

Full review of Vic strata laws

A full review of the operation of the Owners Corporations Act 2006 is underway. Now published is an Exposure Draft of the modernised Bill [Owners Corporations and Other Acts Amendment Bill 2019]. It has now been published on the CAV web site [here](#). The commencement date is 1 Jan 2021 at the latest. Submissions close at the close of business Friday 10 May 2019.

Available are the following:

- Owners Corporations and Other Acts Amendment Bill;
- Explanatory Memorandum;
- Summary of proposed reforms [inc references to clauses in the Bill];
- Marked up versions of OC Act, RV Act, Part 5 of the Subdivision Act;

The proposed new strata regulatory landscape, after a 4 year review, includes banning developers from also being strata managers.

There are scores of sweeping reform proposals. SCA (Vic) is extremely pleased that the government has, on balance, listened to most of our policy positions. A non-exhaustive summary of salient proposals include:

- maintenance plans and funds – schemes of greater than 50 lots must be funded
 - some other elements of the new 4 tier system
 - *Positive*: mandatory for schemes > 100 lots to have a strata manager
 - *Negative*: schemes less than 10 lots not required to have building insurance [still required to have public liability insurance]
- recovering costs of fee recovery – permit recovery of reasonable pre-litigation costs incurred
- regulation of strata managers – merely enhanced version of current Registration scheme [eg criminal record disqualifications] rather than licensing.
 - Some consolation is that CAV, in partnership with SCA (Vic), will deliver to strata managers ongoing targeted information & training
- Developers – expand and improve developers duties; enhance protections
 - Bans developers being strata managers
 - Requires disclosure of relationships with strata managers
 - Prohibits developers receiving commission payments from strata managers
 - Prohibits setting initial budget at unsustainably low levels
 - Bans developers from voting on defects
 - Extends duration of developers' obligations from 5 to 10 years
 - Setting of lot liability/entitlement to be done by a licensed surveyor, according to specific criteria & accompanied with explanatory statement
- *Negative*: CoA unfair terms restrictions [prohibitions]
 - Term duration – 3yrs maximum
 - Automatic renewal [rollover] - monthly
- *Positive*: Assignment – if Registered SM & FULL member of professional body or association approved by Director
- Mandatory review to be conducted between 2-5 years after commencement



Short stay law changes

The Owners Corporations Amendment (Short-stay Accommodation) Act 2016 was intended to implement the government's broader reform proposal, and commenced 1 Feb 2019. It included: prohibition orders [if there was 3 separate occasions within last 2 years], loss of amenity compensation orders [max compensation is \$2,000 per affected occupier for each breach], & orders for a civil penalty [max \$1,100].

The Vic government's earlier response to the Parliamentary Committee Report, acknowledges the important contribution of key institutional stakeholders such as SCA (Vic). It advised that relevant changes have been decided, as part of the strata law review reform package [to be introduced to Parliament in 2019]. The Exposure Draft of the modernised Bill also includes:

- *Initiating legal proceedings* – apply different thresholds for action in different Courts. VCAT and Magistrates' Courts would only require an ordinary resolution, but County and Supreme Court actions would still require special resolutions
- *Increased expenditure arising from lot use* – allow OCs to recover costs arising from particular uses of lots.
- *Insurance* – allow OCs to impose a range of levies relating to insurance issues. Including:
 - the cost of building insurance premiums on the basis of lot entitlement and differential risk
 - insurance excess and increased premiums resulting from culpable actions
 - insurance excesses relating to single-lot claims
 - unrecoverable damage to common property

There is no expansion of OCs rule making power, though this will be revisited in a post-implementation review within 2 years of commencement.