

# *Newstead Terraces News*

## *August 2020*



### **MAINTENANCE OBLIGATIONS - LOT OWNER OR BODY CORPORATE?**

By Todd Garsden, Special Counsel – Mahoneys Lawyers on July 24<sup>th</sup> 2020.

Maintenance disputes are the single biggest issue that results in adjudication application and information inquiries to the Commissioner's Office.

The general position is that;

Owners are responsible for maintaining their own lots;

And the Body Corporate is responsible for maintaining the common property.

However, there are a number of exceptions to the general position and it is these exceptions that lead to disputes.

#### **Plans of a Subdivision**

Lots in a community title scheme are ordinarily created under a 'standard format plan' or 'building format plan' of the subdivision. This is determined by the type of survey plan lodged at the Titles Office for the lot when it was created.

In most cases (but not all) cases, apartments in a high rise will be created under a building format plan and freestanding houses will be created under a standard format plan.

#### **Building Format Plan Schemes**

The boundaries of lots and common property in a building format plan are determined by the physical boundaries – such as the floor, wall or ceiling. As an example, two neighbouring lots in a building format plan will have a boundary in the midpoint of the wall.

In a building format plan, the body corporate becomes responsible for a number of items that would otherwise be the lot owner's responsibility. These exceptions include:

Railings, parapets and balustrades on the boundary of a lot and the common property.

Doors, windows and associated fitting in a boundary wall of a lot and the common property:

Roofing membranes providing protection for lots or the common property; and

Foundation structures, roofing structures and essential supporting framework.

### Exceptions for lot owners

Regardless of whether the scheme was created under a standard format plan or a building format plan, the lot owner will remain responsible for:

1. Any fixtures or fittings that were installed by the occupier of the lot;
2. Any improvements that were made by lot owners
3. Exclusive use allocations (unless the by-law provides that the body corporate is responsible);
4. Utility infrastructure that exclusively services the lot. And
5. Shower trays

### Consequential and incidental damage

If something in the scheme has fallen into disrepair (for example, a tap fitting that the lot owner is responsible for leaks) and causes damage to another part of the scheme (for example, the lot underneath gets flooded) it does not mean that each lot owner is responsible for the repairs to their own lot.

The lot that did not have the tap in good condition would be responsible for the repair to their lot and the repairs to the lot underneath.

If in carrying out those repairs, further work needs to be carried out (for example, removing the ceiling to access utility infrastructure) the additional repair works (for example, to replace the ceiling) would be also part of the original maintenance responsibility of the lot owner with the tap.

### Steps to follow

The following steps will assist in determining who is responsible for maintenance in a community title scheme.

1. Determine the cause of the damage or the item that is in disrepair;
2. Review the survey plan to determine whether the relevant lot is created in a building format plan or standard format plan.
3. Determine the location of the cause of the damage or the item, and
4. Confirm if any exceptions apply.

### REPLACEMENT POOL LOUNGES HAVE ARRIVED!



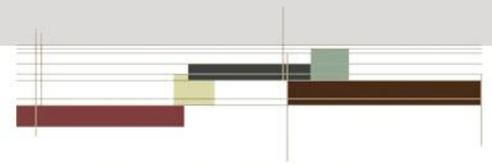
They have been a long time coming from the Philippines, with production and shipping delays due to COVID-19, but they are finally here and we were able to dispose of the five broken lounges.  
**ENJOY!**

### Saturday's deposit in the pool

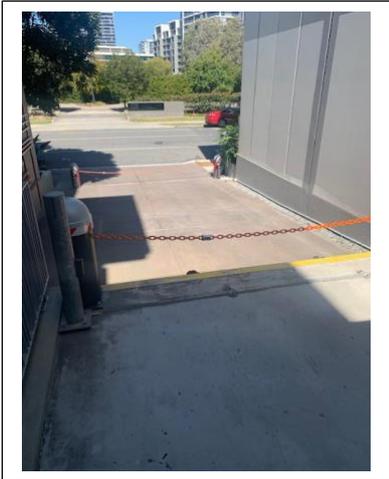
Last Saturday I had a phone call from the building manager at Newstead Series to say children were throwing stones in the pool from the balcony on the east side of the building. He was yelling out to the mother at the time he spoke with me on the phone. This stone – dwarf – got stuck in the pool vacuum and stopped the vacuum from working.



Luckily, we were able to fix the vacuum and get it working again. Kids will be kids, but as parents you should have gone down to the pool and fished out whatever had been thrown in. There are no expensive damages this time, but next time we may not be so lucky.



## Newstead Terraces



The new chain gates and remote-controlled garage door are installed and operational. We are now waiting on a light to be installed at the street level chain so that residents don't trip over the chain coming home in the dark.

The reason this work was commissioned was to stop the general public from using the driveway as a parking area and preventing our rubbish collection, and to stop the homeless from using the bin room as a place to sleep and bin surf.

### SPRING SPRUCE UP.

Tis the season our thoughts turn to cleaning and airing out our homes.

I have two very handy contacts to share with you.

1. OVENU Dan 1300 683 681, What this man can do with an oven is amazing. \$170 and your oven will look like new. No chemicals, all done with steam
2. Phill Ford 0412 300 114 Shower screens. AMAZING results. From \$150 -\$700 depending on how much work you want done. They mechanically buff back a shower screen and then treat with a nono substance that prevents water penetrating the screen. Check out the website [www.thewaterstaindoctor.com.au](http://www.thewaterstaindoctor.com.au). Phill will come to you and do a free spot to see if there will be a difference. They also treat the grout on floors -kitchens and bathrooms, and polish up the chrome. This is the best value I have seen in some time. Units 51 and 54 can give first hand reviews.

### BALCONY WASH DOWN 5<sup>TH</sup> SEPT.

Just in time for father's day lunches on the Balcony.

Scheduled Balcony cleans for Saturday 5<sup>th</sup> Sept.

- Level 4 between 9-10
- Level 3 between 10-11
- Level 2 between 11-12
- Level 1 between 12-1
- Ground level after 1.



Remember please stick to your time slot or those below you will not be happy with you. If you need to change your time slot, consult the residents below you, all the way to the ground floor to make sure it will be ok with them.

Remember to bring in anything you don't want getting wet or dirty on Saturday morning. Those with narrow balconies, keep your lounge room doors closed against water from above!

Georgina Bishop  
Licenced Real Estate Agent # 3428825, JP (Qual), Member REIQ, ARAMA, B.Bus (QIT)



(07) 3852 6928

(07) 3852 6927

info@newsteadterraces.com.au

www.newsteadterraces.com.au

Unit 1/20 Newstead Terrace, Newstead Q 4006

Nessica Pty Ltd ATF The Nessica Trust  
ACN: 14 960 631 236