JUNE 2025 I VOL NO.15

SPECTRUM SPEAKS

As we reach the end of the financial year, it's hard to believe how quickly 2025 is moving. It's been a fast-paced and eventful start, and in this edition of Spectrum Speaks, we're reflecting on some of the most pressing issues we've been navigating alongside our clients.

Insurance and Disputes in the Construction Space
Construction disputes continue to be a complex and evolving area - especially when it comes to understanding how clients' different insurance policies respond in various dispute matters. Our team, and most recently Maria (Associate at Spectrum Lawyers) has been actively advising builders on insurance positioning and risk strategies during disputes, ensuring clarity and protection from the outset. We have also worked closely with insurance brokers to ensure we challenge any insurance assessments, and then advise our clients on insurance policies to take out to ensure better coverage protection.

The Role of Sales in a Challenging Market
In a tightening market, strong sales leadership is more important than ever. The director of Spectrum Coach, Fred, shares his practical insights into how to lead and mentor your sales consultants across the full sales journey. From initial engagement to closing the deal, nurturing a motivated and empowered sales team is essential for continued growth.

Apportioning Liability in Construction Disputes
Disputes are rarely one-dimensional, and we've seen an increasing need to unpack liability among multiple stakeholders. Whether it's consultants, subcontractors, surveyors, or developers, understanding who is responsible - and to what extent - is a critical part of effective dispute resolution and legal positioning. Grace (lawyer at Spectrum Lawyers) considers this in her article, and the requirements to have a full understanding of the complex matrix of the construction project, engagement and procurement terms of each participant in the project and engaging with relevant independent experts to test and develop these joinder applications.

Owners Corporation Disputes on the Rise
With a notable rise in apartment and medium-density living, owners corporation disputes are becoming more frequent and more nuanced.

Rebecca (lawyer at Spectrum Lawyers) has a real passion in supporting our clients with tailored advice, whether it's about their legal obligations under the legislation, defect management, or governance issues - ensuring that our clients stay ahead of the curve.

Will Taxes Ever Stop Rising?
Property is difficult at the moment, especially with the ever increasing taxes that the government seem to be continually imposing. Spectrum Lawyers' Hannah (Senior Associate) and Alyssa (Lawyer) explore the changes to vacant residential land tax in Victoria and what owners need to know. We hope this edition of Spectrum Speaks offers valuable insight into the challenges—and opportunities—facing our construction industry right now. As always, if you have any questions or would like to discuss how these issues may affect your business, don't hesitate to reach out to our team.

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Understanding Insurance in Building Construction: Contract Works Insurance Policy

By Maria Fokianos

In the building and construction industry, managing risk is crucial.

One of the key ways to manage this risk is by ensuring that the right insurance policies are in place before construction begins and one of the most essential types of insurance in this space is Contract Works Insurance.

Chances are you are already familiar with Contract Works (also sometimes known as Construction Works) insurance. But beyond ticking the box for compliance, holding the right Contract Works Insurance policy is smart business as it protects the heart of your operation, your work.

So what exactly does this type of insurance cover? And how do you know if you're getting the right protection for your projects?

Contract Works Insurance is designed to cover the building project during the construction period. This policy exists to protect against physical loss or damage to the works, including materials and partially completed structures.

Builders should ensure that Contract Work Insurance policies are in place before breaking ground on any project. Construction sites are inherently high-risk environments events such as severe weather, theft of materials, or even accidental damage can delay the project and lead to unexpected costs. It is often a requirement under construction contracts, and lenders may also require evidence of insurance before releasing funds. Contract Works Insurance ensures that there is financial coverage to rectify damage and continue the project without bearing the full brunt of the loss.

With bearing all that in mind, taking out the right cover is by far the most important aspect of taking out Contract Works Insurance.

While Contract Works Insurance is often front of mind, it's not the only cover you should have in place when it comes to building. There are three other key types of insurance that most Builders need to consider. Here's what each one does and why you probably need each one.

Public Liability, Domestic Building Insurance (DBI), and Professional Indemnity Insurance.

