

STRATA LIFE SUMMER 2012



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Welcome to Strata Life



In this final edition for 2011 we've included insights into the world of strata; including practical strata advice from VCAT (Victorian Civil and Administrative Tribunal) and CAV (Consumer Affairs Victoria) based on experiences in 2011. We also share insights of what's ahead in 2012. So to make sure you don't miss the tips and insights into landlords insurance, professional management, OHS, sustainability and much more, be sure to read on.

It's of particular interest to note that VCAT's 2010-11 year in review, reflects another 15% increase in the number of applications versus the previous year. The OC list is wholly funded by CAV via a trust, the Victorian Property Fund, and was \$1.22 million in 2010-11. The 2010-2011 annual report of CAV notes that in that year they ran 32 community education sessions, and at 30 June 2011 there were 541 registered owners corporation managers. Included in this edition is an *excerpt of the VCAT Annual Report as tabled in the Victorian Parliament explaining further.*

As Victoria's regulator for owners corporations, CAV deals with a wide range of enquiries and complaints.

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Rob Beck,
GENERAL
MANAGER

CLIENT SERVICE IS CRITICAL TO SUCCESS

By Cameron McMillan, Head of Strata Management segment at Macquarie Relationship Banking

Macquarie Relationship Banking's 2011 strata industry survey has revealed that the two factors considered by strata managers as having the most impact on business performance, are delivering excellent client service and maintaining and developing client relationships.

The survey of more than 140 strata management businesses across Australia also found that two thirds of Victorian strata management businesses said word of mouth referrals were their primary source of growth in recent years.

This is great news for strata committees, placing clients well and truly at the centre of a successful strata management business and reinforcing the industry's focus on and commitment to delivering the best outcomes for its clients.

With the majority of strata businesses predicting continued revenue growth over the coming years, 53 per cent of strata businesses in Victoria say they intend to recruit new staff throughout the next twelve months, helping to maintain and possibly improve service and business standards.

The recruitment focus for Victorian strata management businesses is on building the back office / administration team, followed closely by growing the number of strata managers. With all Victorian strata management businesses recognising the importance of responding quickly to client enquiries, this recruitment focus should help to ensure that responsiveness remains a top priority and is delivered upon with quick turnaround times.

While there is a strong focus on getting the right people on board to ensure that anticipated growth is adequately resourced, strata managers are also focusing on the continued development of their existing teams, making sure they remain happy and engaged.

The survey reveals that many strata businesses across the country have recognised staff training as a core area of focus for the 2011 calendar year.

CONTINUED PAGE 4

Before the next flood: helping landlords prepare for the season ahead

Nine months on from the worst storm season in decades, many property owners are now looking ahead and preparing for another potentially wild Australian summer. A recent interim report from the Victorian Disaster Inquiry suggested that more than 4,000 Victorian homes and businesses were directly affected by flooding and storms between September 2010 and February 2011, and more extreme events are expected this season.

Unsurprisingly, coverage has been a hot topic in the insurance world since January 2011, after many policyholders found themselves stranded with policies that did not include flood coverage. Running parallel to this, however, is the perennial challenge of landlords falling into the trap of assuming that standard home insurance will cover their leased or tenanted investment properties. Melbourne-based Whitbread Insurance Brokers estimate that up to 70% of properties may be underinsured, or not covered at all.

According to Lia de Sousa, General Manager (Owners Corporations) at Whitbread Insurance Brokers, the single biggest problem is a misunderstanding around the classification of a rented property as a business.

“Most people don’t realise that when they purchase an investment property and rent the property out that this constitutes a business venture from the point of view of liability insurance. That means a standard home insurance policy is usually insufficient and owners can find themselves caught out.”

