

Common property and the lot

In a strata scheme

A strata scheme is a building, or collection of buildings, where:

- the property that each individual owns is called a 'lot' (for example, an apartment, villa or townhouse)
- everyone shares ownership of the 'common property', such as external walls, foyers and driveways.

Individuals own each lot, common property is jointly owned by all owners, and the owners corporation is responsible for the strata scheme's management.

The lot

In most strata schemes, the lot owner owns the inside of the unit but not the main structure of the building. Usually the four main walls, the ceiling, roof and the floor are common property. The basic rule is that everything inside a lot is the owner's property. This generally includes all internal walls, fixtures, carpet and paint on the walls.

Airspace

A lot owner effectively owns the airspace (and anything included in the airspace) inside the boundary walls, floor and ceiling of the lot.

Lot airspace may include balconies and courtyards. Everything within the airspace must be maintained at the owner's cost.

Areas of common property

Common property boundaries of each lot are generally formed by:

- the upper surface of the floor (but not including carpet)
- the under surface of the ceiling
- all external or boundary walls (including doors and windows).

Common property can include such things as:

- pipes in the common property or servicing more than one lot

- electrical wiring in the common property or servicing more than one lot
- originally installed parquet floors, ceramic tiles, floor boards, vermiculate ceilings, plaster ceilings and cornices
- magnesite finish on the floor
- most balcony doors are usually common property if the strata plan was registered after 1974
- the slab dividing two storeys of the same lot or one storey from an open space roof area or garden areas of a lot (eg. a townhouse or villa), is usually common property if the strata plan was registered after 1 July 1974, unless the registered strata plan says it is not.

Common property memorandum

In some strata schemes, uncertainty can arise about whether the owners corporation or the individual lot owners are responsible for the maintenance or repair of certain items.

A common property memorandum specifies whether an owner of a lot or the owners corporation is responsible for the maintenance, repair or replacement of any of the common property. Download a copy of the prescribed common property memorandum from the Fair Trading website.

The prescribed memorandum is designed to provide more certainty for strata owners and owners corporations in dealing with most items of common concern within their strata scheme.

The prescribed common property memorandum (which is the only memorandum that can be used) can be adopted by passing a by-law. It cannot be modified except to exclude specified items that are not common property for the purposes of a particular scheme. An owners corporation should seek professional advice as to whether the memorandum is appropriate for their scheme before adopting it.

The registered strata plan

The registered strata plan defines the boundaries between common property and lots in a strata scheme and can also be useful in clarifying what areas are common property. For enquiries about interpretations of the plan or to buy a copy for information on common property in strata plans that were registered before 1 July 1974, contact Land and Property Information NSW at www.lpi.nsw.gov.au or 1300 052 637

Responsibilities of the owners corporation

The owners corporation is responsible for looking after common property and doing all repairs. This includes replacing and renewing common property when needed, unless it decides by special resolution that it is inappropriate for a particular item and its decision will not affect the safety or appearance of the strata scheme. For further information, see the Repairs and maintenance page on the Fair Trading website.

The owners corporation can decide at a general meeting by special resolution to do, or allow a lot owner to add, alter or erect a new structure that improves or enhances common property. If the ongoing maintenance for any alteration, addition or erection is to be the responsibility of a lot owner, a by-law must be created. Otherwise the owners corporation becomes responsible for the ongoing maintenance.

A lot owner cannot carry out work on the common property unless they are authorised to do so under a by-law, a common property rights by-law, or an approval of the owners corporation given by special resolution or in any other manner authorised by the by-laws. For further information, read the Renovations page on the Fair Trading website.