



## Land Use Victoria: Registrar's Requirements Consultation

*Strata Community Association (Vic) Submission*

10/10/2023

## Introduction

Strata Community Association (Vic) Ltd is the peak body for the Owners Corporation sector, which comprises commercial, industrial, and residential properties ranging from two units in a suburban street to many hundreds of units in inner city apartment buildings. Owners corporations represent property valued at over \$300 billion and encompass commercial, retail, lifestyle resorts, retirement villages, car parks, storage facilities, industrial and, increasingly, mixed developments. More than \$1 billion per year is collected and spent within the sector. It is estimated that around 1.6 million Victorians – a quarter of the state’s population – either live in, or own property in, an owners corporation.

## Background – Strata Community Association (Vic)

SCA Victoria was established in 1990, it succeeds Owners Corporations Victoria (OCV) and Institute of Body Corporate Managers Victoria (IBCMV). SCA (Vic) members comprise a significant percentage of all professional owners corporation managers, with over 800 members managing upwards of 450, 000 lots. SCA (Vic) Associate members are industry suppliers, including waste management providers, Essential Safety Measures managers, quantity surveyors, insurers, lawyers, accountants, facility managers, property valuers, building maintenance and tradespeople. Members benefit from representation, support, advice, and promotion. With Continuing Professional Development (CPD), Best Practice Guidelines on regulatory and legislative amendments, updates on VCAT determinations and emerging issues, SCA members are best placed to manage OCs and empower Lot Owners and occupiers.

In Victoria, the *Owners Corporations Act 2006* defines an Owners Corporation as a ‘body corporate which is incorporated by registration of a plan of subdivision or a plan of strata or cluster subdivision.’ The individual Lot Owners form a collective known as an Owners Corporation (OC). This is a legal entity which must comply with its governing legislation and enabled regulations. The responsibility to maintain common property and shared services is that of the owners corporation.

Owners corporations can choose to appoint a registered manager who will act on their direction, including engaging contractors for maintenance and repairs, on behalf of the OC. The manager assists the OC to meet these and other obligations. As part of the Annual General Meeting, Lot Owners collectively agree on a budget to fund ongoing maintenance and shared service costs. Items agreed can include the management fee, caretaking costs including gardening, utility charges, repairs to essential services, insurance premiums and waste management expenses. These are funded through fees/levies.

**The growing number of people living and working in strata titled arrangements necessitates an increasing focus on regulatory responses for solutions to issues that are faced on a daily basis, including: the cost of housing, urban renewal, sustainable living, regulatory complexity, unlimited liability risks in relation to volunteer strata committee members, building defects and skills shortages.**

**For further information about this submission, please contact: Josh Karpin, Policy and Advocacy Officer, [josh.karpin@strata.community](mailto:josh.karpin@strata.community)**

## SCA (Vic)'s Submission for Land Use Victoria: Registrar's Requirements Consultation

Strata Community Association Victoria welcomes the opportunity to provide feedback to Land Use Victoria in relation to the Registrar's Requirements and proposed changes to streamline processes, improve efficiency and progress further towards increased digital lodgment.

### Summary

SCA (Vic) has responded to the call for feedback from Department of Energy, Environment and Climate Action (DEECA) with regard to Land Use Victoria and provides the following observations (before elaborating in further detail with additional rationale and considerations):

#### 1. Definitions

SCA (Vic) is supportive of proposed changes to Definitions for Approved Building Envelopes.

#### 2. Verification of identity (proposed amended Registrar's Requirement 3.1)

SCA (Vic) is supportive of an exemption from identity verification in certain circumstances (as per Registrar's Requirement 3.1.11).

#### 3. Electronic instruments (proposed amended Registrar's Requirement 6.2)

SCA (Vic) is supportive of the amendment to clarify that Subscribers must use the 'Record-Notice-Transfer of Land Act – Section 104' (Generic Residual Document) to lodge any instruments which cannot be electronic instruments.

#### 4. Mandate for all remaining instrument types capable of being lodged electronically (proposed amended Registrar's Requirement 6.5(h))

SCA (Vic) is supportive of all remaining instrument types capable of being lodged electronically.

