

2007

LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

UNIT TITLES AMENDMENT BILL 2007

EXPLANATORY STATEMENT

Presented by authority
Mr Andrew Barr MLA
Minister for Planning

Unit Titles Amendment Bill 2007

Background

The object of these amendments is to allow for the registration of new units plans with minor encroachments (defined as attachments in the Bill) over an adjoining road or public place.

Clause Notes

Clauses 1-2 provide for the naming and commencement of the Act.

Clause 3 notes the Act being amended.

Clause 4 substitutes a new section 17(5) that deals with the circumstances in which a registered surveyor must prepare a plan showing the nature and extent of the existing or proposed attachment, whether the attachment is for use with the unit or the common property, if the attachment is for use with the unit – the unit to which the attachment relates.

Clause 5 inserts a new section 20(1)(d) that deals with the existing or proposed attachment/s that exist on the day the unit title application is lodged as an authorised existing attachment and any proposed attachment has to satisfy two tests. Firstly, that the encroachment would not endanger public safety or unreasonably interfere with the amenity of the neighbourhood. Secondly, that it is not in the public interest to refuse to approve the unit title application because of the encroachment.

Clause 6 inserts a new section 20(7) that provides a definition for “authorised existing attachment”.

Clause 7 substitutes a new section 27(1)(a) that deals with diagrams showing the sub-division as approved (including the nature and extent of any encroachment mentioned in section 20(1)(d)).

Clause 8 inserts a new Division 4.3 and new section 37A that deals with the effect of registration of units plans with encroachments on public places. Other than the provision of ownership of interest and certificates of title, the registration of a units plan with an attachment allows either the unit owner or the owners corporation to use the attachment as if it were part of a unit or common property respectively.

Clause 9 inserts definitions of “attachment”, “encroachment” and “public place”.

Schedule 1 – Other Amendments

Part 1.1 – Subsection 11(2), note

Substitutes “any encroachment, whether at, above or below ground level” in the note for “any projection or encroachment, whether above or below ground level”.

Part 1.2 – Sections 18(2) and 19(3)

Substitutes “any encroachment, at, above or below ground level” for “any projection above, or encroachment below, ground level”.

Part 1.3 – section 127(4)

Substitutes “section 8” for “section 7”.