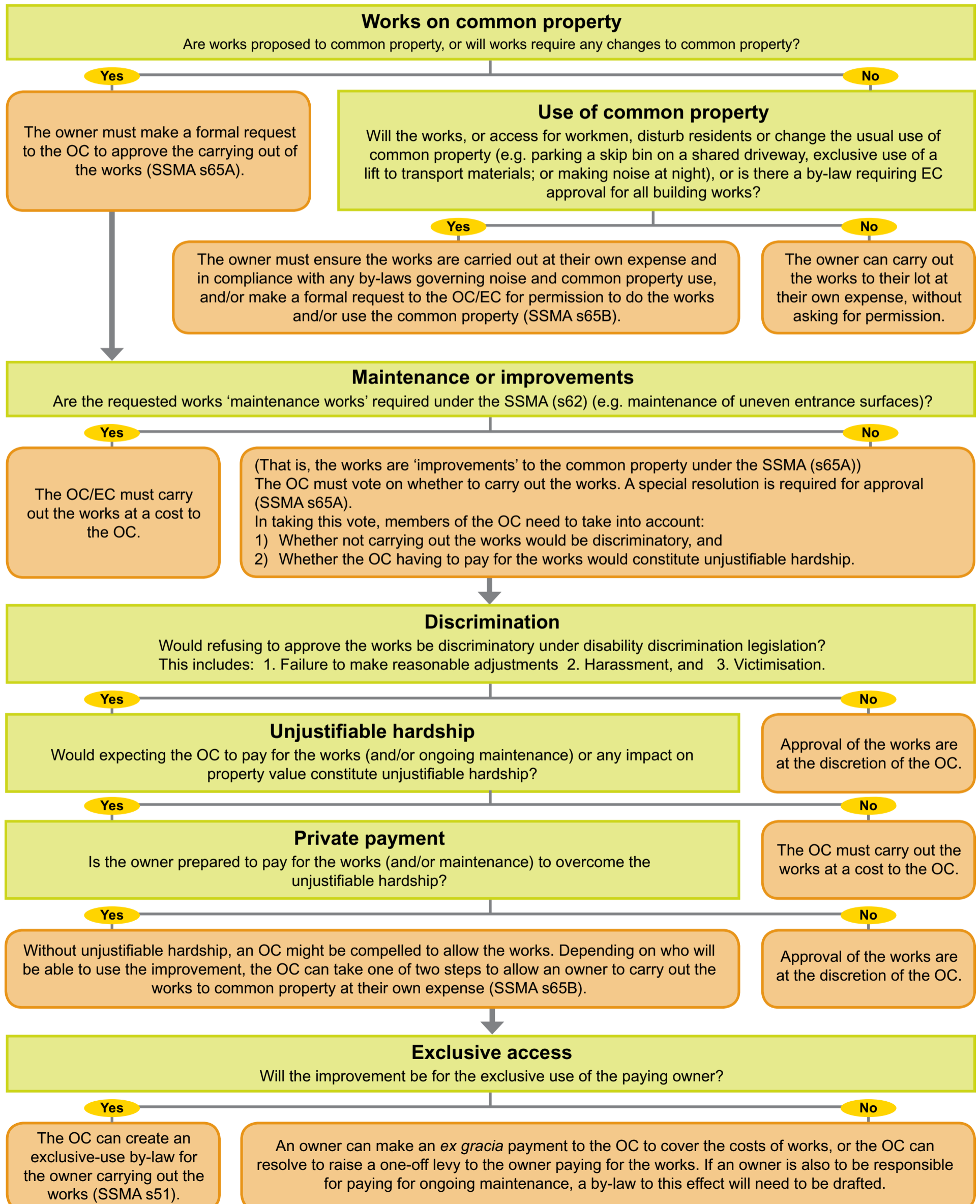


# Home modifications approvals in strata properties in NSW

Never Stand Still

Built Environment

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## Notes

**Private renters:** This diagram outlines the process strata property owners must follow to have home modifications undertaken in their properties. People renting properties in a strata scheme will first need to obtain permission from their landlord to make changes either inside or outside of their individual unit. Their landlord (the property owner or agent) will then need to follow the process outlined in this diagram on their behalf.

Also note that private landlords are subject to provisions in both the Commonwealth *Disability Discrimination Act 1992* and the NSW *Anti-Discrimination Act 1977* regarding discrimination in the provision of residential accommodation.

**Multiple owners requesting modifications:** Multiple owners can also collectively make formal requests to an OC for works/improvements, and make collective offers to pay for works and maintenance. Typically, any costs will be split in line with relative unit entitlements.

**Definition of disability:** The definitions of disability in Disability Discrimination Act (DDA) and the Anti-Discrimination Act (ADA) are very broad. They “include almost any health condition, impairment or disability that you can think of” (Australian Centre for Disability Law 2011:8). This means that the definition also applies to people who are frail due to old age.

## Glossary

**Common property:** As well as common areas such as gardens, courtyards and corridors, common property usually includes shared walls, external walls, windows, and some plumbing and electrical wiring. To determine which areas in a particular scheme are common property, you will need to refer to the strata plan. The secretary of the EC or the scheme’s strata manager should be able to provide this plan.

**Disability discrimination legislation:** This includes both the Commonwealth *Disability Discrimination Act 1992* and the NSW *Anti-Discrimination Act 1977*.

**EC:** Executive Committee, a smaller committee that can make minor decisions on behalf of the OC, including requests to use common property and to carry out maintenance works. Some limitations are imposed in large strata schemes (with over 100 lots) under s80A of the SSMA on how much money an EC can spend. ECs cannot pass special resolutions for additions to common property, alterations to common property or the erection of a new structure on the common property. Instead, a special resolution must be passed at a general meeting of the OC (SSMA s65A).

**Formal requests (to OC/EC):** This should be presented in writing to a member of the EC. The letter must include a draft motion about the specific matter that you want to be considered at an OC/EC meeting.

**OC:** Owners Corporation, a body corporate comprised of, and representing, all owners of lots in a strata scheme, formed when a strata plan is registered.

**Reasonable adjustment:** “a modification or an accommodation which you need, because of your disability, so that you are able to participate or access something equally to someone without your disability.” (Australian Centre for Disability Law, 2011:13)

**Special resolution:** A resolution that can only be made by an OC if no more than 25% of votes oppose it.

**SSMA:** *Strata Schemes Management Act 1996* (NSW), the legislation governing the operation of strata schemes, including OCs and ECs.

**Unjustifiable hardship:** “where it is too hard not to discriminate, or the costs of making an adjustment outweigh its benefit ... Whether something is an unjustifiable hardship will depend on the circumstances of each case” (Australian Centre for Disability Law, 2011:14-15).



**Reference:** Australian Centre for Disability Law (2011) Using Disability Discrimination Law in New South Wales, [http://disabilitylaw.org.au/wp-content/uploads/2012/03/Using\\_DD\\_Law\\_NSW.pdf](http://disabilitylaw.org.au/wp-content/uploads/2012/03/Using_DD_Law_NSW.pdf)

*The document is not intended to be a substitute for legal advice or guidance. The authors accept no liability for loss or damage arising from actions made based on the general information provided.*

*This information sheet should be read in conjunction with the document 'Home Modifications in Strata Properties' available from Leichhardt Council or the City Futures Research Centre at the University of NSW.*