

2023

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

TENTH ASSEMBLY

Unit Titles Legislation Amendment Bill 2023

Explanatory Statement

and

Human Rights Compatibility Statement

(Human Rights Act 2004, s 37)

**Presented by
Mick Gentleman MLA
Minister for Planning and Land Management
March 2023**

UNIT TITLES LEGISLATION AMENDMENT BILL 2023

INTRODUCTION

This explanatory statement relates to the Unit Titles Legislation Amendment Bill 2023 (the Bill) as presented to the Legislative Assembly. It has been prepared to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill.

The statement must be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the court.

The Bill is **not** a Significant Bill. Significant Bills are Bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004* (HRA).

BACKGROUND

In 2016 the ACT Government commenced the Unit Titles Reform Project, a targeted review of legislation associated with the development, governance and administration of units plans to examine what changes were necessary to better support mixed-use developments.

A key catalyst for this work was the need to respond to the substantial growth in the development of mixed-use units plans, and the requirement for legislation to adequately provide for the governance and administrative arrangements in these buildings.

Stage one of the project resulted in the *Unit Titles Legislation Amendment Act 2020*, which delivered a range of improvements to voting, administration, finances, rules, levies, managing disputes and sharing information.

This Bill delivers stage two of the project and aims to further streamline and improve the legislative processes that relate to development and management of units plans.

OVERVIEW OF THE BILL

This Bill amends several existing Acts that relate to the development and functioning of units plans to:

- Require owners corporations to lodge copies of all alternative rules when a rule is amended.
- Prohibit the registration of an alternative rule made by an owners corporation more than three months after the special resolution that passed the alternative rule.
- Remove the requirement to lodge multiple copies of units plans, now plans are lodged online.
- Require Class B unit plans to register any decision to exempt themselves from having building insurance for the whole complex.
- Streamline unit titles applications and approval processes, by allowing applicants to progress the unit title application at the same time as the Certificate of Operational Acceptance and the Certificate of Occupancy and Use.
- Prevent the elimination of a unit in a two-unit Class A units plan if one unit is the subject of a building damage scheme;
- Allow subleasing of common property, and clarifying the circumstances where this may occur.
- Allow existing owners corporations to opt in to a Building Management Statement via a special resolution.
- Clarify circumstances in which owners corporations may recover insurance excess payments.
- Remove the requirement for a unit owner to give the owners corporation notice if they enter into an agreement to sell the unit, with notification to be provided at settlement.
- Place a four month time limit for an eligible person to request a unit title update certificate from an owners corporation, after they have obtained a unit title certificate.
- Clarify that all units plans with more than \$250,000 in the combined funds under management must participate in an annual audit of their financial records.

- Amend the default rules for a units plan to add further examples where permission for the installation of sustainability infrastructure may be withheld, being financial considerations or equity of access to common property, easements, utility services, or facilities.

CONSULTATION ON THE PROPOSED APPROACH

The ACT Government worked with the Unit Titles Reform Consultative Group (the Consultative Group) to develop this Bill. The Consultative Group was established in 2019 to provide input and advice on the Unit Titles Reform Project. The members of the Consultative Group represent a broad range of stakeholders, including developers, owners corporations, unit owners and tenants, as listed below:

- ACT Law Society
- Housing Industry Association
- Legal Aid ACT
- Master Builders Association of the ACT
- Owners Corporation Network ACT
- Planning Institute of Australia
- Property Council of Australia – ACT Division
- Real Estate Institute of the ACT
- Strata Community Australia
- Surveying and Spatial Sciences Institute

The Consultative Group developed and refined the policy proposals for inclusion in the Bill. They also provided feedback on a draft of the Bill, which has been incorporated where possible.

Consultation on the Bill was conducted internally with ACT Government Directorates including the Justice and Community Safety Directorate (JACS) and Environment, Planning and Sustainable Development Directorate (EPSDD). Within JACS, the Housing and Consumer Protection and Human Rights Scrutiny teams were consulted. Teams consulted in EPSDD included the Leasing Administration Unit, the Loose Fill Asbestos Coordination team, and the Land Titles Unit.

