

Common property and the lot

In a strata scheme

A strata scheme is a residential building or a collection of buildings where each individual proprietor separately owns a small part, usually their apartment or townhouse. This small part is called 'a lot'. There are other parts of a strata scheme building or property which are not part of anyone's private lot. These parts are jointly owned by all the lot owners and are called common property.

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 internal walls within the lot (eg. the wall between the kitchen and lounge room), floor coverings such as carpet and fixtures such as baths, toilet bowls, benchtops are all the property of the lot owner.

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

The following is a checklist for common property:

- floor includes a ramp or stairway
- boundary wall includes any door, window or other structure within the wall and their working parts
- ceramic tiles originally attached to a common property surface (eg. the floor or boundary wall)
- pipes in the common property or servicing more than one lot
- electrical wiring in the common property or servicing more than one lot
- parquet and floor boards originally installed
- vermiculite ceilings, plaster ceilings and cornices
- magnesite finish on the floor
- balcony doors are usually common property if the strata plan was registered after 1 July 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.

For more information on common property in strata plans that were registered before 1 July 1974, please visit the Land and Property Information website at: www.lpi.nsw.gov.au

Responsibilities of the owners corporation

The owners corporation must look after common property and do all repairs, 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. This includes replacing and renewing common property when needed.

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.

Structural cubic space

When deciding on the areas of common property in a strata scheme, 'structural cubic space' must be considered. Structural cubic space includes:

- cubic space occupied by a vertical structural member, not being a wall

- any pipes, wires, cables or ducts that are not for the enjoyment of a single lot
- any cubic space enclosed by a structure enclosing any of these pipes, wires, cables or ducts.

Structural cubic space will be common property unless the registered strata plan shows it forms part of the lot.

Common property memoranda

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

Land and Property Information NSW has developed Memoranda AG520000 and AG600000 to define who is responsible for repairing, replacing or maintaining items or areas in a strata scheme. More information is available from the Land and Property Information website at: www.lpi.nsw.gov.au

Clarifying what is common property

The registered strata plan defines the boundaries between common property and lots in a strata scheme. For enquiries about interpretations of the plan and to buy a copy, contact:

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Tel. 1300 052 637 or (02) 9228 6666
Website: www.lpi.nsw.gov.au

www.fairtrading.nsw.gov.au
Fair Trading enquiries 13 32 20
TTY 1300 723 404
Language assistance 13 14 50

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