

# Guide to owning, managing and living in an owners corporation

*Guide to owners corporations: Owning, managing and living in a unit or apartment* is the summary statement, approved by the Director of Consumer Affairs Victoria, of the rights and duties of a resident under the *Owners Corporations Act 2006* (the Act).

## Contents

<b>Contents</b>	<b>1</b>
<b>Disclaimer, copyright and publisher information</b>	<b>2</b>
<b>Introduction</b>	<b>3</b>
Master planned estates	3
Retirement villages	3
What should I do before buying a property managed by an owners corporation?	4
<b>Common terms</b>	<b>4</b>
Plan of subdivision	4
Lots	4
Lot entitlements and lot liabilities	4
Common property	5
Multiple owners corporations	5
Common seal	5
<b>Activating an owners corporation</b>	<b>6</b>
Owners corporation number	6
Initial owner's role in activating an owners corporation	6
First annual general meeting	6
After the first annual general meeting	7
<b>The operation of owners corporations</b>	<b>8</b>
Classes of owners corporations	8
Levels of owners corporations	8
Obligations of owners corporations	8
<b>Property maintenance</b>	<b>9</b>
Maintenance plans	9
Upgrades, renovations and alterations to the common property	9
Lot maintenance and renovations	9
<b>Financial management</b>	<b>10</b>
Financial records	10
Owners corporation fees	11
<b>Insurance and records</b>	<b>11</b>
Insurance	11
Records	12
Owners corporation register	12
Owners corporation certificates	12

<b>Decision-making</b>	<b>12</b>
The decision-making hierarchy	13
Annual general meeting	13
Agenda	13
Resolutions	13
Delegations	14
Minutes of meetings	14
Proxies	14
Powers of attorney	14
Special general meetings	14
Activating an owners corporation	14
<b>Committees</b>	<b>15</b>
Membership of a committee	15
The chairperson and secretary	15
Removing committee members	15
Committee meetings	16
<b>Managers</b>	<b>16</b>
Duties of managers	16
Registration and professional indemnity insurance	17
Removing a manager	17
<b>Rules</b>	<b>17</b>
Communication	18
<b>Complaints and disputes</b>	<b>18</b>
Grievance procedure	18
Lodging a complaint with Consumer Affairs Victoria	19
VCAT penalties and orders	19
<b>Useful contacts</b>	<b>19</b>
Australian Taxation Office (ATO)	19
Business Licensing Authority	19
Land Channel	19
Law Institute of Victoria	19
Real Estate Institute of Victoria	20
Strata Community Australia (VIC)	20
Victorian Civil and Administrative Tribunal (VCAT)	20
Your local council	20
<b>Consumer Affairs Victoria</b>	<b>20</b>
TIS	20
TTY	21

## Disclaimer, copyright and publisher information

Because this publication avoids the use of legal language, information about the law may have been expressed in general statements. This guide should not be relied upon as a substitute for the *Owners Corporations Act 2006* or professional legal advice.

Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne

August 2017

ISBN: 978 1 921079 78 8



Unless indicated otherwise, content in this publication is provided under a Creative Commons Attribution 3.0 Australia Licence. To view a copy of this licence, visit the [Creative Commons Australia website](http://creativecommons.org/licenses/by/3.0/au) <creativecommons.org/licenses/by/3.0/au>. It is a condition of the Creative Commons Attribution 3.0 Licence that you must give credit to the original author who is the State of Victoria.

This document is available for download in accessible PDF and Microsoft Word formats from the [Consumer Affairs Victoria website](http://consumer.vic.gov.au) <consumer.vic.gov.au>. If you would like to receive this publication in an alternative accessible format, please phone 1300 55 81 81.

## Introduction

An owners corporation manages the common property of a residential, commercial, retail, industrial or mixed-use property development.

Owners of flats, apartments or units are usually members of an owners corporation, previously known as a 'body corporate'. All bodies corporate became owners corporations on 31 December 2007, when the *Owners Corporations Act 2006* came into force. This law sets out the duties and powers of owners corporations.

An owners corporation is automatically created when a plan of subdivision containing common property is registered with Land Victoria. Examples of common property may include gardens, passages, walls, pathways, driveways, lifts, foyers and fences.

The plan of subdivision shows the parcels of land that can be sold separately. These are called 'lots'. The lot owners are the members of the owners corporation for the property.

More than one owners corporation can be created in a subdivision of land or buildings.

