



Effects of Australia Post Letter Delivery Changes on the Service of Body Corporate Notices

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Australia Post has made changes to its letter delivery service, effective from January 2016, which has created two types of standard letter delivery, being "regular" and "priority".

The estimated delivery times for each service are reported to be:

- **PRIORITY POST:** 1 to 4 business days (depending on the destination and origin of the letter); and
- **REGULAR:** 2 to 6 business days (depending on the destination and origin).

This will have an impact on both the deemed service of documents by post under the *Acts Interpretation Act 1954 (Qld)* as well as the actual delivery of such notices and other documents sent by post.

The Acts Interpretation Act provides that a notice will be deemed to have been served in the ordinary course of post, unless the contrary is proven. The term "ordinary course of post" will have potential different meanings, depending upon the method of regular post used as well as the origin and destination of the notice.

Accordingly, the actual date of deemed service of notices will vary depending upon the evidence submitted in relation to the ordinary course of post between the origin and destination of each notice. This will have an impact upon notices served by the Body Corporate, such as

Notices of Annual General Meeting, Levy Notices, Remedial Action Notices, Contravention Notices, etc.

Given that a Notice of General Meeting is required to be given at least 21 days prior to the date of the General Meeting; it will be highly problematic for Bodies Corporate to have owners being deemed to have received the Notice on different days, depending upon their address for service.

Additionally, lot owners will need to be mindful of the likely timeframe for postal delivery and factor this into their timing for providing any responses to Notices issued by the Body Corporate, for the submission of motions for inclusion in the agenda for a General Meeting, as well as the delivery of voting papers and proxy forms, to ensure that they are received by the Body Corporate within the required timeframes.

The legislation and regulation modules provide that some written notices may be given electronically, pursuant to the *Electronic Transactions (Queensland) Act 2001*. Even voting papers may be submitted electronically, provided that the Body Corporate has previously resolved by ordinary resolution to permit electronic voting.

The ability to serve documents electronically will not extend to all types of documents. In particular, the service of legal proceedings must be performed in accordance with the *Uniform Civil Procedure Rules, Service and Execution of Process Act (Cth)* and the *Corporations Act (Cth)*, as applicable.

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It is important that Bodies Corporate and lot owners are made aware of the changes in Australia Post's delivery service and that they consider the impact of these changes on the operation of the scheme.

Schemes may wish to adopt electronic voting procedures, if they have not done so already. However, it must be noted that some lot owners may still wish to send and receive documents via post.

In such circumstances, Bodies Corporate and lot owners must carefully consider the impacts of these service changes for the origin and destination of each document sent via post to avoid disappointment and potential disputes arising from late delivery of documents.

Bodies corporate may also consider adopting a policy of utilising one of the services with guaranteed delivery times for the sake of certainty and bear the higher cost of this service.

It is also a good opportunity to revisit the accuracy of the addresses for service held by the Body Corporate in relation to each lot, which determines where the Body

Corporate notices are sent. Lot owners commonly cite lack of receipt of levy notices as a reason for their failure to pay levies on time.

Obviously, this has a significant negative financial impact Bodies Corporate and can be easily rectified by insuring that lot owners regularly update and confirm their addresses for service as recorded on the Body Corporate roll.

We would recommend that each Body Corporate, via its committee, notify its lot owners of the Australia Post letter delivery changes and we would also urge lot owners to check and confirm their addresses for service are correct.

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