



**A QUICK GUIDE**

**to**

**Owners Corporation**

**COMMUNITY LIVING**

**at**

**SANCTUARY LAKES RESORT**

2016 Edition

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# 1. Introduction

Community living is a lifestyle choice where people can access resources that would be too costly to maintain on their own.

The residential community at Sanctuary Lakes Resort has been built around a Greg Norman-designed golf course and a lake that add considerable amenity to the estate for both golfers and residents.

Sanctuary Lakes Resort provides security for residents by mobile patrols day and night as well as home-to-base security for every house. Residents appreciate the additional comfort that these facilities provide for all residents and their families.

The lake is visually attractive for those driving by, walking or cycling along the extensive paths, sitting in the clubhouse or café and for those who enjoy a paddle in a canoe or kayak.

The recreation club, outdoor gymnasias and tennis courts provide opportunities for residents to use these sporting facilities.

Sanctuary Lakes Resort operates under the structure set out in the *Owners Corporations Act 2006* (OC Act) which provides the processes for us all to share the resources which we enjoy. The Act was amended by the *Consumer Affairs Legislation Amendment Act 2010* and the *Consumer Affairs Legislation Amendment (Reform) Act 2010*. Some of these changes became effective on 1 January 2011 and the remainder on 1 September 2011. The Act continues to be reviewed and revised periodically.

The role of community is a critical element that will allow more than 2,940 households from quite diverse backgrounds to share in a fair way the resources of Sanctuary Lakes Resort. Decisions within each owners corporation (OC) are taken by majority votes where each owner is encouraged to participate. Each owners corporation at Sanctuary Lakes Resort is a member of Sanctuary Lakes Resort Services Ltd (SLRS), a company limited by guarantee not having a share capital and operating under Corporations Law. The registered owners corporation manager for all OCs at Sanctuary Lakes Resort is SLRS. Each owners corporation appoints a delegate to SLRS. The Board of SLRS manages the community services and resources provided to members of the Sanctuary Lakes Resort.

On 6<sup>th</sup> June 2013, directors appointed by the developer retired from the Board and were replaced by 7 directors nominated by lot owners through the OC structure. Sanctuary Lakes is now *resident owned, resident run*. This process is referred to as "Transition" later in this document.

This *Quick Guide* provides an overview of the role of owners corporations at Sanctuary Lakes Resort. It is not a legal document. Reference should be made to the appropriate legislation for specific details.

Our website [www.sanctuarylakesresort.com.au](http://www.sanctuarylakesresort.com.au) also provides a wealth of information about Sanctuary Lakes Resort and how it operates. It is strongly recommended that you see it as your primary source of such information. For more detailed information on a specific issue contact SLRS or email [ocmanager@sanctuarylakes.com.au](mailto:ocmanager@sanctuarylakes.com.au).

## 2. What is an Owners Corporation?

An owners corporation (OC) is established for each community scheme and may include any duplex, a residential block of townhouses, a high rise accommodation complex, a shopping centre or a business park. Such schemes are comprised of individually owned lots or units and common property.

The term "**owners corporation**" was introduced into Victoria in 2007 and replaces what was previously known as a "**body corporate**". The term "body corporate" is still used in some other states.

The owners corporation structure allows for flexible living arrangements where a person can privately own an area of land and all or part of a building as well as sharing common property, services and amenities with other owners.

Each person purchasing property at Sanctuary Lakes Resort should be aware that they are buying into a community scheme which operates through a number of owners corporations. Owners not only have certain rights and responsibilities for their own property but also for the common property, services and resources shared with other owners within and outside their owners corporation. At Sanctuary Lakes, many of these services and resources are provided to all OCs within Sanctuary Lakes. Hence much of the spending is for services outside the OC.

Potential owners should understand what common property and resources are and what the costs will be for maintenance and general upkeep. Common property can include shared driveways and some garden areas. Services and resources that are provided across the estate for all owners include the Community Building, the Recreational Club gymnasium and pool, the tennis courts, outdoor gymnasias, lake, the security service and the maintenance of small parks and the main boulevards.

Investor owners have the same privileges and responsibilities as owner occupiers regarding these amenities.

## 3. How does an Owners Corporation operate?

The owners corporation is composed of all the owners in the scheme. Every new owner automatically becomes a member of the owners corporation and enjoys the benefits and responsibilities of the facilities provided by the owners corporation.