A person who owns property under an owners corporation automatically becomes a member of that owners corporation. As a member, that person has legal and financial responsibilities to the owners corporation.

**Lot owners are not exempt from any owners corporation fees if they do not use the facilities.**

## Master planned estates

Some new land estates are becoming owners corporations. This is especially common where estates include private swimming pools, tennis courts, golf courses or gymnasiums. An owners corporation may also be formed to maintain parks and wetlands contained within the estate.

## Retirement villages

Many retirement villages have owners corporations. In a strata title village, the unit owners are automatically members of the owners corporation. They have the right to attend owners corporation meetings and stand for election to the owners corporation committee.

You can find more information about owners corporations in retirement villages at the [Consumer Affairs Victoria website](http://consumer.vic.gov.au) <consumer.vic.gov.au>.

## What should I do before buying a property managed by an owners corporation?

Get a copy of the owners corporation certificate and inspect the owners corporation register. These documents contain important information about fees, allocation of lot liability and lot entitlement, and legal liabilities.

The owners corporation certificate is part of the vendor's statement, also called a 'section 32', after section 32 of the *Sale of Land Act 1962*. The section 32 contains information which the seller must provide to the buyer advising of restrictions such as covenants and easements, outgoings such as rates and any other notices such as compulsory acquisition.

The lot owner selling the property must ensure the certificate is included in the section 32. A buyer can also purchase the certificate from the owners corporation.

For more information and forms to help your owners corporation, visit the [Owners corporations section of the Consumer Affairs Victoria website](http://consumer.vic.gov.au/ownerscorp) <consumer.vic.gov.au/ownerscorp>.

For more information on owners corporation managers, visit the [Owners corporation managers section of the Consumer Affairs Victoria website](http://consumer.vic.gov.au/ownerscorpmanagers) <consumer.vic.gov.au/ownerscorpmanagers>.

## Common terms

### Plan of subdivision

A plan of subdivision depicts the break-up of a piece of land, showing parcels of land called 'lots', that can be sold separately. The plan of subdivision is registered with Land Victoria and an owners corporation is automatically created if the plan includes common property.

The plan of subdivision defines and governs the ownership of land, buildings and airspace. It sets out private lots, common property and each lot owner's voting entitlements and financial contributions.

Land Victoria registers and allocates numbers to the plan of subdivision and any owners corporations created by that plan.

### Lots

A lot is a part of land, buildings and airspace on a plan of subdivision that can be separately owned and sold. Technically, lots are those parts of land, buildings or airspace that are not common property, road or a reserve, and include accessory lots such as car spaces, storage bays and storerooms.

### Lot entitlements and lot liabilities

These are set out in the plan of subdivision.

- **Lot entitlement** refers to a lot owner's share of ownership of the common property and determines voting rights.

- **Lot liability** represents the share of owners corporation expenses that each lot owner is required to pay.

These entitlements and liabilities are determined by the developer at the time of subdivision.

## Common property

This includes any parts of the land, buildings and airspace that are not lots on the plan of subdivision. It may include gardens, passages, walls, pathways, driveways, stairs, lifts, foyers and fences. The common property is collectively owned by the lot owners as 'tenants-in-common'. Floor coverings and fixtures within a lot are usually the property of the lot owner.

## Multiple owners corporations

These are most common in large, multistorey buildings, commercial properties, or developments that combine residential and non-residential lots.

Properties with more than one owners corporation will usually have:

- an unlimited owners corporation, which owns the common property, and
- one or more limited owners corporations, which will apply to only some lots.

Multiple owners corporations give groups of lot owners access to and responsibility for certain parts of the property.

**For example:** A person buys a ground floor unit in a multistorey building. The title includes off-street parking. As a lot owner, this person will be a member of the owners corporation. They may also be a member of the owners corporation responsible for the parking spaces, but not a member of the owners corporation responsible for the lifts.

Where a property has multiple owners corporations, it is important for lot owners to be aware that these owners corporations affect their lot.

## Common seal

An owners corporation must have a common seal, available from a stationery shop, which must contain the owners corporation's name and plan of subdivision number. This represents the signature of the owners corporation.

The owners corporation certificate must be sealed using the common seal.

It must be used on all documents created by a resolution passed by the owners corporation; for example, contracts for services, making additional rules or the appointment of a manager. **The use of the common seal must be witnessed by two lot owners or when affixed to an owners corporation's certificate a manager or chairperson.** Misuse of the common seal can have serious financial and legal consequences.

