

2005

LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

UNIT TITLES AMENDMENT BILL 2005

EXPLANATORY STATEMENT

Circulated by authority of the
Minister for Planning
Mr Simon Corbell MLA

Unit Titles Amendment Bill 2005

Background

The *Unit Titles Act 1970* gave the Supreme Court the power to impose conditions and give directions, to be complied with before making a final order for the cancellation of a units plan. In addition, the court was empowered to give directions to be complied with after the cancellation of the units plan.

The *Unit Titles Act 2001* does not include any equivalent provisions. The Act provides for administrative cancellation of units plans, however, the ACT Planning and Land Authority is not able to make decisions that affect the rights and interests of the individual unit owners.

The Magistrates Court does have some powers in relation to the rights and interest of the individual unit owners. However, the wide discretions previously available to the Supreme Court, in the making of a cancellation order, are not available to the ACT Planning and Land Authority or the Magistrates Court.

The Bill provides the Supreme Court with powers similar to those previously contained in the *Unit Titles Act 1970*.

Clause Notes

Clauses 1-3 provide for the naming and commencement of the Act.

Clauses 4 & 13 add the reference “cancellation order” to section 154 and 162.

Clause 5 substitutes the existing heading “cancellation authority – grant” with a new heading “cancellation authority – grant by planning and land authority”.

Clause 6 adds a new section 160 (1A) to enable the planning and land authority the ability to either grant or refuse to grant a cancellation authority.

Clause 7 substitutes “if satisfied on reasonable grounds” with “only if satisfied”.

Clause 8 substitutes “authorised” with “supported”

Clause 9 relates to the renumbering of the Act on republishing.

Clause 10 substitutes the existing heading “cancellation of units plan – period of effect of authority” with “cancellation authority – period of effect”.

Clause 11 reintroduces the power of the Supreme Court to make orders on applications for the cancellation of units plans taking into account the rights and interests of the individual unit owners.

Clause 12 renumbers Division 11.2 to 11.3.

Clause 14 provides clarification of the respective responsibilities in relation to the grant of cancellation authorities and cancellation orders.

Clauses 15-19 substitute the reference to 'Magistrates Court' with the 'Supreme Court' and differentiate between the unit owner and a person with an interest in a unit in relation to the dissolution of owners' corporations. It also provides for the renumbering of paragraphs upon republication of the Act.

Clauses 20-24 substitute the reference to 'Magistrates Court' with the 'Supreme Court' and differentiates between the unit owner and a person with an interest in a unit in relation to the dissolution of owners corporations on lease expiry. It also provides for the renumbering of paragraphs upon republication of the Act.

Clauses 25-27 provide definitions for the types of orders granted by the Supreme Court.

Schedule 1 provides for consequential amendments to the *Land Titles (Unit Titles) Act 1970*. The Registrar-General will be required to register a cancellation authority (issued by the planning and land authority) or a cancellation order (issued by the Supreme Court) and adds a reference to cancellation orders.