

# Circular

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## Defining who is responsible for items and areas in a Strata Scheme

Land and Property Information, a division of the Department of Finance and Services is officially registered in the Australian Business Register and also registered for GST. Its ABN is 84 104 377 806.

A new option is now available to provide greater certainty for strata owners and Owners Corporations when dealing with items of common concern within their strata scheme.

A Memorandum has been developed to define who is responsible for the repair, replacement or maintenance of items or areas contained within a strata scheme.

The Memorandum has been lodged in LPI as Memorandum No AG520000 and can be used by both new and existing Strata Schemes.

This is an initiative of the Strata Industry Working Group (SIWG) which is hosted by LPI and includes representatives from industry and government who share an interest in the development and management of strata schemes.

To help you to decide if the Memorandum is suitable for use in your Strata Scheme, an extract from the Memorandum detailing the principles and provisions is attached to this Circular.

The full Memorandum is available for purchase from the LPI Online Shop at <http://shop.lands.nsw.gov.au/wps/portal/lpma/lpi-shop/searches/dealing-image>

## Adopting the Memorandum

The Memorandum can be adopted by existing or new strata schemes.

More information on how to adopt the Memorandum is available in the Frequently Asked Questions (FAQs) section of LPI's website: see [Who is responsible for an item or area in a strata scheme?](#)

## Further information

General inquiries may be made in person at the Client Service Counter, ground floor, Land and Property Information, Queens Square, Sydney, by telephone to 1300 052 637 or by email to [GeneralEnquiry@lpi.nsw.gov.au](mailto:GeneralEnquiry@lpi.nsw.gov.au).

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## **Extract from Memorandum AG520000**

### **Section 1 Principles**

- 1.1 The purpose of this Memorandum is to provide more certainty for strata owners and Owners Corporations in their dealing with items of common concern within their strata scheme, and is limited to those items specified within this Memorandum.
- 1.2 An existing Owners Corporation may choose to adopt this Memorandum in whole or in part.
- 1.3 A developer may choose to adopt this Memorandum in a new strata scheme in whole or in part.
- 1.4 There are two key tenets utilised in the decision process in the creation of this Memorandum
  - a. Harmonious living in strata, and
  - b. Minimise civil litigation.
- 1.5 In conjunction with the above tenets, major considerations have been:
  - a. all internal and external waterproofing is the responsibility of the Owners Corporation (including the function of any structure) except where a lot owner causes damage to waterproofing,
  - b. where only one lot is affected by an item or area requiring repair, replacement or maintenance, then that lot would be responsible for the repair, replacement or maintenance of that item or area, and
  - c. where an item or area requiring repair, replacement or maintenance is located on Common Property or a single lot affects the quiet enjoyment of another lot or other lots, then the Owners Corporation would be responsible for the repair, replacement or maintenance of that item.
- 1.6 Under the Strata Schemes Management Act 1996 No 138 (NSW) Common Property is defined as 'Common Property means so much of a parcel as from time to time is not comprised in any lot'.
- 1.7 This Memorandum defines who is responsible for the repair, replacement or maintenance of an item or area contained within a strata scheme.
- 1.8 The above responsibility for the repair, replacement or maintenance of an item or area may be different to the actual ownership of that particular item or area.
- 1.9 This Memorandum does not intend to confer ownership of an item or area to a strata owner or Owners Corporation but simply defines who will be responsible for the repair, replacement or maintenance of an item or area.
- 1.10 Any existing By-Law or statement on the registered strata plan that requires an Owner or Owners Corporation to repair, replace or maintain an item or area overrides the Owner or Owners Corporation responsibility contained within this Memorandum.

### **Section 2 Provisions**

#### **2.1 Balcony - Owners Corporation (OC) responsibility**

- a. Columns.
- b. Door, window & wall.
- c. Painting of balcony ceiling.
- d. Railings.
- e. Water leaking through wall.

- f. Security door or door flyscreens. Exception; where they were installed by an owner after adoption by the OC of this Memorandum.
- g. Tiles and waterproofing.

## **2.2 Balcony - Owners responsibility**

- a. Awnings.

## **2.3 Ceilings or Roof - OC responsibility**

- a. Ceiling cornices.
- b. False ceilings installed on the registration of the strata plan and were there to hide communal piping, ducting or wiring etc.
- c. Guttering.
- d. Membranes.
- e. Plastered Ceilings.
- f. Vermiculite Ceilings.

