



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

Name of submitter: s 9(2)(a)

Organisation:

Contact address: s 9(2)(a)

Contact phone number: s 9(2)(a)

Contact email address: s 9(2)(a)

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

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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.

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, current system is unwieldy and can result in important information not being revealed until very late in the sale and purchase process.

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?

NC

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, additionally any unit owner who is not current financially should be barred from holding office (chairperson) including body corporate committee participation and voting.

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, many body corporates and unit owners operate on a rather informal basis compared to incorporated companies. Concerted efforts by professional or other determined persons to gather proxy votes can easily overwhelm the one person, one vote nature of decision making now common in many body corporates. While unit titles are an important investment they remain homes not shareholdings in a company. Other unit title holders may be your neighbours not just fellow shareholders in a company or financial instrument.

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, with particular emphasis on only unit owners who have paid their levies may participate in body corporate governance and decision making.

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?

I have doubts about industry bodies being self-regulating. This is particularly the case when no professional qualification is required for membership. Accountants, engineers and lawyers for example must obtain professional qualifications and in some cases a practicing licence before qualifying for membership in a professional organisation. Body corporate managers, be they individuals or groups, are not presently required to have special qualifications to call themselves "body corporate managers."

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, but only if membership requires qualifications for membership.. See 13.

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?

YES

17

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

NC

18

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

YES

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

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.

NC

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?

NO, I believe a 20 year timeframe is more realistic and likely to be a bit more accurate as a prediction/projection of maintenance projects. Most big projects such as re-roofing, carpeting and exterior painting will appear in a 15-20 year timeframe.

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?

YES

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?

YES

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