For more information and forms to help your owners corporation, visit the [Owners corporations section of the Consumer Affairs Victoria website](http://consumer.vic.gov.au/ownerscorp) <consumer.vic.gov.au/ownerscorp>.

# Activating an owners corporation

## Owners corporation number

An owners corporation number is the same as the number on the plan of subdivision, which is available from Land Victoria. See [Useful Contacts](#) on page 19.

## Initial owner's role in activating an owners corporation

The initial owner should call the owners corporation's first meeting within six months of registering the plan of subdivision at Land Victoria.

The initial owner is usually the owners corporation's sole member at this stage.

At this meeting, the initial owner or applicant for registration must give the owners corporation:

- the owners corporation register
- a copy of the plan of subdivision and planning documents
- copies of building contracts and building plans
- the maintenance plan (for prescribed owners corporations or if necessary)
- a copy of the *Owners Corporations Act 2006*, *Owners Corporations Regulations 2007*, *Subdivision Act 1988* and *Subdivision (Procedure) Regulations 2000*
- contracts, leases and licences binding or benefiting the owners corporation
- insurance policies relating to the owners corporation
- names of companies, tradespeople or suppliers who have provided a warranty or guarantee
- books to enable the owners corporation to keep minutes, accounts and other records
- any accounts or records made on behalf of the owners corporation
- the common seal
- rules registered with Land Victoria.

## First annual general meeting

To activate an owners corporation, an annual general meeting must be held.

Lot owners who have at least 25 per cent of the total lot entitlements can use an owners corporation petition to convene the first annual general meeting:

- if the initial owner did not, or
- to reactivate an existing owners corporation.

Alternatively, lot owners may apply to the Victorian Civil and Administrative Tribunal (VCAT) for an order compelling the owners corporation to hold an annual general meeting.

To hold this first annual general meeting, a notice must be sent out at least 14 days before the scheduled date to all members, stating:

- the date, time and place of meeting
- the text of any special resolution or unanimous resolution

- the financial statements setting out income, expenditure, assets and liabilities
- the proposed budget
- a statement that lot owners can appoint a proxy
- an agenda with the following business:
  - election of a committee (mandatory if there are 13 or more lots)
  - election of chairperson and secretary
  - appointment of registered manager
  - instruments of delegation for the manager, committee, chairperson and secretary if required
  - registration of the owners corporation for taxation purposes. Your owners corporation may need to have a Tax File Number and an Australian Business Number (ABN)
  - notification to Land Victoria of changes to the owners corporation contact details
  - provision and details of insurance
  - additional insurance; for example, to protect office bearers
  - setting up a bank account
  - method of keeping books and records
  - letterbox and sign, if not already provided
  - building audit for the purposes of the Building Regulations 2006, including cooling tower registration if required
  - risk assessment for occupational health and safety purposes
  - budget for the next 12 months. The budget is usually for a financial year
  - consideration of financial statements
  - the details of fees
  - rules, including the owners corporation's process for resolving disputes
  - consideration of reports. But, you may not have any to consider at the first annual general meeting.

The notice must be handed or sent to lot owners. It can also be sent by facsimile, email or other electronic means.

If the owners corporation is being reactivated, it is recommended that the original documents are read. These may be available from the initial owner, existing lot owners or Land Victoria.

## After the first annual general meeting

After activating an owners corporation by holding the annual general meeting, there may be a need to open a bank account or take out insurance in its name. To do this, evidence may have to be provided that the owners corporation is a legal entity.

This includes:

- a statement that the owners corporation is incorporated on the registration of the plan under section 28 of the *Subdivision Act 1988*
- a copy of the plan of subdivision
- minutes of meeting recording the decision to open an account or take out insurance.

# The operation of owners corporations

## Classes of owners corporations

Depending on their size, owners corporations have different levels of responsibilities and duties.

Two-lot subdivisions are exempt from many of the legal requirements placed on larger owners corporations, such as:

- requirements for notices of fees
- procedures for meetings and decision-making
- keeping records and an owners corporation register
- having insurance for the owners corporation.

Prescribed owners corporations, which have more than 100 lots or collect more than \$200,000 in annual fees in a financial year, have additional obligations such as:

- establishing a maintenance plan
- having financial statements audited every year
- every five years, obtaining a valuation of all buildings it is required to insure.

## Levels of owners corporations

An owners corporation operates at four levels:

1. The owners corporation, consisting of all the lot owners.
2. The committee, consisting of elected lot owners or their proxies.
3. A delegate of the owners corporation, for example, a manager, chairperson, secretary, lot owner or employee.
4. A delegate of the committee. The committee may delegate to a lot owner, a manager or subdelegate to a member of the committee.

