



Attention Unit Title Holders and Body Corporates

Posted on: May 29, 2023

Amendments have been made to the Unit Titles Act 2010 placing greater compliance standards on sellers of Unit Titles, as well as higher standards on Body Corporates. Most of these amendments came into effect on 9 May 2023, others are to take effect from May 2024. The purpose of these amendments is to strengthen body corporate governance and other matters relating to Unit Titles. Here's what you need to know.

Disclosure

The amendments add disclosure requirements to sellers. Sellers have long been required to make pre-contract and pre-settlement disclosure, but they are now required to disclose additional information.

The notable new information that sellers are required to include in a *pre-contract disclosure statement* are:

- Any earthquake-prone issues.
- Financial statements, minutes of body corporate meetings, and details of the body corporate manager.
- Any significant defects.
- Remediation reports received by the Body Corporate over the prior three years.
- Summary draft financial budget and estimated ownership interests (for units purchased off the plans).

Insurance details are now a requirement in a pre-contract disclosure statement. They were previously required in the pre-settlement disclosure statement.

The *pre-settlement disclosure statement* must disclose any claims against or by the Body Corporate and other information. This is to be made at least 5 working days before settlement. Failure to comply with these disclosure requirements can give a purchaser a right to either delay settlement or cancel the agreement, so complying with this is important.

Bodies Corporate

The role and expected standards of Body Corporates have been formally defined to include:

- Body Corporate managers are required to meet prescribed ethical and professional standards. They must perform their services with honesty, fairness and confidentiality.
- Unit owners and committee members can now attend general meetings or body corporate committee meetings online, by audio link, audio-visual link or

other remote access facility.

- Body Corporate general meetings now require a 'quorum' (the minimum number of people required for a meeting) of at least 25% of the principal units.
- Body Corporates will no longer be able to delegate a matter if the Unit Titles Act requires it to be decided by special resolution. Previously, a Body Corporate could delegate such matters to a Body Corporate committee.

Large residential developments

Extra requirements are to be placed on large residential developments (these are defined as unit title developments with more than 10 principal units). From 9 May 2024, large residential developments will be required to:

- Have a long term maintenance plan covering at least thirty years, this to be reviewed every three years.
- Hire a body corporate manager unless 75% of owners vote against.
- Consult with a building professional when developing the long-term maintenance plan unless 75% of owners vote against.

Dispute Resolution

Also amended in the Act is the cost of applying to the Tenancy Tribunal to \$250 when referred to a tenancy mediator, and \$500 when referred to adjudication. Previously these fees were \$850 and \$3,300.

Conclusion

The amendments are significant. The increased requirements to pre-contract and pre-settlement disclosure statements will give prospective buyers of Unit Titled properties greater confidence. Furthermore, the defined standards for Body Corporates will offer a greater protection for Unit Title owners.