CONSISTENCY WITH HUMAN RIGHTS

Rights engaged

The Bill engages the following right under the HRA:

- Section 12 – Right to privacy and reputation.

Rights promoted

This Bill will promote the right to privacy and reputation.

Right to privacy and reputation

Several provisions in the Bill promote the right to privacy and reputation.

Right to privacy and reputation – updating the corporate register

The Bill removes the requirement to update the corporate register with a unit owner's details when a unit is exchanged, which means that personal details are not provided or stored where a sale does not proceed. As well as promoting the right to privacy, this provision reduces the reporting burden while still supporting accurate record keeping of an owners corporation.

Right to privacy and reputation – installation of sustainability infrastructure

The Bill clarifies the circumstances where consent for the installation of sustainability infrastructure may be withheld by an owners corporation, to add two further examples: financial considerations, and equity of access to common property, easements, utility services, or facilities. This will facilitate additional scrutiny to the consent process, to ensure the rights of all unit owners and occupants are supported and protected.

It will help address circumstances where the installation by one owner of sustainability infrastructure may impede another unit owner's equal access to similar sustainability infrastructure in the future, or impose a large cost on unit owners.

For example, the installation of an electric vehicle (EV) charging point for a unit owner may result in a significant impact on the electrical loading for existing electrical conduits, and prevent another unit owner from installing an EV charger as it may overload the electrical system. It may also require a major upgrade to the existing electrical network within a units plan, which could be prohibitively expensive.

Decisions to install sustainability infrastructure on common property have the potential to impact on an owners access to the shared spaces, and may result in additional levies paid by owners to cover installation and maintenance costs. The new provisions will help make the owners corporation aware that these types of issues should be considered before any decisions are made.

Rights limited

Right to privacy and reputation

The Bill engages and may limit the right to privacy and reputation (section 12). The ways in which the Bill does this are set out below.

Right to privacy and reputation – Subleasing of common property

1. Nature of the right and the limitation (section 28 (2) (a) and (c))

This measure could limit the right to privacy, including impacting on a person's ability to enjoy their home. The Bill allows the subleasing of common property, and clarifies the circumstances where this may occur. This will enable minor business activities to be established such as a coffee cart, florist or parcel locker. The Bill provides that any business or activity must not interfere with the use or enjoyment of a unit. This includes preventing any activity that might limit access to a unit.

2. Legitimate purpose (section 28 (2) (b))

The purpose of the Bill is to update unit titles legislation to better support unit living. This includes situations where owners corporations might want to sublease part of the common property of their units plan. This provision formalises the process of using common property for business activities, provides a clear framework for subleasing common property, and to provides a structure to protect the rights of unit owners.

It will bring the ACT's unit title legislation in line with other jurisdictions, including Queensland, NSW and Victoria. Subleasing common property is a growing area of interest for many owners corporations who are looking to utilise parts of the common areas of their property for revenue, or to provide additional services to residents and community members.

3. Rational connection between the limitation and the purpose (section 28 (2) (d))

The introduction of a new provision to allow the subleasing of common property, which may engage and may limit the right to privacy and reputation, is rationally connected to the overarching goal of the Bill, which is to review and update unit titles legislation to better support unit living and the functioning of owners corporations. This new measure does, however, contain an appropriate safeguard, because the subleasing must not impact on the use or enjoyment of a unit.

4. Proportionality (section 28 (2) (e))

There is the potential for the right to privacy and reputation to be engaged if a business or activity being conducted as part of a sublease on common property of a units plan were to increase the possibility of overt surveillance of a person's home, obstruct the view from a unit, or create excessive noise or odours.

This will be mitigated by the provisions requiring that the business or activity does not unreasonably interfere with the use or enjoyment of a unit. This is the least restrictive approach to managing the impacts of the business or activity, as it will be a decision for the owners corporation to determine what businesses or activities best suit the units plan, common property and residents. If a unit owner or occupant feels that their right to privacy is limited as a result of a business or activity taking place on subleased common property, they will be able to lodge a complaint with the owners corporation. If this is not successful in resolving the issue, the owner or occupant may wish to take the matter to ACAT, which could make a ruling about whether the subleasing complies with the requirement set out in the Act.

