**Guide to dealing with restricted, accessory & carpark lots**



as at June 2024



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**This guide sets out information relating to instruments dealing with unrestricted, restricted and accessory/car park lots in accordance with Schedule 2 of the *Subdivision Act 1988* (Subdivision Act).**

# What is an unrestricted, restricted or an accessory/car park lot?

There are four types of strata lots - unrestricted, restricted, accessory and car park lots.

## **Unrestricted**

An unrestricted lot is a standard residential lot in a registered cluster plan or a strata plan.

*Vol 1234 Fol 098  
LAND DESCRIPTION   
Lot 1 on [Registered Cluster Plan or Strata Plan] 123456  
PARENT TITLE Volume 08987 Folio 123*

## **Restricted**

A restricted lot is a limited residential lot in a registered cluster plan or a strata plan specified as a restricted lot. Notice that the lot is restricted appears on a Register search statement (title search) as follows:

*Vol 1234 Fol 098  
LAND DESCRIPTION   
Lot 1 on [Registered Cluster Plan or Strata Plan] 123456****REGISTRATION OF DEALINGS WITH THIS LOT IS RESTRICTED****PARENT TITLE Volume 08987 Folio 123*

## **Accessory lot**

An accessory lot is a lot intended to be owned and used as a non-residential space such as a storage space. Notice that a lot is an accessory lot appears on a Register search statement as follows:

*Vol 1234 Fol 098  
LAND DESCRIPTION  
Lot 1 on [Registered Cluster Plan or Strata Plan] 123456****ACCESSORY LOT****PARENT TITLE Volume 08987 Folio 123*

## Car park lot

A car park lot is an accessory lot intended to be owned and used for the purposes of parking a motor vehicle or partly for that purpose. Notice that a lot is a car park lot appears on a Register search statement as follows:

*Vol 1234 Fol 098  
LAND DESCRIPTION  
Lot 1 on [Registered Cluster Plan or Strata Plan] 123456****CAR PARK****PARENT TITLE Volume 08987 Folio 123*

Registered cluster plans and strata plans also identify restricted, accessory and car park lots within the legend of each plan. Any other lot on a registered cluster plan or strata plan is an unrestricted lot. Any reference to ‘unit’ (whether restricted, accessory, car park or otherwise) on a strata plan is treated the same as a reference to ‘lot’ on a plan under the Subdivision Act.

Information on interpreting strata plans can be found at [*Understanding plans of subdivision and consolidation | Land Use Victoria*](https://www.land.vic.gov.au/land-registration/for-professionals/understanding-plans-of-subdivision-and-consolidation#heading-4)*.*

# How to deal with restricted and accessory/car park lots

The general rule is that a restricted lot(s) should be dealt with together with its associated accessory/car park lot(s) and vice versa.

## Restricted lots and any associated accessory/car park lots

Clause 6 of Schedule 2 of the Subdivision Act requires that the Registrar must not register a transfer, mortgage, charge, lease or sub-lease of a restricted lot on the same plan unless that instrument includes a car park lot. This includes applications to transfer an estate or interest by way of vesting or transmission.

Accordingly, any relevant instrument lodged in relation a restricted lot must include a car park lot on the same registered cluster plan or strata plan.

Clause 8 of Schedule 2 of the Subdivision Act applies to dealing with an accessory/car park lot. Please also refer to the Accessory/car park lots section below.

Below are examples of transactions involving restricted lots and any associated accessory/car park lots.

|  |  |  |
| --- | --- | --- |
| Registered proprietor(s) own | Transaction relates to | Outcome |
| 1 restricted lot and 1 accessory/car park lot | 1 restricted lot | Unacceptable. The restricted lot cannot be dealt with unless the instrument also includes a car park lot or the restriction is removed. |
| 1 accessory/car park lot | Only acceptable if clause 8(b) applies and there is a follower dealing to remove the restriction on the restricted lot. |
| 1 restricted lot and 2 or more accessory/car park lots | 1 restricted lot | Unacceptable. The restricted lot cannot be dealt with unless the instrument also includes a car park lot or the restriction is removed from the restricted lot. |
| 1 accessory/car park lot | Only acceptable if clause 8(b) applies. |
| 1 restricted lot and 1 accessory/car park lot | Acceptable for lodgment but will result in an accessory/car park lot(s) remaining to which clause 8(b) will apply. Evidence will be required that it is the intention of the registered proprietor to not transfer the remaining accessory/car park lot(s) and that retention of the lot(s) does not breach any Owners Corporation Rules. |
| 1 restricted lot and 2 or more accessory/car park lots | Acceptable for lodgment if the instrument includes all accessory/car park lots. If not, clause 8(b) will apply. Evidence will be required that it is the intention of the registered proprietor to not transfer the remaining accessory/car park lot(s) and that retention of the lot(s) does not breach any Owners Corporation Rules. |
| 2 restricted lots and 2 accessory/car park lots | 1 restricted lot | Unacceptable. The restricted lot cannot be dealt with unless the instrument also includes a car park lot or the restriction is removed from the restricted lot. |
| 1 accessory/car park lot | Only acceptable if clause 8(b) applies. |
| 1 restricted lot and 1 accessory/car park lot | Acceptable for lodgment. |
| 1 restricted lot and 2 accessory/car park lots | Only acceptable if clause 8(b) applies and there is a follower dealing to remove the restriction from the remaining restricted lot. |
| 2 restricted lots and 1 accessory/car park lot | Acceptable for lodgment but will result in an accessory/car park lot remaining to which clause 8(b) will apply. Evidence will be required that it is the intention of the registered proprietor to not transfer the remaining accessory/car park lot and that retention of the lot does not breach any Owners Corporation Rules. |
| 2 restricted lots and 2 accessory/car park lots | Acceptable for lodgment. |