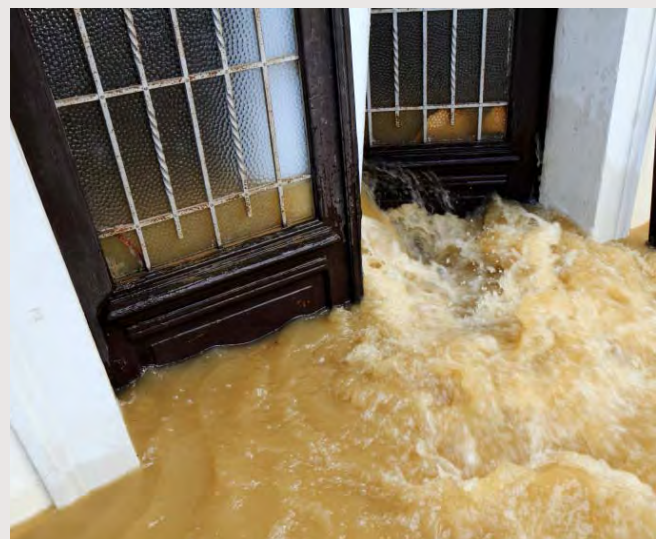
Instead, landlords insurance may be an important consideration when choosing the best coverage. In addition to providing insurance protection for public liability, Landlord’s insurance can provide cover for landlords’ loss of rent by an insured peril and tenant default. The good news is that landlord’s Insurance is usually tax deductible, although it is recommended that advice is sought from an accountant.

Whitbread Insurance Brokers say that a second mistake landlords make is to assume that their fixtures and fittings are covered as part of an owners corporation. In many instances, this is not the case. Landlords should make sure they speak to their owners corporation manager to clarify whether the owners corporation insurance policy extends to landlords fixtures and fittings.

Importantly, landlord’s insurance may not always be the best call for some tenanted properties (such as holiday rentals, short rentals and boarding homes), and an off-the-shelf product may not address everyone’s needs and circumstances. As with all legal contracts, landlords need to seek professional advice to make sure they get the right cover for their particular situation.

Last summer reminded us that in the face of the unexpected, having the right insurance makes a critical difference to people being able to rebuild their lives. Managers of owners corporations are well-placed to refer their clients to professionals who specialise in insurance to ensure they have appropriate insurance coverage. This will ultimately benefit not only landlords, but also their tenants and the owners corporation itself.

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An Owners Corporation's Management of Trades People

By Marc Steen, Ebix Trades Monitor

The Occupational Health & Safety (OH&S) Act makes it essential for owners corporations (OCs) to ensure all contractors and employed tradespeople have the correct insurances, licences and OH&S systems to operate. This verifying process itself carries a lot of liability and therefore requires expertise that renders the process unviable to be conducted by the OC's themselves.

As such this is something that must be handled by the OC's appointed professional manager, who in many cases will engage an expert company to do this on their and the OCs behalf, thus ensuring all are protected.

So what is all the fuss about?

If you don't validate a contractor's credentials, you expose yourself to enormous risk through being sued by an injured third party or potentially worse - being prosecuted by WorkSafe.

The job of collecting and verifying the compliance information of each supplier is not a trivial task. Ensuring a high level of internal and third party compliance through a formal program of tracking, validating and managing insurance certificates and other documentation is a crucial task.

A formal contractor management program protects the OC and owners corporation manager (OCM) by providing evidence that their contractors comply with statutory obligations such as licenses, insurances, OHS Regulations etc.

It minimises the chance of unintentionally assuming risk by ensuring that suppliers, contractors and other third parties comply with regulations and that insurances meet required standards and are always up to date. It thus reduces exposure to litigation and financial loss.

Vital Elements of an effective Compliance Management Program

- A consistent & structured approach
 - » No structure = no accuracy = no compliance
- Proactive management
 - » Certificates inconveniently expire throughout the year
 - » No one is going to chase you to give them to you
- Accessible storage of documents
 - » Are they accessible to all who need them?
 - » Will you know where to find them in 7 years?
- Understand the importanceand the cost
 - » Have we quantified the potential cost of doing it badly?
 - » Have we established compliance benchmarks?
 - » Can we measure the level of compliance against these benchmarks?
 - » Have we quantified what is it really costing us already?
- Independent Verification
 - » Verify the material requested or it's a waste of effort
 - » Don't just accept the word of contractors and others: obtain and review copies of OHS Plans; Certificates of Currency from insurers/brokers, etc
 - » Verify licenses against Government websites.



FROM PAGE 1 – ROB BECK

In the past financial year, CAV received 7121 enquiries regarding owners corporations, (increase of more than 13%), and 317 complaints, (down slightly from 332 in 2009-2010).

You may / may not be surprised to find out most contacts they receive relate to dispute resolution.

