

Referee Guideline 1

Application process

Referee Guidelines are educational tools designed to assist parties in understanding the processes and requirements of an application for an order of a referee. For any given application, the referee may exercise discretion in the case management of the application according to its circumstances and as provided for in Part 5 of the *Building Units and Group Titles Act 1980* (BUGT Act).

1. This guide summarises the process for the case management and determination of an application for dispute resolution by the order of a referee.
2. For further guidance on making an application, refer also to *RG 2: Application for an order by a referee* and *RG 3: Interim orders*.

Case management

3. Each new application will be given a unique file reference number and case managed by a referee or their delegate. Parties should cite the reference number in communications about the application with this office and other parties.
4. If it would assist the investigation or determination of the application, the referee may require the applicant to clarify or amend the application and provide further information or documents in relation to it.
5. The referee may refuse to proceed with the application until such a requirement is complied with. After a reasonable period of non-compliance, the referee may decide to close the file.

Submissions

6. At the referee's discretion, an application for an interim order may be determined without notice to or submissions from the respondent and affected parties.
7. The referee must give written notice of the application for final orders to the body corporate to which the application relates and to any other person who, in the referee's opinion, would be affected by the requested order.
8. The notice must invite the body corporate, its members and any other person to whom the notice is given to make a written submission about the application, within a specified time.
9. A party must include in their submission all information, arguments and evidence they seek to rely on. The submission should clearly identify the relevant parts of any document provided in support.
10. At the referee's discretion, a party may be allowed a further opportunity to comment on the application or another party's submission.



11. A party may request, but should not expect to be granted, an extension of time to make a submission. An extension request must:
 - be made in writing;
 - specify the date or period of the extension request; and
 - give good reasons for allowing the extension.
12. At the referee's discretion, the referee may give to the applicant the respondent's and other parties' submissions and invite a submission in reply. The applicant's reply should be limited to addressing issues raised in the application and the other parties' submissions.
13. Reply submissions which go beyond the original application or others' submissions may be disregarded by the referee. Otherwise, in the interests of natural justice, the referee may require any new reply material to be distributed to the other parties, at the applicant's cost, for further submissions.
14. Submissions and replies to submissions cannot be kept private or confidential where natural justice would require them to be shared with another party to the application.

Investigation

15. A referee may investigate the application and request additional information from any party to the application or any person, who in the referee's opinion, would be affected if the order sought was made.
16. A referee is not obliged to investigate an application.
17. Parties bear the onus of submitting the evidence upon which they wish to rely.

Decision

18. Once the submissions and investigation process are completed to the referee's satisfaction, the referee will decide the application by dismissing the application or making orders.
19. Applications are determined 'on the papers', without a hearing in person.
20. A copy of the referee's order and a statement of their reasons for the decision will be given to the applicant, the body corporate, any person to whom notice of the application had been given, and any person who is the subject of an order.
21. The referee's order and the statement of reasons may be published on the Australasian Legal Information Institute website at www.austlii.edu.au.

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