



City of Melbourne's Proposed Short-Term Rental Accommodation Policy

Strata Community Association (Vic) Submission

28 September 2023

Introduction

Strata Community Association (Vic) Ltd is the peak body for the Owners Corporation sector, which comprises commercial, industrial, and residential properties ranging from two units in a suburban street to many hundreds of units in inner city apartment buildings. Owners corporations represent property valued at over \$300 billion and encompass commercial, retail, lifestyle resorts, retirement villages, car parks, storage facilities, industrial and, increasingly, mixed developments. More than \$1 billion per year is collected and spent within the sector. It is estimated that around 1.6 million Victorians – a quarter of the state’s population – either live in, or own property in, an owners corporation.

Background – Strata Community Association (Vic)

SCA Victoria was established in 1990, it succeeds Owners Corporations Victoria (OCV) and Institute of Body Corporate Managers Victoria (IBCMV). SCA (Vic) members comprise a significant percentage of all professional owners corporation managers, with over 800 members managing upwards of 450, 000 lots. SCA (Vic) Associate members are industry suppliers, including waste management providers, Essential Safety Measures service providers, quantity surveyors, insurers, lawyers, accountants, facility managers, property valuers, building maintenance and tradespeople. Members benefit from representation, support, advice, and promotion. With Continuing Professional Development (CPD), Best Practice Guidelines on regulatory and legislative amendments, updates on VCAT determinations and emerging issues, SCA members are best placed to manage OCs and empower Lot Owners and occupiers.

In Victoria, the *Owners Corporations Act 2006* defines an Owners Corporation as a ‘body corporate which is incorporated by registration of a plan of subdivision or a plan of strata or cluster subdivision.’ The individual Lot Owners form a collective known as an Owners Corporation (OC). This is a legal entity which must comply with its governing legislation and enabled regulations. The responsibility to maintain common property and shared services is that of the owners corporation.

Owners corporations can choose to appoint a registered manager who will act on their direction, including engaging contractors for maintenance and repairs, on behalf of the OC. The manager assists the OC to meet these and other obligations. As part of the Annual General Meeting, Lot Owners collectively agree on a budget to fund ongoing maintenance and shared service costs. Items agreed can include the management fee, caretaking costs including gardening, utility charges, repairs to essential services, insurance premiums and waste management expenses. These are funded through fees/levies.

The growing number of people living and working in strata titled arrangements necessitates an increasing focus on regulatory responses for solutions to issues that are faced on a daily basis, including: the cost of housing, urban renewal, sustainable living, regulatory complexity, unlimited liability risks in relation to volunteer strata committee members, building defects and skills shortages. In addition, SCA (Vic) is focused on creating and managing a harmonious living environment for Victorians who live in strata properties.

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SCA (Vic)'s Submission to City of Melbourne – Short-Term Accommodation Policy Survey

Strata Community Association Victoria welcomes the opportunity to provide a submission to the City of Melbourne in relation to short-term accommodation policy.

Summary

SCA (Vic) has responded to the call by City of Melbourne for feedback with the following key positions and recommendations:

- SCA (Vic) has a strong and ongoing connection to the short-term rental accommodation industry in Melbourne,
- SCA (Vic) leans generally toward registration of short-term rental accommodation without adopting a definitive position,
- SCA (Vic) believes the 180 day-per-year cap is 'about right' but is cognisant of the potential impact it may have more broadly (on housing, tourism and accommodation),
- SCA (Vic) has identified several areas where additional information would be beneficial to helping understand why the proposed local law is being considered and what it would mean,
- SCA (Vic) takes the position that implementation of a future Code of Conduct would be beneficial to better educate owners and users of short-term accommodation,
- SCA (Vic) has proposed a series of areas which are important for a proposed future Code of Conduct to address, and
- SCA (Vic) offers comments on the issue of enforcement and how this may impact on the strata industry.

SCA (Vic)'s connection to the short-term rental accommodation industry in Melbourne

SCA (Vic) has a strong connection to this industry within Melbourne, as our members have first-hand experience in managing strata properties and understanding the associated complexity and challenges of doing so. Additionally, our members have direct experience of local laws in other councils and understand what rules may or may not be working within this regulatory space.

As an indication of SCA (Vic)'s connection to this industry, it is worth considering the role strata properties play within the short-term rental market. While the City of Melbourne has released figures to [indicate that there are more than 4100 residential properties being used for short-term accommodation](#) within the Council area, additional research indicates this figure is higher with [more than 5300 entire homes and apartments listed on the Airbnb site within the City of Melbourne](#). As a significant proportion of these properties are apartments within strata complexes, SCA (Vic) has an active and ongoing connection to this industry.

Furthermore, SCA (Vic) is heavily involved in advocacy for these short-term accommodation matters that ultimately impact on changes (and consideration of changes) to the *Owners Corporations Act 2006 (Vic)*.

SCA (Vic)'s view on whether registration will support City of Melbourne's stated outcomes

SCA (Vic) appreciates the intention of the City of Melbourne as it relates to registering short-term rental accommodation from the perspective that it may provide – a better understanding of the sector leading to more informed policy and regulatory responses, further information about what accommodation exists within particular areas, as well as ensuring providers are aware of relevant legislation.

With regard to registration, however, SCA (Vic) has some considerations to flag in terms of what registration should include:

- Registration with the Owners Corporation,
- The requirement of a telephone number of the person who will respond within 1 hour of a Code of Conduct violation, and
- The requirement of the short-term rental provider to advise the occupants about fire safety and how to safely exit the property in the event of an emergency.