1. Public Liability Insurance is essential. It covers injury or property damage to third parties that happens because of your business activities. Say a member of the public trips over your tools, or a neighbour's property gets damaged during a build, this is the insurance that steps in. It's often a requirement for your building licence, and it applies across all your jobs, not just one project. In particular, it is worth noting that Public Liability Insurance does not cover damage to the building site itself. That's what Contract Works Insurance is for.

2. Domestic Building Insurance (DBI) is not for a Builder, it is for the client. If you are doing residential work over $16,000 in Victoria, you must take out DBI for the owner before a Builder takes a deposit or start work. This is required under the Domestic Building Contracts Act 1995 (Vic). DBI protects the homeowner if a Builder dies, disappears, or goes insolvent, and the homeowner suffers loss because the work is incomplete, defective, or breaches the statutory warranties. The cover lasts for up to 6 years after completion, depending on the type of defect. Even though a Builder cannot claim under this policy, a Builder is legally responsible for arranging it, so don't skip it.

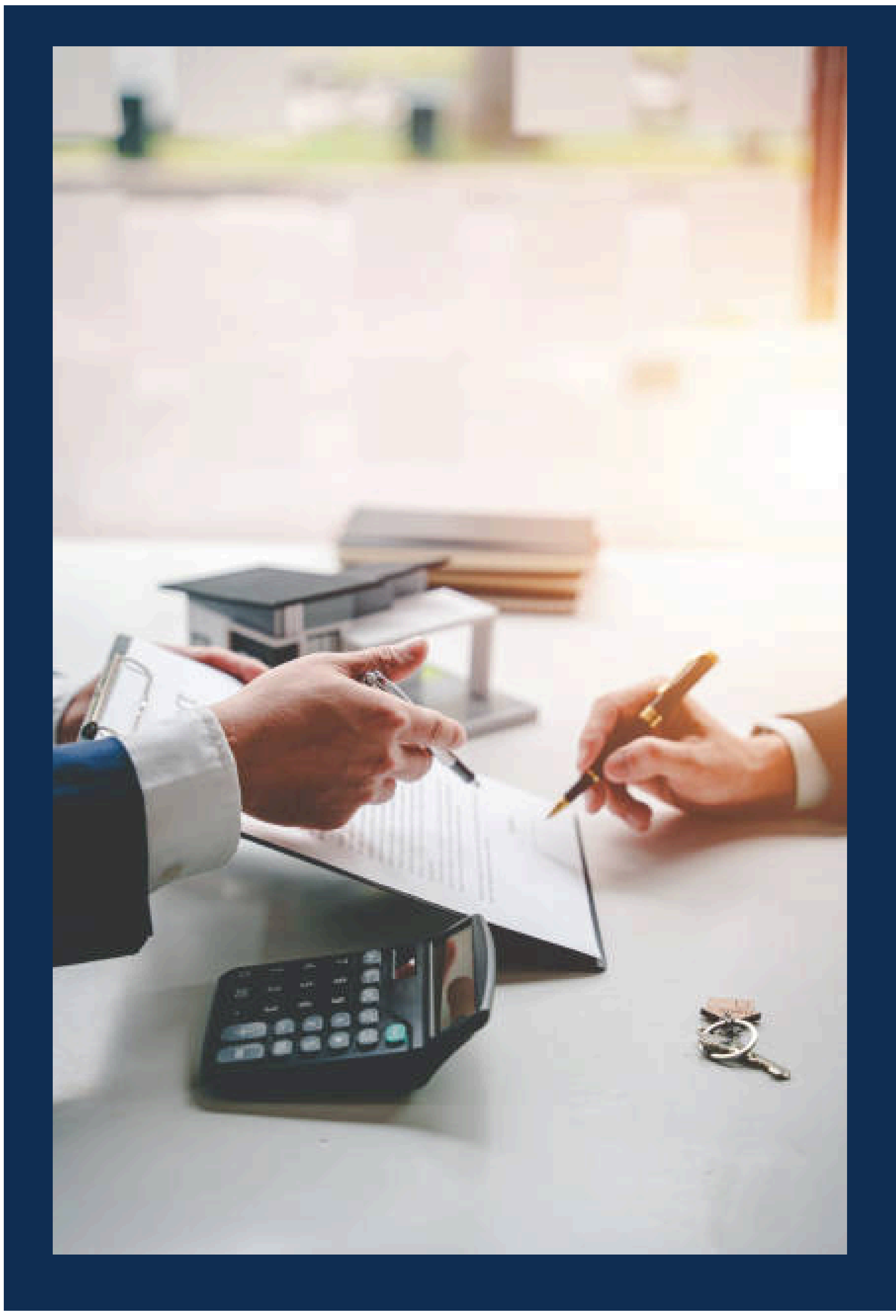
3. Professional Indemnity Insurance covers Builder's for claims made against them because of advice, certification, inspections or design work, even if the job is finished. For example, if a Builder provides a design suggestion or a Builder's uses their own building plans that later turn out to be non-compliant, this insurance can cover the fallout. It is important to note that if a Builder is doing any kind of design-and-construct work or giving advice beyond building to the plan, this cover is essential. It does not deal with physical damage like Contract Works Insurance does, but it protects a Builder from professional risk, even after handover.

