Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Bill

29/04/2021

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Contents

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Submission on the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Bill 2021

1. Introduction

1.1. Property 101 Group Limited welcomes the opportunity to comment on the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Bill 2021 (Bill). The Bill amends the Unit Titles Act 2010 (UTA), the Unit Titles Regulations 2011 (UTR) and the Unit Titles (Unit Title Disputes – Fees) Regulations 2011 (UTD).

1.2. Property 101 Group Limited are a specialist Body Corporate Management & Consultancy firm based in Auckland with a portfolio throughout New Zealand. The team have over 38 years' experience throughout New Zealand and Australia. Our Director Joanne Barreto is also the National President of Strata Community Association New Zealand - SCA(NZ) and sits on the Unit Title Working Group led by Joanna Pidgeon.

1.3. This submission recommends some drafting amendments to improve the clarity, certainty and workability of the Bill.

1.4. The submission also identifies aspects of the UTA that are absent from the Bill (discussed at [32] below), which deserve consideration for future review, although Property 101 Group Limited ask the finalisation and enactment of the Bill not be delayed pending those further reviews.

1.5. Property 101 Group Limited considers there are a number of issues with the Bill as currently drafted and are happy to be a member of a working group to discuss potential drafting amendments with officials if that would be of assistance.

1.6. The submission includes Property 101 Group Limited's supplementary working table for ease of reference.

Unit Titles Act 2020 Amendments:

2. Part 2, Subpart 5, Clause 5, Section 39 amended (Utility interest (other than for future development units))

2.1. The proposed wording of *'a multiple set of interests, each targeted at a particular service or amenity'* is unworkable in practice for levying purposes.

2.2. Clarification this applies to new complexes only and does not affect existing section 41 Reassessment of ownership interest and utility interest. If so, does section 41 need review to align the sections.

2.3. The current regime does not cater for all options, with a mechanism required that allows the levying of certain owners only by a means other than Utility Interest against all owners, with recovery under section 126 (for example, car stacker accessory units repair, maintenance, or upgrade).

2.4. The proposed wording does not address the difficulties of mixed unit developments (commercial / residential), or separate buildings (but one body corporate) repairs and maintenance.

2.5. This amendment is not supported, with the existing section wording or further refinement preferrable at this time.

3. **Part 2, Subpart 12, Clause 6, Section 19 amended (Rights of owners of principal units)**

3.1. The addition of the wording '*the use, enjoyment, or ownership interest of'* has the potential to limit the wording of *'do not materially affect'* to matters that only affect ownership interest.

3.2. This wording does not allow for damage or other unforeseen consequences that may arise from an alteration to an apartment.

3.3. The amendment wording is not supported as it does not add clarification, rather has the potential to create dispute problems.

4. **Part 2, Subpart 12, Clause 7, Section 80 amended (Responsibilities of owners of principal units)**

4.1. The same concerns that are noted in [3.1] above.

4.2. The amendment wording is not supported as it does not add clarification, rather has the potential to create dispute problems.

5. **Part 2, Subpart 12, Clause 8, Section 95 amended (Quorum)**

5.1. The wording *'including proxies'* does not address the postal votes, with Regulation 13 stating *'may proceed without a quorum if the persons who have cast postal votes, together with those present'*. If a quorum can proceed utilising postal votes, this ideally should be noted in section 95 as *'including proxies and postal votes'* for clarity.

5.2. Section 95(4) is redundant.

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6. **Part 2, Subpart 12, Clause 9, Section 95 amended (How matters at a general meeting of body corporate decided)**

6.1. This amendment is supported.

7. **Part 2, Subpart 12, Clause 10, Section 102 amended (Voting: proxies)**

7.1. This amendment is strongly opposed for the following reasons:

7.1.1. Achieving quorum will be difficult, if not impossible for larger bodies corporate, requiring a recalled meeting at additional owner expense.

7.1.2. The issue of proxy farming in New Zealand is not large enough to warrant the difficulties this amendment will create.

7.1.3. The restriction will prohibit most overseas owners from voting by refusal to allow them to proxy to individuals of their choice. Usually, they will provide a proxy to their property manager, the building manager, or the chairperson.

7.1.4. This restriction means owners of multiple units will need to split their proxies up between multiple parties and this is unworkable in practice.

7.1.5. This exceeds the powers and duties of the body corporate and interferes with the democratic process and an owner's right to instruct whom so ever they choose to represent them as proxy for voting purposes.

7.2. The alternative suggestion of insisting on directed proxies is not supported. This suggestion is unworkable in practice for larger bodies corporate.

