

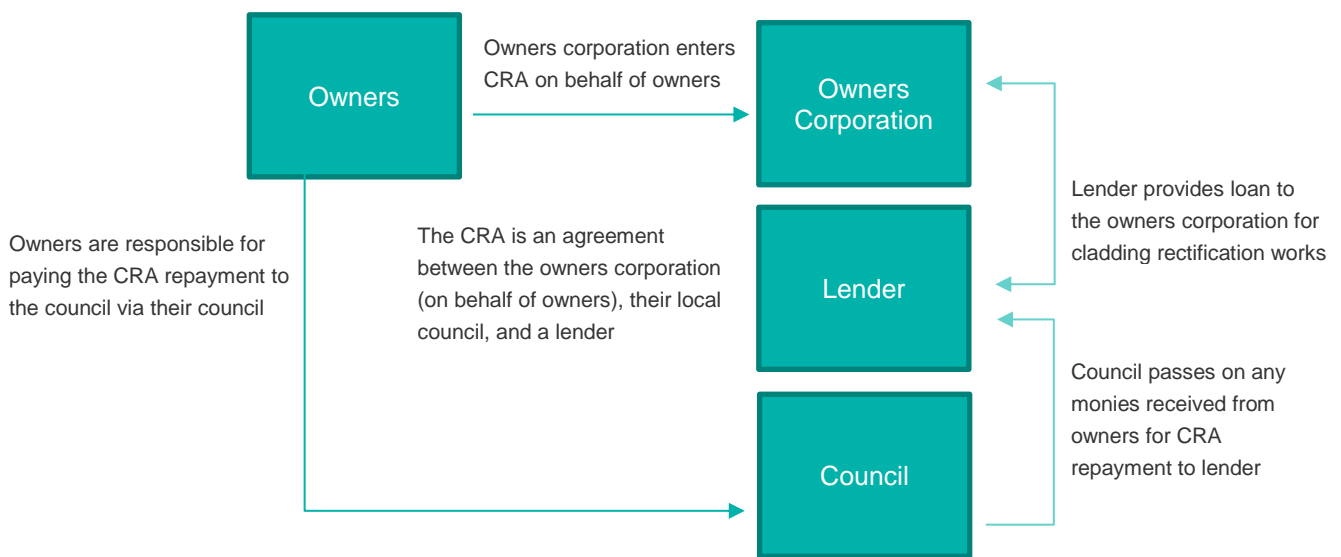
Information Guide for Owners Corporations

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).

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.

The *Local Government Act 1989* creates the legislative framework for cladding rectification agreements (CRAs).



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 separately to the lender.

If owners enter into a CRA, charges can be repaid in equal instalments over a period of no less than 10 years. However, based upon the terms and conditions of the loan, an owner may decide to pay off the loan earlier.

What is the role of the owners corporation?

To enter into a CRA, the owners corporation may:

- perform all normal duties associated with getting quotes for rectification work
- get agreement to the quote from the owners corporation as per normal procedures under the *Owners Corporations Act 2006*
- provide each owner with a copy of the Owners Guide to CRAs
- get written consent from at least 75% of owners to enter a CRA
- advise the council of the intention of the owners corporation to enter a CRA, and providing the details of owners who will be party to the agreement to the council
- work with the lender to provide the relevant information to allow for a financial eligibility assessment to be undertaken
- execute the CRA on behalf of the owners, in accordance with the *Owners Corporations Act 2006*
- manage (or engage a project manager) the carry out the rectification works



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.

The legislation allows loan repayments to 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 must be satisfied that the owners are not overleveraged. Council is required to give written notice requiring each lot owner to provide 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. 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.

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 October 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 happens if owners don'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 terms of the CRA.



What happens if an owner sells their property?

If the property is sold, any outstanding CRA charges 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 request 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: | Owners corporation obtain written consent to enter a CRA from at least 75% of the total lots affected by the owners corporation – template provided in Appendix 1. | <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 – template letter to council provided in Appendix 2 . | <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 owners corporation advises the council of the outcome of the lenders financial assessment when it is complete. | <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 owners corporation will be required to manage, or engage a project manager to manage, the completion of the cladding rectification works. | <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 owners corporation to owners seeking consent from owners to enter a CRA

[insert date]

Name
Street Address
Suburb
CITY
Post Code

Dear property owner

RE: Cladding Rectification Agreement for rectification works on [insert property address]

At the owners corporation meeting on [insert date] the owners corporation resolved to fund cladding rectification works totalling [\$xx,xxx]. To fund these cladding rectification works, we are seeking your support to enter a Cladding Rectification Agreement (CRA).

A CRA is a voluntary loan agreement made under part 8B of the *Local Government Act 1989* between the owners corporation, lender, and council. A CRA will allow owners to pay off the cost of rectification works over time through the council rates system. More information about how the CRA, and the obligations of owners can be found in the attached Owners Guide to CRAs.

To allow the owners corporation to enter a CRA, written agreement must be supplied by at least 75% of the total lots affected by the owners corporation. Please complete the attached form and return it to [insert contact details] by [insert date] if you agree to enter a CRA to finance cladding rectification works to be undertaken on the above-named property.

Please be advised that if we receive the required approvals to enter a CRA all lot owners will be required to provide relevant financial information to the Council. To be eligible for a CRA, the council must 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 your lot. The Council will be in contact with owners for this information directly and in accordance with s185J(2) of the *Local Government Act 1989*.

Yours sincerely

[insert name and title]



Example Agreement for owners to enter a cladding rectification agreement

Under the *Local Government Act 1989* (the Act) a Council may enter into a CRA with the owner or owners corporation, a lender, and any other parties that they agree to being involved in such an agreement to fund specified cladding rectification works.

Owner's name: _____

Property address: _____

Unit number: _____

As the named owner of a unit in the above-named property I agree to entering a CRA between the owners corporation, [insert council] and [insert financial institution] to finance cladding rectification works.

Signature of owner (s): _____

Print Name: _____

I understand that once finance is approved and eligibility in the scheme is confirmed, the owners corporation will execute the CRA on behalf of the members of the owners corporation.

Yours sincerely

[insert name]



APPENDIX 2

Example letter from owners corporation to council advising of intention to enter a CRA and providing details of owner

[insert date]

Name
Street Address
Suburb
CITY
Post Code

Dear [council name]

RE: Cladding Rectification Agreement for rectification works on [insert property address]

I am writing to you to advise that the owners corporation [registration number for owners corporation] for [address of property] is seeking to enter into a Cladding Rectification Agreement (CRA).

As required under section 185K(b)(i) of the *Local Government Act 1989*, I attach the names and postal addresses of all the owners of the lots affected by the owners corporation, along with details of those owners who have consented to entering into the CRA.

We are currently liaising with [lender name] to determine eligibility for a loan through the CRA scheme and will advise you of the outcome in due course.

In the meantime, should you require any further information please contact [name], [position], on [number] or [email].

Yours sincerely

[insert name and title]



Example: Collection of contact details for provision to Council

Details for owners for [insert property address]

| Owner Name | Lot Number | Mailing Address | Did they consent to entering the CRA? |
|------------|------------|-----------------|---------------------------------------|
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