



OWNERS CORPORATION ACT REVIEW

Submission by the
Real Estate Institute of Victoria



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REAL ESTATE INSTITUTE OF VICTORIA

The Real Estate Institute of Victoria (REIV) is the peak representative body for real estate and owners corporation practitioners in Victoria. Established in 1936, the REIV aims to enhance the professional excellence of its members to benefit the communities they serve and to advocate for their interests. We represent over 7,000 individuals and 2,000 real estate businesses, including the increasingly significant owners corporation management sector.

EXECUTIVE OVERVIEW

The Real Estate Institute of Victoria (REIV) welcomes the opportunity to provide input on the review of the Owners Corporation Act 2006. With an increasing proportion of Victorians living in medium and high-density developments, owners corporations play a vital role in managing common property and financial assets. This is particularly significant as the government advances the objectives outlined in Victoria's Housing Statement. Drawing on the REIV's extensive industry experience and membership feedback, this submission identifies key opportunities to elevate professional and education standards, enhance governance, strengthen consumer protections, and improve transparency.

Key recommendations include:

- Raising professional standards with advanced education for owners corporation managers, committees, and lot owners
- Establishing a dedicated Owners Corporation Commissioner
- Strengthening governance with enhanced accountability and scrutiny
- Balancing collective and individual rights within strata communities
- Strengthening protections for lot owners in new developments to ensure transparency and sustainability

These recommendations aim to create a fairer, more transparent, and more efficient multi-living environment that is professionally managed and protects the interests of lot owners and residents.

KEY RECOMMENDATIONS

BUILDING CAPABILITY AND CONFIDENCE IN VICTORIA'S EXPANDING OWNERS CORPORATION SECTOR



Raise Professional Standards with Advanced Education for Managers, Committees, and Lot Owners

All owners corporation managers, regardless of their role within the management hierarchy, should be appropriately qualified and registered with the Business Licensing Authority, with accompanying structured training for committee members and accessible information packs for lot owners. Appropriate training and oversight would strengthen professionalism in the sector and better support multi-unit living.



Establish a Dedicated Owners Corporation Commissioner

The projected growth in multi-dwelling living will be best supported by a dedicated owners corporation commissioner. The proposed office should oversee professional standards, enforce compliance, manage debt recovery and provide independent dispute resolution for owners corporation matters. This body should support governance and the protection of lot owners and residents.



Strengthen Governance and Scrutiny

Uplift financial management and audit requirements for owners corporations to promote fairness, reduce conflict, and protect vulnerable lot owners.



Balance Collective and Individual Rights

Owners corporation legislation regularly overrides the widely supported concept of 'majority consensus' on critical issues such as collective sales or the impact of short-stay accommodation on building maintenance costs. Legislation should better balance the rights of individuals and the collective with strategies that are equitable for owners corporations.



Strengthen Protections in New Developments

Regulation must require developers to establish the following prior to the registration of the plan of subdivision:

- *a long term maintenance plan and maintenance fund,*
- *an independent defect report*
- *a building insurance valuation report*

In addition, developers should only be permitted to enter into service contracts no longer than 3 years, to protect the owners corporations from any long-term unfair costs or terms.

INTRODUCTION AND CONTEXT

The REIV represents over 7,000 individuals and 2,000 agencies across Victoria, providing professional guidance and advocacy on matters affecting real estate and owners corporation practitioners and the communities they serve. The Institute recognises the growing importance of owners corporations as more Victorians invest in and reside in strata-titled properties.

Owners corporations, their committees, and the managers acting on their behalf, oversee significant financial and physical assets. However, the current regulatory framework falls short in providing clear guidance for both lot owners and managers. Key issues include inconsistent governance practices, limited professional standards and guardrails, inadequate dispute resolution mechanisms, and insufficient transparency around developer influence on committees.

This submission responds to the Victorian Government's consultation paper and offers further informed feedback, focusing on three key areas:

1. Qualification and education opportunities for managers, committee members and lot owners.
2. Primary recommendations based on the consultation paper's topics, covering governance, accountability, and professional standards.
3. Further legislative issues, including developer obligations, financial protections, and discrepancies in the legislation.

Drawing on the REIV's expertise and member feedback, this submission provides practical, evidence-based recommendations to strengthen the sector, improve protections for lot owners and residents, and support the professional management of owners corporations.

