

**Sulomar v Owners Corporation No 1 PS511700W (Owners Corporations) - [2016]  
VCAT 1502**

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# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## civil DIVISION

owners corporations LIST

vcata reference No. oca38/2016

### CATCHWORDS

Rules requiring compliance with building design guidelines declared invalid, made under [Subdivision Act 1988](#), no power to make rules.

APPLICANT: Damir Sulomar

RESPONDENT: Owners Corporation No.1 PS511700W

WHERE HELD: VCAT 55 King St, Melbourne

BEFORE: Member L. Rowland

HEARING TYPE: Hearing

DATE OF HEARING: 26 April 2016

DATE for FINAL SUBMISSIONS: 29 August 2016

date of order: 6 September 2016

date of reasons: 6 September 2016

citation: Sulomar v Owners Corporation No 1 PS511700W (Owners Corporations) [2016] VCAT 1502

## Orders

1. The Tribunal declares that additional rules 3.3, 3.6.4, 3.8, 3.10, 3.11, 3.12, 6.1 and 8.2 of Owners Corporation No 1 PS511700W recorded with the Registrar of Titles on 4 December 2013 are invalid and are therefore void and of no effect.
2. The Tribunal declares that additional rule 3.7 of Owners Corporation No 1 PS511700W recorded with the Registrar of Titles on 4 December 2013 has no application to lot 1744.
3. Pursuant to s 115C of the [Victorian Civil and Administrative Tribunal Act 1998](#), the respondent must pay to the applicant \$575.30 in reimbursement of the Tribunal application fee.

4. The proceeding is otherwise dismissed.

MEMBER L ROWLAND

APPEARANCES:

For Applicant Mr Sulomar, in person

For Respondent Mr Graham, solicitor

## Reasons

### Introduction

1 The applicant, Mr Sulomar, is the owner of lot 1744, a vacant lot of land in the Sanctuary Lakes Resort Development (Sanctuary Lakes). He challenges the validity of some of the rules of the owners corporation and the building design guidelines. The owners corporation requires lot owners to comply with design guidelines known as the Sanctuary Lakes Homeowners Building Code ('the building code') when building on their lots. The owners corporation contends that the rules are valid and that Mr Sulomar was well aware of the rules and building code prior to purchasing the vacant lot.

### Background

2 Sanctuary Lakes is a large residential staged subdivision. The master plan was registered with the Registrar of Titles in September 2003. The second stage of the plan of subdivision was registered on 4 December 2003. The second stage created Body Corporate No 1 as it was then known. At the same time additional rules were registered with the Registrar of Titles and became the rules of the body corporate. It is some of these rules which are in dispute. The rules were made under the Subdivision (Body Corporate) Regulations 2001 ('the Regulations'). The Regulations were made under the Subdivision Act 1988

3 From 2003 through 2011, the development underwent several staged subdivisions. Sanctuary Lakes now consists of approximately 3,000 residential lots. Each subdivision is affected by separate owners corporations. Owners Corporation No 1, colloquially known as the 'super owners corporation' affects all lots in Sanctuary Lakes. Mr Sulomar's vacant lot is within the 30th stage of the subdivision which was registered on 12 January 2009. I was not provided a copy of the title to Mr Sulomar's lot but I was informed it was only affected by Owners Corporation No 1 which does not own any common property.

4 Sanctuary Lakes includes a large ornamental lake, recreation facilities, an elaborate security system and an extensive infrastructure of parks, gardens, roads and footpaths. It is a resort style gated community. Lot owners are assured of the provision of extensive facilities and a high level of security. They are also assured, by the imposition of the rules and the building code that neighbouring lot owners will not be able to build what they like. The building code tightly regulates the colour and type of building materials, height of the buildings, setbacks and even landscaping. This minimises the risk of a neighbour building a dwelling outside the parameters of the building code and perhaps not to the taste of the neighbouring lot owners.

5 Building codes, or design guidelines, are not an uncommon feature in developments of this nature and are, arguably, one of the key reasons why people choose to buy into a gated community. In some of these developments the building code, or design guidelines, are not only imbedded in the rules of the owners corporation, they are also incorporated into the local council planning scheme and under the [Planning and Environment Act 1987](#) have the force of law. Where the planning scheme requires adherence to the owners corporation design guidelines, local councils must be satisfied of compliance with the guidelines before building approval will be granted.