CAV's article provides further details on what areas give rise to an OC's most common dispute and frequent questions asked. They also offer guidance to assist you develop grievance procedures and minimise disputes in your OC.

It certainly has been a busy year for CAV. In fact 2011 saw three sets of amendments to the owners corporations legislation, and SCA (Vic) were proud to be part of the in depth consultation process and lobbying for improvements in the interest of the industry as a whole as clarified in our earlier editions of Strata Life.

Here at SCA (Vic), 2011 has seen the growth of our membership base by 11% reflecting consumers recognition of the benefits of professional management, as well as the development of our industry professionals who are expressing their desire to maintain high standards both at an educational level and of professionalism. In fact these figures are supported by the record number of members attending the SCA (Vic) educational and major events and the number of members enrolling and completing the national qualification for a Strata Manager. To find out what this qualification and membership means to you as a lot owner and make enquiries of training available to you, please don't hesitate to visit our website or contact our office.

We hope you enjoy this edition of Strata Life and wish you and your family a safe and joyous festive season and the best of life in 2012.

Summary

- It is critical that owners corporations ensure that the contractors that they use are correctly licensed, insured and OH&S compliant
- As this requires expert knowledge, this can only be viably handled by the owners corporation manager, or an expert company.
- As an owner you should make sure that your manager either has a robust contractor management system in place, or engages an expert company to look after this on your behalf.

FROM PAGE 1

Victorian strata management businesses recognise a need for training in two areas in particular; industry knowledge and experience, and client relationships and negotiation skills.

Recognition of the importance of the team across the industry is commendable. While this focus on people will likely contribute to the bottom line of most strata management businesses,

it will also promote a strong industry where people can enjoy a long and rewarding career and where high service standards are a priority.

The positive correlation between happy staff and happy clients is certainly not a new phenomenon, and it's great to see this being embraced and nurtured across the industry.

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THE NEW OH&S ACT

On January 1 2012, new OHS Acts and Regulations will come into effect throughout Australia, (although Victoria and Western Australia have called for a 12 month delay). It is critical to ensure that this is an area that you have covered as the fines and penalties are set to triple. An article in OHS Alert on 22nd March 2011 summarises this very well.

Review OHS duty to contractors before model Act takes effect
Tuesday, 22 March 2011 2:25pm

A workplace health and safety lawyer has warned employers that with recent case law - and more explicit provisions in the model Work Health and Safety Act - there is "no escaping" their OHS duties to contractors.

Jacqui Hawkins, who is a partner at Lander & Rogers, has also urged employers, or persons conducting a business or undertaking (PCBUs), to start reviewing their contractor management systems and to lobby Safe Work Australia for more guidance on the issue.

"There is not much guidance material in relation to contractor management under the new model Act," Hawkins told OHS Alert.

"It is not directly dealt with under the draft Regulations, nor is there a proposed Code of Practice on contractor management. Employers and PCBUs should start asking Safe Work Australia [through the Regulations public comment process, for example] for some guidance on their responsibilities."

What the model Act does expressly set out is that PCBUs cannot contract out their safety obligations (section 272), a duty cannot be transferred to another person (s14), and a person with a duty must consult with other duty holders (s46), Hawkins says, adding that such provisions "seem to be in line with recent case law".

In *Baiada Poultry Pty Ltd v The Queen*, for example, the Victorian Court of Appeal found an employer had breached the State OHS Act in failing to ensure the safety of a contractor who was killed at an off-site location.

In *ACR Roofing Pty Ltd v The Queen*, the High Court confirmed that a Victorian employer failed to ensure the safety of a contractor it hadn't directly engaged.

And in *Kirwin v Laing O'Rourke (BMC) Pty Ltd*, the Western Australian Supreme Court found an employer had delegated a non-delegable duty in assuming the expert contractor that built its staff camp had ensured the residential huts were cyclone-proof and safe.

"Simply engaging an expert contractor to undertake particular work does not exempt an employer or organisation from their responsibilities," Hawkins says.

"PCBUs contracting expert contractors now have an express positive obligation to ensure that their contractors have adequate systems and procedures to ensure the job is done safely."

Ignorance will be no excuse

According to Hawkins, the terminology in the harmonised Act pertaining to PCBUs "seems to capture everybody".

"PCBUs have a positive duty to ensure the health and safety of workers and workers whose activities are influenced or directed by a PCBU," she says.