#### 5. Mandate for lodgment using SPEAR (Registrar's Requirement 6.6)

SCA (Vic) is supportive of use of the SPEAR ELN.

##### a. All customers who lodge plan and survey-based applications (proposed amended Registrar's Requirement 6.6(d))

SCA (Vic) is supportive of the proposed change to make all instruments capable of being lodged using SPEAR must be lodged via SPEAR ELN makes eminent sense based.

##### b. SPEAR ELN Subscribers (proposed amended Registrar's Requirement 6.6(e))

SCA (Vic) supports the refusal of GRD submissions as a necessary step to help accelerate the move to more widespread use of SPEAR ELN.

#### **6. Paper quality and size (proposed amended Registrar's Requirement 10)**

SCA (Vic) generally encourages steps to accommodate PDF documents.

#### **7. Clarification around the creation of restrictions in plans (proposed amended Registrar's Requirement 12 and Schedule 6)**

SCA (Vic) is supportive of steps to reduce duplication and complication.

#### **8. Limits on variations of easement (proposed new Registrar's Requirement 14)**

SCA (Vic) believes the proposed changes in this section will be useful in clarifying which provisions can be varied and which provisions cannot, which will be helpful in streamlining processes and improving efficiency.

#### **9. Removal of instruments as to part (proposed new Registrar's Requirement 15)**

SCA (Vic) is supportive of proposed steps to clarify removal of instruments as to part and ensure they are more consistent.

#### **10. Recording of Approved Building Envelopes only accepted in an agreement lodged under section 173 of the *Planning and Environment Act 1987* (proposed new Registrar's Requirement 16)**

SCA (Vic) believes the proposed changes will help streamline the recording of planning matters in the Register and is generally supportive of further streamlining where practicable.

#### **11. Withdrawals of caveat by a deceased caveator's legal personal representative (proposed new Registrar's Requirement 17)**

SCA (Vic) supports the proposed changes in this section.

#### **12. Leases and sub-leases (proposed new Registrar's Requirement 18)**

SCA (Vic) is of the view that reduction of duplication with regard to lease and sub-lease documents is beneficial and should be supplemented by information to help clarify this for users.

#### **13. Mortgages and MCPs to be incorporated into mortgages must not include inappropriate matters (proposed new Registrar's Requirement 19)**

SCA (Vic) supports proposed changes in this category as a means of clarifying the process and simplifying information requirements for lodgment.

#### **Possible future amendments – concurrent leases**

SCA (Vic) is generally supportive of efforts to develop nationally consistent approaches to strata-related matters and has no objections to this proposed change (though we would appreciate being included for consultation for any such future changes).

## SCA (Vic) Submission – Rationale and Considerations

SCA (Vic) provides the following rationale and considerations in support of the above overall positions to help Land Use Victoria understand additional perspective and context.

### 1. Definitions

SCA (Vic) is supportive of proposed changes to Definitions for Approved Building Envelopes and has no objections to any terms specified in Draft Version 9 of *Registrar's Requirements for paper conveyancing transactions*.

### 2. Verification of identity (proposed amended Registrar's Requirement 3.1)

SCA (Vic) is supportive of an exemption which provides officers of State Trustees Limited from having their identity verified in certain circumstances (as per Registrar's Requirement 3.1.11), viewing this as a reasonable step toward streamlining processes and improving efficiency.

### 3. Electronic instruments (proposed amended Registrar's Requirement 6.2)

SCA (Vic) is supportive of the clarification that a Generic Residual Document (GRD), in this particular case the 'Record – Notice – Transfer of Land Act – Section 104', must be used to lodge any instruments which cannot be electronic instruments.

### 4. Mandate for all remaining instrument types capable of being lodged electronically (proposed amended Registrar's Requirement 6.5(h))

SCA (Vic) is generally supportive of the use of electronic forms and lodgment to help streamline processes and improve efficiency, noting the obvious benefits in ease of access and submission as well as time to process. In this particular case, SCA (Vic) is of the view that a mandate for all remaining instrument types capable of being lodged electronically will assist in speeding up the process of moving to an increasingly digital government interface.