6 However, in the case of Sanctuary Lakes there appears to be no inclusion of the building code in the local planning scheme. The owners corporation relies entirely on the rules to give force to the building code.

#### Challenge to the rules

7 Mr Sulomar challenges the validity of some of the additional rules of Owners Corporation No 1. In summary, he challenges the validity of the following rules requiring a lot owner to:

comply with the building code;

maintain the council nature strip;

be connected to Sanctuary Lake's security system;

to keep a dwelling on a lot occupied;

obtain approval of plans and to pay a bond to the owners corporation;

not park commercial vehicles on their lot or on the council road in vicinity of the lot.

8 It is not disputed that Mr Sulomar had notice of the additional rules and building code prior to purchasing his vacant lot in 2009. Mr Sulomar had, and still owns, a townhouse in Sanctuary Lakes before buying the vacant lot. It is also not disputed that the rules and building code were included in the contract of sale. The contract of sale did no more than give notice of the rules and the building code to Mr Sulomar. The contract of sale, of itself, does not make Mr Sulomar bound by the rules and building code.

9 Mr Sulomar's motivation for challenging the rules is not entirely clear. In written submissions he stated 'the applicant seeks to determine the validity of the disputed rules before going to the expense of designing and building a residence'. Presumably, Mr Sulomar seeks to build a dwelling which may not comply with the building code.

## Summary of argument

10. Mr Sulomar contends that the owners corporation, then known as the body corporate, did not have the power under the [Regulations](#) pursuant to the [Subdivision Act 1988](#), to make the impugned rules. The owners corporation contends that the body corporate had the power under the [Subdivision Act 1988](#) to make the rules, but if it did not, then the transitional provisions of the [Owners Corporations Act 2006](#) (‘the [OC Act](#)’) save the impugned rules which can be made under the [OC Act](#). Mr Sulomar contends that the transitional provisions cannot save an invalid rule.

## Effect of the Transitional provisions

11. I will consider the operation of the transitional provisions before considering the validity of the rules under the [Subdivision Act 1988](#) and the [OC Act](#). If Mr Sulomar’s contention that the transitional provisions cannot save an invalid rule made under the [Subdivision Act 1988](#) is correct, then it will not be necessary to consider if the impugned rules could have been made under the [OC Act](#).
12. The OC Act and the transitional provisions came into operation on 31 December 2006. The transitional provisions are contained in Schedule 2 of the [OC Act](#) and relevantly provide:

## 5. Rules of body corporate

Any rules of a subdivision body corporate in force immediately before the commencement day, continue in force on and after that commencement and are deemed to be the rules of the owners corporation under the new Act to the extent that they are not inconsistent with the new Act or the regulations under the new Act.

## Parties' contentions

13. I will set out Mr Sulomar’s detailed legal submission on the effect of the transitional provisions in full. It is a cogent argument, which the owners corporation did not meet:

The Applicant contends that body corporate rules are a form of delegated legislation and the doctrine of ultra vires applies. The doctrine of ultra vires is expressed in [South Australia v Commonwealth](#) (1942) 65 CLR 373, 408 (Latham CJ):

A pretended law made in excess of power is not and never has been a law at all. Anybody in the country is entitled to disregard it. Naturally he will feel safer if he has a decision of a court in his favour - but such a decision is not an element which produces any invalidity in any law. The law is not valid until a court pronounces against it - and thereafter invalid. If it is beyond power it is invalid ab initio.

The OC Act does not define the meaning of in force. The Macquarie Dictionary defines ‘in force’ as ‘operation: a law now in force’. The applicant contends that a rule made beyond power cannot be said to be in operation. In [Haskins v Commonwealth](#) (2011) HCA 28; 244 CLR 22, 42 the High Court quotes [Norton v Shelby County](#), (1886) 118 US 425, 442 (Field J) (*Haskins*) (at paragraph 45) where a law made beyond power is said to be inoperative:

Or as the celebrated dictum of Field J in [Norton v Shelby County](#) [34] put the same point: “An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed.”

In *Sayers v Jacomb* (1872) 3 VR (L) 132, a by-law that had been found to have been invalidly made under the *Gold Fields Act 21 Vic.*, No 82 was found not to have been validly made under the subsequent Act. Section 80 of the Mining Statute kept alive existing rights including existing by-laws that were in force but the court found that it did not make invalid by-laws valid because it did not express so unequivocally.