7.3. This amendment is not supported and needs to be excluded from the amendment Bill.

8. **Part 2, Subpart 12, Clause 11, Section 104A inserted (Attending meetings and voting by remote access)**

8.1. This amendment is supported in part, noting the following points for amendment.

8.1.1. The wording *'by 1 or more members participating'* needs clarification such that it does not restrict the ability of a body corporate to hold a fully remote meeting.

8.1.2. Remove 104A(1)(a) and the requirement for the passing of a special resolution. In the event of a force majeure (for instance during COVID-19), a body corporate may not have the ability to pass a special resolution.

8.1.3. Parameters need to be set out regarding voting criteria. Recommendation is an owner attending by remote access must be attending from the email or telephone number as recorded in the proprietors' register held by the body corporate. Further, each voting member attending by remote access must have their own dedicated access point for verification and integrity of voting criteria (for instance, members from different units (unless they are owned by the same member) may not attend from the same email or telephone number as other voting units). In other words, one remote attendance, one vote unless the attendee owns multiple units or holds proxies on behalf of other owners.

8.1.4. Recommendation is the same criteria as for the calling of any other general meeting being the chairperson, or by section 89A.

9. **Part 2, Subpart 12, Clause 12, Section 112 inserted (Establishment of body corporate committee)**

9.1. The wording is ambiguous and contradicts the earlier section wording.

9.2. The recommendation is to amend the wording to show instead:

"Where a body corporate committee must be formed, it must be formed and conduct its business in accordance with this Act and the regulations."

10. **Part 2, Subpart 12, Clause 13, Section 112 inserted (Establishment of body corporate committee)**

10.1. This amendment is supported.

11. **Part 2, Subpart 12, Clause 14, Section 113 replaced (Decision-making of body corporate committee)**

11.1. This amendment is supported, with the following point noted:

11.1.1. The section should include (or clarify the committee has) the ability to pass resolutions without meeting (for instance, email resolutions or remote access resolutions).

12. **Part 2, Subpart 12, Clause 15, Section 114A to 114I inserted**

12.1. The insertions are supported in part and not supported in other parts as follows:

12.1.1. Sections 114A & 114B are supported.

12.1.2. Section 114C is supported, although note there may be a potential issue when there is a single owner (for instance, developer).

12.1.3. Sections 114D & 114E(1) are supported.

12.1.4. Section 114E(2) is partially supported, however, notes if the committee pass a motion where personal interest takes precedent, the body corporate is bound by the committee decision (for instance, building management contract). Recommendation is if there is a failure to comply, the matter must be referred to general meeting for the body corporate to either confirm or revoke the decision.

12.1.5. Sections 114F(1) & (2) are supported, noting the registers are likely to be kept by the body corporate manager, not the body corporate itself.

12.1.6. Section 114F(3) is not supported for the following reason:

12.1.6.1. This is an unnecessary additional burden on bodies corporate to pass an ordinary resolution to adopt this measure, then lodge updated rules with Land Information New Zealand (LINZ). This costs more time and attendance, plus lodgement fees.

12.1.6.2. Without the provision to charge for time and attendance to provide this information being covered by section 206(2), it is possible (and already does occur), whereby disaffected owners use the excuse of requesting multiple documents / information as a form of communication harassment of the committee or body corporate manager.

12.1.6.3. Recommendation is that the access by other members be incorporated into section 206(1). This allows for section 206(2) charging for *"any reasonable costs incurred in providing the records and documents"*.

12.1.7. Section 114G is supported.

12.1.8. Section 114H(1) is supported in principle, however, concern is raised as follows:

12.1.8.1. The use of the word *'must'* which contradicts the body corporate manager's right to refuse to undertake a function or duty that either is unethical, not in the best interests of the body corporate, or that may be outside the contracted scope of services and for which the

body corporate is refusing to pay additional service fees for the additional service.

12.1.8.2. Recommendation replace the word *'must'* with *'may'*.

12.1.9. Section 114H(1)(a) & (b) is supported, noting the point at [12.1.10] above.

12.1.10. Sections 114H(2), 114(3), 114(4), 114I(1), 114I(2), 114(3)(a) & (b) are supported.

12.1.11. Section 114I(3)(c) is supported in principle, however, there are bodies corporate that might be separately titled (e.g. layered) yet share the same common ground and services (for instance, pool, gym, garages, fire systems). In those instances, quotes and / or actions might be taken that concerns mulitple bodies corporate, with the expense a shared cost.