Further, the Bill provides that approval for a sublease will require a special resolution of the owners corporation, rather than leaving the decision making to an executive committee.

Right to privacy and reputation – Installation of sustainability infrastructure

1. Nature of the right and the limitation (section 28 (2) (a) and (c))

The right to privacy is broad, and includes the right to personal autonomy and private life, and for people not to have their home life arbitrarily interfered with. The Bill clarifies the circumstances where consent for the installation of sustainability infrastructure may be withheld by an owners corporation, to add two further examples: financial considerations, and equity of access to common property, easements, utility services, or facilities. These additional grounds for refusal of an application to install sustainability infrastructure will limit the existing rights that unit owners have, as they may have been eligible for approval under the current criteria.

2. Legitimate purpose (section 28 (2) (b))

The purpose of introducing this provision is to give owners corporations additional grounds on which to base their considerations when assessing applications by unit owners to install sustainability infrastructure. It does not conflict with the intention of the current provisions to allow greater access to these facilities by individual unit owners.

The introduction of changes to the existing provisions to add two further examples for the owners corporation to consider is connected to the overarching goal of the Bill which is to review and update unit titles legislation to better support unit living. This provision provides more clarity in the decision making process, and supports the rights of all unit owners and occupiers of a units plan, while promoting access to sustainability infrastructure.

3. *Rational connection between the limitation and the purpose (section 28 (2) (d))*

As described above, the purpose of this provision is to help address circumstances where the installation by one owner of sustainability infrastructure may impede another unit owner's equal access to similar sustainability infrastructure in the future, or impose a large cost on unit owners.

For example, the installation of an electric vehicle (EV) charging point for a unit owner may result in a significant impact on the electrical loading for existing electrical conduits, and prevent another unit owner from installing an EV charger as it may overload the electrical system.

Additionally, the ability to install the EV charging infrastructure may actually require a major upgrade to the existing electrical network within a units plan, which could be prohibitively expensive.

4. Proportionality (section 28 (2) (e))

The approach chosen is considered proportionate and the least restrictive means to achieve the policy objective, as the Bill has only added two examples to the existing provisions. The rights of owners to install sustainability infrastructure have not changed. The Bill supports owners corporations to make considered and informed decisions, in the best interests of all owners.

Decisions to install sustainability infrastructure on common property have the potential to impact on an owner's access to the shared spaces, and may result in additional levies paid by owners to cover installation and maintenance costs. The new provisions will help make the owners corporation aware that these types of issues should be considered before any decisions are made.

Unit Titles Legislation Amendment Bill 2023

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Unit Titles Legislation Amendment Bill 2023**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly is consistent with the *Human Rights Act 2004*.

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Shane Rattenbury MLA
Attorney-General

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of Act

This clause provides that the name of the Act is the *Unit Titles Legislation Amendment Act 2023*.

Clause 2 Commencement

This clause provides for the commencement of the Act on 1 July 2023.

Clause 3 Legislation amended

This clause lists the legislation amended by the Act. The Act amends the following legislation:

- *Civil Law (Sale of Residential Property) Act 2003*;
- *Land Titles (Unit Titles) Act 1970*;
- *Unit Titles Act 2001*;
- *Unit Titles (Management) Act 2011*;
- *Unit Titles (Management) Regulation 2011*; and
- *Unit Titles Regulation 2001*.

The Bill also makes a consequential amendment to the *Civil Law (Property) Act 2006*, as provided in Schedule 1.

Part 2 Civil Law (Sale of Residential Property) Act 2003

Clause 4 Meaning of *required documents* New section 9 (1) (g) (i) (D)

This clause adds an additional document to the list of required documents that must be provided in relation to the sale of residential property where the property is part of a registered units plan. This new required document is a certified extract from the register of the compilation of the alternative rules of the units plan. This will cover any default rules that have been modified, as well as additional rules the units plan may have adopted.