"Worker' under the model Act is defined as a person who carries out work in any capacity for a PCBU, and broadly includes employees, contractors or subcontractors, employees of subcontractors, employees of labour-hire companies, outworkers, apprentices, trainees and work experience students."

Hawkins says employers must start reviewing their contracts, contractor management systems and relevant policies and procedures now to ensure they can comply with the provisions by January next year, when the model Act is expected to take effect.

"You will not be able to turn a blind eye or plead ignorance," she says. "There simply will be no excuse."

VCAT 2010-11 year in review

Owners Corporations List

The List deals with disputes under the Owners Corporations Act 2006. An owners corporation, formerly called a 'body corporate', manages the common property in apartment and unit complexes, such as foyers, carparks, lifts, utilities, gardens, and pathways between units. Owners corporations also have rules relating to occupants' behaviour on common property and in their own properties.

Year in Review

CASES

There was another significant increase in applications. Most again related to non-payment of owners corporation fees. Cases are becoming more complex as a result of larger-scale, upmarket unit developments, including luxury high-rise apartment blocks.

FLEXIBILITY

Many disputes involve people who must live together or maintain relationships, so we tailor our processes accordingly. We refer non-fee disputes to mediation (unless assessed as unsuitable, or if parties choose not to participate). Mediation helps parties resolve all their concerns and reach solutions everyone can live with.

Fee disputes are usually straightforward, so are set down for immediate hearing.

ACCESS TO JUSTICE

We ensure our procedures are as informal as possible. We commonly conduct directions hearings by telephone, and proceedings in rural and regional areas when it suits parties. In directions hearings, we help parties refine their issues and understand VCAT's processes. VCAT's website has resources to help unrepresented parties. The Taking it to VCAT information booklet now also covers owners corporation disputes.

In the interests of fairness, amendments to the VCAT Act mean VCAT can now award costs to owners corporations in fee recovery claims, not limited to legal costs. This can help reimburse lot owners, who meet their obligations to their owners corporations, for the cost of applying to VCAT to recover defaulting members' fees.

USER ENGAGEMENT

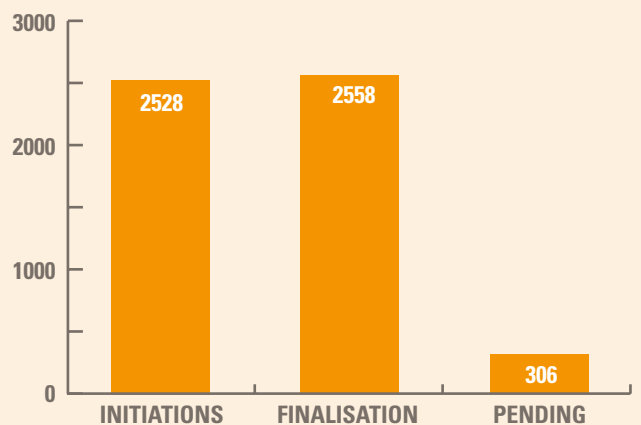
We established a new user group and held one meeting. Attendees included owners corporation managers and lawyers, and representatives from the Law Institute of Victoria, Owners Corporations Victoria and Consumer Affairs Victoria.

We conducted a mock mediation for the Courts Open Day, and held an open forum on VCAT's role in owners corporations disputes. Attendees also learnt how to resolve disputes using self-help services.

The Future

We will review and refine our processes to accommodate an expected continued increase in application numbers and complexity.

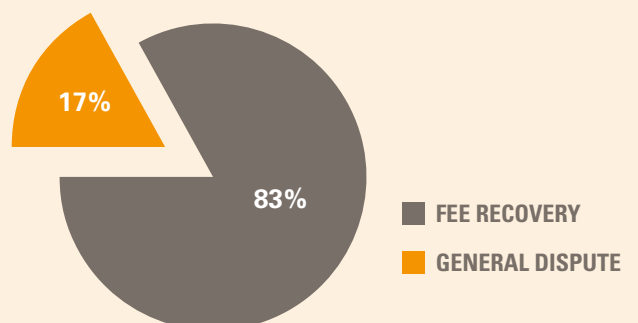
Caseflow



Timeliness of finalised cases (weeks)

	2010-11	2009-10	TARGET
Median	5	5	
80th Percentile	8	7	
Target			10

Applications by type



This is an excerpt of the VCAT Annual Report tabled in the Victorian Parliament.

