

Land Victoria
Customer Information Bulletin

Edition 107 November 2007

**Customer Information
Bulletin on email**

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Department of Sustainability
and Environment

Land Registration Services
Land Victoria
Level 9, 570 Bourke Street
Melbourne VIC 3000
PO Box 500
East Melbourne VIC 8002

Tel (03) 8636 2010
Fax (03) 8636 2250

www.dse.vic.gov.au
www.land.vic.gov.au

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A Victorian
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initiative



Owners Corporation Act 2006

The *Owners Corporation Act 2006* (the Act) will come into operation on 31 December 2007. This will affect several Land Victoria processes.

Accompanying documents — additional owners corporation information

Extra information will be required when lodging plans that create an owners corporation (the new name for a body corporate). All additional owners corporation information, other than rules, should be contained in a single accompanying document. A separate document will be required for each owners corporation created on a plan.

The details required in the first accompanying document are:

(NB: references below are to the *Subdivision Act 1988* and the Subdivision (Procedures) Regulations 2000)

- purpose of owners corporation (mandatory) — Sections 27B(2) or 27C(2)
- address for service of notice (mandatory) — Section 27F(2)(b) and Reg 16(a)
- basis of allocation of entitlement and liability (mandatory) — Section 27F(2)(a)
- where an owners corporation is "Limited" other than as to common property, the limitation(s) will need to be defined (mandatory) — Section 27F(2)(b) and Reg 16(b)
- referred functions and obligations (optional) — Section 27C(4)

There is no prescribed form for the accompanying document; rather a form will be approved by the Registrar. A sample of a proposed form, applicable for an unlimited owners corporation, is included later in this bulletin.

The second page is only relevant where there are "referred functions and obligations". If both pages are used, both should be signed.

To help customers complete the document, Land Victoria has developed suggested wording, included on the proposed form. This may be appropriate for a 'standard' plan, but customers need to carefully consider if the suggested wording is appropriate to a particular plan.

No additional fee is payable to lodge this document.

Accompanying documents — owners corporation rules

A second document containing the rules (if any) of an owners corporation will:

- be optional
- be notified in a form to be approved by the Director of Consumer Affairs Victoria
- be submitted with a copy of the rules — (*Owners Corporation Act 2006* Section 142(2)).

The *Owners Corporation Act 2006* provides that an owners corporation:

- may make rules with respect to the matters listed in Schedule 1 of the Act
- be subject to prescribed Model Rules (Reg. 8 and Schedule 1 Owners Corporation Regulations 2007) if no rules are made by an owners corporation
- be subject to a Model Rule if the owners corporation has not made a rule relating to a 'matter'.

The new Model Rules will apply to existing plans that are subject to the old 'Standard Rules'.

If an owners corporation makes, amends or revokes its rules, it must notify the Registrar.

The notification must be accompanied by a certified, consolidated copy of the rules.

A fee of \$48.50 is payable to lodge notification of rules when lodging the plan.

Plan format

Minimal changes are required on plan formats with amendments centred on the Body Corporate Schedule (renamed the Owners Corporation Schedule). The changes are:

- reference to address for service of notice removed from the schedule, now included in an accompanying document
- reference to rules removed from the schedule, now included in an accompanying document
- three possible entries now used in the 'Limitations' panel; unlimited, limited or limited to common property.

Given the long life of a certified plan (which must be registered within five years of certification), plans drawn in the existing format will continue to be acceptable.

However plans prepared and signed by the surveyor after 31 December 2007 should be drawn in the new format.

Limitations on owners corporations

A plan lodged for registration must specify whether the owners corporation is unlimited or limited (Section 27(3) *Subdivision Act 1988*).

If the owners corporation is limited — other than to common property — limitation details must be included in the additional owners corporation information document (Regulation 16(b) Subdivision (Procedures) Regulations 2000).

A plan may specify that an owners corporation is limited to the common property (Section 27G *Subdivision Act 1988*). If so, Sections 48 to 51 of the Act, regarding maintenance and access rights to lots, do not apply to the owners corporation (Section 8 *Owners Corporation Act 2006*).

Transitional arrangements for plans

Plans lodged with Land Victoria on or after 31 December 2007 for registration under the *Subdivision Act 1988* must comply with the new requirements.

Accompanying documents required must be lodged with plans that create an owners corporation.

Plans currently held unregistered in Land Victoria:

- will be processed as presented, if the Statement of Compliance is presented before 31 December 2007
- will require accompanying documents for EACH owners corporation created if registered ON or AFTER 31 December 2007.

Owners corporation search report

As advised in Customer Information Bulletin No. 95 (October 2006), Land Victoria is currently extracting body corporate information from registered plans and holding it as electronic data. The body corporate schedule is then removed from the plan.

A search will then provide 'diagram' pages of the plan and a Body Corporate Search Report containing only the current body corporate information. This project is due for completion by May 2008.

When the *Owners Corporation Act 2006* commences, information about the owners corporation will be presented to Land Victoria partly in the plan and partly in accompanying documents.