Clause 5 Section 9 (4), new definitions

This clause inserts new definitions of *alternative rules* and *owners corporation* into section 9 of the Act, to support the new required documents outlined in new section 9 (1) (g) (i) (D) (see clause 4 above).

Part 3 Land Titles (Unit Titles) Act 1970

Clause 6 Lodging units plan for registration Section 6 (2)

The clause updates the requirements for lodging a units plan for registration, by omitting the formatting requirements set out in Schedule 1, and substituting the requirements to be approved by the registrar-general via notifiable instrument. This reflects the updated practice of submitting units plans electronically, which makes formal requirements such as number of copies and page size redundant.

Clause 7 New section 6 (3)

This clause provides that the requirements for lodging a units plan for registration, as approved by the registrar-general, is a notifiable instrument.

Clause 8 Registration of units plan Section 7 (1) (b)

This clause provides that the registrar-general must register a units plan, including a copy of the endorsed units plan. This clause removes the requirement to register multiple copies, now that plans are lodged electronically.

Clause 9 Section 7 (1) (e)

This clause provides that a document compiling any proposed alternative rules for a units plan is required as part of registration of a units plan.

Clause 10 Section 7 (2)

This clause removes the requirement to provide copies of the approved units plan, now it is lodged electronically. Instead, the applicant and the planning and land authority will be notified in writing, of the registration of the units plan.

Clause 11 Section 27

This clause substitutes section 27, and provides for section 27A and 27B. Existing section 27 deals with applications to register a units plan and specifies that the registrar-general must register alternative rules for an owners corporation if they have been lodged at the initial point of registration, or if an owners corporation or the ACT Civil and Administrative Tribunal (ACAT) makes an alternative rule.

The substituted section 27 now deals only with the initial registration of alternative rules. It does not change the existing process, but adds a note to specify that the rules of an owners corporation are the default rules as set out in schedule 1 of the *Unit Titles (Management) Act 2011*, as modified by any alternative rules.

The proposed section 27A sets out how changes to alternative rules are dealt with after an owners corporation's rules have been registered by the registrar-general. These changes can be made by the owners corporation itself or if the ACAT makes a declaration that a rule is invalid.

Under the *Unit Titles (Management) Act 2011*, section 129 (3) (a), an ACAT declaration that a rule is invalid has effect as if the rule were repealed by special resolution of the owners corporation on the day the declaration is made. The ACAT may also make an order requiring an owners corporation to make or repeal a rule and register a copy of the resolution making or repealing the rule (see *Unit Titles (Management) Act 2011*, section 129 (1) (j)).

Section 27A (2) provides that if there are any changes to alternative rules, the owners corporation must lodge for registration an updated compilation of the alternative rules. Currently, owners corporations are only required to lodge the amended rule or rules. This can make it challenging for prospective owners to establish what the most current set of rules are. This amendment means that prospective owners will have access to a current set of rules when they are purchasing a unit

Section 27B requires Class B units plans that choose to exempt themselves from having building insurance for the entire units plan to register the insurance exemption with the registrar-general. This typically occurs when each unit is individually insured. The registration of this exemption must be made within three months of a unanimous resolution being passed at a meeting of the owners corporation resolving to exempt the units plan from building insurance.

This timing in this section is based on when an insurance exemption is ‘lodged’, rather than when it is ‘registered’. This is because an owners corporation can control when they lodge an insurance exemption, but not how long it may take for the registrar-general to register it.

The effect of this amendment is that prospective unit owners will be provided with information about whether a units plan is uninsured when a unit title certificate is provided as part of the purchase process.

Clause 12 Formal requirements for units plan Schedule 1

This clause updates the requirements for lodging a units plan for registration, by omitting the formatting requirements set out in Schedule 1, and substituting the requirements to be approved by the registrar-general via notifiable instrument. This reflects the updated practice of submitting units plans electronically, which makes formal requirements such as number of copies and page size redundant.

Clause 13 Dictionary, note 4

This clause is a consequential amendment relating to exempting Class B units from insurance, which is achieved through the insertion of proposed new section 27B of the *Land Titles (Unit Titles) Act 1970*.