Understanding and securing the right policies is a foundational step toward a successful and secure construction project. Each insurance type serves a specific purpose, and none should be seen as a substitute for another.

Builders often need a combination of these policies to fully manage any risk, especially those operating in both residential and commercial markets, or offering design services as part of a package.

Importantly, there's no such thing as a one-size-fits-all insurance policy. Insurers can differ significantly in what they cover and what they exclude, so reading the fine print is essential. Taking the time to properly review your policy can save you a great deal of stress and money in the long run.

For those in the construction industry, the joy of the job lies on-site, bringing the project to life. Insurance, by contrast, can feel like just another administrative burden (and let's face it, who enjoys admin?). It is not just about ticking boxes, it is about protecting everything you have worked hard to build and it is a critical investment in managing risk.



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Managing Sales Consultants: Leadership Through Process, Metrics and Mentorship

By Fred Abu-Elias

Managing a team of sales consultants is both a structured and intuitive task. It requires a balance between enforcing processes and nurturing the individual behind the role. A sales consultant's performance is rarely about effort alone, more often success stems from consistency, clarity, and the quality of their execution. As a sales leader, your role is to build systems that support these fundamentals while also guiding each team member to evolve in their role and grow as a professional.

At the heart of any high-performing sales team is a clear and repeatable sales process. For home builders, this usually begins with lead qualification and ends with the signing of a contract, with critical milestones like discovery meetings, design briefs, proposal presentations, and objection handling in between. Your first responsibility as a manager is to ensure every consultant knows this process inside out and is applying it consistently. A lack of process adherence often leads to poor conversion rates, delays in follow-up, and lost sales opportunities. Many consultants skip key steps, such as properly recapping discovery meetings or confirming next actions at the end of an appointment. These small oversights create major breakdowns in trust and momentum. A process doesn't restrict creativity it provides a stable framework for it. Once your process is in place, the next step is knowing what to measure. Data tells the story of how a consultant is performing.

Metrics like the number of leads converted to appointments, the ratio of appointments to contracts, the average deal value, and the overall health of a consultant's pipeline provide valuable insights into where strengths and weaknesses lie. These figures aren't just for reporting they're tools for improvement. Reviewing performance weekly allows you to spot patterns early and identify where intervention is needed. Often, the issue isn't motivation but a missing skill or a breakdown in the process. The sooner you identify the gap, the sooner you can close it.

Performance management should be viewed as a support system, not a punishment. It's about helping consultants meet expectations by addressing issues proactively. This involves setting clear KPIs and checking in regularly, not only on outcomes but on the activity that drives them. If a consultant isn't converting, is it because they aren't booking enough appointments, or because their appointments aren't converting into proposals? Are they sending quotes too late, or failing to follow up properly? These conversations can't wait until the end of the month they need to happen weekly, or even daily in some cases. When performance dips, offer a structured improvement plan. Provide clear goals, timelines, and the coaching support needed to get back on track. Accountability, when paired with support, builds both performance and confidence.

Alongside performance management is coaching focused, tactical development aimed at sharpening skills. Good coaching addresses the quality of a consultant's conversations, from how they conduct a discovery meeting to how they handle pricing objections. Coaching might involve reviewing calls, role playing objection scenarios, or sitting in on appointments. Even experienced consultants benefit from regular coaching. Sales is a skill that's always evolving, and as products, buyer behaviour, and market dynamics shift, so must the consultant's approach. Great coaches don't just correct they ask better questions, guide reflection, and help consultants find their own answers. This approach builds ownership and makes the learning stick.

