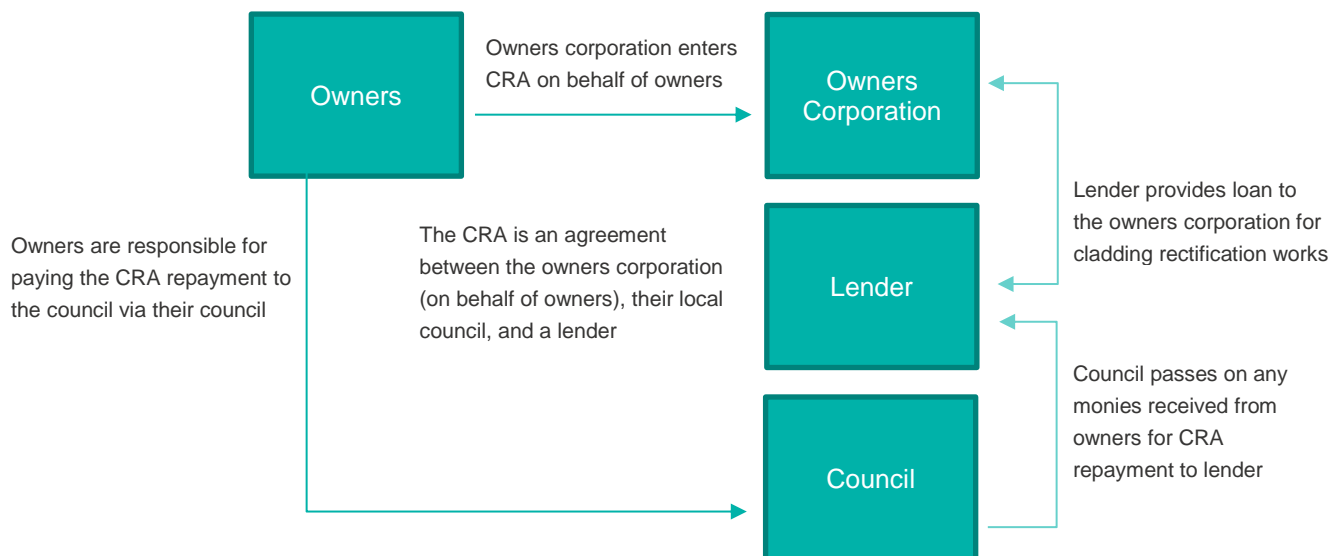


Information Guide for Owners

What are Cladding Rectification Agreements (CRAs)?

Legislation is now in place to enable three-way voluntary agreements between an owner or owners corporation, lender and council to fund cladding rectification works and repay the loans through council rates. These agreements are called cladding rectification agreements (CRAs).

The *Local Government Act 1989* creates the legislative framework for CRAs.



CRAs are an option for funding cladding rectification works. There are a number of other pathways, including self-funding, securing a traditional strata loan, refinancing an existing mortgage, or taking out a personal loan.

How is a CRA different to existing strata loans?

There are a number of lenders who offer a variety of strata loan options. Under a CRA, the CRA charge is repaid through council rates and not directly to the lender.

A CRA is also an extended loan over a minimum of 10 years. Depending upon the terms and conditions of the loan, an owner may decide to pay off the loan earlier.

Who is eligible for a CRA?


Any owners corporation requiring financing to undertake cladding rectification works may be eligible for a CRA. Owners corporations will be able to enter a CRA, subject to having written approval from at least 75% of lot owners in the affected building.

Loan repayments will be distributed across all owners in the agreement based on their individual lot entitlement. As the CRA will be declared a rate on the land, if the property is sold the responsibility for repayment will pass to the new owner.

Lenders are required to undertake their own financial assessment to determine whether the owners corporation is eligible for a loan, in line with the *National Consumer Credit Protection Act 2009* (Cth).

Once the lender has confirmed the owners corporation is eligible, the owners corporation should contact its local council who will decide whether to enter a CRA.

The council will write to each lot owner requiring details of taxes, rates, charges and mortgages owing on the rateable land or lot in accordance with s185J of the *Local Government Act* to make their assessment. Based on the information provided the council will perform an eligibility assessment on each lot on the affected land. The council must be satisfied that the owners are not overleveraged.



This assessment will ensure the value of the land after the rectification is complete is higher than the total amount of taxes, rates, mortgages, and charges (including the CRA charges) on that property. If an individual lot owner does not pass the council's 'overleveraging test' they may still be eligible for the scheme if their existing mortgagee consents to participation in the CRA.

Would I need to seek consent of my existing mortgagee before entering a CRA?

Many owners will not need to seek the consent of an existing mortgagee. However, all owners are required to advise their current lender of the intention to apply for a CRA at least 28 days before the CRA is entered into. A template letter has been provided at **Appendix 1**.

If an owner does not pass the council overleveraging test, an owner may be able to enter the scheme if the existing mortgagee provides written consent. A template letter has been provided at **Appendix 2**.

What kind of works could be funded through a CRA?

The following works can be funded through a CRA, as specified by Victorian Government Gazette No. S515, published on 29 November 2018:

- removal or replacement of combustible cladding
- extension or installation of an automatic suppression (sprinkler) system
- installation of fire breaks in cladding
- installation of smoke or fire isolation or extraction systems
- connection of doors to the fire alarm system so they open automatically in a fire and form an alternative exit
- removal of combustible material in lobbies and paths of travel
- installation of smoke detectors
- upgrade or installation of an alarm system
- connection of alarm systems to a monitoring agency such as the fire brigade
- installation of emergency lighting and exit signage
- installation of a Building Occupant Warning System (BOWS)
- installation of a Fire Indicator Panel
- installation of fire containment measures such as fire walls and fire doors
- installation of alternative means of egress (exit)
- removal or isolation of ignition sources
- upgrading of Essential Safety Measures in a building to provide additional risk reduction measures
- installation of enhancements identified by the Metropolitan Fire Brigade or Country Fire Authority following an Operational Assessment
- any other cladding rectification works determined by the Building Appeals Board.

