

The Strata Community of the NT

Common Property Guidelines

Description;

A guide for determining responsibility for maintenance of common and private property within an Owners Corporation also referred to as a Strata Plan or Body Corporate.

Definitions;

Common Property is defined in the “Unit Titles Act As in force as of 21 July 2010”

Refer; Part II Interpretation; 4 Interpretation

(1) In this Act, unless the contrary intention appears:

Common property means so much of a parcel as is not within a unit.

Common Property is defined in the “Unit titles Schemes Act As in force at 1 January 2010”

Subdivision 2 Common property; 33 Common property

(1) The **common property** of a scheme is the part of the scheme land specified as the common property in the scheme statement.

(2) A unit or part of a unit, or a body corporate asset, cannot be common property.

(3) A lot cannot be common property of more than 1 scheme.

In generally terms

- The lot owner owns the airspace and everything in it within the boundary of the unit.
- The lot owner does not own the main structure of the building.
- The Owners Corporation is responsible for the repair and maintenance of common property. There is always on-going debate between owners and the Owners Corporation as to who is responsible for items within a lot.

This publication provides a list of items found within a building that are most often disputed. Responsibility can vary depending of the age of the building, renovations and by-laws, thus making the determination of who is liable a fairly complex matter.

In most cases you will need to refer the strata plan and by-laws to determine who is responsible for repairs and maintenance.

How to use this publication

The following tables provide a general list of who is responsible – the owner (O) or the Owners Corporation (OC) also known as the Body Corporate, for repairs and maintenance. Additional information on each item can be found in Appendices 1 and 2.

Disclaimer

The SCANT has determined what by industry practice is generally regarded as the standard.

This document has been designed as a guide to common property in the Northern Territory for use by body corporate managers, property managers and unit owners. Readers are responsible for checking the accuracy of its contents.

The information in this publication is not a substitute for legal advice and SCANT will not be held responsible for any action taken (or not taken) as a result of relying on its contents.

TYPE	ITEM	WHO IS RESPONSIBLE	ADDITIONAL INFORMATION ON APPENDIX 1	INSURANCE CLAIMABLE APPENDIX 2
BALCONY	Awnings	O/OC	17 & 33	1
	Columns	OC	26	1
	Door, window & wall	O/OC	18	1
	Painting of balcony ceiling	OC	19	1
	Railings	OC		1
	Tiles	O	11	1
	Water leaking through wall	O/OC	18	4
BATHROOM	Bathroom cabinet and/or mirror in unit	O		1
	Blocked floor drain	O/OC	12	4
	Breakdown of waterproofing membrane	O	11	4
	Burst pipe general	O/OC	8	1
	Cracked bath/handbasin	O		1
	Dripping "S" bend under sink	O		4
	Ducting covering stack	OC		1
	Exhaust fans	O/OC	6	1
	Hot water service exclusive to a lot	O	25	2
	Leaking pipes under sink	O		2
	Main stop cock to unit	O		2
	Plug and waste in bath	O/OC	9	2
	Shower screen repairs	O		1
	Toilet bowl	O		1
	Toilet cistern	O		1
	Water leaking from bath	O	12	4
	Water leaking from shower	O	11	4
	Water leaking from shower taps	O	11	4
Water leaking through tiles	O	11	4	
CEILINGS & ROOF	Ceiling cornices	O	23	1
	Exhaust fans/turban vents/skylights	O/OC	6	1
	False ceilings	O/OC	21	1
	Membranes	OC	24	2
	Paintwork	O	13	4
	Plastered Ceilings	O/OC	13	1
	TV aerial/Satellite dish	O/OC	30	1
COURTYARD	Deck/ pergola or steps/pavers and tiles	O	17	1
	Fencing	O/OC	15	1
	Pavers	O	17	1
	Trees/Trimming/removal	O	17	3