Mentoring goes beyond immediate performance to focus on long-term development. It's about supporting the person behind the role helping them grow in confidence, set bigger goals, and think strategically about their sales approach. While coaching addresses what a consultant says in a meeting, mentoring explores what motivates them, what challenges they face emotionally, and how they can grow into a more resilient and self-aware professional. Regular mentoring conversations build loyalty, improve retention, and turn good consultants into future leaders. In many cases, mentoring is the difference between a salesperson who plateaus and one who thrives.

One of the most overlooked areas in sales management is the need for consultants to develop a clear closing strategy. Many consultants are great at building rapport, but fall short when it comes to asking for the sale. Some hope the client will decide on their own, while others rely heavily on the product to do the convincing. In reality, closing is a skill that requires preparation, confidence, and timing.

Consultants need to understand the client's drivers early in the process, anticipate objections, and guide the client through a logical decision path. They must ask for the sale directly, with confidence and clarity. This doesn't come naturally to everyone, which is why role playing, scripting, and debriefing real scenarios are essential parts of a manager's toolkit. A good closing strategy isn't a single line it's the way a consultant leads a conversation from interest to commitment.

As a sales leader, your role is dynamic. You are part strategist, part mentor, part coach. Your daily rhythm should include regular check-ins, structured one on ones, and consistent review of data. But equally important is your presence on the floor, your availability during key appointments, and your ability to support consultants through both the highs and lows of the sales cycle. Sales can be emotionally demanding, and your leadership sets the tone. Celebrate wins, share stories of success, and always reinforce the value of following the process.

Ultimately, managing sales consultants well is about clarity, consistency, and care. You need to be clear about what good looks like, consistent in how you hold people accountable, and caring in how you support their development. When you do that, you don't just build a team that hits its targets you create a culture of excellence, growth, and mutual respect.

The best sales consultants are not just good talkers they're strategic thinkers. They follow a plan, track their numbers, seek feedback, and adapt quickly. And behind every great consultant is a manager who took the time to guide them not just in what to do, but in who to become.

Apportionment of Liability for Building Disputes in Victoria

By Grace Beale

Liability in domestic building disputes may be distributed across multiple parties which contribute to loss. The proportionate liability regime is primarily enshrined in the Wrongs Act 1958 (Vic) (the **Act**) which aims to create a fair system for respondents/defendants, but which also places new burdens on applicants/plaintiffs.

Under section 24AI of the Act, the liability of a respondent/defendant who is a concurrent wrongdoer is limited to an amount reflecting the proportion of the loss or damage that the court or tribunal considers just or equitable, having regard to the extent of the respondent/defendant's responsibility for the loss or damage.

What is an apportionable claim?
In the building and construction space, an apportionable claim is a claim for economic loss or damage sustained by a property owner, arising from an action for damages for breach of the building contract or breach of the statutory warranties under the Domestic Building Contracts Act (1995)(**DBCA**) arising from a failure to take reasonable care.

In Tanah Merah Vic Pty Ltd & Ors v Owners Corporation No 1 of PS613436T & Ors [2021] VSCA 72 (**The Lacrosse Case**), it was confirmed that the builder's statutory warranties which do not relate to a duty to take reasonable care (sections 8(b), (c) and (e) of the DBCA) were not apportionable. This resulted in applicants attempting to limit their claims to the non-apportionable warranties of the DBCA to prevent a builder from apportioning liability to third parties. However, a recent decision[1] by Kirton J in the County Court of Victoria confirmed that it was ultimately up to the Court to determine if a claim is apportionable or not after hearing all the evidence at trial.

Who is a concurrent wrongdoer?
Pursuant to section 24AH of the Act, a concurrent wrongdoer is a person whose acts or omissions caused, (independently or jointly), the loss or damage that is the subject of an apportionable claim. The broad definition allows for the apportionment of liability among various parties who may have contributed to an applicant's/plaintiff's loss.