In 'Local Government By-Laws and Ultra Vires' [1966] UWALawRw 3; (1966) 7 (3) University of Western Australia Law Review 336, Justice Hale of the Supreme Court of Western Australia wrote on the saving of by-laws with reference to *Sayers*:

Clearly enough, in order thus to survive, the by-law must be within some power given by the later Act, and unless it was valid under the earlier Act it could scarcely answer the test of having been "in force", so that it could seem that such a by-law needs to pass the double test.

The Applicant contends that the disputed rules are beyond power and are therefore void ab initio. Rules that are void cannot be said to be in force and therefore are not saved by s 5 of Schedule 2 of the OC Act. The use of the word 'continue' in s 5 of Schedule 2 of the Act reinforces that only rules that were valid immediately before the commencement of the Act could continue to be valid. The OC Act should not be interpreted as validating rules that were invalidly made prior to its commencement because it does not demonstrate an express intention to do so.

The Applicant contends that the disputed rules were ultra vires the Subdivision (Body Corporate) Regulations 2001 and were not made valid on the commencement of the OC Act and therefore are and always have been void and of no effect.

14. Mr Sulomar's submissions did not mention Owners Corporation PS 501391P v Balcombe [2016] VSC 384 (Balcombe) because, at the time of his submissions, Balcombe had not been decided. I reserved my decision in these proceedings pending the Balcombe decision. In Balcombe, Riordan J held that the OC Act transitional provisions do not save an invalid rule made under the Subdivision Act 1988. In considering an argument that the transitional provisions saved the invalid rules, Riordan J said:

In my opinion, a rule of a body corporate can be in no stronger position than a registered covenant. The proposition that registration resolves the invalidity of all rules made in excess of power is an extreme construction which, in my opinion, is not consistent with the objects of the Subdivision Act 1988 (Vic) and the regulations made thereunder.

Accordingly, I do not consider that Rule 34 was 'in force' at the time of the commencement of the Owners Corporations Act 2006 (Vic) nor that it was somehow validated by clause 5 of the transitional provisions of that Act.

The above finding that Rule 34 was not validly made by the appellant under the Subdivision Act (Vic) and its regulations and was not validated by the recording of the Additional Rules or the transitional provisions of the Owners Corporations Act 2006 (Vic) is sufficient to resolve this appeal.

15. The owners corporation did not make any submission on the transitional provisions although the opportunity was afforded to the owners corporation before and after the Balcombe decision.

#### Ruling on Transitional provisions

16. I conclude that the OC Act transitional provisions do not save a rule which was made beyond power under the Subdivision Act 1988. I am persuaded by Mr Sulomar's unopposed submissions on the operation of the transitional provisions and I am bound by the ruling of Riordan J in Balcombe.

17. Because the transitional provisions do not validate an otherwise invalid rule, it is not necessary to consider whether the rules could have been made under the [OC Act](#). It is only necessary to consider the validity of the impugned rules under the [Subdivision Act 1988](#).

Background to creation of the impugned rules

18. The impugned rules were made pursuant to the [Subdivision Act 1988](#) and regulation 220 of the [Regulations](#). The additional rules were recorded with the Registrar of Titles on 4 December 2003 along with the second stage of the plan of subdivision which created Body Corporate No. 1. Thereafter, the rules became the rules of Body Corporate No. 1 PS511700W as it was then known.
19. The power to make rules was conferred upon bodies corporate under regulation 220. However, the power was not an unfettered power to make any rule. The power to make rules was limited to the statutory purpose of the body corporate.

Supreme Court decision of [Balcombe](#).

20. The statutory purpose of bodies corporate was considered by Riordan J in [Balcombe](#). In an appeal from the Tribunal regarding the validity of a rule which prohibited short term letting, Riordan J reviewed the approach to be taken in examining whether a rule had been validly made under the [Subdivision Act 1988](#). His Honour stated:

To determine the fundamental question of whether Rule 34 was within the scope of what Parliament intended when enacting the [Subdivision Act 1988 \(Vic\)](#) and its regulations, as discussed above, I consider it necessary to consider the following questions:

What was the relevant Statutory Purpose of the [Subdivision Act 1988 \(Vic\)](#) and its regulations?

What is the character of Rule 34?

Is there a sufficiently direct and substantial connection between the Statutory Purpose and the likely operation of Rule 34?

