



COMMON PROPERTY

An Owners Corporation may decide, by Special Resolution to adopt a common property memorandum.

NSW Fair Trading produces a standard form common property memorandum for Owners Corporations to adopt to clarify the responsibilities of common property repairs and maintenance in strata schemes.

The benefits to an Owners Corporation adopting a common property memorandum are:

- Clarity of who is responsible for paying for repairs and maintenance within a strata scheme, where it may not be easily determined.
- Create a 'policy' document for individual strata schemes that is easily referenced.
- Create consistency with how repairs and maintenance are approached.
- The memorandum is easily understood by owners, residents, strata and building managers.

It is common for strata schemes to have 'Special By-laws' registered for a specific purpose. For example, an apartment owner has renovated a bathroom, for instance, and taken on the responsibility of future maintenance, the terms of the 'Special By-law' will be upheld over and above any inconsistency with the common property memorandum. Therefore the memorandum does not require a notation or modification in this regard.

The standard form memorandum may be modified by way of striking items that do not apply out. It is not permitted to add or amend the items or descriptions of the contents of the standard form memorandum.

It is important when reviewing the common property memorandum that the significance of moving the responsibility of repairs and maintenance from the lot owner to the owners corporation or visa versa.

A copy of the standard form common property memorandum can be found on the NSW Fair Trading website:

<https://www.nsw.gov.au/sites/default/files/2022-03/common-property-memorandum.pdf>



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