Dispute resolution in Owners Corporations

As the state's regulator for owners corporations, Consumer Affairs Victoria deals with a wide range of enquiries and complaints. In the past financial year, we received 7121 enquiries regarding owners corporations, an increase of more than 13 per cent; and 317 complaints, down slightly from 332 in 2009-2010.

Most contacts we receive relate to dispute resolution - covering areas such as noise, parking, use and maintenance of common property, or disputes between lot owners/occupiers and owners corporation managers.

We also answer numerous questions about financial management, including insurance, fee increases or unpaid fees, and repairs to common property.

Meetings and voting prompted 231 enquiries (including six complaints) this past financial year, covering issues such as voting rights and how AGMS are conducted.

People also contact us about the general rights and duties of lot owners and occupiers, owners corporation functions and powers, records and committees.



Developing a grievance procedure

Your owners corporation must have a grievance procedure, setting out:

- information about who to contact if there is an issue
- rules detailing the grievance procedure
- directions about where to get information
- how to record the issue
- how to notify the owners corporation committee or manager of a problem
- how to raise an issue at an owners corporation or committee meeting
- formal complaint procedures
- how to nominate a third party to help in a dispute.

What you can do to minimise disputes

Your owners corporation must make a policy about day-to-day communication between it and the lot owners, and should encourage communication between neighbours.

The policy should be part of the rules and include:

- how and when to contact the chairperson, secretary or manager
- what to do in an emergency.

All new lot owners and occupiers should receive this policy and it should also be displayed on a notice board.

Your owners corporation must keep a letterbox or sign displaying its current contact details.

How we help settle disputes

When a lot owner or occupier comes to us with a complaint, we ask them to first try to resolve the issue by serving an Owners Corporation Complaint form. Lot owners or occupiers can complete the form (available from Consumer Affairs Victoria's website) if they believe the owners corporation has breached a duty under the Owners Corporation Act or its regulations. The complainant can then send the form to the owners corporation.

If the complainant is not satisfied with the response, we may try to conciliate the dispute. If there is still no resolution, the parties may choose to take the matter to VCAT. However, an owners corporation can generally only take a matter to VCAT after an internal grievance process has failed to resolve the issue.

Owners corporations must keep files of all complaints they receive for at least seven years.

Hi-RES Update - what's happening?

In the past nine months, the Higher-density Residential Efficiency Solutions (Hi-RES) project has identified the foundational barriers hindering sustainability upgrades from occurring in many of Victoria's existing multi-unit residential buildings. Solutions have now been developed to test with key stakeholders.

It's an exciting time for those in this sector, and an opportunity for you to be involved in shaping positive change that will financially benefit owners and the environment in the short and long term. Some of these solutions being further developed and tested include:

- An on-line tool-kit for owners corporations (OCs) that guides stakeholders through the process of undertaking a successful sustainability retrofit in an apartment block

- Innovative finance solutions designed for and with OCs
- A good practice guide for facility management in multi-unit residential, including new methods of maintenance planning that go beyond traditional "like-for-like" replacements
- New engagement tools for Energy Services Companies (ESCOs) tailored specifically for OCs

For more information or to get involved in the project, please contact Hi-RES Project Manager, Brenden Carriker, at (03) 9658 8406 or Brenden.carriker@melbourne.vic.gov.au.

Hi-RES is an initiative of City of Melbourne, in partnership with Strata Community Australia (Vic), Yarra Energy Foundation, Moreland Energy Foundation, and Cities of Yarra and Port Phillip. It is supported by the Victorian Government Sustainability Fund.



Sustainable Practises Drive Savings for Owners Corporations

By Frank Boross, General Manager, Havencab Group of Companies

Whether you agree with it or not the Labour Federal Government has finally pushed through the Carbon Tax with a 36 to 32 win in the upper house. The price has been set at \$23 per tonne and will have severe implications for business and ultimately consumers. There is now an even greater incentive and need to adopt environmentally sustainable practises by leading companies which can will deliver cost savings to owners corporations and give them a competitive edge in the market. With larger density of the population around artillery roads and transport hubs, vertical and integrated living will be the norm with reduced apartment sizes and complex owners corporations. This is already taking shape in Melbourne and surrounding fringes, which I believe is leading the country. The competition is hotting up between developers to produce 5 star green rated buildings that offer cost savings on maintenance through reduced water, energy and ventilation. This brings a whole lot of issues for strata managers and facilities management companies as not many are keeping up with the rapid changes, or have the expertise to offer advice and or understand their maintenance. The budgeting for these buildings is virtually unknown as there is no precedent so this is an exciting but challenging time for all.

