



Australian Capital Territory

Unit Titles (Staged Development) Amendment Act 2005

A2005-37

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2005 007B

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Australian Capital Territory

Unit Titles (Staged Development) Amendment Act 2005

A2005-37

An Act to amend the *Unit Titles Act 2001*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

2005 007B

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 Name of Act

This Act is the *Unit Titles (Staged Development) Amendment Act 2005*.

2 Commencement

This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

3 Legislation amended

This Act amends the *Unit Titles Act 2001*.

Note This Act also amends the following legislation (see sch 1):

- *Land (Planning and Environment) Act 1991*
- *Unit Titles Regulation 2001*.

4 Units plan New section 7 (1) (aa)

insert

(aa) if the application provides for a staged development—the development statement;

5 Section 7 (1)

renumber paragraphs when Act next republished under Legislation Act

6 Unit title applications—general requirements
Section 17 (3), note

substitute

- Note* An application for a staged development may be approved only if—
- the development has been approved under the Land Act (see s 20 (2) and the Land Act, pt 6); and
 - for developments of class A units—the boundary floors, walls and ceilings of each unit in the first stage have been built in accordance with the development statement (see s 20 (2)).

7 Unit title applications—approval
Section 20 (2) (b)

substitute

- (b) for a staged development of class A units—the boundary floors, walls and ceilings of each unit in the first stage have been built in accordance with the development statement.

8 New section 20 (7)

insert

- (7) In this section:

first stage, for a staged development of class A units, means the stage identified as the first stage in the development statement.

9 Endorsement of units plan for registration
New section 27 (1) (aa)

insert

- (aa) if the application provides for a staged development—
- (i) the development statement as approved; or
 - (ii) if the development statement has been amended under section 29—the development statement as amended;

10 Section 27 (1)

renumber paragraphs when Act next republished under Legislation Act

11 New section 30 (1A) and (1B)

insert

- (1A) If the amendment of the development statement only affects an uncompleted stage of a staged development, the planning and land authority may amend the development statement as applied for if satisfied on reasonable grounds that—
- (a) the applicant has obtained the written agreement to the amendment of each person with an interest in a unit in that part of the parcel comprising the uncompleted stages of the development (except any interested person to whom subsection (1B) applies); and
 - (b) any change of unit or common property boundaries provided for by the amendment is a minor boundary change within the uncompleted stages of the development.
- (1B) The planning and land authority may amend the development statement under subsection (1A) despite the applicant's failure to obtain an interested person's agreement if the authority is satisfied on reasonable grounds that—
- (a) the applicant could not reasonably be aware of that interest, or has made reasonable efforts to obtain the agreement; and
 - (b) either—
 - (i) the interested person would not suffer any substantial long-term detriment because of the proposed amendment;
 - or

- (ii) despite that failure, it is desirable to authorise the amendment having regard to the overall interests of everyone with interests in that part of the parcel comprising the uncompleted stages of the development.

12 Section 30 (2)

omit

The planning and land authority may

substitute

If subsection (1A) does not apply, the land and planning authority may

13 Section 30 (3)

after

development statement

insert

under subsection (2)

**14 Amendment of development statements after registration
Section 30 (5)**

substitute

- (5) The planning and land authority may authorise the amendment of the schedule of unit entitlement to reflect a change of boundaries if—
 - (a) the amendment of the development statement requires the change of boundaries; and
 - (b) the authority is satisfied, on reasonable grounds, that the amendment is necessary to reflect accurately a change in the relative improved values of the units.

- (6) If the planning and land authority authorises the amendment of the schedule of unit entitlement under this section—
 - (a) the authority must—
 - (i) endorse the amended schedule of unit entitlement; and
 - (ii) give a notice of authorisation to the lessee; and
 - (b) the lessee must lodge with the registrar-general—
 - (i) the endorsed amended schedule of unit entitlement; and
 - (ii) the notice of authorisation.
- (7) If the planning and land authority amends the development statement under this section—
 - (a) the authority must endorse the amended development statement; and
 - (b) the lessee must lodge with the registrar-general the endorsed amended development statement.

15 Section 30

renumber subsections when Act next republished under Legislation Act

16 Section 31

substitute

31 Effect of registration of amendment

- (1) On the registration of an amended development statement, and any amended schedule of unit entitlement, lodged under section 30—
 - (a) the units plan is amended accordingly; and

- (b) if unit or common property boundaries are changed—the land covered by each affected lease is the area of land indicated by the boundaries as changed.
- (2) A change of unit or common property boundaries under this section is not a variation of any lease for the Land Act, part 6.

