



Submission on MBIE's proposed amendments to the Unit Titles Act 2010

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Yes: MBIE officials can contact me if they have a question about the content of my submission

No: I wish to remain anonymous in any reporting or submission analysis

Making a submission

To make a submission, please fill out the submission form below, and send to UTAreview2016@mbie.govt.nz. Both Word documents and PDFs will be accepted.

Alternately, you can download the submission form and post it to:

Unit Titles Act Review
Construction and Housing Markets, BRM
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140
New Zealand

Consultation on the Unit Titles Act finishes on Friday 3 March 2017 at 5pm. Thank you for your submission.

3.2 Improving Government Services to the UTA Sector

3 Please comment on :

- how government agencies might achieve a more joined up approach;
- how we can improve the services we provide; and
- whether you think a separate dedicated entity is warranted; and if yes, what functions and responsibilities would a dedicated unit titles entity deliver? Please list.

4.1 Improving the Disclosure Regime

Proposal 1: Amalgamate the current requirements of the pre-contract, pre-settlement and additional disclosure statements into one step

4

Do you agree that the pre-contract, pre-settlement and additional disclosure step should be consolidated into one step? If no, why?

Yes

Proposal 2: Add further requirements in disclosure statements

5

Do you agree that these additional requirements should be included in disclosure statements? Do you consider any other requirements should be included?

Yes

Proposal 3: Require a statutory warranty on all disclosure statements

6

Do you agree that bodies corporate should certify all disclosed information is complete and correct? If no, why?

Yes

4.2 Strengthening Body Corporate Governance

Proposal 1: Address conflicts of interest

7

We propose to add provisions to the UTA that address conflicts of interest that achieve similar aims to the provisions included in the Incorporated Societies Bill. Do you agree? If no, why?

Yes

Proposal 2: Increase reporting of delegated powers

8

We propose that bodies corporate of large sized complexes (30 and over) should report on the performance of their delegated powers at every general body corporate meeting? Do you agree? If no, why?

Yes

Proposal 3: Duties and responsibilities of body corporate committees

9

We propose including additional provisions on the duties and responsibilities of a body corporate committee similar to those included in the Queensland's Code of Conduct for committee members. Do you agree? If no, why?

Yes

Proposal 4: Limit the number of proxy votes an individual can hold

10

Do you consider that the risk of proxy farming is sufficiently high to warrant amendment of the UTA to limit the number of proxy votes one person can hold at a time? If yes, why?

Yes

Even though proxies do have a role to play, they allow one person to hold an unlimited number of votes which does impact on the democratic process.

Proposal 5: Limit the impact of unfair service contracts

11

We propose to amend the UTA so that bodies corporate can vary the terms of or seek to release themselves from longer term contracts in certain circumstances. Do you agree? If no, why?

Yes

Proposal 6: Clarification of governance terms

12

Do you agree with the proposals made above as they relate to:

- Minority relief – no change warranted;
- Alteration to units – sections 79 and 80 (i) to be amended if necessary to align with section 65;
- Quorum – section 95 to be clarified; and
- Resolutions – section 101 to be amended.

If no, why?

Yes

4.3 Professionalism in Body Corporate Management

Proposal 1: Status Quo and Self-Regulation

13 Do you agree that industry bodies such as those mentioned have the ability to increase professionalism and help address body corporate management issues? If no, why?

Yes.

And the Property Institute would like to be considered as a potential provider for Bodies Corporate services such as Continuing Professional Development, Governance, as well as established complaints and disciplinary processes.

PINZ is an industry body providing services to a wide range of property professionals including but not limited to property managers, consultants, advisers and valuers. PINZ is easily able to create a new community for Bodies Corporate within our existing structure and tailor-make programmes and services to fit any new legislative requirements. NOTE: PINZ already has a number of Body Corporate managers as members.

PINZ believes any new industry body representing Bodies Corporate must have a clearly defined Code of Ethics/Code of Conduct, a transparent complaints process, recognised professional studies and a proven professional development programme.