## **2.4 Ceilings or Roof - Owners responsibility**

- a. False ceilings inside the lot.
- b. Paintwork inside the lot.

## **2.5 Courtyard - OC responsibility**

- a. Fencing, if they are shown as a thick line on the strata plan then they are deemed a common wall.
- b. Trees, existing mature trees that extend past the stratum limits of a lot at the time of adopting this Memorandum becomes the responsibility of the OC, including damage and trimming costs.

## **2.6 Courtyard - Owners responsibility**

- a. Deck, pergola, privacy screen, louvres or steps within a lot (regardless of whenever that item was constructed within that lot).
- b. Fencing, if they are shown as a thin, dotted or no line on the strata plan then they are treated in accordance with the Dividing Fences Act and are treated as follows.
  - i. Divides two lots. Each owner is responsible 50%/50%.
  - ii. Divides one lot from common property. Owner 50% and the OC 50%.
  - iii. Divides one lot from the adjoining property. Adjoining owner 50% and the OC 50%.
- c. Tree trimming/removal (when that tree is within that lot). Owners responsibility to the extent that the Owner is responsible to ensure that the tree does not extend past the boundary of that lot or cause damage outside of that lot.

## **2.7 Electrical - OC responsibility**

- a. Air conditioning systems - serving more than one lot.
- b. Electric Garage Door Opener (motor and device). Exception, where they were installed by an owner after adoption by the OC of this Memorandum.
- c. Fuses and fuse board in the meter room.
- d. Intercom handset.
- e. Intercom wiring - serving more than one lot.
- f. Light and power wiring - serving more than one lot.
- g. Light fittings - serving more than one lot (also where the light fitting is installed to illuminate other areas within the scheme).
- h. Power point socket serving more than one lot or located on common property.
- i. Smoke detectors connected to the fire board in the building.

## **2.8 Electrical - Owners responsibility**

- a. Air conditioning systems - exclusive to a single lot and inside the lot.
- b. Air conditioning systems - exclusive to a single lot and outside the lot.
- c. Fuses and fuse board is within the lot.

- d. Insinkers.
- e. Intercom wiring - serving one lot.
- f. Light and power wiring - serving one lot.
- g. Light fittings - serving one lot.
- h. Light switches serving one lot.
- i. Power point socket serving one lot.
- j. Smoke detectors within a lot and are stand alone (not connected to the fire board in the building).
- k. Stoves.
- l. Telephone (additional wiring required).
- m. Telephone sockets.
- n. Telephone wiring broken.
- o. TV and internet, including sockets (For example, Foxtel wiring required).

### **2.9 Entrance Door - OC responsibility**

- a. Door locks - original lock or its subsequent replacement.
- b. Entrance door automatic closer.
- c. Security door repair. Exception, where they were installed by an owner after adoption by the OC of this Memorandum.

### **2.10 Entrance Door - Owners responsibility**

- a. Door locks - additional locks to the original. Note that if a lock prevents the door complying with fire certification, the OC can replace the lock and charge the owner as a debt (Section 63(4) SSMA).
- b. Entrance door to lot.
- c. Keys, security cards and the like.

### **2.11 Floor - OC responsibility**

- a. Floorboards or parquetry flooring (the structure itself). Exception, where they were installed by an owner after adoption by the OC of this Memorandum then they are the Owners responsibility.
- b. Mezzanines and stairs within lots.
- c. Sound-proofing (magnasite) floor base.

### **2.12 Floor - Owners responsibility**

- a. Floor and wall tiles. Exception, where the tiles are on a boundary wall or floor then they are the responsibility of the OC.
- b. Floorboards or parquetry flooring (lacquer or staining on top).
- c. Internal carpets and unfixed floating floors.
- d. Linoleum or vinyl or cork tiles.

### **2.13 General - OC responsibility**

- a. Damage to common property by tenant.
- b. Dampness in a unit coming from outside.
- c. Ducting covering stack.
- d. Exhaust fans mounted within "Structural cubic space" e.g. communal ducting or a false ceiling which is designed to carry communal pipes etc or outside the lot.
- e. Hot water service – serving more than one lot.
- f. Letter boxes.
- g. Painting external to a lot. (For example, external surface of a boundary wall, balcony, courtyard wall).
- h. TV aerial and associated wiring (servicing more than one lot and regardless of whether it is contained within any lot or common property).