All owners corporations, committees and delegates must act honestly and in good faith. They must exercise due care and diligence in carrying out their functions, powers and activities.

## Obligations of owners corporations

An owners corporation must:

- manage and administer the common property
- repair and maintain the common property, fixtures and services
- take out and maintain required insurance
- raise fees from the lot owners to meet financial obligations
- prepare financial statements and keep financial records
- provide owners corporation certificates when requested
- keep an owners corporation register
- establish a grievance procedure



- carry out any functions and duties under the *Owners Corporations Act 2006*, the Owners Corporations Regulations 2007, the owners corporation rules and any other law or regulation
- ensure compliance with *Owners Corporations Act 2006*, the Owners Corporations Regulations and rules.

For more information and forms to help your owners corporation, visit the [Owners corporations section of the Consumer Affairs Victoria website](http://consumer.vic.gov.au/ownerscorp) <consumer.vic.gov.au/ownerscorp>.

## Property maintenance

### Maintenance plans

An owners corporation maintenance plan must cover:

- major capital items requiring repair or replacement over the next 10 years
- the present condition of those items
- when the items or components will need to be repaired or replaced
- the estimated cost of their repair and replacement
- the expected life of those items or components once repaired or replaced.

Only prescribed owners corporations must have a maintenance plan and maintenance fund, but Consumer Affairs Victoria recommends that as part of responsible asset management all owners corporations have a maintenance plan.

If an owners corporation has a maintenance plan then it must have a maintenance fund to cover the cost of works in the plan.

The owners corporation is required to report on implementation of its maintenance plan, if it has one, at each annual general meeting.

### Upgrades, renovations and alterations to the common property

An owners corporation can only make significant alterations to the use or appearance of its common property if the changes are listed in the maintenance plan, or approved by special resolution at a general meeting.

A special resolution is also required if the common property is to be upgraded, renovated or improved and the:

- estimated total cost is more than double annual total fees, or
- works require a planning or building permit.

Urgent works to ensure safety or prevent significant loss or damage do not require a special resolution. This applies only to the work necessary to address the safety, loss or damage.

### Lot maintenance and renovations

Lot owners in an owners corporation are entitled to renovate or refurbish the **interior** of their home. A lot owner must notify the owners corporation if the renovations require a building or planning permit.

A lot owner must also keep the **exterior** of their lot in 'good and serviceable repair'. Its appearance must not affect other lot owners' use and enjoyment of the property. If an owner fails to keep the exterior in good and serviceable repair, an owners corporation can, in writing, order the owner to carry out repairs.

If the requested repairs are not carried out within 28 days, the owners corporation can perform the work without the lot owner's approval and charge the owner for the cost.

For more information and forms to help your owners corporation, visit the [Owners corporations section of the Consumer Affairs Victoria website](http://consumer.vic.gov.au/ownerscorp) <consumer.vic.gov.au/ownerscorp>.

## Financial management

Lot owners risk financial and legal consequences through poor financial management of the owners corporation.

An owners corporation is responsible for actions taken on its behalf by delegates, such as a professional manager or committee member. It can pass on costs incurred by these actions to members by raising fees.

**There is no limit to members' financial and legal liability for actions of the owners corporation or its delegates.**

An owners corporation should seek professional help to manage its financial responsibilities.

An owners corporation has the power to:

- set fees to cover general administration, maintenance and insurance
- levy special fees for extraordinary expenditure
- establish a maintenance fund to cover the cost of works in the maintenance plan
- borrow money
- invest money
- recover money owed
- charge penalty interest
- operate a bank account.

## Financial records

An owners corporation must keep financial records that:

- record all its income, expenditure, assets and liabilities
- enable it to make true and fair reports of its financial situation
- record and explain all financial transactions for income tax and GST purposes, as required by the Australian Taxation Office (ATO).

Financial records can be kept in hard copy or in an electronic form. A free e-record system is available on [Australian Taxation Office website](http://ato.gov.au) <ato.gov.au>.

The financial records must be kept in a safe and secure place.

Consumer Affairs Victoria recommends that all owners corporations have their accounts audited each year. Prescribed owners corporations must have their financial statements audited every year.

## Owners corporation fees

Your owners corporation can set both annual and special fees.

