
Topic 7: Responsibility for maintenance - dividing fences

The body corporate for a community titles scheme is taken to be the owner of the scheme land for the *Dividing Fences Act 1953* (A. s311).

The responsibility for maintenance of dividing fences is not specifically addressed in body corporate legislation. However, a number of adjudicator decisions have addressed the subject, with the general position set out below. It should be noted that the specific circumstances of a particular situation may alter these broad guidelines.

- A dividing fence between a lot and the common property is shared equally between the owner of the lot and the body corporate.
- A dividing fence between two lots is shared equally between the lot owners.
- A boundary fence between a lot and an adjoining property is shared equally between the body corporate and the adjoining property owner. Even if the boundary fence is a fence forming the boundary of a lot and an adjoining property, the body corporate is generally held to be responsible, as the fence is the boundary of the scheme land.

(Cleveland Mews - Order. 0624-1999).

The maintenance of the perimeter fence is a shared responsibility between the body corporate and the adjoining property owner for both building format plans and standard format plans of subdivision **(The Groves Townhouses No. 2 Lawnton - Order. 0511-2002).**

Other issues relating to dividing fences may fall within the definition of a “dividing fence” under the *Dividing Fences Act 1953*. Further information may be obtained from the Dividing Fences Section of the Department of Justice, which administers this legislation.