TYPE	ITEM	WHO IS RESPONSIBLE	ADDITIONAL INFORMATION ON APPENDIX 1	INSURANCE CLAIMABLE APPENDIX 2
ELECTRICAL	Air conditioning systems	O	7	1
	Electric Garage Door Motor	O	14	1
	Exhaust fans	O/OC	6	1
	Fuses	O/OC	4	2
	Hot water service exclusive to a lot	O	25	2
	Hot water services - communal	OC		2
	Insinkerators	O		1
	Intercom Handset	O	29	1
	Intercom Wiring	OC	1	1
	Light and power wiring	O/OC	1	1
	Light fittings	O/OC	5	1
	Light switches	O	1	1
	Power point socket	O/OC	1	1
	Remotes	O	14	1
	Smoke detectors	O/OC	3	1
	Stoves	O		1
	Telephone (additional wiring required)	O	2	1
	TV (Wiring required)	O/OC	30	1
	TV Aerial	O/OC	30	1
	TV Cabling	O/OC	30	1
TV Socket	O	30	1	
ENTRANCE DOOR	Door locks	O/OC	31	1
	Entrance door automatic closer	OC	31	1
	Entrance door to a lot	O	31	1
	Keys/Security cards etc	O	20	3
	Security door repair	O/OC	18/31	1
FLOOR	Blocked floor drain	O/OC	12	4
	Floor and wall tiles	O/OC	12	
	Floorboards/Parquetry flooring	O	26	1
	Internal carpet	O/OC	13	4
	Internal carpet	O	13	4
	Lino/vinyl/cork tiles	O		1
	Linoleum	O		1
	Mezzanines within lots	O/OC	27	1
	Pavers/Tiles	O/OC	17	1
	Skirting boards and architraves	O	23	1

TYPE	ITEM	WHO IS RESPONSIBLE	ADDITIONAL INFORMATION ON APPENDIX 1	INSURANCE CLAIMABLE APPENDIX 2
GENERAL	Built in wardrobes/cupboards	O		1
	Carpets	O	13	4
	Cracks in walls	O/OC	20	4
	Damge to common proprerty by tenant	O/OC	22	1
	Door/Flyscreens/Security doors	O/OC	18	1
	Ducting covering stack	OC		1
	Guttering on townhouse	O/OC	28	1
	Internal Doors	O		1
	Internal Paintwork	O	13	4
	Letterboxes	O/OC	32	1
	Skirting boards and architraves	O/OC	23	1
	Stairs in Lot	O	27	1
KITCHEN	Burst pipe general	O/OC	8	1
	Dishwasher/washing machines/fridges	O/OC		4
	Dripping "S" Bend under sink	O/OC		4
	Ducting covering stack	OC		1
	Exhaust fans	O/OC	6	1
	Floor and wall tiles	O	11	1
	Hot water service exclusive to a lot	O	25	2
	Insinkerators	O		1
	Kitchen cupboards	O		1
	Leaking pipes under sink	O		4
	Lino/Vinyl/Cork tiles	O		1
	Linoleum	O		1
	Main stop cock to unit	O		2
	Stoves	O		1
PARKING	Carports	O/OC	2	1
	Door controller button	O		1
	Door hinge mechanism	O/OC	14	2
	Electric Garage Door Opener	O	14	1
	Garage Door auto opening mechanism	O/OC	14	1
	Garage Door auto remotes	O	14	3
	Garage door lock	O	14	1
	Garage doors	O/OC	14	1
	Light fittings	O/OC	5	1
	Line marking	OC		1
	Mesh between garages	O/OC	15	1
	Shadesails	O/OC	33	1
	Water ingress into garage/storerooms	O/OC	16	4

TYPE	ITEM	WHO IS RESPONSIBLE	ADDITIONAL INFORMATION ON APPENDIX 1	INSURANCE CLAIMABLE APPENDIX 2
PLUMBING	Damage to unit after water leak	O/OC	13	1
	Dampness in a unit	O/OC	10	2
WINDOWS	Awnings	O/OC	33	1
	Cleaning outside	O		4
	Repairs	O/OC	18	1
	Sash cord replacement	O	18	2
	Seal to window	O	18	4

- 1 Any pipe, cable, ducting, plumbing or the like that is for the exclusive use of the lot, then if it breaks:
- * Within the lot - Owners Responsibility
 - * Outside the lot or in a wall, floor or ceiling that abuts to either common property or another lot -

- 2 If not installed on the registration of the strata plan then the owners corporation are not required to install them or maintain them. Telstra manages the telephone line to the MDF, the owners Corporation is then responsible for the line up to the unit, the owner is then responsible for the telephone and wiring and jacks and ports inside the unit.

- 3 If the smoke detectors are stand alone and are not connected to a fire board in the building then they are Owners Responsibility, otherwise they are Owners Corporation.