21. Adopting the approach of Riordan J, I will examine each of the impugned rules.

Comply with the building code

22. It is convenient that I deal with all the rules relating to the building code and the enforcement of the building code. The rules under challenge are as follows:

Each member of the Body Corporate must do the following on each Lot of that Member:

### 3.7 No works without approval of plans and specifications and payment of bond

not commence any works on a Lot unless and until plans and specifications of such works have been submitted to and approved of in writing by the SLARC and payment of the Bond amount is received and receipted by the SLARC. All plans submitted for approval by the SLARC must be a minimum of A3 size. Only original A3 size plans (or larger) will be approved by the SLARC;

### 3.8 Sanctuary Lakes Homeowner Building Code

comply with the Sanctuary Lakes Homeowner Building Code;

...

### 3.10 Regular Inspection of Works

allow a representative of SLARC to conduct inspections as deemed necessary of any works in progress on a Lot for the purpose of ascertaining compliance with the approved plans and specifications for such works and with any of the rules of the Code;

### 3.11 Rectification of Non-Compliance

rectify any non-compliance with the approved plans and specifications for the works in accordance with any notice in writing served on the Member by the SLARC;

### 3.12 Cease Construction on Demand

cease construction of works on a Lot if required by notice in writing served by the SLARC pending resolution of any dispute about a non-compliance with the approved plans and specifications for the Lot;

23. The SLARC ('review committee') is defined in the rules as a panel appointed by the developer and comprising representatives of the developer and a qualified architect for the purposes of assessing compliance by members with the Sanctuary Lakes building code. The developer is defined as the original owner and developer of the lots on the plan of subdivision, Links Sanctuary Lakes Pty Ltd and Resort Group Services Pty Ltd or its assignee. Mr Ferreri, the Chief Executive Officer of Sanctuary Lakes Resorts Services Pty Ltd ('the manager') gave undisputed evidence that the manager is the developer's assignee under the rules. The manager is a licensed owners corporation manager and manages all the owners corporations created in the 27 plans of subdivision at the resort. The members of the manager are all the lot owners of Sanctuary Lakes and the 8 directors of the manager are all lot owners elected by the lot owners. Mr Ferreri said that the developer left Sanctuary Lakes on 6 June 2013 and since that date, has played no part in the management of any of the owners corporations or Sanctuary Lakes. In short, Mr Ferreri's evidence is that the Sanctuary Lakes owners corporations are controlled and managed by the lot owners. The review committee referred to in the rules is appointed by the manager.

24. Mr Sulomar contends the building code rules are invalid for the following reasons:

there is no function, power, standard rule or specific duty to make the rules;  
there is no power to require members to comply with the building code;  
there is no power to enter a lot;  
there is no power requiring plans be approved;  
there is no power to delegate to the review committee; and such delegation is contrary to regulation 310;

25. The owners corporation contends

no power has been delegated to the review committee;  
the rule-making power is to be found in regulations 201 and 202.



## Discussion

26. As Riordan J found in [Balcombe](#), the powers and functions of a body corporate were largely limited to owning and managing the common property. It had limited powers and functions relating to private lots. I have set out below all the powers and functions bodies corporate had relating to private lots under the Subdivision regulations. They are found in Regulations 208 to 211 and Regulations 501 to 504 as set out below:

208. (1) If a member has refused or failed to carry out repairs, maintenance or other works to the member's lot that are required because

the outward appearance or outward state of repair of the lot is adversely affected; or

the use and enjoyment of the lots or common property by other members is adversely affected-

(2) If a member has been served with a notice under sub-regulation (1), the member must carry out the repairs, maintenance or other works required by the notice within 28 days of the service of the notice.

3. If a member has been served with a notice under sub-regulation (1) and has not complied with the notice within the required time, the body corporate may carry out the necessary repairs, maintenance or other works to the lot.

209 A body corporate may recover the cost of repairs, maintenance or other work undertaken substantially for the benefit of some of the lots from the members who are the owners of those lots, but the amount payable by those lots is to be calculated on the basis that the lot that benefits more pays more.

210 A body corporate may authorise a person to enter a lot or a building on a lot on its behalf

to inspect, maintain or replace any structural or service component of the building for which the body corporate is responsible; or

to carry out repairs, maintenance or other works in accordance with regulation 208(3).

