

Q&A on Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Bill

1) What is the background to this legislation?

A lot of work on this legislation has gone on in the background with property and legal experts. The timeline below illustrates the history of this Bill:

January 2016 - Nikki Kaye (as Auckland Central MP) runs a nationwide campaign – “Better Body Corporates” – for people to tell their stories on issues occurring around units and apartments.

May 2016 - A report by Ms Kaye and a working group of legal and property experts summarising the views is presented to Nick Smith (then Minister for Building and Construction).

December 2016 – Mr Smith releases a Ministry of Business Innovation and Employment (MBIE) discussion document in response to these issues covering the main areas in this Bill.

[Link to the Discussion Document – Review of the Unit Titles Act 2010](#)

August 2017 – National commits to legislation to be introduced prior to Christmas 2017 if National are elected.

2018 – National continues to work on this in Opposition with a number of legal and property experts.

2) What are some of the issues that illustrate the need for this legislation?

In many places in New Zealand there has been a shift to intensify residential housing, which has meant more multi-owned developments. In order for intensification to be successful, the enabling legislation needs to be fit for purpose. The present legislation requires a number of changes to ensure this. In 2016 when the original ‘Better Body Corporate’ campaign ran, a number of issues were raised including:

- **Huge increases in multi-unit dwellings** – From 2010 to 2017 the number of new builds that are multi-dwellings in Auckland alone grew from 15 per cent to 40 per cent of the housing stock.
- **Issues with pre contract disclosure** – There have been issues raised about a lack of clarity around pre-contract disclosure and a need to strengthen these provisions.
- **Inadequate record keeping** – A failure of some body corporates to record key information and decisions which has led to disputes.
- **Poor management of conflicts of interests.**
- **Proxy vote farming occurring** – This practice often involves absent owners.
- **Inadequate long term maintenance plans** – Inadequate plans can lead to further cost, defects and increases in body corporate fees.
- **Developers selling units/apartments with low fees** – Issues have been raised that developers may not be accurately reflecting the true long term maintenance costs and may contain inadequate information on buyers.

3) What are the main provisions of the legislation?

The legislation aims to strike a balance between the benefits of additional compliance requirements with any potential costs. The main areas of reform include:

- Improve the information disclosure regime to prospective buyers of units
- Strengthen the governance arrangements in relation to the body corporate, the entity responsible for the management and operation of a unit title complex (owner);
- Increase the professionalism and standards of body corporate managers;
- Ensure planning and funding of long-term maintenance projects is adequate and proportionate to the size of the complex concerned

Some of the other clauses in the bill worth noting include clauses that:

- Provide the ability to opt out of some requirements for smaller buildings such as requirements around long term maintenance plans.
- Aim to reduce the chances of “proxy farming” by setting a maximum of proxy votes at 5 per cent.
- Clarify requirements around the existing 25 per cent quorum for general meetings.
- Enable the flexibility to apportion utility costs based on use.

4) What are the next steps to change the law?

Ms Collins and Ms Kaye approached the Housing Minister Phil Twyford earlier this year. In Opposition the Labour Party were supportive of changes to the Unit Titles Act. National hopes the Government will adopt this legislation. However if this does not occur then the Bill will be lodged as a Private Members Bill under Ms Collins' name.