Burden on the Applicant/Plaintiff
Unlike the rest of Australia, in Victoria, Courts and Tribunals can only look to apportion liability to an entity which is a party to a proceeding. This was confirmed in the case of Adams v Clark Homes Pty Ltd (Building and Property) [2015] VCAT 1658. In that case, the builder successfully joined an architect as a concurrent wrongdoer to the proceeding before the limitation period expired under the Building Act 1993, for the purpose of apportioning liability to the architect. After the limitation period expired, the Applicants amended their Points of Claim to include a claim against the architect which was later struck out by application of the architect because the Applicants were statute barred from pursuing a claim against the architect. The architect remained a party to the proceeding as a concurrent wrongdoer for that purpose only.

Importantly, unless an applicant/plaintiff pursues a claim against all joined parties, it will not be able to recover the portion of liability attributed to those parties. The exception is if the party responsible is deceased or wound up (in the case of a company) in which case liability can be apportioned to those parties however the Applicant could only rely on insurance (if any) for compensation.

Joinder

In light of the requirement in Victoria for a party to be joined to the proceeding for a court/tribunal to have regard to their liability, it is important for builder's being accused of an apportionable claim to join other parties to the proceeding which the builder believes have contributed to the alleged loss. If a builder fails to do this, they risk being held liable for a larger proportion of damages than what they might otherwise be held liable for.

Conclusion

While designed to foster fairness among defendants, the proportionate liability regime shifts a considerable burden onto owners to identify and pursue all culpable parties. Navigating this complex legal framework requires careful consideration, strategic planning, and often, expert legal advice to ensure that liability is justly and equitably distributed.

Navigating the Role of Owners Corporations in Building Defects and Maintenance

By Rebecca Connolly

Building defects are an increasing concern in Victoria's rapidly evolving residential landscape. For Owners Corporations (OCs), the legal obligation to manage and maintain common property can become particularly complex and costly, when defects arise in newly constructed or ageing buildings. From leaky balconies and cracked façades to combustible cladding, OCs must navigate their statutory duties, funding challenges, and legal recovery options with precision.

Statutory Duties: Who Is Responsible?
In Victoria, the role of an OC is primarily governed by the Owners Corporations Act 2006 (Vic). Under Section 46, an OC is obligated to repair and maintain the common property, including structural elements such as roofs, walls, plumbing, electrical systems, and shared facilities. Crucially, this duty applies regardless of whether the OC has sufficient funds available or is pursuing recovery from builders, developers, or insurers.

Common property generally includes any area not defined as part of a private lot in the plan of subdivision. Determining whether a defect affects common property or a private lot is often the first step and may require expert interpretation of architectural plans and professional building inspections.
If a defect lies within common property, the OC must act promptly to investigate and address it. Delays can significantly increase costs and risk and may expose the OC to claims from lot owners affected by the inaction.

Legal Pathways to Recovery
While Owners Corporations aren't usually parties to the original building contracts, they can still take steps to hold the responsible parties accountable for any defective works. Section 134 of the Building Act 1993 (Vic) imposes a ten (10) year limitation period for claims arising from defective building work, starting from the date of the occupancy permit or final inspection certificate. This period applies regardless of when the defect becomes apparent.