This clause amends Dictionary note 4 of the Act by inserting an additional dot point, to include “unanimous resolution” as one of the terms that have the same meaning in

the *Land Titles (Unit Titles) Act 1970* as they do in the *Unit Titles (Management) Act 2011*. This is because proposed new section 27B introduces the term “unanimous resolution” for the first time in the Act, and to make it clear that it has the same meaning as it does in the *Unit Titles (Management) Act 2011*.

Part 4 Unit Titles Act 2001

Clause 14 Unit title applications—general requirements Section 17 (5) (a)

This clause expands section 17 (5) (a) to include a requirement for applications for unit titles, where approval for the development is required under section 19 of the *Public Unleased Land Act 2013*, to include a copy of the work approval.

This amendment, along with those in clauses 15, 16, and 17, updates the process for unit titles applications and approvals, by permitting a unit titles application to be made when a building is complete – but prior to a Certificate of Operational Acceptance and Certificate of Occupancy and Use being issued. This preserves the current status that approval of the application, so that final approval is not to be given until the certificates are issued.

Clause 15 New section 19A

This clause inserts a new section to the *Unit Titles Act 2001*, section 19A. It provides that applicants must give a copy of the most recent certificate of occupancy and use for each unit in the parcel and for any structure within the boundaries of the common property at the time of making a unit title application, or at any time before the application is approved under section 20 of the Act.

This amendment, along with those in clauses 14, 16, and 17, updates the process for unit titles applications and approvals, by permitting a unit titles application to be made when a building is complete - but prior to a Certificate of Operational Acceptance and Certificate of Occupancy and Use being issued. This preserves the current status that approval of the application, so that final approval is not to be given until the certificates are issued.

Clause 16 Unit title applications—approval New section 20 (7) (aa)

This clause is related to the insertion of 17 (5) (a) (ii) (clause 14 above) and the insertion of new section 19A (clause 15 above).

New section 20 (7) (aa) details the process for approving unit title applications by providing grounds for the planning and land authority to refuse to approve an application.

This clause inserts a new subsection (aa) that adds two criteria where the planning land authority may refuse to approve a unit title application: if a work approval under

section 19 of the *Public Unleased Land Act 2013* or and a certificate of occupancy and use have not provided.

This amendment, along with those in clauses 14, 15, and 17 updates the process for unit titles applications and approvals, by permitting a unit titles application to be made when a building is complete - but prior to a Certificate of Operational Acceptance and Certificate of Occupancy and Use being issued. This preserves the current status that approval of the application, so that final approval is not to be given until the certificates are issued.

Clause 17 Section 20 (10), new definition of *certificate of occupancy and use*

This clause inserts a reference to the definition of occupancy and use, as provided for in proposed new section 19A in clause 15 above.

This amendment, along with those in clauses 14, 15, and 16 updates the process for unit titles applications and approvals, by permitting a unit titles application to be made when a building is complete - but prior to a Certificate of Operational Acceptance and Certificate of Occupancy and Use being issued. This preserves the current status that approval of the application, so that final approval is not to be given until the certificates are issued.

**Clause 18 What is a *building damage scheme*
Section 152 (b)**

This clause substitutes existing section 152 (b). It prevents the elimination of a unit in a two-unit Class A units plan if one unit is the subject of a building damage scheme. This is because a units plan cannot consist of only one unit. Proposed new section 152 (b) includes a note that units plans should be cancelled in accordance with section 160.

Clause 19 Dictionary, definition of *utility services*, paragraph (e)

This is a minor amendment to correct a typographical error.

Part 5 Unit Titles (Management) Act 2011

**Clause 20 Dealings with common property
New section 20 (3) and (4)**

This clause provides for subleasing of common property and clarifies the circumstances where this may occur. It must be agreed via special resolution, apply to common property not already subject to a special privilege, and not unreasonably interfere with the use or enjoyment of a unit.

The clause further provides that sublessees must take out and maintain public liability insurance for the affected part of the common property, as agreed by the owners corporation and the entity conducting the business or activity. The insurance requirements reflect similar requirements in sections 57 (2) and 102 (2) of the Act.