### **2.14 General - Owners responsibility**

- a. Built-in wardrobes or kitchen, laundry and other cupboards.

- b. Cracks in Walls. Exception, where the crack appears on a boundary wall or cornice and is greater than 1mm then they are the OC responsibility.
- c. Dishwasher.
- d. Exhaust fans inside the lot.
- e. Hot water service - exclusive to a lot and is inside a lot.
- f. Hot water service - exclusive to a single lot and outside the lot.
- g. Internal Doors.
- h. Internal Paintwork.
- i. Pavers.
- j. Skirting boards and architraves. Exception, where the skirting boards and architraves are situated on a common wall, then they become the OC responsibility.
- k. TV aerial and associated wiring (servicing one lot only and regardless of whether it is contained within that lot).

#### **2.15 Parking - OC responsibility**

- a. Carports.
- b. Electric Garage Door Opener (motor and device) including auto opening mechanism. OC responsibility. Exception, where they were installed by an owner after adoption by the OC of this Memorandum then they are the Owners responsibility.
- c. Garage doors, hinge mechanism and lock.
- d. Light fittings, serving more than one lot (where the light also illuminates other areas within the scheme).
- e. Line marking.
- f. Mesh between garages, if they are shown as a thick line on the strata plan then they are deemed a common wall.
- g. Water dripping onto a car and likely to damage car paintwork.

#### **2.16 Parking - Owners responsibility**

- a. Door controller button (garage door auto remotes).
- b. Light fittings - serving one lot.
- c. Mesh between garages, if they are shown as a thin, dotted or no line on the strata plan then they are treated in accordance with the Dividing Fences Act and are treated as follows.
  - i. Divides two lots. Each owner is responsible 50%/50%.
  - ii. Divides one lot from common property. Owner 50% and the OC 50%.
  - iii. Divides one lot from the adjoining property. Adjoining owner 50% and the OC 50%.
- d. Water ingress into garage. No responsibility, however the owner may choose to rectify. Note: A garage by definition is not a livable area. It is therefore exempt from compliance with the waterproofing standards for habitable use set by the Building Code of Australia, that it be impervious to water penetration. Unless there is some damage to common property that is causing the water penetration, the Owners Corporation is not responsible to ensure a garage area remains dry.

#### **2.17 Plumbing (includes bathroom, kitchen and laundry) - OC responsibility**

- a. Blocked floor drain or sewer in common property.
- b. Burst pipe in common property.
- c. Burst pipe outside the lot.
- d. Damage to unit after water leak when OC effecting a repair.
- e. Ducting covering stack.
- f. Main stop cock to unit.
- g. Stormwater and On-Site Detention systems (OSD) below ground (unless a condition of development consent overrides this principle).
- h. Water leaking from bath or shower and affecting another lot or common property.

- i. Water leaking through tiles or from one lot and affecting another lot or common property.

**2.18 Plumbing (includes bathroom, kitchen and laundry) - Owners responsibility**

- a. Burst pipe within the lot.
- b. Cabinet and/or mirror.
- c. Cracked bath or hand basin.
- d. Dampness in a lot coming from condensation from the inside.
- e. Dripping "S" bend under sink, laundry tub or hand basin.
- f. Leaking pipes under shower, sink, laundry tub, bath or hand basin.
- g. Plug and waste in bath, sinks and tubs.
- h. Shower Screen repairs.
- i. Toilet bowl or cistern.
- j. Water leaking from a bath or shower and not affecting another lot.
- k. Water leaking from shower, sink, laundry tub, bath or hand basin taps.
- l. Water leaking through tiles and not affecting another lot.
- m. Damage to a lot caused by any water leak mentioned above, as a result of the problem itself.

**2.19 Windows - OC responsibility**

- a. Flyscreens. Exception, where they were installed by an owner after adoption by the OC of this Memorandum.
- b. Original lock or its subsequent replacement. Exception, where they were installed by an owner after adoption by the OC of this Memorandum.
- c. Repairs.
- d. Sash cord replacement.
- e. Seal to window.

**2.20 Windows - Owners responsibility**

- a. Cleaning outside. Exception, where the exterior surfaces of glass in windows and doors cannot be accessed by the owner or occupier of the lot safely or at all, then it is the OC responsibility.