

Circular

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Identifying common property in a strata scheme: update on common Memoranda

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.

LPI has recorded an additional Memorandum in the land titles system, providing another option for strata owners and Owners Corporations wishing to precisely identify common property within their strata scheme.

The latest Memorandum has been developed by the Strata Industry Working Group in response to industry feedback on the Memorandum recorded by LPI in October 2011 as Memorandum No AG520000.

The new Memorandum has been recorded by LPI as Memorandum No AG600000. It may be more appropriate for use by existing strata schemes than Memorandum No AG520000, which in turn is more suited to new strata schemes.

The full text of the principles and provisions set out in Memorandum No AG600000 is attached to this Circular.

The full text of principles and provisions in Memorandum No AG520000 is attached to [LPI Circular 2011/07](#).

It is recommended that strata owners and Owners Corporations seek professional advice on whether either option is suitable for their strata scheme.

All of the principles and provisions of each Memorandum are reproduced in LPI Circulars. It is not necessary to purchase copies of the Memoranda as recorded by LPI unless these are required for legal purposes eg for attachment to a contract of sale where one of the Memoranda has been adopted by the strata scheme. In such cases copies may be purchased through LPI's network of authorised information brokers or from the LPI Online Shop at <http://shop.lands.nsw.gov.au/wps/portal/lpma/lpi-shop/searches/dealing-image>.

Adopting the Memorandum

More information on how to adopt either of the Memoranda is available in the Frequently Asked Questions (FAQs) section of LPI's website: see How can an Owners' Corporation identify common property 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.

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Principles and provisions of Memorandum No AG60000

Section 1 Principles

- 1.1 Under the strata title legislation owners corporations are responsible for the maintenance and repair of that part of a strata scheme which comprises common property. Lot owners are responsible for the maintenance and repair of that part of a strata scheme which comprises their lot.
- 1.2 This memorandum provides a guide to assist in determining whether a particular item in a strata scheme is part of an owner's lot or is common property.
- 1.3 This memorandum may be adopted by existing owners corporations or may be adopted for new schemes.
- 1.4 For any particular strata scheme, this memorandum must be read subject to the law, the strata plan for the strata scheme and the by-laws for the strata scheme.
- 1.5 Certain sections of this memorandum relating to walls, floors and ceilings may not be applicable to strata schemes registered prior to 1 July 1974.

Section 2 Provisions

2.1 Balcony. Common Property.

- a. Awnings within common property outside the cubic space of the balcony.
- b. Columns.
- c. Door, window & wall.
- d. Painting of balcony ceiling.
- e. Railings.
- f. Security door or door fly-screens. Exception; where they were installed by an owner after the registration of the strata plan.
- g. Tiles and associated waterproofing affixed at time of registration of the strata plan.
- h. Walls of planter boxes shown by a thick line on the strata plan.

2.2 Balcony. Lot property.

- a. Awnings within the cubic space of the balcony.

2.3 Ceilings and Roof. Common Property.

- a. Ceiling cornices.
- b. False ceilings installed at time of registration of the strata plan.
- c. Guttering.
- d. Membranes.
- e. Plastered ceilings.
- f. Vermiculite ceilings.

2.4 Ceilings and Roof. Lot property.

- a. False ceilings inside the lot added after registration of the strata plan.
- b. Paintwork inside the lot.

2.5 Courtyard. Common Property.

- a. Fencing, if they are shown as a thick line on the strata plan then they are deemed a common property wall.
- b. Trees. The part of a tree within common property is common property. The part of the tree within the cubic space of a lot is part of that lot. Costs associated with the tree (including damage and trimming) are apportioned according to that ratio.
- c. Walls of planter boxes and retaining walls shown by a thick line on the strata plan.

2.6 Courtyard. Lot property.

- a. Deck, pergola, privacy screen, louvers, retaining walls, planter walls, steps or other structures within the cubic space of the courtyard and not shown as common property in the strata plan.
- 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, 1991 and are treated as follows.
 - i. Divides two lots. Cost apportioned between the two lot owners.
 - ii. Divides one lot from common property. Cost apportioned between the lot owner and the owners corporation.
 - iii. Divides one lot from an adjoining property outside the scheme. Cost apportioned between owners corporation and the adjoining property owner.

- c. Tree growing within courtyard. 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. Note also item 2.5b.

2.7 Electrical. Common Property.

- a. Air conditioning systems - serving more than one lot.
- b. Automatic garage door opener (motor and device). Exception, where they were installed by an owner after registration of the strata plan.
- c. Fuses and fuse board in the meter room.
- d. Intercom handset.
- e. Intercom handset and wiring - serving more than one lot.
- f. Light and power wiring - serving more than one lot.
- g. Light and power wiring in common property walls.
- h. Light fittings - serving more than one lot.
- i. Power point socket serving more than one lot or located on common property.
- j. Smoke detectors connected to the fire board in the building.
- k. Any wiring for TV, cable TV, telephone, internet and the like within common property walls.

2.8 Electrical. Lot property.

- a. Air conditioning systems – serving only one lot, but only as regards the parts of the system within the lot. Any part of the system within common property is common property.
- b. Fuses and fuse board within the lot serving only that lot.
- c. Insinkerators.
- d. Intercom wiring – within the lot serving only that lot.
- e. Light and power wiring - in non common property walls within a lot (internal walls) serving only that lot.
- f. Light fittings inside the lot.
- g. Light switches within the lot serving only that lot.
- h. Power point socket within the lot serving that lot.
- i. Smoke detectors within the lot that are stand alone (not connected to the fire board in the building).
- j. Stoves.
- k. Telephone, TV, cable TV internet service sockets.
- l. Any wiring for TV, cable TV, telephone, internet within non common property walls within the lot (internal walls) serving only that lot.