Clause 21 New section 33B

This clause inserts a new section 33B, which provides that an existing owners corporations may opt in to a Building Management Statement via a special resolution.

**Clause 22 Definitions—div 5.2
Section 72, definition of *general fund contribution***

This definition is being omitted as it is already set out in section 78 of the *Unit Titles (Management) Act 2011*.

Clause 23 Sections 78, note 2 and 89, note 2

This clause improves the drafting of each note, so they are better aligned with the provisions they are referencing.

**Clause 24 Lodgment of insurance claims
Section 100A (2) (b), new note**

This clause adds a note to clarify the circumstances in which owners corporations may recover insurance excess payments from unit owners or occupiers. It specifies that insurance excess payments may be recovered if an expense is incurred because of a wilful or negligent act or omission, or a breach of the owners corporation's rules.

**Clause 25 Exemption from building insurance requirements
Section 101 (3)**

This clause requires the decision for Class B units to be exempt from insurance to be registered on title, within three months of passing the exemption. This decision is typically made when each unit is individually insured.

Section 101 (3) (a) includes the existing requirement that the exemption in section 101 (1) takes effect from the date of the annual general meeting when it is passed until the next annual general meeting.

Section 101 (3) (b) includes the new requirement relating to Class B units plans where the exemption takes effect from the date of the resolution. This is because unit owners need timely advice about the insurance arrangements for the unit plan.

The effect of this amendment is that prospective unit owners will be provided with information about whether a units plan is uninsured when a unit title certificate is provided as part of the purchase process.

This clause includes a note to clarify that a decision for Class B units to be exempt from insurance does not apply to public liability insurance.

**Clause 26 What are the rules of an owners corporation?
Section 106**

This clause omits the word ‘amended’ and substitutes it with ‘modified’. The word ‘modify’ rather than ‘amend’ more accurately describe the relationship between the alternative rules and the default rules, and to avoid confusion. Both terms are defined in the *Legislation Act 2001* (the Legislation Act), Dictionary, Part 1. ‘Modification’ includes modification by alteration, omission, substitution and addition.

Clause 27 Section 106

This is a consequential amendment relating to amendments in this Bill to how rules are initially registered, modified, and lodged (see clause 11 above). Clause 11 amends the existing section 27 of the *Land Titles (Unit Titles) Act 1970*, by adding two new sections, 27A and 27B. This clause amends an existing reference in the *Unit Titles (Management) Act 2011* to section 27 of the *Land Titles (Unit Titles) Act 1970* to include new proposed section 27A.

**Clause 28 Owners corporation may make alternative rules
Section 108 (1)**

This clause omits the phrase ‘amending its rules’ and substitutes it with ‘to modify the rules of the corporation’. The word ‘modify’ rather than ‘amend’ more accurately describe the relationship between the alternative rules and the default rules, and to avoid confusion. Both terms are defined in the Legislation Act, Dictionary, Part 1. ‘Modification’ includes modification by alteration, omission, substitution and addition.

Clause 29 Section 108 (7)

This clause omits the definition of ‘amendment’. It is no longer required because ‘modification’ is now used in this section instead. The word ‘modify’ rather than ‘amend’ more accurately describe the relationship between the alternative rules and the default rules, and to avoid confusion. Both terms are defined in the Legislation Act, Dictionary, Part 1. ‘Modification’ includes modification by alteration, omission, substitution and addition.

**Clause 30 Effect of registration of alternative rule
Section 108A (1) (a)**

This is a consequential amendment relating to amendments in this Bill to how rules are initially registered, modified, and lodged (see clause 11 above). Clause 11 amends the existing section 27 of the *Land Titles (Unit Titles) Act 1970*, by adding two new sections, 27A and 27B. This clause amends an existing reference in the *Unit Titles (Management) Act 2011* to section 27 of the *Land Titles (Unit Titles) Act 1970* to include new proposed section 27A.

