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| Example – subdividing land affected by an owners corporation |
| Plan under the *Subdivision Act 1988* |

This is a guide to preparing a plan under section 32 of the *Subdivision Act 1988*, which requires the unanimous resolution of the owners corporation.

This example incorporates the Subdivision (Registrar’s Requirements) Regulations 2011 and includes items covered in other published examples.

## Key elements for preparing a plan under section 32 of the *Subdivision Act 1988*

Note: some of the points below are referenced on the pages that follow.

1. If a proposed plan affects land that is a member of an owners corporation, the plan must be prepared pursuant to section 32 of the *Subdivision Act 1988.*
2. A plan prepared under section 32 of the *Subdivision Act 1988* may do one or more of the following:
   1. subdivide and consolidate lots
   2. create or decrease common property
   3. include land outside the plan into the owners corporation
   4. remove land from the owners corporation
   5. create roads or reserves
   6. create, vary or remove easements or restrictions
   7. alter lot entitlement and liability (as a result of other actions under 32)
   8. create, merge or dissolve owners corporations
   9. remove restricted or accessory lot status (strata plans)
   10. amend or cancel a scheme of development under the Cluster Titles Act.
3. Unanimous resolution of the owners corporation is required for the plan under section 32 to proceed (except when section 32AI applies). Evidence of the unanimous resolution of the owners corporation is provided to the council as part of the plan certification process.
4. The owners corporation is the applicant for plans under section 32. If there are multiple owners corporations affected, the unlimited owners corporation will usually be the applicant.
5. If a plan under section 32 reduces the area of common property, consents of everyone with an interest in the lots (i.e. mortgagees) are required.
6. Any new lots in a section 32 plan must have a new lot identifier, (one that hasn’t been used in the plan before). This also applies to minor boundary adjustments between parcels and car park swaps. The full extent of all lots (i.e. all parts) affected must be shown in the section 32 plan, even if those parts of the lot’s boundaries are not affected.

Note: existing affected common property does not need to be re-numbered.

1. Each plan under section 32 must have a ‘purpose of plan’ notation. Each action or step that the plan is taking must be detailed and set out in order.
2. When a plan affects land outside the owners corporation, before it can be dealt with the plan purpose must begin with bringing the land into the owners corporation. If land is not going to be affected by the owners corporation as a result of the subdivision, then the final action will be to remove the land from the owners corporation.
3. If the section 32 plan deals with land that was previously common property (i.e. subdivides common property to create a lot), the land is still owned by the owners corporation (unless vested as a road or reserve). The affected land is unable to be removed from the owners corporation in the same plan, and must be transferred prior to being removed.
4. An owners corporation cannot be dissolved if it still owns land. Any common property disposed of through a section 32 plan must first be transferred out of the owners corporation’s name before the owners corporation can be dissolved in a separate ‘text only’ section 32 plan.
5. An owners corporation schedule, indicating the entitlement and liability of lots affected by the plan, must be included in the plan.
6. If a plan is incorporating part of common property into a lot, the section 32 plan is not to show the area of common property affected as hatched or otherwise denoted. The new plan should just show the new parcel in its entirety.
7. When dealing with a plan that includes boundaries defined by buildings, consideration must be given to the existing plan boundary definitions. The boundaries defined by the section 32 plan must be consistent with the original plan, or completely re-define the existing plan through compilation.
8. Compiled plan sheets should be prepared and supplied with the section 32 plan, if appropriate. Land Use Victoria may request the relevant compiled sheets per section 24(6) of the *Subdivision Act 1988* prior to registration of the section 32 plan.
9. Plans under the *Subdivision Act 1988* that affect land in a *Strata Titles Act 1967* plan (RP or SP) or *Cluster Titles Act 1974* plan (CS) should be drawn in accordance with current practices. This includes showing cross-sections of parcels situated above or below each other.

Consideration should be given to the compiled plan in these cases, which may be complex and require redrawing of the entire *Strata Titles Act 1967* plan. (Note: when *Strata Titles Act 1967* plans include boundaries defined by buildings, but do not define a boundary location, the default location for that boundary is the median of the structure.)

Note: the following example is a three-lot owners corporation.The owner of lot 3 is re-aligning its boundary with neighbouring land outside the owners corporation. Lot 3 will be giving up some of their lot to their neighbour, resulting in a reduction of the area of land affected by the OC.

## Existing plan

Sheet 1 of the existing plan affected by an owners corporation contains location of land details and notations regarding boundaries defined by buildings

13

Sheet 2 of existing plan of subdivision showing lots 1 to 3 and common property no.1 with boundaries defined by buildings. The third sheet in the existing plan is the owners corporation schedule. Contains table of Lots 1 to 3 and common property no.1 in unlimited owners corporation no.1 and includes relevant notations and entitlement and liability values. 

## Section 32 plan

Sheet 1 of the section 32 plan includes notation regarding the purpose of the plan to include land outside the owners corproation into the OC, to resubdivide with Lot 3 to create new lots 3A and 4 and to remove lot 4 from the OC

8

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Sheet 2 includes the resubdivided Lot 3 and neighbouring land as new lots 3A and 4The third sheet in the plan is the owners corporation schedule. Contains table of existing Lots 1 and 2 as well as new lot 3A and common property no.1 in unlimited owners corporation no.1 and includes relevant notations and entitlement and liability values. 

6

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11

## Compiled Plan

Compiled plan sheet showing full diagram of lots 1,2,3A,4 and common property no.1 in the plan after re-subdivision.

14

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