Annual fees cover general administration, maintenance, insurance and other ongoing costs. Lot owners are charged their share of annual fees according to their lot liability.

Special fees cover extraordinary or unexpected expenditure such as to urgently repair the building or to cover the cost of legal action against the owners corporation.

Lot owners are charged special fees according to their lot liability, unless works are being undertaken that will only benefit one, or some (but not all) lots.

In such a case, special fees are charged using the 'benefit principle' which means that those who benefit more, pay more.

The way the benefit principle is applied does not need to be exact, if it is not practical to apply it in this way – the assessment only needs to be considered reasonable.

In some circumstances, applying the benefit principle may still result in lot owners paying according to their lot liability. Examples include:

- when the work is being funded partly from annual fees and partly from special fees and the benefits of the work to certain lots is offset by their having paid higher annual fees (because of their higher lot liabilities), or
- when works being done on certain lots will indirectly benefit the other lots; for example, by raising the value of the entire building or by reducing the possibility of legal actions against the owners corporation.

If the amount of proposed special fees is more than double the amount of the owners corporation's annual fees, it must be approved by a special resolution. A special resolution requires support from 75 per cent of all lot owners or lot entitlements.

## Overdue and unpaid fees

Owners cannot vote on ordinary resolutions if they owe fees to the owners corporation. An owners corporation can pass a resolution to charge the penalty rate of interest on unpaid fees (this rate is set by law and published on the [Department of Justice and Regulation website](http://justice.vic.gov.au) <justice.vic.gov.au>).

An owners corporation or its manager cannot charge a lot owner any other fees or charges, such as an 'administration fee', for overdue owners corporation fees. However, the owners corporation can take action to recover unpaid fees in the Magistrates' Court of Victoria or at VCAT.

For more information and forms to help your owners corporation, visit the [Owners corporations section of the Consumer Affairs Victoria website](http://consumer.vic.gov.au/ownerscorp) <consumer.vic.gov.au/ownerscorp>.

## Insurance and records

### Insurance

All owners corporations must take out reinstatement and replacement insurance for all buildings on the common property and for incidental costs of the replacement or repair of damaged common property. This

insurance must also cover services shared with a person other than the owners corporation or any of its members, such as pipes and cables for gas, electricity, water or data.

Owners corporations must also take out public liability insurance of not less than \$10 million for common property.

Two-lot subdivisions are exempt from these requirements but should take out these forms of insurance if there are buildings on common property.

A prescribed owners corporation must, every five years, obtain a valuation of all buildings it is required to insure.

For more information and forms to help your owners corporation, visit the [Owners corporations section of the Consumer Affairs Victoria website](http://consumer.vic.gov.au/ownerscorp) <consumer.vic.gov.au/ownerscorp>.

## Records

The *Owners Corporations Act 2006*, and other laws, such as Commonwealth tax laws, require owners corporations to keep records; for example, financial statements, ballot results and voting papers.

## Owners corporation register

All owners corporations, except two-lot subdivisions, must establish and keep an owners corporation register which is a summary of its activities, undertakings and membership.

The register must be available for inspection free of charge. A manager can charge the owners corporation for supervising inspections of the records and register.

The owners corporation, if requested, must provide copies of the register and may charge a reasonable fee for doing so.

## Owners corporation certificates

All owners corporations must issue an owners corporation certificate within 10 business days to any person who submits a written application (an application form can be downloaded from the [Consumer Affairs Victoria website](http://consumer.vic.gov.au) <consumer.vic.gov.au>). The owners corporation may charge a fee, which must not be more than the maximum fees prescribed in the Owners Corporations Regulations 2007.

The certificate must contain specific information and have relevant documents attached, for example, current quarterly or annual fees for the lot and the owners corporation rules.

For more information and forms to help your owners corporation, visit the [Owners corporations section of the Consumer Affairs Victoria website](http://consumer.vic.gov.au/ownerscorp) <consumer.vic.gov.au/ownerscorp>.

## Decision-making

An owners corporation makes a decision or resolution when its members vote. Decisions can be made by an ordinary, special or unanimous resolution, which require different percentages of the votes.

Votes are allocated according to lots or lot entitlements, not by number of individuals.

Resolutions may be made by a meeting or ballot of the owners corporation, a meeting or ballot of the committee, or by a decision of a delegate. Only matters requiring ordinary resolutions and not required to be made at a general meeting can be delegated.