Clause 31 Section 108A (2)

This clause is a consequential amendment and relates to the amendment in clause 11 above, which details new requirements for owners corporations of Class B units

plans that choose to exempt themselves from building insurance. This clause amends section 108A of the *Unit Titles (Management) Act 2011*, which details when an alternative rule takes effect.

This clause omits the word ‘registered’ and substitutes it with ‘lodged’. The word ‘lodged’ is also used in place of the word ‘registered’ in clause 11. It is changed in this clause for the same reason: an owners corporation can control when they lodge an insurance exemption, but not how long it may take for the registrar-general to register it.

The effect of this amendment is that prospective unit owners will be provided with information about whether a units plan is uninsured when a unit title certificate is provided as part of the purchase process.

**Clause 32 Grant of special privileges in relation to common property
Section 112A, note**

This clause substitutes ‘amendment to the rules’ with ‘modification of the rules’. The word ‘modification’ rather than ‘amendment’ more accurately describe the relationship between the alternative rules and the default rules, and to avoid confusion. Both terms are defined in the *Legislation Act 2001*, Dictionary, Part 1. ‘Modification’ includes modification by alteration, omission, substitution and addition.

This clause also references proposed new section 27A of the *Land Titles (Unit Titles) Act 1970* (see clause 11 above).

**Clause 33 Corporate register—information to be included
New section 114 (2) (d)**

This clause adds a new subsection to section 114 of the *Unit Titles (Management) Act 2011*. Section 114 details the information that must be included on a units plan’s corporate register. This new clause provides that where an owners corporation subleases part of the common property under proposed new section 20 (3) (see clause 20 above), the owners corporation must record the details of the sublease and the sublessee’s name and address for correspondence.

**Clause 34 Corporate register—provision of information
Section 115 (1) (a)**

This clause omits the requirement for an owners corporation to update the corporate register when a unit is exchanged. The requirement to update the corporate register on settlement of the unit remains.

Clause 35 Section 115 (4), except note

This clause redrafts paragraph (a) of subsection 115 (4) of the *Unit Titles (Management) Act 2001* in line with the amendment in clause 34 above, which removes the requirement to update the corporate register when a unit is exchanged.

This clause also redrafts this subsection as a whole to improve clarity.

**Clause 36 Corporate register—access
Section 116 (1)**

This clause allows access to the corporate register by an eligible person to request information about a sublease of common property. Clause 33 above provides that where an owners corporation subleases part of the common property under proposed new section 20 (3) (see clause 20 above), the owners corporation must record the details of the sublease and the sublessee's name and address for correspondence.

Clause 37 New section 116 (5)

This clause adds two new definitions to the section, *eligible person* and *interest* (in the common property), to support the changes proposed in clause 36.

**Clause 38 Unit title certificate and access to owners corporation records
New section 119 (1A)**

This clause places a four month time limit for an eligible person to request a unit title update certificate from an owners corporation, after they have obtained a unit title certificate.

**Clause 39 Service of documents on members, interested people and occupiers
New section 124 (6)**

This clause adds a new subsection to section 124 to clarify that for the purpose of service of documents, an interest in common property includes a sublease.

**Clause 40 Kinds of ACAT orders
Section 129 (3) (b)**

This clause is a consequential amendment relating to the requirement for owners corporations to lodge copies of all alternative rules when a rule is amended. It amends the requirement for owners corporations to lodge a registered change of rules if the ACAT declares that a rule is invalid under section 27 of the *Land Titles (Unit Titles) Act 1970*, and instead requires the registration of alternative rules under proposed new section 27A of the same Act (see clause 11 above).

**Clause 41 Executive committee must keep minutes, and records and accounts
Schedule 2, section 2.1 (1) (h), except note**

This clause is a consequential amendment relating to the requirement for owners corporations to lodge copies of all alternative rules when a rule is amended. It amends Schedule 2, section 2.1 (1) (h) in the *Unit Titles (Management) Act 2011*, which currently requires an owners corporation to maintain an up-to-date consolidated version of the rules of the owners corporation, to require instead that an owners corporation maintain an updated compilation of alternative rules, if there are any.