12.1.12. Section 114I(4) is supported.

12.1.13. Section 114I(5) is supported, however, it is again noted the register will likely be kept by the body corporate manager and not the body corporate.

12.1.14. Section 114I(a) is supported.

12.1.15. Section 114I(b) is not supported for the same reason as noted in [12.1.6].

13. **Part 2, Subpart 13, Clause 16, Section 116 amended (Long-term maintenance plan)**

13.1. The naming convention of 116(3)(aaa) would be better titled 116(3)(e) as that improves clarity when reading this section.

13.2. The addition of *'any defects in or repairs required'* is strongly opposed for the following reasons:

13.2.1. The wording changes the intent of the long-term maintenance plan as a document that identifies the lifespan of building elements and provides an estimate of expenditure for future savings by the body corporate to become a building condition report that identifies defects and incurs a mandatory legal obligation on the body corporate to remediate.

13.2.2. How is it intended that defects or repairs will be identified, as currently to find defects a full invasive inspection must be carried out that involves cutting holes in cladding and interior panels to investigate the condition of interior structures and fire systems. Once that is completed, a body corporate must then repair, make fire compliant and weathertight those areas (and for cladding, may involve the cladding having to be replaced). This can be a significant additional expense.

13.2.3. The result being millions of dollars (and potentially billions of dollars) having to be levied against members, as all buildings have a degree of defects or building element aged related condition deterioration.

13.2.4. This will generate the emergence of a new industry for consultants to address 'defects' that will eclipse the 'weathertight' remediation industry in terms of future expense for bodies corporate and may well bankrupt numerous bodies corporate.

13.2.5. The expense of a long-term maintenance plan ranges from $650 for a smaller complex with basic requirements, to around $3,000 - $5,000 for a larger complex with complicated plant and equipment. The expense for a defects / condition report can be anywhere from $5,000 - $7,000 upwards to $15,000 - $30,000 plus, depending on requirements. As the long-term maintenance plan is required to be updated at a maximum timeframe of three years, this is a significant expense members' must be levied for every time. This does not then consider the expense to remediate any identified defects or repairs then required.

14. **Part 2, Subpart 13, Clause 17, Section 139 amended (Original owner's obligation in relation to service contracts)**

14.1. The time frames are not workable in practice and remove economies of scale options. Several companies have 36 month or 10-year contacts (for instance fire monitoring and lift contracts).

14.2. A body corporate cannot force a contractor to remove all termination clauses from their contracts, as this infringes on the business practices of the contractor to not suffer financial loss if the body corporate changes its mind.

14.3. A body corporate cannot force a contractor to insert a clause in their contracts that states the body corporate must pass an ordinary resolution for each renewal. A contractor is not concerned with the internal governance mechanisms of the entities it contracts with, merely concerned with roll over clauses and the actual instruction (yes/no), not how they make that decision.

15. **Part 2, Subpart 14, Clause 18, Sections 146 to 149 replaced**

15.1. The existing disclosure regime requires amendment; however, the replacement sections are poorly worded, with important subsections removed. There are multiple potential

concerns and for this reason, the replacement of sections 146 to 149 with the suggested amendments is strongly opposed.

15.2. Breaking down the Bills amendment to section 146, the identified concerns are noted as follows:

15.2.1. Section 146(2)(b) is strongly opposed.

15.2.1.1. The seller should always be the one endorsing the certificate, not the body corporate. This creates risk of legal liability on the body corporate.

15.2.1.2. Currently a seller can prepare their own section 146. If the body corporate is required to endorse the certificate, the body corporate will insist on preparing the certificate, with this another mandatory cost to the owner if selling their unit.

15.2.2. Section 146(3) is supported.

15.2.3. Section 146(4) is noted that a disclosure statement is specific to a unit. Therefore, the responsibility for providing authorisation to prepare sits with the seller not the body corporate.

15.3. Breaking down the Bills amendment to section 147, the identified concerns are noted as follows:

15.3.1. The wording *'Additional Disclosure'* appears to be an error. The preference is the wording '*Pre-settlement Disclosure'*.

15.3.2. Section 147(2)(b) is ambiguous when other sections of the Act require the seller to sign the statement. The existing section requires the body corporate to produce "*a certificate by body corporate certifying that the information in the statement is correct.* ". The recommendation is that either the original wording remain, and the body corporate not "*endorse"*, or that the wording *'certifying as correct'* is used instead and that this is limited to levies, details of any proceedings and insurance information only.

