

### **123. Dividing fences**

- (1) The ownership of land in a scheme is to be determined in accordance with this section for the purposes of the *Dividing Fences Act 1961*.
- (2) Subject to subsection (3), the strata company for a scheme shall be regarded as the owner of the parcel that is the subject of that scheme, other than such part (if any) of the parcel as is the subject of a lease accepted or acquired by the strata company under section 18.
- (3) In a single tier strata scheme or a survey-strata scheme the owner of land in the scheme that adjoins land outside the scheme shall be regarded to be —
  - (a) in the case of a lot, the proprietor of the lot; and
  - (b) in the case of common property, the strata company.
- (4) If a by-law of a strata company for —
  - (a) a single tier strata scheme; or
  - (b) a survey-strata scheme,

determines who is to be regarded as the owner of land in the scheme for the purposes of the *Dividing Fences Act 1961*, that by-law has effect despite any provision of that Act or of this section.

*[Section 123 inserted by No. 61 of 1996 s. 37.]*