The owners corporation must comply with the *Owners Corporation Act 2006* (the Act), the regulations, the rules of the owners corporation and any other law.

The owners corporation (owners or their authorised representatives) makes decisions on matters with shared responsibility. These include:

- Maintenance and management of common property;
- Determining levies (financial contributions) which owners must pay to fund its operations;
- Property insurance (where a building has common property) and public risk insurance;
- Maintaining prescribed records;
- Establishing and enforcing by-laws (rules) relating to the management and control of the lots and common property;
- Carrying out any functions and duties under the *Owners Corporation Act 2006*, the Owners Corporation Regulations, rules and any other law.

When considering buying a property at Sanctuary Lakes Resort, the intending purchaser should find out if there are any fees and charges still owing to the owners corporation and whether all covenant conditions have been completed to the satisfaction of the Architectural Review Committee (ARC). If there are unpaid fees or unresolved ARC issues, **these liabilities are attached to the lot and so will pass to the purchaser** unless they are resolved before settlement.

Owners should be aware that, under the OC Act, all owners corporation debt accumulated against the property must be declared to any potential purchaser before settlement. The OC manager should be requested to prepare a certificate for this purpose.

#### **4. Did I join the Owners Corporation?**

Every person who owns a lot in an owners corporation is automatically a member of that OC as provided in the Act. There is no joining fee or other decisions concerning membership – purchase of a lot (land, house, townhouse) in an OC makes the purchaser a member of the OC and the owner remains a member until the lot is sold.

#### **5. Benefits & Responsibilities of each Owner**

This Guide has outlined the benefits of owning a lot at Sanctuary Lakes with its owners corporation structure. Benefits include:

- amenity of the lake and golf course
- security – each house has back-to-base monitoring plus 24/7 patrols
- walking paths and parks
- recreation club with gymnasium, pool and tennis courts
- access to Clubhouse
- community rules as part of the owners corporation legislation
- architectural requirements with which every lot must comply

- landscaping team maintaining parks and main boulevard
- annual Wyndham City rate rebate
- recycled water used in maintenance of community areas
- owners corporation manager has an office and staff on site handling owners corporation matters and resort maintenance issues.

Section 12 of this Guide provides more details of the common property and the levies that apply in the various types of owners corporation at Sanctuary Lakes.

As always, benefits are only available when responsibilities are accepted. Every lot owner pays an annual levy for the services provided. The levy is reviewed each year by SLRS, set by the SLRS Board and confirmed by the OC.

Section 20 outlines the Rules that apply at Sanctuary Lakes and how those rules are accessed. The Rules form part of the title of each lot and have legal status. Lot owners who do not abide by the Rules are subject to the processes of dispute resolution in Section 21 and can be required to appear at the Victorian Civil & Administrative Tribunal (VCAT) which can refer matters to a court if necessary.

Every lot owner and prospective lot owner should be acquainted with the contents of this Guide and other literature prepared by SLRS. Responsibilities of each lot owner include:

- payment of the annual owners corporation levy on time. Overdue levies will be recovered through VCAT with additional interest and administration costs.
- abide by the OC legislation and OC Rules that apply at Sanctuary Lakes.
- ensure your property complies with the Architectural Rules.
- check if the lot has any unpaid levies that will pass as a debt to the new owner.
- submit any proposal for changes or addition to your property to the Sanctuary Lakes Architectural Review Committee and obtain its approval before submitting plans to Wyndham City Council for building approval.

Lot owners are encouraged to protect their property investment and that of their neighbours by taking an interest in the activities of their OC.

## 6. To which OC do I belong?

Details of the OC to which you belong are contained in the contract of sale for your property. A typical number of an Owners Corporation to look for is **No.1 PLAN OF SUBDIVISION 430410G**. Management also hold records of all Sanctuary Lakes Resort owners corporations showing where each lot belongs. It also has the contact details of the committee members of each OC. Contact details for each OC are available on the website [www.sanctuarylakesresort.com.au](http://www.sanctuarylakesresort.com.au) under **OC Records/committee contacts**.

Assistance with finding your OC is provided on the website under **OC Knowledge/Which OC is mine?**

## 7. Levels of Owners Corporation

An owners corporation operates with the following:

1. the **owners corporation** consisting of all the lot owners.
2. the **committee** consisting of elected lot owners or lot owners' proxies.
3. a **delegate of the owners corporation**. For example, a manager, a chairperson, a secretary, a lot owner or an employee of the owners corporation may have duties delegated to them by the committee.
4. a **delegate of the committee**. The committee may delegate to a lot owner, a manager or sub delegate to a member of the committee defined tasks and duties.
5. At Sanctuary Lakes Resort, each OC also appoints an Authorised Representative to Sanctuary Lakes Resort Services Limited who attends SLRS meetings and votes on behalf of the representative's OC.

