

§ 9(2)(a)

24 January 2017

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

I **attach** a submission. I am not qualified to comment on all of the items.

Ideally complexes of fewer than 10 units (as proposed) should have the minimum of regulations. Too many regulations make people very resistant to buying Units. Now that so many Units are being built, and will continue to be built to make the best use of available land, it is essential that owning one of those Units is not a burden.

I would also like to add that in the Unit Titles Act 1972 there were standard rules (a copy is **attached**). These rules were not included in the 2010 Act. I would like to see these basic rules re-introduced because under the 2010 Act it is not easy for a small complex to introduce rules. A Chairman has to be appointed and a resolution passed to create new rules and where there are only a small number of owners this is just not practical. If the rules are there in the Act then all new owners must abide by them and no discussion needs to be entered into.

I do think that Body Corporate admin firms need some form of governance. My own experience, both as a Unit owner and as a legal employee, tells me that these firms are overwhelmed by the task at hand and very inefficient.

§ 9(2)(a)

New Zealand Legislation  
**Unit Titles Act 1972**

- repealed
- Unit Titles Act 1972: repealed, on 1 October 2012, by section 218 of the Unit Titles Act 2010 (2010 No 22).  
Unit Titles Act 1972: repealed (with section 37 and schedules 2 and 3 continued in force until 1 October 2012), on 20 June 2011, by section 218 of the Unit Titles Act 2010 (2010 No 22).

**Schedule 3**

s 37

**Rules that may be amended by resolution of body  
corporate**

A proprietor or occupier of any unit shall not—

- use or permit his unit to be used for any purpose which is illegal or may be injurious to the reputation of the building;
- make undue noise in or about any unit or common property;
- keep any animal on his unit or the common property without the prior consent of the committee of the body corporate, or, if there is no committee, of the body corporate;
- use the common property in such a manner as unreasonably to interfere with the use and enjoyment thereof by other proprietors and their families and visitors;
- use his unit or permit it to be used in such manner or for such purpose as to cause a nuisance or disturbance to any occupier of any unit (whether a proprietor or not) or the family of any such proprietor.



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

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**December 2016**

**Name of submitter:** s 9(2)(a)  
**Organisation:** s 9(2)(a)  
**Contact address:**  
**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

### 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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### 3. Overarching Reform Proposals

#### 3.1 Potential size thresholds for more rigorous legislative requirements

We propose that the following legislative requirements apply to complexes with 10 units and over. The body corporate for complexes between 10 and 29 units, may, however, resolve against adopting any of these requirements by special resolution.

Bodies corporate must:

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- report on the performance of delegated powers at the annual and any other general meeting;
- contract a body corporate manager to perform functions as specified in the UTA;
- have LTMPs signed by the body corporate chair and a qualified person;
- have a long term maintenance fund to finance the long term maintenance plan already required under the UTA; and
- have body corporate accounts and LTMFs audited annually.

Do you agree? If no, why?

I agree that there should be minimal regulations for small complexes (under 10). Too many regulations are a deterrent to people looking at purchasing a unit.

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Do you consider that it is appropriate for complexes between 10 and 29 units to be able to opt out of the above proposed legislative requirements by special resolution? If no, why?

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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?

If it reduces the cost to purchasers and/or vendors then yes.  
The added cost of buying a unit is a deterrent.

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?

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?

## 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?

In general the industry bodies that exist in Auckland are not efficient.

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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?

Yes.

#### 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?

Yes

#### 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

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?

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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?

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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?

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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?

Only if fraud and embezzlement is a problem.

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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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