



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

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**December 2016**

**Name of submitter:**

**Organisation:**

**Contact address:**

**Contact phone number:**

**Contact email address:**

- MBIE officials can contact me if they have a question about the content of my submission
- 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](mailto: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.

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## 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

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

Yes – however ....

The current Pre-Contract Disclosure Statement process is already problematic.

Under the current legislation, an Agreement for Sale & Purchase cannot be entered into unless a PCDS has been provided to the Purchaser.

A number of Body Corporates will not supply the PCDS without payment upfront by the owner.

Frequently, the owner will not pay until there is interest (an offer) – therein lies the problem.

The proposed disclosure which will combine the current disjointed regimes into one document will, despite its good intentions, no doubt result in Body Corporate costs of provision escalating massively and compound the problem.

Body Corporates should be BOUND to provide the NEW Disclosure document(s) as and when requested, promptly, and sort out payment with the owner independent of this process.

An increment to the Annual Body Corporate levy which the owner is bound to pay would be one option.

If immediate Disclosure provision is not legislated in some way, the current standoff will become a nightmare for all parties involved.

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Proposal 2: Add further requirements in disclosure statements

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

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Proposal 3: Require a statutory warranty on all disclosure statements

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

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## 4.2 Strengthening Body Corporate Governance

### Proposal 1: Address conflicts of interest

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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?

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### Proposal 2: Increase reporting of delegated powers

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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?

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### Proposal 3: Duties and responsibilities of body corporate committees

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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?

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

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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?

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Proposal 5: Limit the impact of unfair service contracts

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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?

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Proposal 6: Clarification of governance terms

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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?

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### 4.3 Professionalism in Body Corporate Management

#### Proposal 1: Status Quo and Self-Regulation

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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?

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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?

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

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

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

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

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

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

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## 4.4 Ensuring Adequate Long Term Maintenance Plans

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

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

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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?

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Proposal 2: Develop a new online template for LTMPs

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

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Proposal 3: Extend the timeframe of LTMPs to 30 years

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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?

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

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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?

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Proposal 5: Require large bodies corporate to have a LTMF

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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?

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Proposal 6: Require bodies corporate LTMFs to be annually audited

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

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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?

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

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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?

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