We are starting to see an increase of new developments with grey water treatments plants allowing the building to recycle water for reuse to water gardens, flushing toilets and laundry. Depending on which case study you review these systems can potentially offer a saving of 30-50% off the annual water usage also reducing chlorine discharge into the environment. We can all make a difference by thinking green and applying today's technologies to existing apartment developments.

Havencab has successfully assisted owners corporations in reducing their apartments carbon foot print and reducing running cost by exploring different lamp options, increased recycling, loading shifting equipment start times and exploring the feasibility of installing solar power system for heating or generating electricity.

Green cleaning is relatively a new concept that has evolved through ways of reducing risk to cleaners by adopting safer work practises. Whilst there has been extraordinary breakthroughs the uptake has been moderate, we believe that this will change as the developers will demand to be aligned with companies capable of maintaining their 5 star or 6 star energy rated building. This is not new to us we first introduced green cleaning 2 years ago and now provide this service to over 30 properties, we recently introduced this to one of Australia's largest residential developments Jacksons Landing; in Sydney with around 1200 lots. Whilst the initial setup costs are high the payback period can be offset within 3 years, so on a 3 year contract there is no additional cost to owners corporations. However there are significant environmental benefits with 70-85% reduction in chemical use and huge OHS benefits for staffing through safer work practises. Technology advancements have played a significant role as well through Micro-fibre, Activeion and the aqua mop system. Over 80% of building surfaces can now be cleaned with microfiber, water and Activeion. This process changes the molecular structure of water by adding a charge to it which breaks up the dirt with positive and negative ions. This is then wiped over with a microfiber rag. This process has been tested and the suppliers claim to kill 99.99% of bacteria, ecoli, and many other significant forms of bacteria.





Recipe: Better Homes & Garden

STRATA COOKING

Christmas Morning Strata

Although the broccoli florets and chunks of ham provide the green and red colors associated with Christmas, don't wait until the holidays to serve this outstanding breakfast dish--you'll want to make it often. Strata recipes are convenient breakfast time-savers for the home cook, because they are usually made ahead and refrigerated overnight prior to baking the following morning.

INGREDIENTS

- 1 cup broccoli florets
- 5 cups 1/2-inch French bread cubes (about 8 ounces)
- 2 cups shredded cheddar cheese (8 ounces)
- 1 cup cubed cooked ham (6 ounces)
- 3 beaten eggs
- 1-3/4 cups milk
- 2 tablespoons finely chopped onion
- 1 teaspoon dry mustard
- Dash pepper

DIRECTIONS

1. Place the broccoli florets and 1 tablespoon water in a 1-quart microwave-safe casserole dish. Cover with vented plastic wrap, and microwave on 100 percent power (high) for 2 to 3 minutes or until just tender; drain well. Or, cook broccoli, covered, in a small amount of boiling water for 4 to 6 minutes or until just tender; drain well. Set aside.
2. Layer half of the bread cubes in a greased 2-quart square baking dish. Top with cheese, ham, and broccoli. Top with the remaining bread cubes. In a mixing bowl, combine the beaten eggs, milk, onion, mustard, and pepper. Pour egg mixture evenly over the layers in dish. Cover and chill in the refrigerator for 2 to 24 hours.
3. Uncover and bake in a 325-degree F, 165°C. oven for 1 hour or until a knife inserted near the center comes out clean. Let stand about 5 minutes before serving. Makes 6 servings.

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FREE program for Port Phillip apartment blocks

Want to reduce your apartment block's energy, water and waste? Join the growing number of Sustainable Owners Corporations and Apartment Blocks in Port Phillip Council's FREE 'SOCs & Blocks' program. Have your owners corporation register your Port Phillip apartment block by Monday 9th January. Phone 9209 6548, email enviro@portphillip.vic.gov.au or visit enviroehub.com.au/socs-and-blocks.



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