17 **General duties**
Section 51 (3) (a)

substitute

- (a) for a staged development—the common property included in a completed stage of the development;
- (aa) for a development that is not a staged development—the common property;

18 **Section 51 (3)**

renumber paragraphs when Act next republished under Legislation Act

19 **New section 64A**

insert

64A **General and sinking funds in staged developments**

- (1) This section applies to a general fund or sinking fund established by an owners corporation for a staged development if the development has not been completed.
- (2) A contribution to a general fund is not payable by the owner of a unit if the unit is in an uncompleted stage of the development.
- (3) A contribution to a sinking fund is not payable by the owner of a unit if the unit is in an uncompleted stage of the development.

- (4) The owners corporation must not pay an amount from a general fund or sinking fund in relation to an uncompleted stage of the development.

20 New section 88A

insert

88A Decisions about staged development

- (1) This section applies to a meeting of an executive committee of an owners corporation for a staged development if the development has not been completed.
- (2) The executive committee must not decide a matter about the uncompleted stages of the development.

21 New section 110A

insert

110A Decisions about staged development

- (1) This section applies to a motion at a general meeting of an owners corporation for a staged development if the development has not been completed.
- (2) The people entitled to vote on the motion are as follows:
 - (a) if the motion is only about an uncompleted stage of the development—the people entitled to vote under section 110 in relation to units in the uncompleted stages of the development;
 - (b) if the motion is only about a completed stage of the development—the people entitled to vote under section 110 in relation to units in the completed stages of the development;
 - (c) in any other case—the people entitled to vote under section 110.

**22 Building insurance by owners corporation
New section 132 (3)**

insert

(3) In this section:

parcel, for a staged development, means the whole of the land in the completed stages of the development.

Schedule 1 Consequential amendments

(see s 3)

Part 1.1 Land (Planning and Environment) Act 1991

[1.1] New section 179 (5)

insert

- (5) For subsection (4), an occupier is substantially inconvenienced by works being, or to be, carried out if the works are being, or are to be, carried out to the common property, or another unit, in the same stage of the development as the occupier's unit.

Part 1.2 Unit Titles Regulation 2001

[1.2] Section 8

substitute

8 Staged developments—development statements—Act s 17 (4)

- (1) A development statement must—
- (a) include a description of the land consisting of the parcel; and
 - (b) include a copy of the plans and specifications relating to the development, and any amendment of the plans or specifications, as approved under the Land Act, part 6; and
 - (c) state how the staged development is to be carried out, including—

- (i) a description of the work (including common property amenities) to be completed in each stage of the development; and
 - (ii) a schedule of commencement and completion dates for each stage; and
 - (iii) the arrangements for access to the parcel during the development; and
 - (iv) the permitted uses of the common property during the development; and
 - (v) landscaping of the parcel; and
- (d) state that the developer must pay the reasonable expenses incurred by the owners corporation—
- (i) in repairing any damage to the common property, or to units, in the completed stages of the development that is caused in carrying out the development; and
 - (ii) for any water, sewerage, drainage, gas, electricity, oil, garbage, conditioned air or telephone service used in carrying out the development; and
- (e) state that the developer must make good, as soon as practicable, any damage to the common property or units in the completed stages of the development caused in carrying out the development; and
- (f) state that the standard of materials used, finishes effected, common property improvements, landscaping, roadways and paths to be carried out in the development must not be inferior to or substantially different from those of the buildings and other works in the completed stages of the development; and

- (g) include a requirement that after the completion of any stated stages of the development, and after the completion of the entire development, the planning and land authority must be provided with a report by a registered surveyor about the position of fully or partially completed buildings in relation to the boundaries of the units and of the parcel.

Note If a form is approved under the Act, s 180 for a report by a registered surveyor under par (g), the form must be used.

- (2) The development statement may apportion the liability for expenses for the use or maintenance of the common property of the staged development differently from the way that liability would otherwise be apportioned by the schedule of unit entitlement.
- (3) An apportionment under subsection (2) has effect despite the current schedule of unit entitlement, but does not apply to any liability for the use or maintenance of the common property after the development is completed.

Note If a form is approved under the Act, s 180 for a development statement, the form must be used.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 5 May 2005.

2 Notification

Notified under the Legislation Act on 26 August 2005.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Unit Titles (Staged Development) Amendment Bill 2005, which was passed by the Legislative Assembly on 18 August 2005.

Clerk of the Legislative Assembly

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