211. (1) The body corporate must give at least 7 days notice in writing to the occupier of a lot of its intention to enter the lot ...

...

501 A member must properly maintain the member's lot in a state of good and serviceable repair and must also maintain any service that serves that lot exclusively.

502 A member must not use or neglect common property or permit it to be used, or neglected in a manner that is likely to cause damage or deterioration to the common property.

503 If a boundary of a lot which bisects a roof is located at any location other than the internal face of the walls of the building, the member who owns the lot is responsible for the maintenance of any eaves which overhang the boundary of the lot.

504. (1) If a boundary of a lot is shown on a plan as being the interior face of the building, the member who owns the lot has the right to decorate or attach fixtures or chattels to that face.

(2) This regulation permits works such as curtaining, painting, wall papering and installing floor coverings, light fitting and other chattels.

27. These are the only regulations which give specific power or function to bodies corporate over private lots. I am fortified in that view by regulation 224 which provided:

224. (1) A plan may specify limitations on a body corporate in accordance with sub-regulation (2)

2. If a plan includes the statement “limited to common property” then regulations 208, 209, 210, 211, 503 and 504 (...with some exceptions)... do not apply.

28. The standard rules which applied to all bodies corporate regulated some behaviours and uses of private lots, but the rules of themselves are not a source of power to make rules. At paragraphs 112 to 114 of the [Balcombe](#) decision Riordan J said:

112 In my opinion ... it was Parliament’s intention that a body corporate’s powers with respect to the regulation of conduct on lots would be limited to its power to enforce the Standard Rules...

113 I do not consider such an interpretation would be extreme because, apart from the powers to take action pursuant to the Standard Rules, the interests of lot owners could be protected from undue interference from neighbours by exercising the rights under common law or statute.

114 If this construction is correct, then the appellant had no power to make conduct rules and its power, with respect to conduct matters, was limited to enforcing the Standard Rules.

29. Therefore, in considering what powers the body corporate had to make rules in relation to private lots I will take into account the power and functions conferred under regulations 208 to 211 and 501 to 504 inclusive.

### Conclusion on building code rules

29. *Rule 3.8 – invalid.* Given the very limited powers and functions granted to bodies corporate over private lots, I find that there was no power to pass a rule requiring compliance with a building code. There was power to make rules about maintaining the external appearance of a private lot but there was no power permitting the body corporate to direct how a lot owner was to develop or renovate a private lot. In my opinion, rule 3.8 is invalid because the body corporate did not have power to make it. It follows therefore, that the owners corporation cannot enforce the Building Code against Mr Sulomar. Regulations 201 and 202 relied upon by the owners corporation to make the rules conferred wide-ranging powers and functions upon bodies corporate to manage and administer common property. Regulations 201 and 202 did not give bodies corporate any power or function over private lots, other than to set fees and to ensure compliance with the [Regulations](#) and rules.

30. *Rule 3.7 – valid.* I consider that the body corporate, charged with the responsibility of administering and maintaining common property, was entitled to pass a rule requiring evidence that proposed building works do not encroach or otherwise interfere common property. If there is a risk common property may be damaged in the course of the building work, a rule requiring payment of a reasonable bond is, in my opinion, a valid exercise of that power. I find that rule 3.7 is valid in so far as the rule is enforced to protect common property. To the extent that rule 3.7 seeks to enforce the building design guidelines, it is invalid. The 30<sup>th</sup> subdivision does not contain any common property. Therefore rule 3.7 can have no application in respect of Mr Sulomar’s lot.

I will make a declaration accordingly. There was no evidence about the other subdivisions so I make no finding or order in relation to them.

31. *Rules 3.10, 3.11 and 3.12 - invalid.* I consider that Rules 3.10, 3.11 and 3.12 are invalid because they are seeking to enforce the building code. The body corporate has no function or power to control what is to be built on a lot except to the extent that common property is involved.

## B. Maintain the nature strip

32. The impugned rule provides:

Each member of the Body Corporate must do the following on each Lot of that Member:

...

### 3.3 Maintenance

maintain the Lot and the nature strip by cutting grass and keeping the Lot and the nature strip in a safe and tidy condition to the satisfaction of the SLARC before and after completion of the Residence on that Lot.