15.3.3. Section 147(2)(c) is strongly opposed for the following reasons:

15.3.3.1. The existing requirement is production of the statement and certificate the fifth working day *before* settlement, which allows body corporate managers to schedule timely provision within their workload schedule. This timing also allows legal counsel to request the documents at any stage in advance, knowing the documents will be produced within five days pre-settlement at the latest.

15.3.3.2. Changing this to firth working *after* a request places pressure on the management company to consistently schedule urgent production of documents into an already full schedule of work.

15.3.3.3. This change will have the effect of legal counsel waiting until the last possible moment before request, so they can obtain as up to date documents as possible. Again, this places unreasonable pressure on management companies with interrupted urgent scheduled workload. This is particularly onerous where larger bodies corporate have high unit turnover rates.

15.3.4. Section 147(3) is supported.

15.3.5. Section 147(4) is partially supported, noting the concern at [15.2.3].

15.3.6. Section 147(5) is strongly opposed for the following reasons:

15.3.6.1. The existing wording *'must'* has been removed and replaced with *'may'*. Recommendation is the wording *'must'* be retained, meaning a seller *'must* provide this document before settlement, otherwise important information is not made available to the purchaser.

15.3.6.2. A body corporate has no relationship with a potential purchaser; the seller is responsible for all costs to the body corporate. From a practicable invoicing perspective, this is unworkable.

15.3.6.3. This will delay production of the document, as an invoice must be raised, the seller / purchaser must liaise, invoice paid before the document is supplied. Again, on a practical level, this is inefficient.

15.3.6.4. By removing the ability of the body corporate to withhold the certificate if there is debt outstanding on the unit, or if the fee is not paid, means the body corporate and / or the management company have no method of enforcing payment on settlement. This will increase potential disputes on debt liability and increase debt to the management company in unpaid document production fees.

15.4. Breaking down the Bills amendment to section 148, the identified concerns are noted as follows:

15.4.1. Complete removal of the existing section 148 removes vital information regarding contracts, leases, current invoices, body corporate debtor levels and current balances. This is strongly opposed to be removed.

15.4.2. Section 148(1) is strongly opposed for the following reasons:

15.4.2.1. The same concerns noted at [15.2.1.1.] regarding the body corporate *'endorse'*.

15.4.2.2. The wording *'all of the information it has in its possession'* is problematic. Dependent upon the age of a body corporate, it is likely there have been changes in ownership and changes in body corporate management companies, meaning knowledge loss. Current owners / management companies will not have read every piece of paper or electronic file (which could date back 15 / 20 years), so they could in all good conscious certify that the document is accurate for *'all the information it has its in possession*'. A hard copy report from 15 years ago tucked away in an archived box in storage may simply not be known about. This wording creates legal risk liability and no body corporate manager (nor any chairperson), should ever certify any documents where this wording is applicable.

15.4.2.3. Recommendation is the wording be potentially amended to reflect *'to the best of the [body corporate / manager's] knowledge'*.

15.4.3. Section 148(2)(a) & (b) is noted as a *'may'*. Implies those parties do not need to endorse the document, which contradicts the first sentence as it reads *'Body corporate or original owners **must** endorse'* (emphasis added). The recommendation is no chairperson or committee endorse a document with the noted liability at [15.4.2.2].

15.4.4. Section 148(2)(c) is not supported for the following reasons:

15.4.4.1. A body corporate manager is an agent for the body corporate, with the same concerns noted at [15.4.2.2]. Recommendation is no body corporate management company endorse any document with this liability.

15.4.4.2. The wording *'if there is 1 or more body corporate managers'* should be removed. There will only be one individual appointed as manager (or management company).

15.5. Breaking down the Bills amendment to section 149, the identified concerns are noted as follows:

15.5.1. This section is confusing as written and is inconsistent with the amended wording in section 147.

15.5.2. Section 149(1)(a) states *'on a date that is later than the fifth working day before settlement date'*, which contradicts section 147(2)(c) which states '*be provided to the buyer no later than the fifth working day after the request is made*.'

15.6. The overall recommendation to the suggested amendments to sections 146 to 149 are not supported in totality due to the sections being poorly worded and missing vital information. The sections require further revision and refinement.

16. **Part 2, Subpart 14, Clause 19, Section 151 replaced (Cancellation by buyer)**

16.1. There appears to be cross over with section 149.

16.2. Sections 151(4) & 151(5) are inconsistent. A buyer can cancel if a seller has fully complied with section 146 (which is a mandatory document), yet a buyer cannot cancel even if a seller has fully complied with section 147 (which is an optional document).