## 8. The Committee

If an owners corporation operates in respect of thirteen or more lots, a committee must be elected at each Annual General Meeting. The committee consists of a chairperson, secretary and other members. Committees vary in size but must have at least three and not more than twelve people.

The committee carries out the functions of the owners corporation between general meetings on all matters delegated to it by either a resolution or an instrument of delegation at a general meeting. The delegation expires at each AGM and must be renewed.

Committee members are volunteer owners who give their time and skill so that OCs can operate in accordance with the Act for the interests of all lot owners.

## 9. Annual General Meeting

The OC Act requires that each Owners Corporation must hold an Annual General Meeting (AGM) each year. Notice of the AGM must be sent to each lot owner at least 14 days before the meeting. The OC Act allows notices to be sent electronically where a lot owner has agreed to use that method.

The notice must include:

- date, time and location of the meeting
- the general nature of business or any resolutions to be discussed or decided at the meeting

- the text of any special resolutions or unanimous resolution to be decided at the meeting
- the financial statements for the previous year
- the proposed annual budget for the current year
- a statement that lot owners have a right to appoint a proxy.

From 1 January 2011, the notice must also include:

- a report of any approved maintenance plan; a report as to any required valuation of buildings every five years; a report of the manager of activities during the year and a report as to any complaints dealt with
- the minutes of the previous annual general meeting

The agenda for the AGM should include:

- election of the chair, attendances, apologies, proxies, quorum and entitlements to vote.
- Confirmation of the minutes of the previous AGM
- Reports from the manager and committee (if applicable)
- Acceptance of the financial statements
- Insurance
- Proposed budget for the next financial year
- Setting of fees
- Appointment of the manager and election of a committee and if no committee is elected, also the appointment of the chairperson and secretary.
- Any delegations
- Report on the number of complaints and the nature of complaints including:
  - Number of matters on which action was taken under dispute procedures of the Act
  - The nature of matters in respect of which action was taken
  - The number of applications to VCAT concerning the Owners Corporation.

From 1 January 2011, the agenda must include consideration of a report of any decisions taken by the owners corporation or the committee to waive or not to waive payment of interest in a particular case by a member in arrears and the reasons for that decision.

## **10. Administration**

At Sanctuary Lakes, the owners corporations engage a manager to carry out a number of administration tasks on behalf of the owners corporation. Most large owners corporations use the services of a professional manager who is registered for this role in accordance with the OC Act by Victoria's Business Licensing Authority. The administration tasks carried out by the manager include:

- Support services for the conduct of general meetings including circulation of meeting notices, agenda and the taking of minutes;

- Preparation of the budget under the direction of the committee;
- Issue of levy notices, collection of levies and collection of overdue levies;
- Keeping of financial records and payment of accounts;
- Account separately for money held for each owners corporation that it manages;
- Report to the owners corporation at each annual general meeting.

The registered owners corporation manager for all OCs at Sanctuary Lakes Resort is SLRS.

## 11. Maintaining Common Property and Facilities

It is the responsibility of the owners corporation to maintain any common property. At Sanctuary Lakes Resort, the common property may include garden areas and common roadways that are shared by others in the OC. In addition, all owners contribute through their levies to the maintenance of roadside areas along the boulevards, the neighbourhood parks and garden areas, the lake and beaches, the Community Centre and the provision of security services. These services are provided under contracts with SLRS and are not common property.

SLRS, on behalf of the owners corporations at Sanctuary Lakes Resort, engages the services of specialist companies to provide some of these services. Because the owners at Sanctuary Lakes Resort maintain gardens and roadside areas along the boulevards as well as neighbourhood parks and gardens, Wyndham City Council allows a rebate on rates notices because it does not supply these services from the general Council rates. The rebate appears on the annual rate notice for each lot owner.

## 12. Types of Owners Corporation

The Act defines owners corporations as being either **unlimited**, or **limited**. OCs with a minimum of 100 lots are also referred to as being **prescribed**, due to the more prescriptive nature the legislation requires of them due to their relative size.