Clause 42 Schedule 2, new section 2.1A

This clause inserts a new section, 2.1A, in Part 2.1 of the *Unit Titles (Management) Act 2011*. This Part details what an executive committee must, may, and cannot do. This new section clarifies that the annual budget of an owners corporation is the sum of all funds in the unit plan's general fund, sinking fund, and any other amount held by the owners corporation, for the purpose of conducting an audit.

Part 6 Unit Titles (Management) Regulation 2011

Clause 43 Alternative rules requirements—Act, s 108 (6) Section 7B (1) (a)

This clause omits the word 'amend' and substitutes it with 'modify'. The word 'modify' rather than 'amend' more accurately describes the relationship between the alternative rules and the default rules, and to avoid confusion. Both terms are defined in the *Legislation Act 2001*, Dictionary, Part 1. 'Modification' includes modification by alteration, omission, substitution and addition.

Clause 44 Erections and alterations Schedule 1, section 1.4, 1st examples

This clause amends the default rules for unit plans to add further examples where permission for the installation of sustainability infrastructure may be withheld, being financial considerations or equity of access to common property, easements, utility services, or facilities.

Part 7 Unit Titles Regulation 2001

Clause 45 Section 2A heading

This is a minor amendment to correct a typographical error.

Clause 46 Unit title assessment report—accompanying material— Act, s 22B (5) (b) Section 2E (1) (b) and (h)

This clause omits reference to the need to provide a certificate of occupancy and use and a work approval required under the *Public Unleased Land Act 2013* as part of the accompanying material required for a unit title assessment report. These requirements have now been moved to proposed new section 17 (5) (a) (ii) (clause 14 above) and proposed new section 19A (clause 15 above).

This amendment, along with those in clauses 14, 15, 16 and 17 updates the process for unit titles applications and approvals, by permitting a unit titles application to be made when a building is complete - but prior to a Certificate of Operational Acceptance and Certificate of Occupancy and Use being issued. This preserves the current status that approval of the application, so that final approval is not to be given until the certificates are issued.

Clause 47 Section 2E (2), definition of *certificate of occupancy and use*

This clause omits the definition of *certificate of occupancy and use* from this section. It has now been moved to proposed new section 19A (clause 15 above).

This amendment, along with those in clauses 14, 15, 16 and 17 updates the process for unit titles applications and approvals, by permitting a unit titles application to be made when a building is complete - but prior to a Certificate of Operational Acceptance and Certificate of Occupancy and Use being issued. This preserves the current status that approval of the application, so that final approval is not to be given until the certificates are issued.

Schedule 1 Civil Law (Property) Act 2006— Consequential amendments

[1.1] Sections 259A (1) (b) (ii) and 260 (1) (g)

This clause substitutes the phrase “for the owners corporation” with “of the owners corporation” in sections 259A (1) (b) (ii) and 260 (1) (g). This redrafting improves the clarity of these sections.

[1.2] Section 260 (4), definition of *alternative rules*

This clause removes the definition of *alternative rules* from this section, as it is now captured by the definition of *proposed rules*.

[1.3] Section 260 (4), definition of *proposed rules*

The clause amends the substitutes a new definition of *proposed rules* in this section. It now mirrors the proposed amended wording of the *Land Titles (Unit Titles) Act 1970*, s 7 (1) (e) (see clause 9 above). It references proposed new section 27A of the *Unit Titles (Management) Act 2011* (see clause 11 above), which provides for how changes to alternative rules can be made by an owners corporation itself or if the ACAT makes a declaration that a rule is invalid.

[1.4] Section 260G (1) (b)

This clause substitutes the phrase “for the owners corporation” with “of the owners corporation” in sections 260G (1) (b). This redrafting improves the clarity of this section.

[1.5] Section 260G (1) (b)

This is a consequential amendment relating to how rules are initially registered, modified, and lodged (see clause 11 above). Clause 11 amends the existing section 27 of the *Land Titles (Unit Titles) Act 1970*, by adding two new sections, 27A and 27B. This clause amends an existing reference in the *Unit Titles (Management) Act 2011* to section 27 of the *Land Titles (Unit Titles) Act 1970* to include new proposed section 27A.