owner of a lot in a strata titles scheme, by order, exempt a particular structural alteration to the lot from the application of this Division.
- (2) An order may be made under this section —
 - (a) whether or not the necessary approval for the alteration has been sought; and
 - (b) even if there has been a valid refusal to give the necessary approval.
- (3) An order can only be made under this section if the Tribunal is satisfied —
 - (a) that the structural alteration of the lot is reasonable, having regard to the merits of the alteration and the interests of all of the owners of the lots in the use and enjoyment of their lots and the common property; and
 - (b) to the extent that the structural alteration has already been carried out, it will not cause any significant inconvenience or detriment to the owners of other lots.