The premise of owners corporations is that there is generally common property that requires repair and maintenance, insurance and the like, to be managed by the OC, or, as in most instances where there are complexities such as the nature of services provided or the size, by a registered professional manager. Due to the inherent nature of Sanctuary Lakes Resort, there are some major and some subtle differences between the various OCs, explained further below.

Every lot owner at Sanctuary Lakes is automatically linked to and is a member of an **unlimited** owners corporation.

## 12.1 Unlimited Owners Corporations

Sanctuary Lakes Resort is presently (2016) comprised of twenty-seven plans of subdivision within each of which one ***unlimited*** OC operates.

Each ***unlimited*** OC was created when a plan of subdivision prepared by the developer was registered at Land Victoria. Some of these plans of subdivision have common property while many do not, which is not common within Victoria.

Every ***unlimited*** OC has a management services agreement for the provision of services enjoyed by each lot at Sanctuary Lakes Resort. These services are paid for by the Owners Corporation Levy, or 'Service Fee', which is \$2,497 (incl. GST) for the 2016/17 financial year. This levy incorporates the service fee of the manager as well as any other fee components specifically approved by each OC annually. Every lot owner in Sanctuary Lakes Resort is charged this fee.

### 12.1.1 Unlimited OCs without common property

There are no additional fees charged by those ***unlimited*** OCs in SL that do not have common property. These ***unlimited OCs without common property*** just share the basic facilities already described.

The developer initially created a new owners corporation with each new stage as the estate was developed. Hence most unlimited OCs look like suburban streets and have 80 to 120 lots in the owners corporation. When the developer recognised the administrative costs involved with operating so many OCs and the legislation allowed, the remaining stages were placed in one OC which became known as the "Super OC" and contains 1246 lots.

The roads and footpaths in the ***unlimited OCs without common property*** are owned by Wyndham City Council which has responsibility for the maintenance of the footpaths, roads and crossovers. In addition, Sanctuary Lakes Resort Services (SLRS) maintains the small garden areas at the street corners and the small parks around Sanctuary Lakes Resort. As there is no common property, owners in these unlimited OCs do not make any direct financial contribution to this maintenance. They do make a contribution through the estate maintenance budget for the care of the vegetation, which is supported from their levies.

In these unlimited OCs, the maintenance of the vegetation in the nature strip is the responsibility of the adjoining property owner. Wyndham City Council expects that owners will do this work and can threaten to impose fines if the nature strips are not maintained.

### 12.1.2 Unlimited OCs with common property

Some ***unlimited*** OCs have common property specific to their Plan of Subdivision. Many of you will know these OCs as being the "gated" communities, although an OC does not have to have a gate to have its own common property.

These OCs need to charge their lot owners an additional fee to cover costs specific to their OC, to include but not limited to insurance, repair and maintenance of their specific common property, the management/administration of this activity, and so forth.

**Unlimited** OCs that have common property specific to their plan of subdivision charge a Common Property fee, in addition to the Resort wide OC Service Fee, to their lot owners.

In **unlimited OCs with common property** such as gated communities, the roadways and footpath areas belong to the owners in the owners corporation and not the Wyndham City Council. Hence the members of gated OCs are responsible for the maintenance costs of the roadway, footpaths and crossovers as well as the garden and footpath areas and the security gate and its operation. While owners have these additional costs to maintain the common property, they also have their share of the additional value of these common areas added to the value of their lot. These OCs generally contract with SLRS to maintain the footpaths, gardens and roadways on behalf of the OC at a cost charged to the OC.

This common property fee is approved by the lot owners at the annual general meeting.

Further, lot owners of OCs that have common property may also be charged a Maintenance Fund levy or a 'Sinking Fund' levy as it is more commonly known. This fee is for the replacement and maintenance of capital assets or infrastructure such as gates, walls, roads and kerbing etc. A professional report, known as a Maintenance Fund report, assists the determining of such fees. These reports anticipate funds required for a minimum 10 year period. Prescribed OCs (more than 100 lots) must have a Maintenance Fund; non prescribed OCs may choose to have one, which is prudent for them to consider.

In summary, every lot within Sanctuary Lakes Resort is a member of only one **unlimited** OC, some having common property (usually being a gated community), with the majority not having any common property specific to their plan of subdivision. However, all **unlimited** OCs have an arrangement with their manager to provide the same basic services all lot owners at Sanctuary Lakes Resort enjoy and hence pay the same standard OC Service Fee.