PROPOSED CHANGES

Aligning with the consultation paper, five key areas of focus address critical aspects of owners corporation governance, operations, and stakeholder engagement.

1. Raise Professional Standards with Advanced Education for Managers, Committees, and Lot Owners

The REIV recommends a series of reforms designed to enhance awareness, strengthen governance, and build consumer confidence across the sector. These reforms focus on clearer structures and responsibilities for owners corporation managers, owners corporation committees, and lot owners.

OWNERS CORPORATION MANAGERS

Given the increasing prevalence of owners corporation management, the growth of medium and high-density living, and the associated complexity of accountabilities and responsibilities managers hold in overseeing significant property and financial assets, it is critical that mandatory education requirements be introduced imminently.

While recognising the intent and established timelines to enhance education and licensing requirements outlined in Victoria's Housing Statement, the REIV recommends that the Victorian Government review its October 2024 submission, titled *Owners Corporation Management Education Requirements Proposal*.

This document provides a strong foundation for accelerating the introduction of minimum education requirements for owners' corporation managers as they perform their diverse responsibilities in the sector. Qualifications for owners corporation managers could be modelled on the existing Certificate IV in Real Estate Practice and the Diploma of Property. The concept caters to two levels of qualification, supporting career progression while ensuring a minimum level of education for all practitioners.

As proposed in the REIV's submission, the following structure would support education and licensing requirements for owners corporation managers.

LEVEL	REQUIREMENTS	RESPONSIBILITIES / APPLICATION
Entry level	<p>Owners Corporation Managers must have:</p> <ul style="list-style-type: none"> • Certificate IV in Strata Community Management 	<p>This aligns with existing requirements for entry into real estate services to become an agent's representative.</p>
Ownership or management of a register owners corporation	<ul style="list-style-type: none"> • Entry level qualification as above <p>AND</p> <ul style="list-style-type: none"> • Diploma of Property (Agency Management –Strata) 	<p>Mandatory for individuals seeking to own or manage a registered owners corporation management business. This aligns with existing qualification requirements for agent's representatives and estate agents.</p>
Transitional Arrangements	<p>For a period of three years from the introduction of qualifications.</p> <ul style="list-style-type: none"> • With two to five years of owners corporation management experience within the past 10 years: Complete select units from the Certificate IV in Strata Community Management as a skill set through study or recognition of prior learning (RPL) • With five or more years of owners corporation experience within the past 10 years: Complete select units from the Diploma of Property (Agency Management Strata) through study or recognition of prior learning (RPL) 	<p>Transitional arrangements are necessary to recognise existing experience in the sector. They would provide a fast-tracked pathway to formal qualifications without duplicating learning due to established knowledge.</p>

Building on the case for mandatory education and licensing, the REIV recommends that all individuals representing themselves as owners corporation managers, whether independently or within an organisation, and regardless of their role within the management hierarchy, be required to register with the Business Licensing Authority. This reform would ensure proper oversight, consistency, and accountability across the sector.

OWNERS CORPORATION COMMITTEES

Structured training programs should be developed and made widely accessible to owners corporation committee members. These programs would provide clear, practical guidance on governance, financial management, dispute resolution, and legislative obligations, ensuring members are well-equipped to fulfil their responsibilities with confidence and accountability. For Tier 1 buildings, this should be mandatory. Drawing on the successful Queensland model administered by the Office of the Commissioner for Body Corporate and Community Management, this training would strengthen committee capability, promote responsible decision-making, and support more transparent and effective governance across owners corporations.

LOT OWNERS

To better support both new and existing lot owners, introductory and ongoing information packs should be developed to clearly outline their rights, responsibilities, and obligations within an owners corporation. These resources should be opt-in, educational in nature, and independent of governance or managerial functions. To ensure accuracy and relevance, they should be supported by regularly updated fact sheets that cover key topics, such as voting rules, lot entitlements and liabilities, dispute resolution pathways, and maintenance or financial obligations.

Together, these measures would complement the introduction of minimum education requirements for owners corporation managers. By raising professional standards, enhancing transparency, and strengthening protections for both lot owners and residents, they would help create a more informed, fair, and sustainable approach to living in an owners corporation as its prevalence continues to expand.