The plan and accompanying documents, when registered, will go through the same process of information extraction to be reproduced, when required, in an Owners Corporation Search Report. The 'accompanying documents' will be imaged and be available for public search.

The revised Owners Corporation Search Report will contain an expanded range of information presented in an easy-to-read format that will be uniform across all plan types. An example of the proposed Owners Corporation Search Report is included at the end of this bulletin.

**OWNERS CORPORATION
INFORMATION**

UNLIMITED OWNERS CORPORATION

Privacy Collection Statement

The information under this form is collected under statutory authority and is used for the purpose of maintaining publicly searchable registers and indexes in the Victorian Land Registry

Lodged by :
Name :
Phone :
Address :
Reference:
Customer Code :

Owners Corporation Number Plan Number.....

ADDITIONAL INFORMATION ACCOMPANYING A PLAN

1. POSTAL ADDRESS FOR SERVICES OF NOTICES

[Regulation 16(a) Subdivision (Procedures) Regulations 2000]

*Insert the postal address of the owners corporation to which notices are to be sent.
Please note that a "care of" or "post office box number" is not an acceptable address.*

2. THE PURPOSES OF THE OWNERS CORPORATION ARE:

[Section 27B(2) Subdivision Act 1988]

The purpose of Owners Corporation 1 PS567890 is to manage the land affected by the owners corporation (except the use of any common property affected by a limited owners corporation).

3. THE BASIS FOR THE ALLOCATION OF LOT ENTITLEMENT AND LOT LIABILITY IS:

[Section 27F(2)(a) Subdivision Act 1988]

- (i) In determining the lot entitlement, regard has been had to the value of each lot and the proportion that value bears to the total value of the lots affected by the owners corporation.*
- (ii) In determining the lot liability, regard has been had to the amount that is just and equitable for the owner of each lot to contribute towards the administrative and general expenses of the owners corporation.*

Signature or seal of applicant, Australian Legal Practitioner under the Legal Profession Act 2004 or agent.

.....

Date

For current information regarding an owners corporation, please obtain an Owners Corporation Search Report

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OC

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4 FUNCTIONS AND OBLIGATIONS THAT ARE TO BE CARRIED OUT OR COMPLIED WITH BY THE UNLIMITED OWNERS CORPORATION ARE:
[Section 27C(4) Subdivision Act 1988]

If the plan contains multiple overlapping owners corporations and some of the functions and obligations of limited owners corporation(s) are to be carried out or complied by the unlimited owners corporation, insert a statement defining those functions and obligations.

If all limited owners corporations affected by the unlimited owners corporation have passed on the same functions and obligations, the following suggested wording may be suitable:

"Functions and obligations to be carried out or complied with on behalf of the limited owners corporation(s) are....."

If only some of the limited owners corporations affected by the unlimited owners corporation have referred functions and obligations, the following suggested wording may be suitable:

"Functions and obligations to be carried out or complied with on behalf of Owners Corporation 2 PS567890 are....."

Some of the functions and obligations that might be referred include the maintenance of the owners corporation register, the issuing of owners corporation certificates, the management and administration of common property (these are examples, not an exhaustive list). If no functions and obligations have been referred, insert "Not applicable".

Signature or seal of applicant, Australian Legal Practitioner under the Legal Profession Act 2004 or agent.

.....

Date

This form must be signed or sealed (where applicable) by the applicant, or by an agent of the applicant. If the agent is a legal practitioner, this should be specified by use of the words "Australian Legal Practitioner under the Legal Profession Act 2004". If the agent is not a legal practitioner, written proof of agency must be supplied.

For current information regarding an owners corporation, obtain an Owners Corporation Search Report

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Department of Sustainability and Environment

Owners Corporation Search Report

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**OWNERS CORPORATION 1
PLAN NO. PS640417T**

The land in PS640417T is affected by 1 Owners Corporation(s)

Land Affected by Owners Corporation:

Common Property, Lots 1 - 5.

Limitations on Owners Corporation:

Unlimited

Postal Address for Service of Notices:

31 NOLAN STREET KERANG VIC 3579
AF123456T 12/03/2008

Rules:

Model Rules apply unless a matter is provided for in Owners Corporation Rules. See Section 139(3) Owners Corporation Act 2006

Owners Corporation Rules:

AF123457B 12/03/2008

Additional Owners Corporation Information:

AF123456T 12/03/2008

Notations:

Nil

Entitlement and Liability:

Land Parcel	Folio References	Entitlement	Liability
Common Property 1	10007/363	0	0
Lot 1	10007/358	10	10
Lot 2	10007/359	10	10
Total		20	20

From 31st December 2007 every Body Corporate is deemed to be an Owners Corporation. Any reference to a Body Corporate in any Plan, Instrument or Folio should be read as a reference to an Owners Corporation.

Statement End.

LAND VICTORIA, 570 Bourke Street Melbourne Victoria 3000
P.O. Box 500 East Melbourne Victoria 3002, DX 250639
Telephone: (03) 8636 2010 Facsimile: (03) 8636 2005
ABN 90719052204