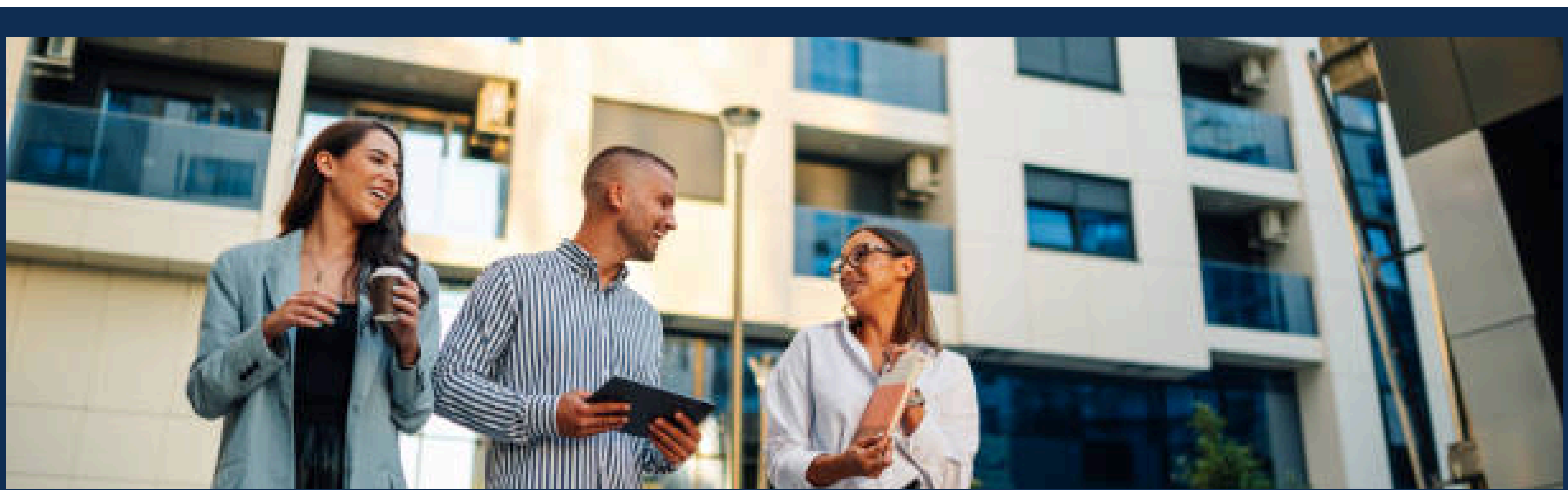
Claims may be brought under:

- Statutory warranties under the Domestic Building Contracts Act 1995 (Vic), which require builders to complete work properly, safely, and in accordance with laws;

- Common law causes of action, including negligence and nuisance, especially where defects cause damage or pose safety risks.

In complex matters, proceedings often involve multiple parties, such as builders, subcontractors, architects, engineers, surveyors, and certifiers.

Cladding Defects: Legal and Financial Considerations
Combustible cladding has been a significant focus of litigation and regulatory reform in Victoria. Many buildings require the removal and replacement of non-compliant external cladding, a process typically overseen by the OC in collaboration with building consultants, fire engineers, insurers, and the Victorian Building Authority **(VBA)**.



Where eligible, OCs may receive financial assistance through the Victorian Government's Cladding Rectification Program. However, even where such support is granted, funding gaps often remain, particularly for project management, consultancy fees, or works beyond the scope of the program. The OC remains responsible for managing delivery, ensuring compliance, and meeting ongoing legal obligations.

The Court of Appeal in State of Victoria v L.U. Simon Builders Pty Ltd [2025] VSCA 5 confirmed that a party (such as the State or an OC) may recover rectification costs from a builder even in the absence of a direct contractual relationship, where public safety concerns and statutory duties are involved. The case reinforced that legal liability may flow from broader statutory mechanisms, allowing OCs to pursue recovery from responsible parties long after completion of the project.

Funding these rectification projects presents a major financial challenge. Section 24 of the Owners Corporations Act 2006 (Vic) allows an OC to raise special fees or charges to cover extraordinary or unexpected expenses, including cladding related defects. The type of resolution required (ordinary or special) depends on the tier of the OC and the amount relative to annual fees. However, no special resolution is required where the works are urgently necessary to ensure safety or prevent significant damage.

When special levies are insufficient or impractical, many OCs turn to strata finance arrangements, which provide upfront loan funding with repayments incorporated into future levies. These must be carefully considered and transparently disclosed and may also require special resolution approval under the OC's rules.

Insurance may offer limited relief, such as for storm or fire damage, but latent defects, workmanship issues, or cladding failures are often excluded. Where no insurance coverage is available, OCs may need to pursue legal recovery, including through litigation, or dispute resolution via DBDRV or VCAT.

Funding Other Defect Rectification

Beyond cladding, funding rectification of other common defects such as water ingress, structural cracking, or service failures can place significant strain on OC finances.

As noted, Section 24 of the Owners Corporation Act 2006 (Vic) permits the levying of special fees to fund extraordinary works. The resolution required depends on the OC's tier and the relative cost of the levy. Where immediate action is necessary to address a health or safety risk, a special resolution is not required, regardless of the cost involved.