- 4 If the fuse board is within the lot, then it is the owners responsibility. If the fuse board is in the meter room then it is the owners corporations responsibility. **NOTE: Because the meter room is common property, we cannot prevent owners or occupiers gaining access to it. However strata manager will only supply keys to licensed electricians.**

- 5 Normally light fittings are always the responsibility of the owner. In the situation where the light fitting is in a carport or garage of a lot but is connected to communal power, the responsibility to maintain it still falls with the owner of the lot except where the light fitting is installed to also illuminate other areas within the scheme.

- 6 If it is inside the lot it is the Owners Responsibility. If it is 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, then it is the responsibility of the Owners Corporation.

- 7 That part of an air-conditioning system, including drain lines/power supply, for the exclusive use of that lot, is the responsibility of the owner. Parts outside the lot are the responsibility of the owner and may be subject to conditions outlined in an approval given by a majority resolution of the corporation.

- 8 Normally burst pipes are the responsibility of the Owners Corporation. However, if a pipe is for the exclusive use of the lot, then if it bursts: Within the lot – Owners responsibility (e.g. pipe in an internal wall feeding the shower) Outside the lot – Owners Corporations responsibility (e.g. the lots hot water pipes but they are in the concrete floor)

- 9 The plug and waste is within the airspace of the lot and therefore the responsibility of the owner to repair and maintain. However if the plug and waste is within the structural cubic space, then it is the owners corporation to maintain and repair.

10 If dampness (e.g. mould) is occurring in a unit, it must be first determined where the water is coming from. If the dampness is coming from condensation from the inside, then it is the owners responsibility. Common causes of this are kitchen cooking, use of clothes dryers; sleeping in bedrooms without opening windows (the average person expels 400ml of water each night while sleeping); continuous use of airconditioners which cause condensation between upper and lower units. In this case mould is normally virulent in the wet season. The mould would occur on the surface of the paint with no paint lifting. If it was coming from outside, then the paint would lift with white powder under the paint.

11 Generally, if the tiles are on individual titles and are for the exclusive benefit of a unit, it is the owners responsibility to maintain and repair inclusive of skirting boards. This also includes any waterproofing membrane that has broken down. If tiles are on common property i.e. common walkways it is the owners corporations responsibility to maintain.

12 Blocked floor drains are the owners responsibility unless there is a systematic blockage in communal pipework.

13 If damage is caused to a lot owner's property while the owners corporation are effecting a repair, the owners corporation are responsible to fix the damaged property. However, if the cause of the damage to the owner's property was not made when the owner's corporation were fixing the problem; instead it was caused by the problem itself, then the owners corporation are not responsible to make good the owner's property unless the owners corporation can be deemed negligent.

14 Garage doors and electric motors are owners responsibility include remotes if the garage doors and motors are the exclusive benefit of a unit. Otherwise it is the owners corporation's responsibility.

15 If they are shown as a thick line on the strata plan then they are deemed a common wall and the responsibility of the owners corporation. However, 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: (a) Divides two lots = Each owner is responsible 50/50; (b) Divides one lot from common property = The owner is responsible 50% and the owners corporation is responsible 50%; and (c) Divides one lot within the corporation from the adjoining property = the owners corporation are responsible for 100% of its share.

16 A garage and storeroom by definition is not a liveable 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 are not responsible to ensure a garage area remains dry. **However, the owners corporation are responsible to stop water dripping on to a car and damaging the paintwork.**

17 Most balconies, courtyards or garden areas attached to a lot have their vertical boundaries defined on the strata plan. If anything within that area is for the exclusive use of the lot, they are the owners responsibility to maintain. This includes timber decking, awnings pavers and tiles. Furthermore a tree growing in a courtyard is deemed to belong to the owner and they are responsible for all pruning, removal or damage caused from the tree irrespective of whether some of the branches extend beyond that lot.

18 Windows and doors and their working parts inclusive of locks/electronic access devices are generally part of the lot and the low owners responsibility for maintenance and repairs. Having said this however doors that form part of the structure (i.e. front and rear doors and fire escape doors) are the responsibility of the owners corporation

19 The balcony is the responsibility of the owner. However, the owners corporation will normally include the painting of this area when the whole building gets repainted.

20 Walls and doors that are on the boundary of the lot are the responsibility of the owners corporation to maintain. Internal walls and doors are the owners responsibility. If cracks appear in an owners corporations wall and/or cornice and are less than 2mm thick, they are not deemed as damage and the owners corporation are not compelled to repair them.

