

WATER LEAKS



INSTRUCTIONS

The owners corporation is responsible for the repair and maintenance of **all common property within the owners corporation**. MICM provides our clients with a 24/7 service for common area maintenance for urgent and non-urgent repairs. For private property repairs, we can undertake initial investigation into the issue at the owners request. If this repair is found to be a private property matter, the responsibility of payment may be oncharged to the owner of the property the leak originated from.

NON-URGENT REPAIRS

Any non-urgent repairs to common property can be submitted directly to your MICM branch by filling and submitting the below work request for repairs form. If it is found that these repairs relate to private property and not common property, the responsibility of payment will be oncharged to the owner of the property the leak originated from.

URGENT REPAIRS

Business Hours



To report urgent repairs to common property, call your MICM directly on

(+613) 9697 8888

After Hours



For any urgent repairs to common property After hours, please contact our community after-hours service on

(+613) 9521 9676



OWNER RESPONSIBILITY TO FIX & PAY

Please refer to the below list to ascertain responsibility of cost and responsibility of rectification when it comes to water leaks:

- Leak from internal apartment tap – laundry, kitchen, bathroom, toilet
- Leak from pipe only servicing the apartment
- Leak through apartment flooring, shower or bath into another apartment
- Leak from overflowing sink or bath
- Leak from dishwasher or washing machine
- Leak through your balcony into another property
- Leak from apartment air conditioning piping into another property
- Water damage due to condensation

If the leak in your apartment is related to one of the above, please arrange your own plumber to investigate and repair the leak.

If the leak is coming through your window or wall or ceiling or under the door or floor, please contact the Owners Corporation.

Should you require access into another lot or common property to carry out repairs, please contact the Building Manager or the Owners Corporation Manager who can assist you. If you would like the owners corporation to send a plumber to investigate and repair, please fill in the form below and submit to:
ocadmin@micm.com.au

The Owners Corporation will investigate the leak and advise the party responsible.

WATER LEAKS – WORK REQUEST FOR REPAIRS

RESIDENTS DETAILS

Name/s

Full Property Address

☐ Owner ☐ Tenant

Lot No.

Email

Building Name

Phone No.

Phone No. for access

DETAILS OF REPAIR NEEDED

WHERE IS THE LEAK COMING FROM?

☐ Tap ☐ Bathroom ☐ Window
☐ Kitchen ☐ Ceiling ☐ Wall

Others

DETAILS OF REAL ESTATE AGENT (if tenant)

Agency

Email

Agent Name

Phone No.

SIGNATURE

First Name

Last Name

Signature

Dated

The person whose name and signature appear above requests MICM Property to arrange and grant access to the Lot for tradespeople to Investigate and carry out repair works, and agrees the costs are payable by the owner of the Lot If the leak originates from the Lot. If signed by a tenant, the tenant warrants that the owner of the Lot has been Informed and agrees.

M I C M

IMPORTANT INFORMATION ON WATER LEAKS

Section 16(1) of the Water Act 1989 states as follows:

16 Liability arising out of flow of water etc.

- (1) If— (a) there is a flow of water from the land of a person onto any other land; and**
- (b) that flow is not reasonable; and**
- (c) the water causes—**
 - (i) injury to any other person; or**
 - (ii) damage to the property (whether real or personal) of any other person; or**
 - (iii) any other person to suffer economic loss— the person who caused the flow is liable to pay damages to that other person in respect of that injury, damage or loss.**

As you would expect any faulty appliance would be the liability of the owner of the failed equipment. They will be responsible for damage to your lot and private possessions.

The same goes if you leave the tap running and it overflows into other apartments, or if your hot water service bursts or air-conditioner run-off piping leaks and the water causes damage to other apartments.

If in the instances of a burst (or leaking) pipe, the liability will follow the particular pipe in question. If a pipe services one lot, then that lot which it services is responsible for its maintenance, see below.

Section 129 of the Owners Corporation Act 2006 states as follows:

129 Care of lots

A lot owner must—

- (a) properly maintain in a state of good and serviceable repair any part of the lot that affects the outward appearance of the lot or the use or enjoyment of other lots or the common property; and**
- (b) maintain any service that serves that lot exclusively.**

This further explained, this means that if a pipe feeding your shower head bursts behind the wall, you as lot owner are responsible for the repair costs and damage caused. If the pipe serves multiple lots, ie if the pipe breaks where the flow of water is providing several lots, then the pipe is deemed common and is the responsibility of the Owners Corporation, as is the liability for damage.