At this stage, and without further evidence in support of this intention, while SCA (Vic) leans toward agreement with registration we do not take a definitive position on this issue.

SCA (Vic)'s position on the introduction of a 180 day-per-year cap

SCA (Vic) takes a nuanced view to the introduction of a 180 day-per-year cap, ultimately concluding it is likely 'about right' when balancing other options.

There is considerable regulatory variation overseas and within Australia in terms of the application of a cap on short-term rental accommodation. Internationally, cities such as [Vancouver and Amsterdam have caps of 30 days while London has a cap of 90 days \(with further days requiring a permit\)](#) and [Singapore has altogether banned short-term accommodation](#). Within Australia, [Sydney has a 180-day cap](#) while cities like [Brisbane and Hobart apply additional regulations and taxes](#).

In light of the above, the introduction of a 180 day-per-year-cap does not seem entirely unreasonable though [it is worth noting some objections have been raised in terms of its compatibility with Victorian Government housing reforms as well as its potential impact on tourism and accommodation choices](#). Accordingly, SCA (Vic) believes the 180 day-per-year cap is 'about right' but has some concerns regarding enforcement of this (and other matters) which will be subsequently discussed in this submission.

SCA (Vic)'s feedback for information/support which would help boost understanding of why the local law is being considered and what it means

SCA (Vic) believes further information should be made publicly available to assist in achieving a broader understanding of why the local law is being considered, what it would mean, but also to help drive better policy outcomes.

In particular, SCA (Vic) would like to see further information on:

- Specific reasoning on the background and context of why the short-term accommodation provisions are being considered for implementation,
- Aspects of the local law pertaining to its purpose and impact,
- Definitions of key terms,
- Aspects of the local law pertaining to its enforcement,
- How City of Melbourne intends to handle any future complaints and concerns,
- A register of properties providing accommodation under the short-term provisions (as well as any properties which have been struck off from being able to provide such accommodation).

Additionally, SCA (Vic) would encourage the City of Melbourne to ensure its website has an easily accessible section related to short-term accommodation policy (encompassing the aforementioned points as well as any other deemed relevant) so that residents and stakeholders can remain informed of any upcoming changes in this space.

SCA (Vic)'s view on the proposal to introduce in future a Code of Conduct to provide information on the short-term rental market

SCA (Vic) believes a Code of Conduct would help to better educate owners and users of short-term accommodation, on the proviso that such a Code of Conduct contains relevant and necessary information across a broad sweep of areas (which will be elaborated upon in further detail below).

Issues which SCA (Vic) believes are important for a Code of Conduct to address

SCA (Vic) believes, as a starting point, any future Code of Conduct introduced by City of Melbourne in relation to short-term accommodation should be reflective of (and consistent with) section 159A of the *Owners Corporations Act 2006 (Vic)* which specifically addresses complaints for short-term accommodation arrangements. Furthermore, SCA (Vic) believes the following issues would be important for a Code of Conduct to address:

- Rights and obligations of:
 - Property owners who provide short-term accommodation,
 - Guests who use short-term accommodation,
 - Agents/facilitators who arrange use of short-term accommodation, and
 - Providers (eg: Airbnb).
- Best-practice component for:
 - Property owners in terms of managing short-term accommodation.
 - Behaviour of guests who use short-term accommodation.
- Property access protocols:
 - Information on (and limitations regarding) how many keys will be provided to guests, how access will be provided and where keys can be left for guests, as well as the extent to which the property is accessible to guests (wholly or partially, or whether host will remain onsite).
- A guide for residents of buildings affected by short-term accommodation which provides their rights and advice on how to obtain assistance if required.
- Relevant information pertaining to unforeseen and adverse events, including:
 - Insurance information/coverage,
 - Liability of host for their guest (and whether this is joint and several liability),
 - Provision of emergency plans to guests to ensure safe egress from property in the event of an emergency.
- Complaints procedure
 - Assistance options and processes (in cases where short-term accommodation becomes disruptive).
 - Dispute resolution guidelines/expectations.
- A frequently asked questions (FAQ) section of common issues and concerns related to short-term accommodation in general.
- A list of relevant contacts (local council, emergency, etc)
 - This should include contact details for how to report issues 24 hours a day,
 - Details of individuals or organisations the Council can contact on receipt of short-term accommodation complaints (including after-hours).

Enforcement

SCA (Vic) would appreciate further insight into how City of Melbourne will enforce the 180 day-per-year cap. Research from New South Wales indicates that [a similar cap was introduced in November 2021 but there has not been a single instance of enforcement for breaches of the cap](#). This is despite there being [over 550 complaints made to the NSW Office of Fair Trading](#). Understandably, SCA (Vic) is concerned that Council will ensure appropriate enforcement procedures are in place to ensure such breaches do not go unaddressed.

In addition, SCA (Vic) would appreciate greater clarity in relation to the role and expectations of strata managers and owners corporations committees in this space. In particular, what would be the expectations for strata managers and owners corporations committees if they are aware of owners exceeding the 180 day-per-year cap and whether there would be any reporting mechanisms imposed (eg: mandatory reporting) as well as who a strata manager would contact to make such a report.

More generally, the use of short-term accommodation beside and amongst rental and owner-occupier properties has historically led to a [variety of safety and amenity issues \(including parties and other behavioural concerns\)](#). SCA (Vic) is, therefore, also concerned to ensure there will be sufficient enforcement procedures in place to manage the day-to-day issues which short-term accommodation will generate such that professionals who manage, and residents who live within, strata properties are not adversely impacted and have appropriate support in place.