2. Establish a Dedicated Owners Corporation Commissioner

To strengthen governance and accountability within the sector, the REIV strongly advocates for the establishment of a dedicated owners corporation commissioner with appropriate regulatory and enforcement powers. These powers should complement the jurisdiction of VCAT, providing the oversight and authority necessary to ensure compliance whilst supporting the effective operation of owners corporations.

The owners corporation commissioner should also be responsible for enforcing debt recovery plans, ensuring developer compliance before the plan of subdivision is registered, facilitating compulsory mediation before VCAT hearings, and overseeing compliance related to the owners corporation manager. In addition, the commissioner should provide oversight of an independent audit task force. The Queensland model provides a framework that could be considered for Victoria.

A dedicated body, distinct from Consumer Affairs Victoria, would help deliver consistent regulation, enforce standards, and provide clear pathways for resolving disputes while prioritising education over penalisation.

The establishment of such an office would offer stronger protections for lot owners, residents, and managers, and ensure the long-term effectiveness of the system.

3. Strengthen Governance and Scrutiny

In addition to strengthening education and licensing, governance frameworks and accountability measures must be enhanced to ensure the integrity of owners corporation management.

ANNUAL FINANCIAL AUDITS

Under the changes introduced in 2021, it is mandatory for Tier 1 and Tier 2 Owners Corporation to have their financial statements audited, this should extend to Tier 3 Owners Corporations. To support transparency and probity, a system of random audits should also be introduced which would be undertaken by the Owners Corporation Commissioner.

ENHANCED INFORMATION DISCLOSURE AT SALE

To ensure transparency for prospective purchasers, the Vendor's Statement (Section 32) should be required to include the minutes from the most recent Special General Meeting (SGM) and Annual General Meeting (AGM) at the time of sale of a lot. This measure would provide incoming lot owners with a clear understanding of recent decisions, obligations, and financial commitments associated with the owners corporation. Currently, significant maintenance or expenditure decisions may be determined at an SGM but not appear in Annual General Meeting (AGM) minutes. Requiring disclosure of the latest SGM minutes would close this gap, ensuring buyers are fully informed from the outset of their lot liability and can make purchasing decisions with complete knowledge of any forthcoming obligations.

DISPUTE RESOLUTION PROCESSES

Grievance procedures also require reform. Current processes and documentation lack consistency and clarity, and strengthening these will improve fairness and efficiency in dispute resolution. This would be dealt with by the Owners Corporation Commissioner.

VEXATIOUS LITIGANTS

VCAT should be expressly empowered to impose penalties for vexatious litigation, removing the need for escalation to the Director of Consumer Affairs Victoria.

4. Balance Collective and Individual Rights

The REIV notes several areas where the legislation could be better aligned to strike a balance between collective and individual rights. The feedback provided is aligned with the specific matters raised in the consultation paper.

SHORT STAY

Issues relating to short-stay accommodation can be broadly grouped into two categories: the permitting or restriction of short-stay use, and the management of maintenance and repair costs arising from high usage and potential damage.

Restricting short-stay

Under section 140B(5) of the Owners Corporation Act, owners corporations may adopt rules banning short-stay accommodation. However, section 140B(5) also provides that such regulations cannot override interrelated planning laws or other legislation, creating uncertainty where planning permits allow short stays. This inconsistency should be addressed to provide clarity and legal certainty. Feedback indicates that the current 75% special resolution requirement for banning or restricting short-stay accommodations is not functioning effectively and warrants review.

Maintenance and Repair Cost Recovery

Short-stay accommodation can result in higher wear and tear on common property under an owners corporation's management. Owners corporations should have clear legislative authority to impose direct penalties on lot owners for misuse of their property, including misconduct by short-stay occupants, without needing recourse to VCAT or imposing additional costs on the wider owners corporation. This could take the form of a legislated "reasonable charge," and consideration should be given to requiring a bond from short-stay lot owners to cover potential damage. Such measures would ensure that the financial burden of damage caused by short-stay use does not unfairly fall on all lot owners.

COLLECTIVE SALES

In some cases, redevelopment of an entire owners corporation may be the most efficient and effective solution, particularly in response to very high repair costs, building defects, or other structural issues. Where redevelopment is identified as the preferred course of action, 75% of occupiable lots' support should be considered sufficient to proceed. Currently, many redevelopment proposals stall due to the need for unanimity, delaying practical solutions.