Who is responsible for the cladding rectification charge?

The owner is responsible for payment of the CRA charge in accordance with s185M of the *Local Government Act*. Neither a Council nor an owners corporation is liable for any failure by an owner to pay a cladding rectification charge.

What would happen if I didn't pay the CRA charge?

Should an owner not pay the cladding rectification charge to the council, the council will use its best endeavours to recover the outstanding amount in accordance with its powers under the *Local Government Act 1989* and under the CRA.

What happens if I sell my property?

If the property is sold, the CRA charge will transfer to the new owner – in the same way council rates are transferred. The CRA will be disclosed on the section 32 vendors statement. More information on the section 32 statement can be found at www.consumer.vic.gov.au/licensing-and-registration/estate-agents/running-your-business/authorities-commissions-and-contracts/contracts

What steps would I need to take?

Step 1:	Owners corporation requests a quote based on the types of works required to rectify the cladding.	<input type="checkbox"/>
Step 2:	Owners corporation resolves to undertaking cladding rectification works.	<input type="checkbox"/>
Step 3:	Owners corporation determines the most appropriate mechanism for funding cladding rectification works (CRA, special levy, or other mechanism).	<input type="checkbox"/>
Step 5:	75% of owners must provide written consent to enter a CRA.	<input type="checkbox"/>
Step 6:	Owners corporation approaches lender and applies for a CRA and advises the council of their intention to enter a CRA.	<input type="checkbox"/>
Step 7:	Owners corporation provides the relevant documentation to the lender to allow the lender to complete its financial assessment.	<input type="checkbox"/>
Step 8:	The council will send a letter to each owner requesting details of all taxes, rates and charges owing on the rateable land or lot (including the total amount owing in respect of each tax, rate or charge). Each owner who is party to the CRA is required to provide this information to the council.	<input type="checkbox"/>
Step 9:	Once the lender and council have deemed the owners corporation eligible for a CRA, the owners corporation will execute the agreement on behalf of owners.	<input type="checkbox"/>
Step 10:	The lender will provide a schedule of charges to the council based on lot entitlement of those owners participating in the scheme, which will be declared as a rate on the land.	<input type="checkbox"/>
Step 11:	The council issues rates notices, with the CRA charge to be paid to the council.	<input type="checkbox"/>

Where can I find out more information?

To find out more information about CRAs:

Email: claddingtaskforce@delwp.vic.gov.au
Phone: (03) 8392 5449



APPENDIX 1

EXAMPLE: Letter from owner to mortgagee advising of intention to enter CRA

[insert date]

Financial Broker/Bank Manager
Institutional Name
Street Address
Suburb
CITY
Post Code

Dear [Insert name]

RE: property at [insert address of affected property]

This letter is to advise that I have agreed to enter into a Cladding Rectification Agreement (CRA) with [insert lender] and [insert council].

In accordance with my obligations under section 185J(7) of the *Local Government Act 1989*, I am providing written notice of my intention to enter a Cladding Rectification Agreement in respect to [address of property subject to CRA].

As owner of this property at [insert address] I have agreed to pay my share of rectification works being a total sum of [insert total amount], with my equal share of that cost being [insert amount] payable in [select as applicable] monthly/quarterly instalments of [insert amount] over [insert number] of years.

If you require any further information, please contact me via email [insert email address] or telephone [insert number].

Yours sincerely

[Insert name]
Address details



APPENDIX 2

EXAMPLE: Letter from owner to mortgagee seeking consent to enter CRA where they have been assessed as ineligible to enter a CRA by council.

[insert date]

Financial Broker/Bank Manager
Institutional Name
Street Address
Suburb
CITY
Post Code

Dear [Insert name]

RE: property at [insert address of affected property]

Further to my letter sent on [insert date] advising you of my intention to enter a Cladding Rectification Agreement (CRA), I am now writing to you to seek your consent for participation in the scheme.

An eligibility assessment for participation in a CRA has been undertaken by [insert council] and I have been deemed ineligible for the scheme. Section 185J(9) of the *Local Government Act 1989* states that the Council may deem me as eligible for participation in the CRA if all existing mortgagees for my lot agree in writing to the proposed cladding rectification charge.

By agreeing to my participation in the CRA, you will not be liable for any of the charges. I will be responsible for paying my share of the cladding rectification works, which will be as follows:

- Total cost of cladding rectification works [\$xxx]
- My share of the cladding rectification works (based on lot entitlement value)
- Payments will be made monthly/quarterly/annually, with an initial instalment of [\$xx].
- [An interest rate of X% is being applied to the loan]
- The term of the loan is [\$xx]

Participating in the CRA will allow for cladding rectification works to be undertaken on the building, which will result in reduced safety risk and may result in increased value and saleability of the property.

To enable participation in the scheme, please send the written consent to me at [address]. Your prompt response is required so that I can inform the council of your position to enable them to reconsider my eligibility in the scheme and assist with timely rectification of the asset.

If you require any further information, please contact me via email [insert email address] or telephone [insert number].

Yours sincerely
[Insert name]