

SUMMARY OF PROPOSED LEGISLATION

Unit Titles Amendment Bill 2016

Purpose of Bill

- The main purpose of the Bill is to improve enforcement options for bodies corporate under the *Unit Titles Act* and under the *Unit Title Schemes Act*.
- The second significant purpose is to simplify unit titles administration by merging the *Unit Titles Act* and the *Unit Title Schemes Act*. This involves repealing the *Unit Titles Act* and making consequential amendments to the *Unit Titles Schemes Act* so as to accommodate bodies corporate created under the *Unit Titles Act*.

Key Features of Bill

- The *Unit Title Schemes Act* (the Act) be amended so that it applies to the management of unit titles issued under the *Unit Titles Act* with consequential amendments for the alignment of terminology and processes, including the repeal of the *Unit Titles Act* and the *Real Property (Unit Titles) Act* and the possible validation of some by-laws made under the Act;
- that enforcement of breaches of by-laws/articles is a hybrid so that either civil action can be taken before the Northern Territory Civil and Administrative Tribunal (the Tribunal) or the matter can be prosecuted in the Courts and that the Tribunal have jurisdiction to deal with all other disputes and other legal actions relating to unit titles;
- the default by-laws/articles provide that the maximum penalty following civil action in the Tribunal for breach of a default by-law by an owner or any other person, be 10 penalty units (currently \$1,540) and that the body corporate can issue infringement notices with the maximum amount being one penalty unit (\$154);
- that online meetings or email exchanges can constitute meetings of bodies corporate;
- that insurance costs are apportioned on the basis of relative risk between units with insurance for mixed use developments to take account of advice from an insurance professional in accordance with requirements prescribed by regulations. Failure to obtain the required advice will, in the absence of a reasonable excuse, be an offence for the members of the committee of the body corporate;
- bodies corporate are under a duty to ensure that planning controls regarding visitor parking are adhered to (and for this to be spelt out in the default by-laws), and, additional to their current power to take contravention action before the Courts in respect of alleged illegal parking) are entitled to enter into arrangements with local government for the enforcement of those by-laws and entitled to take practical enforcement action such as issuing infringement notices, clamping, removing vehicles and recovering costs;
- that the schemes supervisor have the power to investigate and refer to the Tribunal any allegations from a unit owner or other person that a body corporate is misusing its infringement notice powers with the Tribunal then having the power to make any such order as is necessary to ameliorate the misuse;
- that by-laws/articles (other than exclusive use by-laws) are made by special resolution and that they be registered by the Registrar-General without the need to replace the scheme statement and without the need to comply with section 63 of the *Interpretation Act*;
- that by-laws made by bodies corporate are to be certified by the schemes supervisor, based on legal advice, as being within power and as appropriate for the purposes of the body corporate (and for that purpose the schemes supervisor may consider any model by-laws approved by the Minister);
- that the *Residential Tenancies Act* be amended so that it is clear that the body corporate for a units development is an 'interested person' for the purposes of section 100 of that Act;

- that the powers of the scheme supervisor are widened so that there is an obligation for the supervisor to, in conjunction with industry and professional bodies (such as the Real Estate Institute of Northern Territory, Strata Community Association and the Law Society Northern Territory) provide educational and informational materials regarding the various aspects of the operation of the Act and provide a dispute resolution service by way of conciliation;
- that the functions of the scheme supervisor are funded by the Agents Licensing Fidelity Guarantee Fund established under the *Agents Licensing Act*; and
- that the Act be amended so as to include provisions equivalent to those in Part 7 of the *Unit Titles Act* dealing with the winding up or administration of bodies corporate under an order of the Tribunal.