If the water ingress is travelling from one property to another – whether private lot to private lot, or from common property to private property – and is NOT due to an acute event such as a burst or leaking pipe, or appliance failure, a more in-depth investigation is usually required.

The burden for investigation falls to the party claiming damage. It is important to be aware that you may be required to cover the initial and possibly the entire costs in this respect to any investigation and or damage.

Many parties will give an undertaking of paying 'reasonable' costs and then withdraw that undertaking once the invoice is received.

The Owners Corporation is not responsible for taking on that cost initially, nor ongoing, and it is not the role, nor within the jurisdiction or authority of either the Owners Corporation or the Owners Corporation Manager to become involved in matters between two or more private lot owners.

The Owners Corporation may seek to recover any cost to any lot owner found responsible for the leak after the determination of boundaries.

Balconies are defined as per the Plan of Subdivision Act, and its Regulations, and as in the past cases heard in VCAT such as the Fisher case, a lot owner is responsible for the tiles, grout, waterproofing, screed and membrane of their balcony tiles.

Depending on the boundary type noted on your Plan of Subdivision, the lot owner may also share full ownership of the slab/s that sit above and beneath (i.e. between apartments), meaning there is no common property between the apartments.

In the instance of a suspected leak from a balcony that is affecting your apartment, you should notify your Owners Corporation Manager, who will attempt to contact the relevant lot owner above you.

You will then need to work with the suspected responsible lot owner and potentially engage in a leak detection contractor to confirm the source of the leak (being the balcony). If the balcony is responsible, that lot owner will need to repair or refurbish their balcony, which is usually a costly exercise.

Whilst the Owners Corporation can serve a Notice of Repairs on that lot owner, should the Owners Corporation Committee resolve to do so, the Owners Corporation is not well-positioned to pursue legal action on the matter, and the Committee may not be inclined to pursue that step on behalf of one lot owner. It is recommended that any legal action be individually pursued by the affected parties.

Signs that your balcony may require a Full Retile;

If you see multiple cracked and broken tiles across your balcony surface, then there is a good chance your substrate is damaged. If you feel the balcony sinking or it feels 'spongy' to walk on – this is another sign your substrate has sustained damage and will need to be repaired.

Tiles that are lifting or have come away from the substrate is another good indication that there is substrate damage.

Similarly to failed service infrastructure, please provide photos and a location to the Manager of where you believe ingress is occurring from fill in the attached form and send to the Manager. Taking into account the location, the boundary type and notes prescribed on the Plan of Subdivision for your property, your Manager will inform you whether it is private or common property and therefore responsibility to rectify.

Insurance exists to rectify resultant damage, in the event of an insurable event. Insurance does NOT assist with rectifying the cause of damage in the first instance.

If your balcony integrity has failed and requires replacement, you will be responsible for the refurbishment costs, unless it was damaged due to a particular insurable event – e.g. objects falling from above etc. Once the cause of water ingress is rectified, you may wish to apply to claim on the Owners Corporation's building replacement insurance policy.

Please contact your Owners Corporation Manager and they may assist with starting a claim on your behalf. Accordingly, when claiming the Owners Corporation's policy, The Owners Corporation's position is that the claimant is responsible for the excess for any claim. You may wish to pursue the liable lot owner for this excess if it remains in dispute.

If common property is responsible for the source and/or flow of the water, then the Owners Corporation will pay the excess. Separate from utilising the insurance policy of the Owners Corporation, you may wish to directly pursue the liable lot owner for all costs.

If you believe your water ingress is due to a building defect of the original construction, you may have recourse against the original builder for either repairs or damages, and possibly costs-to-date as well. The result of the relevant investigation will inform of the cause of the ingress, which can then be determined as either a maintenance matter or a defect matter. Your Manager will advise **accordingly**.

I have read and understand the details provided in this form (Page 1 to 4) and with my signature, I'm disclosing that I understand and have read the details in full.

First Name

Last Name

Signature

Dated

Details of the person submitting this Form.