16.3. What happens if the settlement date falls within the 10 days, as a document is only required to be produced *'no later than the fifth working day after the request'* (section 147(2)(c)). This section is ambiguous.

17. **Part 2A, Clause 20, Section 157 (Special provisions for certain medium and large unit title developments)**

17.1. The insertion of this new clause is not supported fully for the following reasons:

17.1.1. Dividing complexes by sizes does not consider the complexity of the complex. Some smaller bodies corporate can have very complex structures, whereas some larger complexes may have very simple structures.

17.1.2. The restriction only mentions *'residential'* which implies commercial complexes are exempted. This needs clarification as to intention, with the recommendation that commercial complexes be included.

17.1.3. It is agreed that very small bodies corporate with simple structures do not need the protection of bodies corporate with complicated structures, however, the mechanism of separating by size does not meet this goal.

17.1.4. Section 157B is partially supported, noting all bodies corporate should have to appoint a body corporate manager (the duties are the same irrespective of size or type of complex). The manager does not need to be a professional management company (e.g., the manager could be a member who takes on the position),

however, the appointed manager should undertake a mandatory basic training certification for competency. Strata Community Association (New Zealand) ('SCANZ') provides a *NZ100 Introduction to Strata for Managers and Suppliers*, which is the recommended basic level introductory course that should be undertake if an individual is appointed to fill the role of body corporate manager.

17.1.5. Section 157C is not supported by separating by size. Reporting requirements should be the same irrespective of the number of units.

17.1.6. Section 157D is not supported for the following reasons:

17.1.6.1. As per [17.1.1] number of units is irrelevant as to body corporate structural complexity. We believe there needs to be a mechanism for uncomplicated complexes to opt out, but believe this requires more work.

17.1.6.2. Section 157D(3) states *'a period of at least 30 years'.* This is nonsensical and unworkable in practice to expect current owners to contribute financially toward maintenance in 20 – 30 years' time. Technology and innovation over a 30-year period often make the items funded in year 1 obsolete in year 30. Also, New Zealand has an aging population who view bodies corporate as an intermediate stage between retirement from employment and the need to move into retirement villages. Those owners will likely not remain at the body corporate beyond 5 to 15 years, and it is not fair nor reasonable to expect those owners to contribute significant sums of their money toward future maintenance that is outside their life span (and as noted, may be obsolete by the time replacement is required). The recommendation is to retain the current 10 years, or possibly increase to 15 years.

17.1.6.3. Section 157D(6) is strongly opposed.

17.1.6.3.1. The averages costs of the plans (refer [13.2.5]) make this unworkable and create an overly onerous financial burden on members by asking them to pay double the amount for a second review (noting no professional will review another's work without undertaking their own assessment, hence the charge will be larger than the first charge for the preparation, as the second professional must also then compare plans to ensure the

original assessment is consistent with their own assessment). It is standard practice that a report prepared by a professional can be relied on for accuracy. The recommendation is either the peer review only be required if a body corporate has prepared their own plan, or that all plans must be professionally prepared.

17.1.6.3.2. The section should not list the names of organisations (clearly this will evolve), rather the requirement should be for a certain type of professional (for instance surveyor or engineer, although there are many types of engineers and the wider definition of 'engineer' may be problematic).

17.1.6.4. Section 157D(7), (8), (9) are strongly not supported for the following reasons:

17.1.6.4.1. Neither the body corporate manager nor the body corporate are building experts and could not be reasonable qualified to confirm that *'all reasonable investigations, the known or suspected building defects listed in the statement is a complete list'*.

17.1.6.4.2. The term *'all reasonable investigations'* and *'the plan records as accurately and completely as possible all defects in or repairs required to the unit title development*.' This implies that a full invasive inspection is required that open walls and cladding. As noted in [13.2] this is unrealistic and creates an onerous financial burden that is likely to bankrupt bodies corporate.

17.1.6.4.3. If this clause remains in the amendment Bill, chairs will refuse to sign.

17.1.6.5. Section 157E is inconsistent with section 117(1) which allows a body corporate to opt out of a fund. Having multiple references throughout the Act / Regulations simply confuses matters and intent might be missed. Recommendation is if 157E(2) is enacted, then section 117(1) should be repealed.

17.1.6.6. Section 157F is redundant for the following reasons:

17.1.6.6.1. A body corporate already has an audit requirement under section 132(2). If a body corporate chooses to opt out, section 157F is inconsistent with this.

17.1.6.6.2. There is no provision in the Act to require that a long-term maintenance fund be funded in accordance with the suggested long-term maintenance plan recommendations.