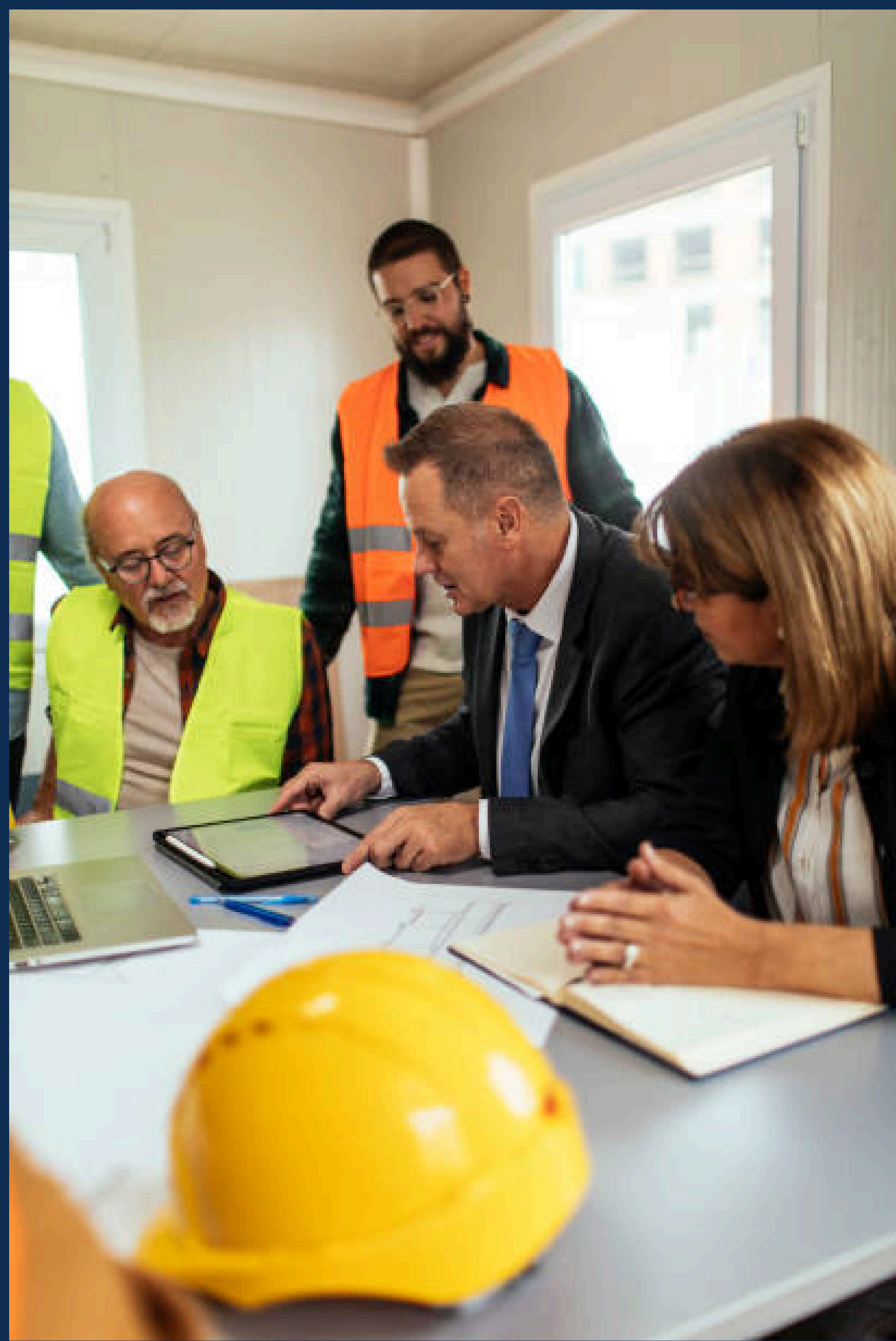
Strict procedural compliance is essential. A levy that is improperly passed or inadequately documented may be subject to challenge or found to be unenforceable, potentially leaving the OC unable to recover costs from lot owners.