## 12.2 Limited Owners Corporations

A plan of subdivision can be changed which results in a **limited** OC being created. This may occur when one or more existing lots in an **unlimited** OC are further subdivided in order to create new lots and/or common property. The owners of lots affected by the new **limited** OC become members of a new entity. They still retain their membership of the **unlimited** OC. The other lots in the **unlimited** OC that are not affected by the creation of the **limited** OC have no interest in the **limited** OC.

A **limited** OC is one that has common property 'limited' only to its members. Hence, within an **unlimited** OC, there may be one or more **limited** OCs whereby the lot owners/members of the **limited** OCs have an obligation not only to the **unlimited** OC, but also to their **limited** OC.

The initial owner (or developer) may have set aside an area of land already affected by an **unlimited** OC which is intended to be developed by creating new lots with their own common property. This type of staging may occur a number of times within the same **unlimited** OC. If that is the case, each new common property created on registration of an alteration to the plan of subdivision will be numbered OC#2, OC#3, OC#4 and so on.

At Sanctuary Lakes Resort, a member of a **limited** OC is still a member of the **unlimited** OC, and depending on whether the **unlimited** OC itself has common property, they may be liable for multiple fees.

It is most likely that **limited** OCs have common property and so attract a common property fee, and even perhaps a maintenance fund fee, specific to their limited common property. This is in addition to having to pay the Service Fee as a member of the **unlimited** OC, and perhaps an additional common property fee and perhaps a further maintenance fund fee if the **unlimited** OC has common property.

Below is a chart depicting what fees are to be paid by the two variations of the two types of owners corporations at Sanctuary Lakes Resort.

Every lot owner will be a member of an **unlimited** OC.

Some lot owners will also be a member of one **limited** OC, and of course will have an obligation to both their **limited** and **unlimited** OC.

		Service Fee	Common Property Fee	Maintenance Fund Fee
Unlimited	Common Property	Yes	Yes	Perhaps
Unlimited	No Common Property	Yes	No	No
Limited	Common Property		Yes	Perhaps
Limited	No Common Property		No	No

### 13. How do these Owners Corporations work together?

There are 44 owners corporations within Sanctuary Lakes Resort which are members of a company (SLRS) that maintains or provides services for all residents.

To manage those shared resources and so that Sanctuary Lakes Resort can operate as an integrated community, the developer formed Sanctuary Lakes Residents

Association Ltd which is now re-named **Sanctuary Lakes Resort Services Ltd** (SLRS) as a company of which each owners corporation is a member. SLRS operates under Corporations Law, with a board of directors initially appointed by the developer but since transition the directors are appointed by residents. When acting as manager, SLRS adopts practices that, wherever practical, are consistent with the *Owners Corporation Act 2006* under which each OC operates while SLRS itself must operate under Corporations Law.

Each of the 44 owners corporations may appoint one authorised representative to SLRS. SLRS holds two general meetings each year which authorised representatives may attend. One meeting held in May reviews the Budget which the Board has prepared. Under Corporations Law, the Board must approve the Budget but the general meeting provides an opportunity for review before the Board approval. The other meeting usually held in November is the AGM where financial results are tabled, directors are elected and other statutory matters are handled. It also provides an opportunity for authorised representatives to discuss with the directors and management issues relating to activities at Sanctuary Lakes.

## **14. SLRA Advisory Council**

In 2007, the Sanctuary Lakes Residents Association Advisory Council was formed to bring OCs together and to negotiate with the developer in preparation for transition. To provide for practical representation, the OCs were divided into clusters with each cluster being a geographically similar group of owners corporations containing about 400 properties. The exception was the Super OC which had 1270 owners when all lots were developed and so elected three representatives to the SLRAAC executive.

The other clusters were Lake & Canal, Golf West, Skeleton Creek and Golf East which each elected one representative to the SLRA Advisory Council executive. In addition, one further director was elected from authorised representatives by SLRS to the specialist position of chairman. There were eight members of the SLRA Advisory Council executive as transition negotiations proceeded. The cluster system ensured that the various interests of lot owners were represented on the executive.

The Advisory Council operated without a Constitution and made decisions based on good practice, being mindful of the requirements of the Owners Corporation Act and Corporations Law. The Council did not control the budget and was restricted to matters that the Board (controlled by the developer) delegated to the Council. That approach was suitable in the circumstances as the risks were small. The Council was disbanded when transition occurred on 6 June 2013.

