

# SECTION 62 NOTICE FLOW CHART (ACT)

This is a flowchart outlining the recommended steps to take when issued with a section 62 notice by the Construction Occupations Registrar (Registrar). Note: notices under section 62 of the Building Act 2004 apply to buildings that are deteriorating, structurally unsound, unsafe because of fire hazard or unfit for use due to a danger to health.

Registrar must give a reviewable decisions notice stating how to apply, including any time limitations, to ACAT for review (s 142B Building Act 2004, s 67A ACAT Act 2008 and r 7 ACAT Regulations 2009).

## STEP 1

Registrar issues s 62 notice directing Owners Corporation to carry out building work (including demolition) within a stated period of time.  
(s 62 Building Act 2004)

Time period for Owners Corporation to carry out building work is at the discretion of the Registrar (s 62 Building Act 2004).  
Note: Contravention of s 62 notice is an offence (s 64 Building Act 2004).

## STEP 2

General meeting for Owners Corporation to pass resolution to appeal s 62 notice.  
  
(please see sample resolution overleaf)

## STEP 3

Engage relevant expert (fire safety or building expert) to address concerns raised.

## STEP 4a

Consider merits review in ACT Civil and Administrative Tribunal (ACAT)  
(s 68 ACAT Act 2008, s 142C Building Act 2004 and r 44A-C Building Regulations 2008)

## STEP 4b

Consider judicial review in ACT Supreme Court  
(ss 4A, 5 and 6 Administrative Decisions (Judicial Review) Act 1989)

28 days from day decision made to start judicial review proceedings (s 10 Administrative Decisions (Judicial Review) Act 1989).

## STEP 5

KB and expert engage collaboratively with Registrar to reach an out-of-court resolution

**NEED HELP?**

Please Contact: Chris Kerin at Kerin Benson Lawyers, Level 8, 65 York St, Sydney NSW 2000  
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## **SAMPLE RESOLUTION TO BE PASSED AT GENERAL MEETING**

RESOLVED: that the owners corporation provide full authority to the executive committee and approve taking any steps, including the seeking of legal advice or services and the commencement of court proceedings, in relation to any section 62 notice issued, or which will be issued, by the Construction Occupations Registrar (the Notice).

The sole condition on the exercise of this authority is that the executive committee use reasonable endeavours to seek to obtain a resolution of the Notice on the most advantageous terms available, taking into account all the circumstances including the advice of its experts and legal advisers. Other than this condition, the executive committee has no limit on the above authority and may enter into and execute on behalf of the owners corporation any document required to resolve the Notice.

**NEED HELP?**

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