17.1.6.6.3. Separation by unit number is not reflective of the size of the budget or funds held.

17.1.6.6.4. This is yet another unnecessarily onerous financial burden on members.

17.2. The first recommendation is this separation by size is better than none, however, more thought is required on how to differentiate the complexes, with one suggestion being size of budget, although this is fraught with potential manipulation possibilities.

17.3. The second recommendation is any appointed body corporate manager must undertake a mandatory basic level course in competency to be appointed to the position.

17.4. The third recommendation is retaining the 10-year period for the long-term maintenance plan or increase to a maximum of 15 years. The 30-year plan is not supported. Further, all bodies corporate should have a plan and not be allowed the option of opting out.

17.5. The fourth recommendation is that a peer review is not required. Further, the names of organisations should be removed, and the requirement noted as a qualified professional.

17.6. The fifth recommendation is that the term *'defects'* is removed from any association with a long-term maintenance plan and that sections 157(7), (8), (9) be removed in their entirety.

17.7. The sixth recommendation is Section 157E(2) is inconsistent with section 117(1), with section 117(1) wording *'unless the body corporate, by special resolution, decides not to establish a long-term maintenance fund'* needing to be repealed if section 157 is enacted. However, we believe this is fine as is in the current legislation.

17.8. The seventh recommendation is Section 157F is redundant and inconsistent with section 132.

18. **Part 4, Clause 21, Section 171 amended (Jurisdiction of Tenancy Tribunal)**

18.1. The naming expression of titling this 171(2)(da) complicates reading of the Act. The recommendation is to simply insert this after 171(d)(l) and name this 171(2)(m).

19. **Part 5, Subpart 4, Clause 22, Section 217 amended (Regulations)**

19.1. The naming expression of titling this 217(ca) complicates reading of the Act. The recommendation is to simply insert this after 217(r) and name this 217(s). Likewise, the naming convention of 217(fa), simply name this 217(t).

19.2. Note the previous objections in [17.1.6].

20. **1AA, Part 2, Clause 22, Section 4 amended (Overview)**

20.1. Refer previous notes regarding separation by unit number as not relating to complexity of structure, or the value of body corporate funds held.

21. **Part 2, Subpart 14, Clause 27, Section 150 amended (Seller must rectify inaccuracies in disclosure statement)**

21.1. Refer previous notes [15] above.

22. **Schedule 1, New Part 2 inserted in Schedule 1AA**

22.1. The inserted schedule is supported.

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Unit Titles Regulations 2011 Amendments:

23. **Subpart 2, Clause 31, Regulation 24 amended (Election of body corporate committee)**

23.1. Regulation 24(1)(a) appears to suggest that unelected members may be eligible to be on the committee. This insertion is confusing, as only elected members will be *'elected'*.

23.2. Regulation 24(1)(b) insertion is redundant and does not improve the reading or intention of the clause.

23.3. A suggestion is made where units are not owned by a *'natural person'* (Regulation 24(4)), that provided the entity has passed a company / incorporated society minute, a non-director be allowed election to the committee, with this thinking based on the difficulties of government entities to provide a director for this purpose.

24. **Subpart 2, Clause 32, Regulation 26 amended (Body corporate committee chairperson)**

24.1. The naming expression of titling this 26(1AAA) complicates reading of the Act. There is no (1A), hence, the recommendation is to either simply name this 26(1A) or even 26(4) for greater clarity.

25. **Subpart 2, Clause 32, Regulation 27 amended (Body corporate committee business)**

25.1. The amendment is supported, although the following points are noted, with particular note made of the error in the amendment wording for regulation 27(6):

25.1.1. The wording *'1 or more members'* needs to be clarified to ensure this does not restrict a committee from holding a fully remote meeting.

25.1.2. Regulation 27(5) is misworded and does not make sense. The recommendation is to replace the word *'replace'* with *'insert after'*.

25.1.3. Regulation 27(6) is redundant and does not add anything to regulation 27.

26. **Subpart 2, Clause 34, Regulation 28 amended (Body corporate committee reports)**

26.1. The amendment is supported, although the addition is redundant, as (a) & (b) already cover this.

27. **Subpart 2, Clause 35, New heading and regulations 28A to 28C inserted**

27.1. These amendments are supported.

28. **Subpart 2, Clause 36, Regulation 30 amended (Long-term maintenance plans)**

28.1. The wording *'summarise the current state of the common property'* is vague and could simply imply is the property messy, clean or other. If the intent is to increase the scope of the long-term maintenance plan to includes *'defects'* or *'condition'*, this is strongly opposed as noted in previous points.