2.9 Entrance Door. Common Property.

- a. Door locks - original lock or its subsequent replacement.
- b. Entrance door to lot including all door furniture.
- c. Entrance door automatic closer.
- d. Security door. Exception, where they were installed by an owner after registration of the strata plan.

2.10 Entrance Door. Lot property.

- a. Door locks - additional locks to the original. Note that if a lock prevents the door complying with fire certification, the owners corporation can replace the lock and may recover the costs from the lot owner (section 63(4) SSMA, 1996).
- b. Keys, security cards etc.

2.11 Floor. Common Property.

- a. Floorboards or parquetry flooring (the structure itself). Exception, where they were installed by an owner after registration of the strata plan, then they are the lot property.
- b. Mezzanines including stairs if shown as a separate level in the strata plan.
- c. Original floor tiles and associated waterproofing affixed to common property floors.
- d. Sound-proofing (eg. magnasite) floor base.
- e. Stairs between floors that are shown as a separate level in the strata plan.

2.12 Floor. Lot property.

- a. Floor tiles affixed after the registration of the strata plan.
- b. Internal carpets and unfixed floating floors.
- c. Lacquer or staining on top of floorboards or parquetry flooring.
- d. Linoleum or vinyl or cork tiles.
- e. Mezzanines (including stairs) that are within the cubic space of a lot and not shown or referred to in the strata plan.

2.13 General. Common Property.

- a. Any window or door in a common property wall (including all window and door furniture).
- b. Cornices.
- c. Common property walls.
- d. Ducting covering stack.
- e. Exhaust fans outside the lot or mounted within "structural cubic space" e.g. communal ducting which is designed to carry communal pipes etc.
- f. Hot water service – serving more than one lot.
- g. Letter boxes within common property.
- h. Painting external to a lot.
- i. Skirting boards and architraves on common property walls.
- j. TV aerial and associated wiring -serving more than one lot.
- k. Tiles and associated waterproofing affixed to common property walls at time of registration of the strata plan.

2.14 General. Lot property.

- a. Built-in wardrobes and kitchen, laundry and other cupboards.
- b. Dishwasher.
- c. Exhaust fans inside the lot.
- d. Hot water service – within the lot serving only that lot.
- e. Internal doors (including door furniture).
- f. Internal paintwork.
- g. Internal walls.
- h. Letter box within the lot.
- i. Pavers.
- j. Skirting boards and architraves on internal non common property walls.
- k. Tiles affixed to non common property walls within the lot.

2.15 Parking. Common Property.

- a. Carports. Exception, where they are within the cubic space of a lot and not referred to in the strata plan or are installed by an owner after registration of the strata plan.
- b. Garage doors, hinge mechanism and lock. These items are common property if the door is shown by a thick line on the strata plan or the door is outside the cubic space of a lot. If the lot boundary is defined in the strata plan by a thin line and the door is inside the lot boundary then these items are part of the respective lot.
- c. Line marking.
- d. Mesh between car parking spaces, if shown as a thick line on the strata plan they are then deemed a common property wall.
- e. Water dripping onto a car and likely to damage car paintwork.

2.16 Parking. Lot property.

- a. Door controller button (garage door auto remotes).
- b. Garage doors, hinge mechanism and lock. If the lot boundary is defined in the strata plan by a thin line and the door is inside the lot boundary then these items are part of the respective lot. These items are common property if the door is shown by a thick line on the strata plan or the door is outside the lot boundaries.
- c. Light fittings inside the lot.
- d. Mesh between parking spaces. If they are shown as a thin, dotted or no line on the strata plan they are then treated in accordance with the Dividing Fences Act, 1991 and are treated as follows.
 - i. Divides two lots. Cost apportioned between the two lot owners.
 - ii. Divides one lot from common property. Cost apportioned between the lot owner and the owners corporation.

Note: if shown as a thick line on the strata plan they are common property (see 2.15d above).

2.17 Plumbing (includes bathroom, kitchen and laundry). Common Property.

- a. Ducting covering stack.
- b. Floor drain or sewer in common property.
- c. Main stop cock to unit.
- d. Pipes within common property wall, floor or ceiling.
- e. Storm water and on-site detention systems (OSD) below ground (unless a condition of development consent overrides this principle).

2.18 Plumbing (includes bathroom, kitchen and laundry). Lot property.

- a. Bath or hand basin.
- b. Cabinet and/or mirror.
- c. Dampness in a lot coming from condensation from the inside.
- d. Pipe within a lot serving only that lot.
- e. Pipes under, sink, laundry tub, or hand basin.
- f. Plug and waste in bath, sinks and tubs.
- g. Shower screen.
- h. Toilet bowl or cistern.

2.19 Windows. Common Property.

- a. Fly-screens. Exception, where they were installed by an owner after registration of the strata plan.
- b. Original lock or its subsequent replacement. Exception, where they were installed by an owner after registration of the strata plan.
- c. Sash cord.
- d. Seal to window.
- e. Windows in common property walls are common property (including window furniture).

2.20 Windows. Lot property.

- a. Window lock keys.