## Accessory/car park lots

Clause 8 of Schedule 2 of the Subdivision Act states that a person cannot deal with an interest in an accessory lot by selling, transferring, mortgaging, leasing or sub-leasing the accessory lot unless the transaction also deals with a lot on the same plan that is not an accessory/car park lot (an unrestricted lot or a restricted lot), or the transaction is with a registered proprietor, purchaser, transferee, mortgagee, lessee or sub-lessee of a lot on the same plan which is not an accessory/car park lot (an unrestricted lot or a restricted lot).

Accordingly, any relevant instrument lodged in relation to an accessory/car park lot must include a non-accessory/car park lot on the same registered cluster plan or strata plan in the same instrument, unless clause 8(b) of Schedule 2 of the Subdivision Act applies.

Clause 8(b) provides that a person may deal with an interest in an accessory/car park lot when the receiving party (transferee/mortgagee/chargee/lessee/sub-lessee) is a registered proprietor, purchaser, transferee, mortgagee, lessee or sub-lessee of a non-accessory/car park lot on the same registered cluster plan or strata plan.

The Registrar will require written confirmation from a conveyancer or lawyer that clause 8(b) applies. Additionally, if clause 8(b) applies, the instrument dealing with the accessory/car park lot may be required to be supported by an application to remove the restriction as set out below.

Below are examples of transactions involving unrestricted lots and accessory/car park lots. For transactions involving restricted lots and any associated accessory/car park lots refer to the table above.

|  |  |  |
| --- | --- | --- |
| Registered proprietor(s) own | Transaction relates to | Outcome |
| 1 unrestricted lot and 1 accessory/car park lot | 1 unrestricted lot | Acceptable for lodgment but will result in an accessory/car park lot remaining to which clause 8(b) will apply. Evidence will be required that it is the intention of the registered proprietor to not transfer the remaining accessory/car park lot and that retention of that lot does not breach any Owners Corporation Rules. |
| 1 accessory/car park lot | Only acceptable if clause 8(b) applies. |
| 1 unrestricted lot and 1 accessory/car park lot | Acceptable for lodgment. |
| 1 unrestricted lot and 2 accessory/car park lots | 1 unrestricted lot | Acceptable for lodgment but will result in an accessory/car park lot(s) remaining to which clause 8(b) will apply. Evidence will be required that it is the intention of the registered proprietor to not transfer the remaining accessory/car park lot(s) and that retention of the lot(s) does not breach any Owners Corporation Rules. |
| 1 accessory/car park lot | Only acceptable if clause 8(b) applies. |
| 1 unrestricted lot and 1 accessory/car park lot | Acceptable for lodgment but will result in an accessory/car park lot remaining to which clause 8(b) will apply. Evidence will be required that it is the intention of the registered proprietor to not transfer the remaining accessory/car park lot and that retention of that lot does not breach any Owners Corporation Rules. |
| 1 unrestricted lot and 2 accessory/car park lots | Acceptable for lodgment. |
| 2 unrestricted lots and 2 accessory/car park lots | 1 unrestricted lot | Acceptable for lodgment. |
| 1 accessory/car park lot | Only acceptable if clause 8(b) applies. |
| 1 unrestricted lot and 1 accessory/car park lot | Acceptable for lodgment. |
| 1 unrestricted lot and 2 accessory/car park lots | Acceptable for lodgment. |
| 2 unrestricted lots and 1 accessory/car park lot | Acceptable for lodgment but will result in an accessory/car park lot remaining to which clause 8(b) will apply. Evidence will be required that it is the intention of the registered proprietor to not transfer the remaining accessory/car park lot and that retention of that lot does not breach any Owners Corporation Rules. |
| 2 unrestricted lots and 2 accessory/car park lots | Acceptable for lodgment. |

# Removing a restriction from a restricted lot

A registered proprietor of a restricted lot may apply under section 38A of the Subdivision Act to remove the restriction from the restricted lot. The written consent of Council is required to support the application.

Alternatively, an owners corporation may exercise its power under clause 10 of Schedule 2 of the Subdivision Act 1988 to remove the restriction from a restricted lot within the owners corporation. Application may then be made by the owners corporation under section 32 of the Subdivision Act.

Applications under the Subdivision Act may be lodged through SPEAR.