On 6<sup>th</sup> June 2013, the 7 members of the SLRA Advisory Council Executive became the initial resident directors of SLRS Limited. Transition had been delivered and the need for the SLRA Advisory Council and its clusters had passed. With the dissolution of SLRAAC, the legally appointed delegate of each OC represented the OC at the SLRS general meetings and all SLRS activities complied with the SLRS Constitution which is consistent with the requirements of the Corporations Law. The **Constitution** is available on the website under **SLRS – Your Manager**.

SLRS is committed to maintaining the value that each owner has in Sanctuary Lakes Resort. At times, some owners may wish to see more resources devoted to particular services or facilities. SLRS must balance these requests and ensure that the interests of all owners are considered in a fair manner. After all, that is what “community” is about – ensuring that as far as is practicable the disparate priorities of various owners are addressed in a fair manner to suit the majority.

## **15. Role of Sanctuary Lakes Resort Services Ltd.**

As provided in the Constitution, the Directors of SLRS are company directors, each responsible for ensuring the company operates within the law and in the interests of members, that is, the owners corporations and their members, the lot owners. No director is the representative of an OC or any group of lot owners. The Constitution does not mention OCs apart from each OC being a member of SLRS. Directors do NOT represent OCs and OCs do not appoint directors. Directors are appointed by the members of SLRS, that is, the authorised representatives. The Board may fill casual vacancies and any director appointed to a casual vacancy holds the position until the next AGM when he/she retires and is eligible to nominate for re-election. Details of the election of directors are set out in the Constitution.

SLRS is a not-for-profit company limited by guarantee. This means that the company does not have shareholders nor share capital but has members as provided by the Constitution. The members are each owners corporation which appoints a delegate to represent the owners corporation at general meetings.

SLRS has two primary roles:

- It is the facilities manager managing the facilities provided to residents, including back-to-base security and mobile security patrols, a recreation club with gymnasium, swimming pool and tennis courts and a resort maintenance team attending to the presentation of gardens, lake and community areas.
- SLRS is also the registered manager of each owners corporation, providing administrative services and representing the owners corporation at the Victorian Civil & Administrative Tribunal (VCAT) and similar places.

## **16. Financial Management**

While each OC has responsibility under the *Owners Corporation Act 2006* to set its own budget, clearly it is neither practical nor responsible at Sanctuary Lakes Resort for each OC to develop its budget separately. This and other responsibilities have been delegated to the manager under the terms of the management agreement. The manager prepares financial recommendations for each OC.

The financial powers and responsibilities of each OC were covered in part in the Section 9 on the Annual General Meeting. More specifically they include:

- Setting fees to cover general administration, maintenance and insurance, based on recommendations from the manager
- Levying special fees for extraordinary expenditure
- Borrowing and investing money
- Recovering money owed
- Charging penalty interest
- Operating a bank account
- Paying remuneration to managers and employees
- Paying insurance premiums
- Keeping financial records
- Preparing annual financial statements

## 17. Voting

The Act allows voting to be done at a meeting or by “postal” ballot as determined by the OC. The Act allows a “postal” ballot to be conducted by post or by telephone, facsimile, internet or by other electronic communication.

A lot owner may authorise a person to act as proxy (in writing and in the prescribed form) to attend, speak or vote on the lot owner’s behalf.

An owner whose fees or other amounts owing to the OC are in arrears is NOT entitled to vote except when a special resolution or unanimous resolution is required.

## 18. Resolutions

The legislation sets out different types of resolution depending on the decision involved.

A **unanimous resolution** requires 100 per cent agreement – every owner or their proxy must vote and every vote must support the resolution.

Unanimous resolutions are required for fundamental decisions such as selling common property, buying land, altering boundaries or altering lot entitlement or lot liability.

A **special resolution** requires agreement by owners or their proxies representing 75 per cent of lots. If at a meeting or by ballot a special resolution attracts agreement by at least 50 per cent of lots and no more than 25 per cent of lots vote against, it is termed an **interim special resolution**.

An **interim special resolution** requires that a notice is sent to all lot owners within 14 days of the meeting at which a quorum was not present. Decisions of that meeting can only be acted on after 29 days. If the secretary receives a petition by owners or proxies representing 25 per cent of the lots which opposes the interim

special resolution within 29 days of the meeting or ballot, the resolution fails. Otherwise after 29 days it is deemed to have passed.

