

21 July 2008

Alpine Law E-alert

Alpine lease registration guidelines

The Alpine Lease Registration Guidelines, a copy of which is attached, were released on 15 July 2008.

Background

The Victorian Government issued an Alpine Resorts Leasing Policy in 2002 which supported that leases in Alpine Resorts should be able to be registered at the Land Titles Office. In 2004 the Government issued guidelines for implementation of that policy and again included a statement that all new leases in the resorts should be registered.

A similar statement about the desirability of registration of leases and subleases was included in the Government's 2020 Alpine Resorts Strategy. The strategy included as an action pursuing the capacity to register leases and subleases in Alpine Resorts. Following the issue by the Alpine Resorts Co-ordinating Council ("ARCC") and the Department of Sustainability of background and discussion papers, the ARCC issued recommendations for amendments to the Alpine Resort (Management) Act and the Transfer of Land Act and for guidelines to be developed for registration of leases. Following the foreshadowed legislative amendments, which took effect on 21 June 2006, the guidelines attached to this E-Alert have now been released.

Registration requirements

A summary of registration requirements is set out on page 2 but it is important to note that a lease entered into prior to 21 June 2006 cannot be registered if any of the matters referred to on page 9 of the guidelines apply.

Benefits of registration

The major benefit of registration is certainty, that a lease can be searched by anyone at the Titles Office, and the ability for a siteholder to obtain finance by using its lease as security through grant of a mortgage to a financier.

Further developments

The Department of Sustainability and Environment is developing a format for a sublease and also a memorandum of common provisions for apartment developments and it is anticipated they will be available shortly.

For more information about the ARCC recommendations used as a base for the guidelines, see www.arcc.vic.gov.au

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