## The decision-making hierarchy

The owners corporation (all the lot owners):

- keeps control of all decision-making
- must elect a committee at each annual general meeting if there are 13 or more lots
- can delegate powers, but only for matters that require an ordinary resolution and not a general meeting
- can overturn an earlier decision of the owners corporation, but can only do so at a general meeting.

The committee:

- can make decisions, except on matters that must be decided by a special or unanimous resolution or at a general meeting
- cannot overturn decisions of the owners corporation
- can appoint sub-committees if permitted by the rules.

A delegate:

- can make decisions within the limits set by the owners corporation and only on matters that require an ordinary resolution and that do not require a general meeting
- cannot overturn a decision of the owners corporation or the committee.

## Annual general meeting

An owners corporation must hold a meeting of all lot owners if it receives or pays out money during the financial year. This is called the annual general meeting.

The annual general meeting is the main opportunity for lot owners to discuss issues concerning their property and elect the committee and office bearers for the next year.

Written notice of an annual general meeting must be provided to lot owners at least 14 days before the meeting.

The time between the annual general meetings must not exceed 15 months.

## Agenda

The lot owners, committee members and manager must organise an agenda that identifies items for discussion. More information on what must be included is available at the [Consumer Affairs Victoria website](http://consumer.vic.gov.au) <consumer.vic.gov.au>.

## Resolutions

Different types of resolutions require different percentages of votes to pass. These include:

- ordinary resolutions, which require the agreement of more than 50 per cent of lot owners

- special resolutions, which require the agreement of at least 75 per cent of lot owners
- unanimous resolutions, which require agreement from all lot owners.

## Delegations

Delegation of powers enable a chairperson, secretary, manager or committee to make decisions on behalf of the owners corporation and carry out day-to-day tasks without having to call a general meeting.

Some powers cannot be delegated, including all matters requiring a unanimous resolution, a special resolution or an ordinary resolution at a general meeting.

## Minutes of meetings

The owners corporation must arrange for minutes of all meetings to be kept and available for inspection. The minimum required information for the minutes is available on the Consumer Affairs Victoria website.

## Proxies

If a lot owner cannot attend a meeting, another person can be appointed as a 'proxy' to represent and vote on behalf of the lot owner. It is illegal for someone to demand or require another person to give a proxy.

## Powers of attorney

A person acting under a power of attorney for a lot owner may vote on the lot owner's behalf at a general meeting or ballot. An attorney can only act for more than one lot if they are a member of the lot owner's family. It is illegal for someone to demand or require another person to give a power of attorney.

## Special general meetings

All meetings other than annual general meetings are called special general meetings. These can be convened by the owners corporation manager, chairperson or secretary, or a lot owner nominated by lot owners who have at least 25 per cent of the total lot entitlements.

## Activating an owners corporation

An owners corporation must hold its first general meeting within six months of registering with Land Victoria. If this has not been done, owners representing 25 per cent or more of lot entitlements can agree to call the inaugural annual general meeting. Alternatively, lot owners may apply to VCAT for an order compelling the owners corporation to hold an annual general meeting.

After this first meeting, an owners corporation is only required to have an annual general meeting if it receives or pays out money in a financial year.

For more information and forms to help your owners corporation, visit the [Owners corporations section of the Consumer Affairs Victoria website](http://consumer.vic.gov.au/ownerscorp) <consumer.vic.gov.au/ownerscorp>.

## Committees

An owners corporation with 13 or more lots must elect a committee at each annual general meeting.

Owners corporations with fewer than 13 lots may elect a committee if they choose, but it is not mandatory.

### Membership of a committee

A committee must have three to 12 members, who must be lot owners or hold proxies for lot owners. There must not be more than one committee member from any one lot. Once elected, the committee members hold office until a new committee is elected.

### The chairperson and secretary

A committee must elect a chairperson and a secretary by ordinary resolution (majority vote) at a general meeting. Failure to fill either of these positions may mean the committee and its decisions are not lawful.

The committee's chairperson and secretary also become the chairperson and secretary of the owners corporation.

The chairperson's main role is to host meetings allowing fair and open discussion, while keeping to the agenda, so decisions can be made.

The secretary is responsible for tasks including managing correspondence and organising meetings.

The chairperson and secretary can only be removed by majority vote at a general meeting. Revoking either role does not affect that person's membership of the committee.

If an owners corporation does not have a committee, the lot owners:

- must elect a member to be the chairperson
- may elect a member to be the secretary.

Failing to fill either of these positions may mean that a meeting of the committee is not called correctly and could make the proceedings of the committee meeting invalid.