Strata finance providers may offer a practical alternative in urgent or large-scale cases, allowing works to proceed without delay. However, such arrangements should be evaluated carefully, particularly in light of repayment terms, disclosure requirements, and the need for owner approval.

Communication and Owner Engagement
Clear, timely, and transparent communication with lot owners is critical. Owners should be regularly updated on:

- The nature of the defects;
- Steps being taken to investigate and rectify them; and
- The financial implications, including any levies or borrowing.

Miscommunication can lead to distrust and internal disputes, especially when large financial commitments are proposed. Proactive engagement, supported by clear legal and technical advice, facilitates informed decision-making and can avoid escalation to litigation.



Conclusion
Managing building defects is one of the most demanding responsibilities an Owners Corporation may face. Victoria's legislative framework offers a structured path for identifying liability and pursuing cost recovery, but it requires strict compliance with statutory duties, timelines, and procedural safeguards.

Successfully navigating defect rectification involves not just legal expertise, but also technical insight, financial planning, and stakeholder management. By acting early and strategically, OCs can meet their obligations while ensuring the long-term safety and value of the property for all owners.

Changes to Vacant Residential Land Tax in Victoria: What Property Owners Need to Know

By Hannah Smith & Alyssa Staropoli

Victoria's vacant residential land tax ("VRLT") has recently undergone significant changes, expanding its scope beyond Melbourne's inner and middle suburbs to cover all residential properties across the state. These reforms, effective from 1 January 2025, aim to encourage property owners to develop or lease vacant homes, addressing housing shortages and improving affordability.

For property owners, investors, and legal professionals, understanding these changes is crucial to ensuring compliance and avoiding unexpected tax liabilities.

What Is Vacant Residential Land Tax?
VRLT was introduced in 2018 as a measure to discourage property owners from leaving residential properties vacant for extended periods. Previously, the tax applied only to homes in specific council areas across inner and middle Melbourne that remained unoccupied for more than six months in a calendar year. It could also apply to residential land with a home on that that had been under construction (or renovation) for 2 years or more, or where the home has been inhabitable for 2 years or more.

However, from 1 January 2025, the tax will apply to all vacant residential properties across Victoria regardless of location (with the exception of alpine resorts of Mt Baw Baw, Mt Buller, Mt Hotham, Mt Stirling, Falls Creek and Lake Mountain). This means that if a property was vacant in 2024, the owner may be liable for VRLT in 2025.

Key Changes to VRLT in 2025
1. Expanded Geographic Scope – previously, VRLT applied only to properties in specific Melbourne suburbs. From 2025, it will apply to any residential property in Victoria that remains vacant for more than six months in the preceding calendar year (noting the above alpine resort exception).

2. Exemptions Remain in Place – land that is exempt from Land Tax is also exempt from VLRT. This will include your principal place of residence. Exemptions are also in place for holiday homes, and work accommodations.

3. Tax Calculation and Rates – From January 2025, a progressive rate of VLRT applies based on the number of consecutive tax years the land has been liable.

4. Notification Requirements - Property owners must declare whether their residential property was vacant in the previous year. A failure to notify the State Revenue Office may result in penalties. This penalty tax ranges from 5% where an owner voluntarily notifies prior to the State Revenue Office commencing an investigation, up to 90% where the State Revenue Office believes an owner has intentionally disregarded the law.

Further Changes from 1 January 2026
From the commencement of next year, unimproved residential land situated in metropolitan Melbourne that has remained undeveloped for at least 5 years may attract VLRT.

Residential land outside metropolitan Melbourne (i.e. in regional Victoria) with a residence that was under construction or renovation or that was uninhabitable as at 31 December 2023 may attract VRLT from 1 January 2026.

Impact on Property Investment and Development
The expansion of VRLT may influence investment decisions, particularly in areas where vacant properties were previously exempt.
Developers may need to accelerate construction timelines to avoid unintended tax liabilities on projects.
Landowners should also review property usage and where a property is vacant, consider leasing, selling or developing to avoid VLRT.
Landowners may also wish to seek financial or accounting advice as to any potential tax consequences.

Conclusion
The expansion of VLRT marks a significant shift in Victoria’s property taxation landscape. With statewide application from 2025, property owners must stay informed and take necessary actions to ensure compliance.