



# FACT SHEET

## MAINTENANCE – BODY CORPORATE OR OWNER RESPONSIBILITY

With most maintenance requests that come through the Hartley's Body Corporate Management office, the question over who is responsible for the repair and the cost of an item is always at the forefront of any maintenance enquiry. None of us want to spend money if we can avoid it.

This Fact Sheet explores the general guidelines to assist owners and managers in making an informed decision when it comes to their maintenance.

First, let's quickly examine the law.

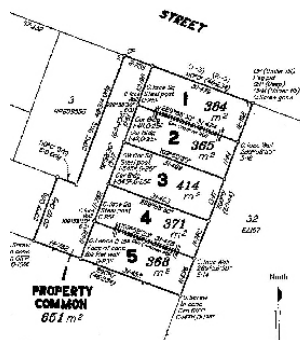
In general terms *Section 180* of the Body Corporate and Community Management (Standard Module) Regulation 2020 requires a Body Corporate to maintain common property, and *Section 211* provides that the owner of a lot included in a scheme must maintain the lot in good condition. However *Section 180(2)* provides additional maintenance responsibilities under a building format plan.

When a request for maintenance is first received there are a number of important questions that require answering prior to deciding on who is responsible for the maintenance, i.e. the lot owner or the Body Corporate. Following the simple steps below will assist in the evaluation of responsibility.

1. The first step is to identify the plan the building is registered under. A quick check of the survey plan will usually come up with the answer.

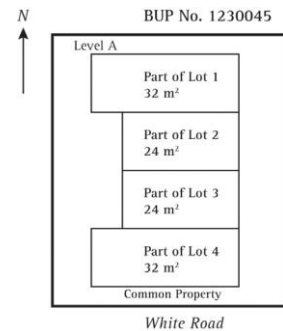
There are **two** types of plans relevant to this article and they are Standard Format Plans (SFP's) and Building Format Plans (BFP's).

- a) A **Standard Format Plan (SFP)** is a subdivision of land with reference to marks on the land or a structural element, e.g. A survey peg or part of the building. These can include a courtyard or carport area and often do. If the plan is a SFP, it is extremely unlikely the Body Corporate will be responsible as the owner generally has Torrens Title and owns everything within the surveyed boundary of the lot. The diagram of a standard format plan shows the five lots and the area of common property. Each boundary on the plan is clearly defined using the reference marks referred to in the diagram

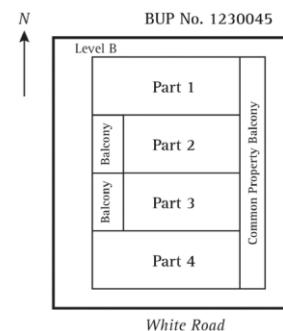


- b) A **Building Format Plan (BFP)** is usually a sub division of a building, (although some townhouse schemes have been registered under this plan), where the boundaries are defined on the plan by references to structural elements of the building, e.g. Walls, floors and ceilings. Where a lot is separated from another lot or common property by a floor, wall or ceiling, the boundary of the lot is the centre of the floor, wall or ceiling. If the plan is a BFP then dependent on where the boundary sits will determine if the Body Corporate or owners are responsible for the maintenance and costs.

An example of a community titles scheme established as a building format plan is a multi-storey block of residential units. The following diagram represents a typical two storey building format plan and indicates how common property and lots may be shown on a plan.



On building format plans and building units plans, the boundaries of a lot can be represented by hard black lines. In this diagram, the plan of level A shows the common property surrounding the building and those parts of the four lots (units) on level A.



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The plan of level B in this diagram shows the balance part of the 4 lots and a common property balcony running along the eastern side of the building. The thin line that outlines the balcony indicates that the balcony is outside the boundary of the lot and is therefore common property.

Once the correct plan has been identified, move to the next evaluation stage.

- The next step is to review the bylaws to establish if there are any exclusive use areas allocated to the lot - these can be found under schedule "E". There may also be a bylaw which states how the exclusive use area is maintained and by whom. If there is no bylaw then the legislation defaults to the person who has been allocated the exclusive use, in this case the lot owner.

If no exclusive area or bylaws exist and maintenance required is in the common property or in a boundary wall between the lot and common property then it is the Body Corporate's responsibility for maintenance. This also relates to any associated hardware or fittings attached to a window or door.

If the maintenance required is within an exclusive use area allocated to the lot and a bylaw does not state otherwise the lot owner is responsible for maintenance.

### Maintenance under a standard format plan

The body corporate is usually responsible for:

- the common property, including roads, gardens and lawns on common property
- some elements of utility infrastructure that are common property.

The lot owner is generally responsible for:

- their lot, including all lawns and gardens within the boundary
- the maintenance of the building including the exterior walls, doors, windows and roof with the exception of some elements of utility infrastructure that are common property
- the building foundations
- the painting of the lot.

### Maintenance under a building format plan

The body corporate is usually responsible for:

- the maintenance of the outside of the building including railings or balustrades on, or near to, the boundary of a lot and common property. This would include the balustrade on a private balcony
- gardens and lawns on common property
- the foundations of the building
- generally any doors or windows, and their fittings, that are situated in a boundary wall between a lot and the common property (including common property balconies). This also includes garage doors and their fittings.

The lot owner is generally responsible for:

- doors and windows leading onto a balcony that forms part of the lot
- kitchen, bathroom, bedroom cupboards
- sinks, dishwashers, garbage disposal units, shower screens and shower trays.

Other responsibilities of the lot owner:

- a hot-water system is installed on the common property, but supplies water only to a particular lot. The owner of the lot would be responsible for maintaining the hot water system and the associated pipes and wiring
- any fixtures or fittings installed by the lot owner for the lot owner's benefit
- exclusive use areas the owner has the benefit of.

As you can see it is not always a simple yes or no answer when it comes to determining who is responsible for maintenance in a Body Corporate scheme, so for your assurance and certainty in maintenance matters make sure you utilize the services of a professional Body Corporate management firm who will easily guide you through the process.

### SOURCES:

- BCCM Office: <https://www.qld.gov.au/law/housing-and-neighbours/body-corporate>
- Act: <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-1997-028>
- Standard Module: <https://www.legislation.qld.gov.au/view/pdf/asmade/sl-2020-0233>
- Accommodation Module: <https://www.legislation.qld.gov.au/view/pdf/asmade/sl-2020-0229>
- Commercial Module: <https://www.legislation.qld.gov.au/view/pdf/asmade/sl-2020-0230>
- Small Schemes Module: <https://www.legislation.qld.gov.au/view/pdf/asmade/sl-2020-0231>