### Removing committee members

Lot owners can remove a committee, or a committee member, by ordinary resolution at a general meeting.

If there is a casual vacancy on a committee, the remaining members can invite another lot owner, or a person holding a proxy for a lot owner, to be a member of the committee.

The vacancy does not have to be filled if three or more members remain on the committee.

## Committee meetings

### Quorums

A quorum is the minimum number of members needed to transact business at a meeting. For a committee meeting, the quorum is at least half the committee members. When there is no quorum, the committee can only make interim resolutions.

### Procedures

A committee meeting may be called by the owners corporation, the committee, its chairperson or secretary, the manager of the owners corporation or a delegate of the owners corporation.

Committees can make decisions by ballot or at meetings by a show of hands.

### Minutes

The committee must keep accurate minutes of every meeting. Among other things, the minutes must include the date, time and place, names of those present and all resolutions.

For more information and forms to help your owners corporation, visit the [Owners corporations section of the Consumer Affairs Victoria website](http://consumer.vic.gov.au/ownerscorp) <consumer.vic.gov.au/ownerscorp>.

## Managers

Many owners corporations use paid professional managers to assist with finances, insurance, administration, meetings and maintenance.

An owners corporation may appoint a manager to carry out any powers or functions it is able to delegate (matters that require an ordinary resolution and that do not require a general meeting). The owners corporation usually delegates powers to a manager in a contract or instrument of delegation. This enables the manager to make decisions on behalf of the owners corporation. The appointment must be in writing or through a written contract.

Some owners corporations may be self-managed on a voluntary basis by a committee or a lot owner who has been delegated powers.

## Duties of managers

All professional managers must:

- register with the Business Licensing Authority
- be appointed by an instrument or by contract of appointment
- act honestly and in good faith
- have professional indemnity insurance
- hold all owners corporation money in trust
- account separately for money held for each owners corporation they manage
- report to the owners corporation at each annual general meeting
- report to the committee as required



- lodge an annual statement with the Business Licensing Authority.

## Registration and professional indemnity insurance

All paid owners corporation managers must register with the Business Licensing Authority and have professional indemnity insurance. Registration applies to management businesses, rather than each individual manager who may be an employee of the business.

People aged under 18, bankrupts, or those who do not have professional indemnity insurance cannot register as a manager.

You can check a manager's registration on the Business Licensing Authority's public register of owners corporation managers. This register includes details of any orders made against a manager.

## Removing a manager

A manager may be 'removed' by not renewing their contract of appointment.

Removing a manager before the expiry of their contract raises complex legal and contractual issues.

To remove a manager, an owners corporation should:

- arrange a general meeting or postal ballot of lot owners. Alternatively, any authorised delegate can remove the manager without advising lot owners
- follow the process for the removal or termination of the manager outlined in the contract of appointment.
- The owners corporation may also apply to the Victorian Civil and Administrative Tribunal for an order terminating the manager's contract.

Once a manager's appointment is terminated, the manager has 28 days to return all funds and records to the owners corporation.

For more information and forms to help your owners corporation, visit the [Owners corporations section of the Consumer Affairs Victoria website](http://consumer.vic.gov.au/ownerscorp) <consumer.vic.gov.au/ownerscorp>.

## Rules

All owners corporations have rules for the control, management, use or enjoyment of common property and lots. The rules cover day-to-day issues such as parking, pets and noise.

If an owners corporation does not make its own rules, a set of model rules outlined in the Owners Corporations Regulations 2007 (Schedule 2) applies.

An owners corporation's rules must be registered with Land Victoria. If they are not, they will be void and unenforceable and the model rules will apply.

All lot owners and tenants must be given a copy of the rules before they move in.

Owners corporations can apply to the VCAT to enforce rules and the tribunal can impose penalties for breaches of rules.

Owners corporations can make rules for:

- health, safety and security
- committees and sub-committees
- management and administration
- use of common property
- use of and works to lots
- design of lots
- behaviour
- dispute resolution
- notices and documents
- use of the common seal.

## Communication

All owners corporations are required to keep a letterbox and/or a sign displaying their current contact details.

Owners corporations should have a policy on how day-to-day communication between a lot owner and the owners corporation can be made. The policy should be part of the rules and may specify how and when the chairperson, secretary or the manager can be contacted and what to do if there is an emergency. This policy should be given to all new lot owners and tenants or be displayed on a notice board.