To protect vulnerable residents during redevelopment, the following legislative safeguards should be considered:

- **Extended settlement periods**, providing owners adequate time to secure alternative accommodation or make necessary arrangements.
- **Market valuation plus margin**, ensuring owners receive a higher collective sale price compared with selling individual lots.
- **Right of first offer**, allowing owners the opportunity to return to the redeveloped site if they wish.

FINANCIAL HARDSHIP

Legislation requiring owners corporations to financially support lot owners who are unable to pay their levies risks placing the corporation into debt, with negative consequences for all lot owners. Unlike financial institutions, owners corporations do not maintain the financial reserves required to sustain support through prolonged hardship.

Committees are also not equipped to adequately assess the veracity of a hardship claim. While committees may offer payment plans or instalments to assist those experiencing hardship, such arrangements increase administrative costs and fees and should be left up to the committee to consider on merit. Any payment plans offered should require full settlement before the next round of levies to prevent compounding debt.

Where an owner fails to pay their levies on time without financial hardship, the debt collection costs should be recoverable from that lot alone. This ensures that responsible owners are not forced to subsidise the non-paying owners.

The Owners Corporation Commissioner should oversee levy recovery disputes, providing faster and more specialised decision making while reducing the burden on VCAT. Importantly, the Commissioner's role would include determining whether an owner is genuinely experiencing financial hardship, ensuring that payment plans are applied fairly and only where appropriate.

5. Strengthen Protections in New Developments

Legislation governing the establishment of owners corporations at the commencement of a development should be reviewed to ensure that subsequent lot owners have the rights and mechanisms necessary to exercise effective oversight. Developers often maintain influence over committees by appointing staff or associates, serving as intermediaries with builders on defect issues, or securing preferential contractor arrangements to consolidate their control. This influence is often reinforced through proxies from offshore or investor lot owners, obtained via property managers or short-stay representatives, which allows developers to circumvent statutory percentage limits and influence AGM outcomes. Such practices undermine fair governance and entrench developer authority well beyond the establishment phase. Long-term developer contracts, including extended commercial arrangements such as building management or concierge contracts at above-market rates, further restrict committee independence, highlighting the need for stronger oversight of developer conduct.

LIMIT CONTRACT PERIODS

Legislation should limit management contract terms to a maximum of three years to prevent prolonged developer control. Developers should also be prohibited from acting as, or maintaining direct organisational ties with, owners corporation managers in buildings they construct. The Owners Corporation Commissioner should be empowered to actively monitor and enforce compliance with these provisions.

ESTABLISH MAINTENANCE FUND AT COMMENCEMENT

New developments should require the establishment of upfront maintenance funds to ensure financial stability and mitigate the sharp cost escalations that often occur two to three years after occupation, as demonstrated by successful reforms in New South Wales. Currently, deceptively low maintenance fees in Victorian owners corporations can mislead early lot owners about their true obligations, creating financial shocks when latent issues arise. Legislation must ensure that the commercial interests of developers do not override the long-term financial security of lot owners.

FURTHER LEGISLATIVE ISSUES

In addition to the matters raised in the consultation paper, the REIV highlights several further issues that are not adequately addressed in the current legislative framework but are critical to the effective operation of owners corporations.

DISCLOSURE & TRANSPARENCY

Privacy and Personal Information

Personal information from the owners corporation register is presently too readily accessible, creating privacy concerns for lot owners. Confidentiality can only be secured through a VCAT order, which is inconsistent with broader privacy principles and federal protections. To better protect lot owners, personal contact details such as email addresses and phone numbers should be allowed to be withdrawn from the public register and transferred confidentially between managers and appointed committee members, ensuring compliance with legislated privacy standards.

GOVERNANCE AND REPRESENTATION

Attendance at Committee Meetings by Proxy

Section 89C(1)(c) of the Owners Corporation Act permits a proxy holder to be elected to a committee to represent a lot owner. However, inconsistencies between Section 109(3)(d), which allows proxies for the purpose of a meeting through a permissive statement, and Section 112(4), which does not permit committee participation by proxy, indicate an inconsistency. By contrast, Section 80 explicitly allows participation in a general meeting by proxy, teleconference, or in person. This incongruence leaves uncertainty for committee governance and participation, highlighting the need for legislative clarification.

Enforcement of Rules

An amendment was introduced in Owners Corporations Act 2006 Act number 69/2006 Version No. 021 with the intention of lowering the threshold for initiating smaller claims, making it easier for owners corporations to pursue minor disputes without needing a special resolution.