## **5. Mandate for lodgment using SPEAR (Registrar's Requirement 6.6)**

SCA (Vic) is supportive of the use of SPEAR ELN and appreciates Land Use Victoria including evidence (in terms of relevant data and statistics) to justify this aspect of the proposed changes. In addition, SCA (Vic) notes the significant gap in time between processing a GRD through PEXA as against use of SPEAR ELN and is generally supportive of steps being taken by government to reduce processing times (as well as making systems more accessible and efficient for users providing information).

The list of benefits provided for use of SPEAR ELN in the Registrar's Requirements are clearly articulated and present obvious improvements in terms of processes and efficiency.

### **a. All customers who lodge plan and survey-based applications (proposed amended Registrar's Requirement 6.6(d))**

SCA (Vic) believes the proposed amendment to make all instruments capable of being lodged using SPEAR must be lodged via SPEAR ELN makes eminent sense based on the evidence provided earlier in the *Summary of proposed changes* and that such a step would help to simplify lodgment for users.

### **b. SPEAR ELN Subscribers (proposed amended Registrar's Requirement 6.6(e))**

SCA (Vic) supports the refusal of GRD submissions as a necessary step to help accelerate the move to more widespread use of SPEAR ELN. However, SCA (Vic) hopes that refusals of GRD submissions are accompanied by appropriate supporting mechanisms (such as factsheets or guides) to assist applicants with transitioning to the SPEAR ELN process.

## **6. Paper quality and size (proposed amended Registrar's Requirement 10)**

SCA (Vic) generally encourages steps to accommodate PDF documents and believes this would be a useful step in helping to streamline processes and improve efficiency and believes the proposed changes to the Registrar's Requirement 10 would assist in this process.

## **7. Clarification around the creation of restrictions in plans (proposed amended Registrar's Requirement 12 and Schedule 6)**

SCA (Vic) is supportive of steps to reduce duplication and complication as it relates to processes, and in this instance believes the proposed changes will simplify the creation of restrictions in plans because more efficient and standardised forms will assist this process.

## **8. Limits on variations of easement (proposed new Registrar's Requirement 14)**

SCA (Vic) believes the proposed changes in this section will be useful in clarifying which provisions can be varied, and which provisions cannot. The proposed changes listed would seem to be consistent with the overall view of streamlining processes and improving efficiency.

### **9. Removal of instruments as to part (proposed new Registrar's Requirement 15)**

SCA (Vic) is generally supportive of proposed changes to ensure clarity and consistency and is of the view that the text of Registrar's Requirement 15 will assist in achieving these goals while also ensuring a simpler overall process.

### **10. Recording of Approved Building Envelopes only accepted in an agreement lodged under section 173 of the *Planning and Environment Act 1987* (proposed new Registrar's Requirement 16)**

SCA (Vic) supports simplification and clarification of lodgment of plans under the *Subdivision Act 1988* containing restrictions referencing MCPs which set out Approved Building Envelopes or MCPs prepared for incorporation in a plan lodged under the *Subdivision Act 1988* which set out Approved Building Envelopes and would be generally supportive of any future steps which can be taken to streamline the process further.

### **11. Withdrawals of caveat by a deceased caveator's legal personal representative (proposed new Registrar's Requirement 17)**

SCA (Vic) believes the capacity to withdraw caveat signed by the legal personal representative of the deceased caveator, per the terms outlined in the proposed changes, will be beneficial.

### **12. Leases and sub-leases (proposed new Registrar's Requirement 18)**

SCA (Vic) is of the view that preventing separately signed submission of lease or sub-lease as a paper document or PDF document will help to simplify the process by preventing duplication of documentation, and that instructions attesting to this should be provided in plain language to support this proposed change.

### **13. Mortgages and MCPs to be incorporated into mortgages must not include inappropriate matters (proposed new Registrar's Requirement 19)**

SCA (Vic) believes proposed changes in this category are welcome as a means of simplifying this process and clarifying the information required for lodgment.

### **Possible future amendments – concurrent leases**

SCA (Vic) is generally supportive of efforts to make nationally consistent language for strata-related matters. In this case, SCA (Vic) offers no objections in principle to a nationally consistent approach which would see concurrent leases being registered and/or lodged for registration, though we would appreciate the opportunity to be consulted on any future such language and proposed changes.