For more information and forms to help your owners corporation, visit the [Owners corporations section of the Consumer Affairs Victoria website](http://consumer.vic.gov.au/ownerscorp) <consumer.vic.gov.au/ownerscorp>.

## Complaints and disputes

Complaints to the owners corporation must be in writing, in an approved form. The owners corporation may decide to take no action, but must provide the person making the complaint with written reasons for this decision.

The *Owners Corporations Act 2006* sets out a process to help owners corporations deal with grievances. This process may involve three steps:

- internal dispute resolution
- conciliation through Consumer Affairs Victoria
- applications to the VCAT.

The owners corporation must have an internal grievance procedure to handle complaints about breaches of the rules and other disputes. This must be used before going to Consumer Affairs Victoria or VCAT.

## Grievance procedure

The owners corporation may develop its own rules for handling grievances – these must be recorded at Land Victoria and must not conflict with any other Acts, regulations, or natural justice.

If an owners corporation does not make its own rules, the procedure in the model rules outlined in the *Owners Corporations Regulations 2007* (Schedule 2) applies.

## Lodging a complaint with Consumer Affairs Victoria

When we receive a complaint, we determine whether it can be conciliated. Conciliation is voluntary and involves negotiation between the parties to reach an agreed resolution and avoid proceedings in VCAT. We can only conciliate a matter if all parties agree to the conciliation.

Consumer Affairs Victoria recommends trying to resolve the complaint using the internal resolution process, before contacting us for assistance.

## VCAT penalties and orders

VCAT can impose penalties for breaches of rules and make a wide range of other orders.

For more information and forms to help your owners corporation, visit the [Owners corporations section of the Consumer Affairs Victoria website](http://consumer.vic.gov.au/ownerscorp) <consumer.vic.gov.au/ownerscorp>.

## Useful contacts

### Australian Taxation Office (ATO)

[Australian Taxation Office website](http://ato.gov.au) <ato.gov.au>

Phone 13 28 66

### Business Licensing Authority

[Business Licensing Authority website](http://bla.vic.gov.au) <bla.vic.gov.au>

Phone 1300 135 452

### Land Channel

[Land Victoria website](http://land.vic.gov.au) <land.vic.gov.au>

Phone 13 61 86

570 Bourke Street  
Melbourne VIC 3000

### Law Institute of Victoria

[Law Institute of Victoria website](http://liv.asn.au) <liv.asn.au>

Phone 03 9607 9311

470 Bourke Street  
Melbourne VIC 3000

## Real Estate Institute of Victoria

[Real Estate Institute of Victoria website](http://reiv.com.au) <reiv.com.au>

**Phone** 03 9205 6666

335 Camberwell Road  
Camberwell VIC 3124

## Strata Community Australia (VIC)

[Strata Community Australia website](http://vic.stratacommunity.org.au) <vic.stratacommunity.org.au>

**Phone** 03 9416 4688

Suite 106, 134–136 Cambridge Street  
Collingwood VIC 3066

## Victorian Civil and Administrative Tribunal (VCAT)

[Victorian Civil and Administrative Tribunal website](http://vcat.vic.gov.au) <vcat.vic.gov.au>

55 King Street  
Melbourne VIC 3000

## Your local council

Find your local council on the [Know Your Council website](http://knowyourcouncil.vic.gov.au) <knowyourcouncil.vic.gov.au>, on your rates notice or in the Yellow Pages.

## Consumer Affairs Victoria

[Consumer Affairs Victoria website](http://consumer.vic.gov.au) <consumer.vic.gov.au>

1300 55 81 81 (local call charge)

[Facebook page of Consumer Affairs Victoria](https://facebook.com/ConsumerAffairsVictoria) <facebook.com/ConsumerAffairsVictoria>

[Twitter page of Consumer Affairs Victoria](https://twitter.com/consumervic) <twitter.com/consumervic>

[YouTube page of Consumer Affairs Victoria](https://youtube.com/consumervic) <youtube.com/consumervic>

Services from Consumer Affairs Victoria are also available at Ballarat, Bendigo, Box Hill, Dandenong, Geelong, Mildura, Morwell, Reservoir, Shepparton, Wangaratta, Warrnambool, Werribee and Wodonga. Our mobile service regularly visits rural communities.

August 2017

## TIS

Translating and Interpreting Service **131 450**

## TTY

Textphone or modem users only, ring the National Relay Service (NRS) on **133 677**, then quote **1300 55 81 81**.

Callers who use Speech to Speech Relay dial **1300 555 727**, then quote **1300 55 81 81**.