However, the drafting of Section 18 Power to commence legal proceeding has been questioned, as the section previously provided a "carve out" from the requirement for a special resolution for an application to VCAT to enforce the rules of an owners corporation. The recent decision of Owners Corporation 1 PS723350Q v Owners Corporation 2 PS723350Q) {2025} VCAT 592 has put it beyond doubt that proceedings issued by owners corporations require authorisation by a special resolution unless the claim is for a sum of money that is within the civil jurisdictional limit of the Magistrates Court (which is currently \$100,000). Deputy President Bisucci has made it clear that the civil jurisdiction limit does not mean the civil jurisdiction of the court and "legal proceedings that do not relate to money or debt recovery can only be commenced after a special resolution which requires approval by a 75% majority." [42] That is, a special resolution is required before an owners corporation can issue proceedings to enforce its rules.

For an owners corporation to require a special resolution to enforce its rules is unduly onerous and will render it unable to fulfil its function of managing and administering the common property.

TIERED REGULATORY APPROACH

Many smaller owners corporations lack the expertise and resources to comply with the full range of governance, reporting, and dispute resolution obligations. Current legislation broadly applies a uniform approach across all owners corporations, failing to adequately distinguish between simple schemes, such as two-lot subdivisions, and large, complex multi-building corporations. This creates unnecessary compliance burdens for smaller owners corporations while still leaving critical governance gaps unaddressed, underscoring the need for a more flexible, tiered regulatory approach.

FINANCIAL & LEGAL ENFORCEMENT

Debt Collection

Section 18 of the Owners Corporation Act suggests that an owners corporation may pursue debt recovery in the Magistrates' Court without a special resolution. However, Part 11 refers exclusively to VCAT for debt collection, creating an anomaly. In practice, owners corporations are limited to VCAT proceedings. Additionally, notice requirements are inconsistent, further complicating the debt recovery process and creating uncertainty for both lot owners and committees.

Garnishee

Consideration should be given to creating a provision of a garnishee order to recover unpaid dues of an Owners Corporation.

Penalties

Under section 34D of the Subdivision Act, the right to go to VCAT rests with the minority rather than the majority, which can impede effective enforcement. As such, the dissenting party solely has the capacity to bring a dispute under s34D before VCAT. Further, penalties can only be imposed by the Director of Consumer Affairs Victoria, limiting the range of enforcement options available to owners corporations. VCAT, despite being the primary forum for disputes, does not have the power to impose penalties directly, and owners corporations themselves cannot enforce penalties for common issues such as misuse of car parks, rubbish disposal, or minor breaches of rules. This restricts the ability of owners corporations to maintain compliance effectively.

PUBLIC LIABILITY FOR TWO-LOT SUBDIVISIONS

Current legislation does not require two-lot subdivisions to hold public liability insurance, leaving lot owners vulnerable to claims arising from accidents in shared areas, such as driveways or electricity distribution poles. As a result, dual occupancy properties face the risk of uninsured liabilities despite having shared property, creating a significant gap in risk management and financial protection for lot owners.

DEVELOPERS & MAINTENANCE

Defects vs. Maintenance

There is ongoing confusion over the allocation of responsibilities between developers, builders, and owners corporations when distinguishing between building defects and routine maintenance. In practice, defects that emerge after handover are often misclassified as maintenance, resulting in costs being unfairly shifted to lot owners. More explicit legislative definitions and more accessible enforcement mechanisms are required to safeguard lot owners.

CONCLUSION

Owners corporations manage significant financial and property assets, yet current legislation leaves gaps in governance, transparency, and consumer protections. The REIV's recommendations to the Owners Corporation Act review provide a practical pathway to address these issues by professionalising owners corporation management, strengthening governance and financial scrutiny, establishing an independent Commissioner, clarifying the balance of rights, and enhancing developer obligations.

These reforms will deliver a fairer, more efficient, and accountable framework that protects lot owners and residents while supporting Victoria's property sector. The REIV is committed to working with the Victorian Government to implement these changes and ensure the long-term success of the owners corporation framework.





REAL ESTATE INSTITUTE OF VICTORIA

617 Victoria St, Abbotsford VIC 3067
reiv.com.au | [@rei_victoria](https://www.instagram.com/rei_victoria)

Call (03) 9205 6666
or email reiv@reiv.com.au