Special resolutions are required for significant changes and include such items as:

- Amend or revoke the rules of the OC
- Provide services to lot owners & occupiers or to the public
- Enter into agreements for the provision of services
- Levy special fees if the amount involved is more than twice the amount of the current annual fees
- Make significant alterations to the use or appearance of the common property
- Upgrade or renovate common property.

All other matters can be approved by an **ordinary resolution** which requires a majority vote by those members or proxies for members voting. Only lot owners whose fees and other amounts owing to the OC are not in arrears are entitled to vote on ordinary resolutions. If there is not a quorum (50% of the total potential votes) at a general meeting, an ordinary resolution passed at the meeting becomes an **interim ordinary resolution**.

An **interim ordinary resolution** can become a resolution of the OC by following a procedure similar to that described above for interim special resolutions. However, members representing at least 25% of all lot entitlements can require a special general meeting to reconsider the matter passed by interim ordinary resolution. That further special general meeting must be held within twenty-eight days of the notice requiring a special general meeting being given.

All matters that require an **ordinary resolution** can be decided by the committee or manager as delegate between general meetings unless a particular matter has been reserved for decision by ordinary resolution by members at a general meeting.

## **19. Immunity for Committee Members**

A member of a committee or a sub-committee is not personally liable for anything done or omitted to be done in good faith in the exercise of a power or carrying out a function under the OC Act or regulations. This immunity also applies when an act or omission was done in the reasonable belief that the act or omission was in the exercise of a power of the carrying out of a function under the OC Act or the regulations. To ensure that this immunity is available, all OC decisions should be made at OC committee meetings and a copy of the meeting minutes provided to the OC Manager.

Any liability resulting from an act or omission that, but for this immunity would attach to the person, attaches instead to the OC.

## **20. Rules of the Owners Corporation**

An OC can make rules, amend and revoke rules by special resolution. A rule must be for the purpose of the control, management, administration, use or enjoyment of the common property or of the lot.

The rules of an OC are binding on the OC, all lot owners, any lessee or sub-lessee of a lot and any occupier of a lot.

The rules for each OC at Sanctuary Lakes Resort were lodged at the time of the registration of the lots and are recorded with the title of each lot at Land Victoria. There are also model rules which apply to each OC to the extent to which what is covered by the model rules is not covered by the recorded rules of each OC. These rules are in Schedule 2 of the *Owners Corporations Regulations 2007*.

Copies of the rules as they appear on the title of a lot can be obtained from Land Victoria at [www.land.vic.gov.au](http://www.land.vic.gov.au). A small charge applies and all title details and the rules are obtained by email generally within ten minutes. Copies of the rules are provided to the purchaser of each lot as part of the Vendors' Statement at the time of purchase.

Copies are also available from the OC Manager. Written requests should be directed to [ocmanager@sanctuarylakes.com.au](mailto:ocmanager@sanctuarylakes.com.au).

OCs can apply to the Victorian Civil and Administrative Tribunal (VCAT) to enforce rules and the tribunal can impose penalties for breaches of the rules.

## **21. Complaints and Disputes**

The Act sets out a three-tiered complaint and dispute resolution process involving:

- Internal dispute resolution
- Conciliation through Consumer Affairs Victoria (CAV)
- Application to VCAT for an order.

An OC must follow its internal dispute resolution process before proceeding to conciliation through Consumer Affairs Victoria or making an application to VCAT.

Complaints to the OC relating to an alleged breach of the Act, the regulations or the rules by a lot owner, an occupier or manager must be in writing to the OC in the approved form.

If an OC decides to take no action, it must provide written reasons.

If an OC decides to take action, it must give notice to the person who is alleged to have committed the breach. If the person about whom the complaint has been lodged is not the lot owner, the OC must also give a copy of the notice to the lot

owner. The notice must be in writing in the approved form and the breach must be rectified within 28 days of the notice being served.

At Sanctuary Lakes Resort, each owners corporation has access to an SLRS-sponsored dispute resolution process which can recommend action to the OC involved.

A lot owner, occupier or manager who has a complaint is encouraged to use the OC's grievance procedure but it is not compulsory. Instead, they can make a complaint to Consumer Affairs Victoria. However, Consumer Affairs Victoria cannot make an order to enforce a resolution of the dispute and may advise the complainant to seek internal dispute resolution.

Consumer Affairs Victoria will assess the complaint to determine if it can be conciliated. The conciliation process involves negotiation between the parties to bring them to an agreed solution.