It should be noted that some organisations mentioned in the Ministry's proposal do not have these.

14 Do you support requiring body corporate managers to be members of a professional group and being subject to the codes of practice of the group? If no, why?

Yes, as above

Proposal 2: Make contracting a body corporate manager a requirement for medium and large complexes

15 Do you support body corporate managers being mandatory for medium and large complexes? If no, why?

Yes

Proposal 3: Define body corporate managers in the UTA and introduce operational requirements in regulations

16 Do you support the functions of body corporate managers being set out in the UTA? If no, why?

No. The Property Institute believes high level guidance should be included, but is of the view that industry bodies should set best practice standards, because they are able to react and respond to issues in the marketplace as they arise. A rigid set of prescribed functions for body corporate managers may quickly become out of date or irrelevant due to the pace of change in the property industry.

17 What functions, if any, do you think should be prohibited from being contracted to a body corporate manager?

18 Do you support the setting of additional requirements in regulation for body corporate managers? If no, why?

No

The institute believes that having a requirement for Body Corporate managers to join a well-established professional body with clear professional standards and a transparent complaints process and code of conduct will provide the required level of consumer protection.

4.4 Ensuring Adequate Long Term Maintenance Plans

Proposal 1: Guarantee the credibility of the LTMP through body corporate committee and appropriately qualified signatories

19

Do you agree that an appropriately qualified person should be required to guarantee the accuracy and completeness of the LTMPs? If no, why not?

Yes, but the qualified person needs to have specific expertise in building maintenance, rather than a broad qualification in an unrelated field.

20

Do you agree that the body corporate chairperson, on behalf of the body corporate, should be required to sign LTMPs to guarantee accuracy (to the best of their knowledge)? If no, why?

Yes

Proposal 2: Develop a new online template for LTMPs

21

Are there mandatory fields/information you consider should be included in the revised template? If so, please list.

Proposal 3: Extend the timeframe of LTMPs to 30 years

22 Do you agree that 30 years is an appropriate timeframe for LTMPs for medium (unless they resolve not to) and large complexes? If no, what threshold or timeframe do you consider appropriate?

Yes, but PINZ believes that needs to be broken into three 10-year plans to go alongside the 'big picture' 30-year plan.

This option allows for the consideration of long term maintenance issues such as building envelope replacement, but also allows for a more detail programme of ongoing preventative maintenance to work alongside the 30-year plan.

Proposal 4: Require body corporates to review their LTMPs every three years

23 Do you agree that LTMPs for medium and large complexes should be reviewed every three years? If no, what threshold or timeframe do you consider appropriate?

The Institute believes a three-year review period is appropriate, as it allows for any changes to building codes, or regulations to be factored into the programme.

Proposal 5: Require large bodies corporate to have a LTMF

24 We propose that medium sized bodies corporate comprising 10-29 units are required to establish and maintain a LTMF (unless they resolve not to by special resolution). Large complexes comprising 30 units and over units would be required to have and maintain a LTMF. Do you agree? If no, why?

Yes

Proposal 6: Require bodies corporate LTMFs to be annually audited

25 We propose that the LTMFs of medium and large bodies corporate are audited annually. Do you agree?

Yes.

4.5 Accessibility of the Disputes Resolution Regime

Proposal 1: Fee settings

26 Do you support the proposed fee level for the dispute resolution service? If no, why?

Yes

27 Would you consider using mediation if the above option was adopted? If no, why?

No. After consultation with members it was indicated that the mediation process can create additional cost in time and money, due to parties not fully participating in the process. The Institute believes that mediation should only be an option if both parties agree.

Proposal 2: Revise the name of the Tenancy Tribunal (preferred proposal)

28 Do you agree that the name of the Tenancy Tribunal should be changed to the 'Tenancy and Unit Titles Tribunal' to reflect its jurisdiction over unit title disputes? If no, why?

Yes
