



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

December 2016

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- 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. 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. Overarching Reform Proposals

3.1 Potential size thresholds for more rigorous legislative requirements

1 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:

- 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?

Yes, I support all the proposed requirements.

2 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?

Yes, some but not all. I would agree that for a small complex contracting a body corporate manager and an annual audit of accounts may be overly onerous but I would have thought these other requirements were good business practice and represent a protection for apartment owners and prospective purchasers

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

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, I support this proposal. Provisions to enable conflicts of interest need to be declared and managed are required.

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, I agree. Body Corporates should also be required to provide formal advance notice of when Committee meetings are taking place (so that owners can attend if they wish) and owners should be either emailed or advised when the committee meeting minutes are ready for their review.

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, I agree with this proposal.

I am not sufficiently familiar with the current legislation to comment on this proposal. _____

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, I do for the reasons described in the discussion document.

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, I do.

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, but I am unclear as to the rationale for the 'opt- out' clauses for medium sized complexes.

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, I do.

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

I do not think I have sufficient knowledge to comment on this question.

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

Yes, I do for the protection of all participants in the sector.

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, I agree.

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, provided it is 'to the best of their knowledge'. It is not reasonable for this person to be expected to be put under unfair personal risk. I am assuming there will be an expectation for indemnity insurance for BC committee members to manage such risks??

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.

It should include all major items that may require replacement or refurbishment but apart from that I have no comment to offer.

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, I agree

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, I agree.

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?

I consider that all body corporates should be expected to have a long term maintenance fund.

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, I agree.

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, I do.

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, I agree.