29. **Subpart 2, Clause 37, Regulations 33 to 35 replaced**

29.1. The regulation replacement is supported in part and not supported in part as follows:

29.1.1. Regulation 33(1)(a) this amendment is not supported. An owner, manager or the body corporate will likely not know if *'any part of the unit development'* has the items noted. The parties can only speak to their own units and / or the common property, not any other unit property.

29.1.2. Regulation 33(1) & (ii) does not address the existing problem of remediation works that might be known, or soon to be levied that are not classified as 'weathertight' or for which no claim or other proceedings have been lodged (for instance, age related deterioration on balconies, or end of life roof / cladding repairs and maintenance).

29.1.3. Regulation 33(1)(iii) insertion is supported.

29.1.4. Regulation 33(1)(b) does not address the issues at [29.1.2].

29.1.5. Regulation 33(1)(c) is not supported, as provision of 7 years of paperwork / documents is significantly onerous. The industry standard is 3 years and that is supported. Should any particular purchaser request older documents, this can be provided, although there may be additional expenses incurred.

29.1.6. Regulation 33(1)(d) is supported.

29.1.7. Regulations 33(1)d)(i) & (ii) are strongly opposed. Some bodies corporate has significant volume of pre-committee documentation, sometimes meeting monthly, bi-monthly. To review 3 years (as noted at 33(1)(d)) of pre-meeting documentation to redact sensitive information is a massive task and one that attaches legal risk liability should data redaction of private or confidential information be missed. The body corporate manager will not be prepared to take

on this liability (for which additional time and attendance will be charged to the body corporate) and it is doubtful if a committee member (once understanding of liability) will volunteer for this duty. Further, as items move out of *'in committee'*, the review will need to be updated and this is an onerous, ongoing task for which bodies corporate will not want to pay additional service fees for.

29.1.8. Regulation 33(1)(e) is supported, provided buyers are aware the body corporate manager is contracted / employed by the body corporate and has no relationship with buyers, therefore, will not be providing any information directly to them, with all information provided to the seller and the seller responsible for all disclosure of information, including the legal liability for disclosure.

29.1.9. Regulation 33(1)(h) is redundant and not supported. There will never be any amounts held in credit by the body corporate for a unit for long-term maintenance funds, contingency funds or capital improvement funds. Once a body corporate levies an owner and the funds are paid to the body corporate, the funds do not belong to the owner, they belong to the entity the owner has paid the money to, that being the body corporate. If this regulation is referring to section 131 (distribution of surplus funds) in the Act, then the distribution is in relation to the methodology prescribed in that section.

29.1.10. Regulations 33(1)(h)(i)(ii), 33(1)(k), 33(2)(a)(b)(c)(d)(e) are supported.

29.1.11. Regulation 33(2)(f) *'whether the original owner has been involved in any capacity in any previous unit title development or other building-related work that has resulted in weather tightness issues'* is potentially prejudicial. Just because a development the owner / developer was previously involved in was later found to have weathertightness defects, does not correlate to the current building having weathertightness defects, or any future building the owner / developer may be involved in having weathertightness defects. This is strongly opposed.

29.1.12. Regulation 33(3) this is supported.

29.2. The replacement of these sections raises other concerns as follows:

29.2.1. The explanation of unit developments is removed, with this removal not supported. This is the first opportunity the body corporate has to provide education to a perspective purchaser about body corporate matters and covers important information.

29.2.2. The period covered by the levy is removed and this is important information, as there is the odd occasion where a levy may straddle financial periods (for instance, major maintenance upgrade levies).

29.2.3. Changes to the operational rules is no longer covered. This information should be included.

29.2.4. The current balance of funds as at document production date is no longer provided. This is important as there may have been expenses that have significantly changed the fund balances since the last financial period.

29.2.5. The details recording the regular expenses and contracts of the body corporate is removed. This is important for transparency of future levy commitments.

29.2.6. The level of body corporate debt outstanding as at document production date is no longer provided. This is important as it shows an incoming purchaser whether a complex has a debtor problem, which then should prompt investigation if so into whether a body corporate has solvency issues.

29.2.7. Details of common property leases is no longer provided. This information is important to inform buyers about ground lease, signage rights, or other common property lease or licences.

