**Submission regarding Owners Corporation Issues Paper**

From Mrs Coralie Coulson

99 McKebery St Coleraine VIC 3315 e: [minilya9@bigpond.net.au](mailto:minilya9@bigpond.net.au)

Current owner of Melbourne city apartment and have past involvement in other OC properties.

(Dot points below relate to sections of the Review as indicated).

**2.1** Outstanding fees from Owners should be able to be addressed via legal action, on the vote by simple majority at a Committee meeting. Too many OC’s are held to ransom and unable to progress strategic decisions, due to non-payment issues, moneys owed, cost of recovery etc.

For affairs affecting the infrastructure of premises, Legal Action for a claim against a supplier should be determined by a simple majority vote at a Committee meeting.

Actions against individual Owners, apart from collection of outstanding fees, should require a special resolution.

**2.2** Water rights – Above a (to be determined) lot size, an OC Committee should make the decision regarding water rights. I suggest that for 9 lots or below, it may be appropriate to allow individual water rights if OC determines that this suits the infrastructure of that premises. Grandfathering of existing arrangements would be necessary.

**2.3** Goods abandoned should be dealt with by

a) show Cause notice – response within 1 month

b) Committee to then determine action (simple majority vote)

c) Committee to give 1 month notice of action to remove.

d) Committee to determine an cost recovery required.

**2.4** Use of Common Seal is outdated. Two signatories – Chair plus Secretary or Chair plus Treasurer should be the default arrangement, or any other Committee members designated when contract decision passed at relevant meeting – this should cover absences etc, but must be Minuted.

**3.1** Benefit Principle

If a fault relates to, or is caused by an individual owner, they should be held responsible.

If a problem is on common property, all owners should be levied.

**3.2** Late payment of fees and charges.

A clear process for serving fee notices, including additional costs, and further dealing with debt recovery costs, VCAT costs by OC, and so on, must be explicitly written into the Act.

I do not believe a discount should be part of a timely payment process.

**3.3** I have no experience of view on this matter.

**4.1** All OC’s should have a maintenance plan. Such plans will be simpler for small lot number premises, and more complex for larger OC’s. But small OC’s can still face financial ruin if issues (eg ‘concrete cancer’??) are not addressed.

A maintenance fund should be maintained by all OC’s and section 44 should be rewritten to give clarity. There should also be a contingency fund maintained. If it is necessary for a Call for funds to be made, this can have very difficult financial consequences for Owners, hence the need for planning and for setting funds aside proactively.

**4.5** Urgent repairs should always be available via use of an ‘on call’ property maintenance service, who should have a standing authorisation to attend to works where personal safety or property damage are involved. A temporary fix could be effected with a 24 hour limit pending a more permanent decision about repairs by OC manager who must bring this to OC Committee attention for a) immediate resolution or b) further decision making.

Where an apartment is let out via a Real Estate agent, the agent must be made aware of this arrangement and must inform the tenant. These matters could be covered under Model Rules. Much unnecessary damage and distress could be avoided if this was followed …eg in cases of burst water pipes, faulty washing machine connection etc. Neighbours are often involved in the outcomes of such events, and a timely solution is critical.

All individual lot owners in a Corporation should always be required to seek authority for works undertaken to their properties, as they may not have the knowledge to understand how these works may impact the other lot owners, or impact on the common infrastructure of the premises. They should be able to be held accountable for damage, or for unauthorised or inappropriate works. A Framework via Model Rules should be written, with individual OC able to amend model rules to suit own circumstances. Some OC may have very few limitations, where complex properties may need very tight guidelines.

Insurance for the common property should have a valuation every 3 years. First iteration by a Valuer’s visit, subsequent 3 year cycle could be desk audit, but this needs to alternate in the cycle so that site visit is at a minimum of 6 years. (This is premised on compulsory maintenance plans being in place for ALL OC’s as discussed prior.

Directors and Officers Insurance should be held on behalf of OC Committee to protect them and protect the interests of all Owners.

$20 million cover for liability for any one event is now appropriate. There should not be any ‘opt out’ of shared insurance ….should be ‘all in’ for common property of the premises.

**5.2** Proxy Farming

a) Any one member should be limited to hold not more than 10% of total possible votes in the form of proxies from other members. Any more than this, is frankly an attempt to gain power and control, and the democratic nature of representation of members is lost. Much harm has been caused by ‘proxy farming’ in the management of some Committees.

b) An elected Committee member should be able to appoint a proxy to represent them for an individual meeting, but not for all planned committee meetings. The ability to appoint a proxy should be for a maximum of 3 Committee meetings in any 12 month period.

c) A lot owner with unpaid fees (thus not allowed to vote) should not be allowed to appoint a proxy, neither should they be allowed to be part of the 25% of owners calling a special meeting.

**5.4** A tenant’s sub-committee could be developed, with a representative allowed to attend Committee meetings and speak but not vote.

COMMON Property

Access to Common Property should be specified in the Model Rules, so that everyone has a clear understanding. The rules can be modified by each OC.

**8.3** Sustainability items

Each OC should develop a plan (reviewed every 5 years) on how to manage this topic. A special resolution would be necessary.

Penalties - $250 is suitable for a civil penalty breach, but the penalty fee should be payable to the OC and there should be suspension of voting rights for non-payment, as for other non-payment rules.

**9.1** Request to review, or receive copies, should be presented to the Committee. The Committee then to instruct the Manager regarding access, depending on the suitability of the request. Request to be not unreasonably withheld etc. Model Rules should cover this item. Each OC should determine if a fee structure (modest fee) is required – payable to OC who will then pay Management firm for relevant costs.

**9.2** The majority of short-stay accommodation users are respectful. Recent Victorian review recommendations (industry code of conduct, self regulation, and ability for VCAT to impose restrictions following breaches) should be utilised. A follow up review can determine if these tools are addressing the problem areas. Short stay accommodation is an important variety of accommodation option for visitors. I currently own a property in Carlton that is used for this purpose - by visiting academics (eg 2 week stay) or perhaps family of hospitalised persons (I get urgent requests from families wanting effectively a home away from home where they can all be together during a difficult time). Overseas students attending University for the first time, may have family wanting to live close by to support first couple of weeks etc. There is any amazing array of types of request, for this type of accommodation.

Thank you for the opportunity to comment on the Issues Paper.

I am sorry that time constraints have meant that this format is a bit patchy, dot points only. If clarification is needed, please contact 0427752246.

Coralie Coulson