

AUSTRALIAN CAPITAL TERRITORY

UNIT TITLES ORDINANCE 1970

EXPLANATORY MEMORANDUM

No. 31 of 1970

The purpose of this Ordinance, complemented by the proposed Real Property (Unit Titles) Ordinance 1970, is to permit the sub-division into units of parcels of land leased in Canberra. After sub-division of such a parcel, each unit will be separately leased and occupied under arrangements that provide appropriately for matters of common interest to owners of the units that are the subject of the same sub-division.

The legislation follows broadly the pattern of legislation for similar purposes in all the States. The State legislation has, however, been adapted to fit into the leasehold system of land tenure in the Australian Capital Territory and the system of town planning by means of covenants in leases. It also goes further than State legislation in that it is specifically designed to permit the sub-division, not only of a high rise building but also of other developments sometimes known as patio type schemes.

Briefly, the Ordinance provides as follows:—

- The land proposed to be sub-divided must be land leased under the City Area Leases Ordinance.
- Proposals for sub-division will be submitted to the Minister for the Interior by the proprietor of a lease. The Minister will approve the proposals if they provide for sub-division into at least four units (each suitable for separate occupation) and common property, and comply with the other provisions of the Ordinance.
- The approved proposals (known as ‘the units plan’) will be lodged with the Registrar of Titles. Upon registration, the original lease of the land is automatically terminated and replaced by a separate lease of each unit and the common property. The provisions, covenants and conditions of these leases will have been determined by the Minister when approving the proposals.
- Upon registration of the units plan, a management corporation is constituted, its members being the unit holders for the time being. The lease of the common property is vested in the corporation.
- The corporation is charged with the management of the common property and the provision of services common to all units, and is financed by contributions from the members.
- The rights and duties of holders of unit leases are, as far as practicable, the same as those of holders of ordinary leases in the Australian Capital Territory.
- The rights and duties of lessees and occupiers of units amongst themselves are governed not only by the Unit Titles Ordinance, but also by the articles of the management corporation which can be amended by the members provided the amendments do not conflict with the Ordinance.

Matters connected with the registration of the units plan are dealt with in the Real Property (Unit Titles) Ordinance.

Drafts of the two Ordinances were circulated to a wide range of bodies including the Advisory Council of the Australian Capital Territory, the Law Society of the Australian Capital Territory, the Real Estate Institute, the Master Builders Associations, and various financial institutions. The drafts were favourably received. Amendments to the drafts were made in the light of the comments furnished by these bodies.

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Minister's Initials