21 If the false ceiling was installed on the registration of the strata plan and were there to hide communal piping, ducting or wiring etc then the owners corporation are responsible. Otherwise they are the owners responsibility.

22 As per Section 76 of the Unit Titles Act commonly known as the Articles, occupants within a building are not permitted to damage or deface any property belonging to the owners corporation. In the event that it can be determined who was responsible for the damage, then Section 46 of the Unit Titles Act allows for any costs associated with the repairs to be recoverable from the offending party.

23 Cornices/Skirting Boards and architraves are generally the responsibility of the owner if within the lot.

24 Membranes on flat roofs are generally the responsibility of the owners corporation.

25 If a hot water service is inside or outside a lot and is for the exclusive use of that lot it is the responsibility of the owner.

26 A strata plan will typically not show columns. They may exist within a courtyard or balcony of a lot supporting the balcony above or within the lot supporting the slab. Either way the columns are structural cubic space as they are supporting the structure of the balcony or slab which is common property. Note: a wall whether structural or not cannot be structural cubic space. For a wall to form common property it must be shown or referred to on the plan as common property. See definition of structural cubic space. ***(Cubic space occupied by a vertical structural member, not being a wall, of a building).***

27 Stairs and Mezzanines within a lot are generally the responsibility of the owner.

28 Even though they may be within the boundaries of a strata lot the down pipes and attached drainage pipes are structural cubic space as they service the roof and gutters which are common property. Again this only applies provided the pipes were in place at the time of registration of the plan. To add further pipes at a later date requires a majority resolution of the corporation and may be subject to specific conditions if approval given.

29 Intercom handsets are part of an integrated system and a faulty handset can affect the overall workings of the intercom system. Handsets are deemed to be an owners responsibility regardless of whether they are mounted entirely within the airspace of the owners corporation.

30 TV antennas including satellite dishes exclusive to a unit are an owners responsibility. Communal antennas and satellite dishes is the responsibility of the owners corporation.

31 Entrance doors including locking mechanisms and working parts that are for communal use only is the responsibility of the owners corporation to maintain. All other cases it is an owners responsibility. Doors including fire and safety doors must comply with the Australian Standards and as they form part of the structure it is an owners corporation responsibility.

32 Locks for exclusive use including letterboxes is owner responsibility. Letterboxes are owners corporation responsibility to maintain.

33 Awnings that are constructed and attached after the completion of the building are the responsibility of the individual owner concerned. Awnings that are attached at the time of registration are the owners responsibility of the If they are structural and are attached to the unit they are considered the owner corporation responsibility. Shadesails that have been installed for the exclusive use of the individual owner is the owner responsibility to maintain. Shadesails erected over multiple unit are the owners corporations responsibility to maintain.

	COMMENTS
<p>In broad terms building policies issued by insurance companies extend to include owners fixtures and structural improvements in addition to common property considerations. The degree of cover is dependent upon the insurer and type of cover held. The broadest types of cover available in the market are accidental loss or damage policies. At the other end of the market are the cheaper defined events type covers.</p>	
<p>For the purposes of this exercise it is assumed:</p> <ul style="list-style-type: none"> * Cover has been issued under an accidental loss or damage type policy * A by-law does not exist making repairs for the items the responsibility of a unit owner * The installations are not illegal * The said items have suffered loss or damage as a result of accidental means * Maintenance, deterioration, corrosion or other specific policy conditions or exclusions are not applicable. 	
<p>Having regard for the assumptions noted above the classification rating of 1-4 can mean;</p> <ol style="list-style-type: none"> 1. The item forms part of the building for insurance purposes. Cover may be available against accidental loss or damage situations and will include fusion. 2. The item forms part of the building for insurance purposes however is unlikely to be covered having regard for maintenance issues. If however maintenance is not an issue i.e. fire damage, the situation could alter into a classification rating 1. 3. The item may not necessarily form part of the building for insurance purposes however could be covered in certain circumstances by a special or additional benefit under the policy. 4. Cover is unlikely. This is probably a maintenance issue or not insured property under the building policy. 	
<p>Note - this classification rating is intended as a guide only. Actual cover is dependent on the prevailing policy terms, conditions and exclusions that may apply with the insurer at the time of loss.</p>	