33. Mr Sulomar contended that rule 3.3 was invalid for the following reasons:

there was no power to make the rule under Subdivision Act or Regulations ;  
the nature strips are council owned and the owners corporation has no power over council owned land;  
there is no power to delegate the standard of maintenance to the review committee; and such delegation is contrary to regulation 310;  
it purports to require lot owners to maintain lots and nature strips to the satisfaction of the review committee.

34. The owners corporation conceded that the nature strips are Council owned land but submitted that rules which are consistent with the requirements of a municipal authority are valid. It also contended that Rule 3.3 does not delegate power to the review committee, but rather the review committee determines whether the standard has been breached and refers any breach to the owners corporation for action.

## Conclusion

35. I have come to conclusion that rule 3.3 was not within made within the statutory power given to the body corporate. Regulations 208 and 501 impose an obligation upon the lot owner to maintain the outward appearance of the lot and the body corporate to take action if the lot owner fails in its duty maintain the outward appearance of the lot. It is arguable that the failure to maintain the nature strip would adversely affect the outward appearance of the lot and therefore there is power to make the rule. However, I do not consider that the external maintenance power extended to requiring lot owners to maintain land which is owned by the local council. It is a regrettable conclusion because the rule is both sensible and practical and to the benefit of all lot owners.

## C. Security system and occupation of a lot

36. Rules 3.6.4 and 6.1 relate to security of Sanctuary Lakes. I will deal with them together. The challenged rules provide as follows:

Each member of the Body Corporate must do the following on each Lot of that Member:

#### 3.6.4 Security System

include the supply and installation of a security monitoring system by Sanctuary Lakes Resort Services (or its nominee) for the Residence which is: connected to a central monitoring station manned 24 hours per day (or such other time as is stipulated by the SLARC) by or on behalf of the Body Corporate; and approved in writing by the SLARC.

...

Each member of the Body Corporate must do and ensure that the following is done in relation to the use and occupation of each Lot of that Member:

#### 6.1 Early occupation of a Residence

occupy a Residence constructed on a Lot or arrange for such Residence to be occupied immediately following the completion of the Residence to the satisfaction of the SLARC; ...

37. Mr Sulomar contends that the rules are invalid because there is no function, power, standard rule or specific duty empowering the body corporate to require lot owners to install a security system obtained through the body corporate or to occupy a lot.
38. The owners corporation submitted that the power to make the rules is to be found in regulation 201 and 202. Mr Ferreri said the security system was one of the most popular features of Sanctuary Lakes. He said that most lot owners signed up for the system because alarm monitoring could be provided to lot owners and occupiers at an economical rate. Mr Ferreri said the requirement for all lots to have a monitored alarm gave added security to the entire development.
39. Whilst the rules are enforced with the lot owners and occupiers security in mind, the rules are nevertheless invalid. There was no power under the regulations to enable the body corporate to pass a rule requiring lot owners to install and maintain an alarm system supplied by the body corporate. Nor was there power requiring a lot owner to ensure a residence was occupied. The functions and powers under the [Regulations](#) granted limited powers to the bodies corporate over private lots. In my opinion, those powers did not extend to controlling what alarm system, if any, a lot owner must install and whether or not the lot should be occupied. The rules are invalid.

#### D. Car parking

40. Finally, Mr Sulomar challenges the rule relating to parking on private lots and on council streets:

Each Member of the Body Corporate must not do any of the following:

#### 8.2 Restrictions on Car parking

park or allow to be parked on a Lot or any road or any other land in the vicinity of a Lot any commercial vehicles (including but not limited to trucks, utilities, caravans, trailers, boats or any other mobile machinery) unless such commercial vehicles are housed or contained wholly within a car park or garage on a Lot or parked in the driveway on a lot and screened from public view.

41. Rule 8.2 is invalid for the reason that the body corporate did not have the power to regulate parking of vehicles or storing of caravans and boats on private lots under the [Regulations](#) . The external appearance power relating to private lots only extended to maintenance. It did not extend to controlling where and what vehicles can be parked on private lots or on the street in the vicinity of the lot.

The [Owners Corporations Act 2006](#) .

42. The [Owners Corporations Act 2006](#) came into operation on 31 December 2006. Bodies corporate became known as owners corporations. The OC Act gave greater powers to owners corporations to make rules affecting

private lots. Because the transitional provisions do not save or validate an invalid rule, it is not necessary for me to consider whether the impugned rules could have been made under the [OC Act](#) .

member L ROWLAND