The owners corporation must follow its internal grievance procedure before making an application to VCAT.

At the Annual General Meeting each owners corporation must report on the number of complaints and the nature of complaints including:

- Number of matters on which action was taken under dispute procedures of the Act
- The nature of matters in respect of which action was taken
- The number of applications to VCAT concerning the Owners Corporation.

## **22. Communication**

Unlike most owners corporations, our OC manager is physically located at Sanctuary Lakes Resort. We have the benefit of the manager's experience and intimate knowledge of what happens within Sanctuary Lakes Resort. The manager has a number of other roles within the residential community apart from OC administration.

Any matters concerning payment of levies and requests for standard forms such as an Owners Corporation Certificate (Form OC22) should be made directly to the OC manager at [ocmanager@sanctuarylakes.com.au](mailto:ocmanager@sanctuarylakes.com.au) or phone 9394 9400.

All matters of complaint or comment on policy issues should be directed to the committee of the relevant Owners Corporation. Under the Act, it is the OC committee that must deal with these matters.

Matters that affect the residential community and not just the OC should still be taken to the OC committee. Each OC committee has an authorised representative at SLRS which addresses such issues.

## 23. Sanctuary Lakes Golf Club

Sanctuary Lakes Golf Club is a separate legal entity and conducts its affairs for the benefit of Golf Club members. Sanctuary Lakes Golf Club offers club membership to residents and to other interested persons.

The clubhouse, golf links and driving range are owned and operated by the Golf Club.

## 24. Further Information

Further information on the operation of owners corporations and related issues is available from the following sources:

Hard copies of the legislation can be purchased from **SAI Global Bookshop** at:

85 Buckhurst Street, South Melbourne VIC 3205  
Phone 131 242

Online copies of the legislation can be downloaded from:

[www.legislation.vic.gov.au](http://www.legislation.vic.gov.au)

Copies of a plan of subdivision, title details and OC rules can be obtained from **Land Victoria** at:

570 Bourke Street, Melbourne  
Phone 03 8636 2456  
Or order online at [www.landdata.enquiries@delwp.vic.gov.au](mailto:www.landdata.enquiries@delwp.vic.gov.au)

**Consumer Affairs Victoria** provides telephone advice on the operation of owners corporations including advice on dealing with disputes. Consumer Affairs also has a range of fact sheets, sample documents and approved forms specifically for owners corporations, a summary of which is provided in the Appendix to this document.

These services are at:

Phone 1300 55 81 81  
Or online at [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au)

**Victorian Civil and Administrative Tribunal (VCAT)** is at:

55 King Street, Melbourne  
Or online at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)

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## 25. APPENDIX – Forms and FACT Sheets

**Consumer Affairs Victoria** provides useful Forms and Fact Sheets on their website concerning the operation of owners corporations.

Go to [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au)

1. Select: **Housing & Accommodation** and then **Owners Corporations**

This section provides interpretations of the *Owners Corporations Act 2006* in narrative format with fact sheets provided on key topics. Topics include:

***Buying into an owners corporation***

***Meetings and committees***

***Rules and resolving disputes***

***Property maintenance***

***Finance, insurance and record keeping***

***Definitions***

2. Select: **Resources and Education** and then **Forms and Publications**

Go down to **Owners Corporations**.

Approved forms and publications are listed which can be downloaded, including:

### **General forms**

- Instrument of delegation - owners corporations
- Notice to rectify breach - owners corporations
- Final notice to rectify breach - owners corporations
- Owners corporation complaint
- Owners corporation fee notice
- Owners corporation final fee notice
- Request for copy of owners corporation certificate
- Request to inspect owners corporation register and/or records
- Sample owners corporation certificate
- Sample owners corporation register
- Statement of advice and information for prospective owners corporation purchasers and lot owners

### **Meeting forms**

- Complaints/dispute resolution report to owners corporation annual general meeting
- Notice of ballot to owners corporation committee members

- Notice of ballot to owners corporation lot owners
- Notice of owners corporation annual general meeting
- Notice of owners corporation general meeting
- Notice of owners corporation committee meeting
- Owners corporation annual general meeting agenda
- Owners corporation proxy
- Owners corporation voting card
- Sample owners corporation ballot paper - election of committee members
- Sample owners corporation ballot paper - ordinary resolution
- Sample owners corporation ballot paper - special resolution

## **Publications**

- Guide to owning, managing and living in an owners corporation