30. **Schedule 2, New Schedule 1A inserted in Unit Title Regulations 2011**

30.1. The inserted regulations are supported.

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Unit Titles (Unit Title Disputes-Fees) Regulation 2011 Amendments:

31. **Schedule 1A, Subpart 3, Clause 40, Regulation 5 replaced.**

31.1. Regulation 5(1) is strongly opposed. The low fee will generate nuisance / harassment claims from disaffected members unhappy with body corporate decisions. The existing schedule 2 fee of $850 means claims are only lodged where is genuine dispute and the parties are unable to reach resolution. The existing schedule 1 fee of $3,300 is considered too high and should be reviewed.

31.2. Regulation 5(2) fees are not opposed, however, strong opposition is expressed as follows:

31.2.1. The wording *'divided equally between the parties'* is against the intent of fair and reasonable for the successful party who will then have to cover half the costs when the other party is at fault. By the time matters are lodged with the appropriate decision maker, significant time has already been spent in discussion and attempts to resolve matters, often at significant expense to the body corporate in body corporate management time and attendance charges, and / or legal expenses.

31.2.2. The wording '*divided equally between the parties unless a party has refused mediation, in which case that party pays the fee'.* As per [29.2.1] this neither fair nor reasonable. This clause will be used as a tactic to both delay proceedings and force the other party to have to cover the fees. As noted, by the time a matter has reached tenancy, significant time has already been spent attempting to mediate the matter privately and the party may simply want the matter adjudicated. That party should not therefore be held liable for all fees if they choose not to enter mediation.

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Other matters not yet discussed, nor included in the amendment Bill

32. The amendment Bill does not include an ability for the body corporate to charge fines or fees. The recommendation is this is considered as an inclusion in the Bill.

33. The recommendation is the amendment bill provides clarity for the process to be followed when a committee member either resigns or is removed from office and when an extraordinary general meeting ('EGM') must be called to elect a new committee member. Currently there are two schools of thought as follows:

    33.1. An EGM to elect another committee member only needs to be called if the resignation or removal of the existing committee member drops the size of the committee below committee quorum level.

    33.2. The body corporate sets the size of the committee they want at the annual general meeting ('AGM'), therefore, if a committee member resigns or is removed, an EGM is required to bring the committee back to the size set by the body corporate at the AGM.

34. The recommendation is the amendment Bill provide greater clarity around what insurance is required by the body corporate, including office bearer's insurance. Further, clarification needs to be provided where a body corporate is unable to find insurance cover (for instance, in high earthquake zones where insurers refuse to provide cover).

35. The recommendation is the amendment Bill include clarification that only one member from each unit (where a unit has multiple owners) is eligible for election to a body corporate committee and that member only holds one vote, as this point is unclear, with different interpretations within the industry. Similarly, clarification is sought on whether a member that owns multiple units may have only one place (and therefore vote) on the Committee.

36. The recommendation is body corporate managers must hold membership to a professional body (we would recommend Strata Community Association (New Zealand) as the professional body) and must undertake mandatory training.

37. The recommendation is the UTA clarify for quorum requirements at general meetings whether ineligible voters are counted toward quorum. Currently, this might seem clear, however, there are differences in the industry in how quorum is being counted and clarity is required.

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Summary

Property 101 Group Limited strongly support this review and appreciate that a non-siloed approach will be an important steppingstone to improve consumer protection and the stigma associated with the sector.

We have canvassed our clients and colleagues and it is clear there is universal recognition that there are problems with the current legislation. While we have suggested several improvements to other areas in the Act we feel need review, we ask that the Bill not be delayed at select committee.

We believe we have outlined those areas that need to be addressed with urgency to support the Governments mandate for increased density and housing supply, and some that perhaps need further investigation and / or a more comprehensive and holistic review.

We recommend the creation of an industry reference group to work through some of the issues raised that are outside of the current scope of the review or need further attention and we are happy to volunteer as part of that reference group.

If you have any questions on the submission or wish to discuss any aspect of the matters under consultation under our various capacities in the Sector, please feel free to contact us at any time.

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Appendix A – Supplementary Working Table

Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Bill

Supplementary Working Table

Part #	Clause #	Section(s)	Heading	Original UTA 2010 Wording	Description of Amendments	Feedback
	1	-	Title		Title Clause	-
	2	-	Commencement		Commencement of Act	-
1	3	-	Principal Act		Principal Act	-
	4	5(1)	Section 5 Amended (Interpretation)		Meaning of body corporate manager	-
Part 2 Subpart 5	5	39	S39 amended (UI (other than FDU))	(1) Before a unit plan is deposited under section 17(1), 21(1), or 24(2)(a), the registered proprietor or owner (as the case may be) must assign a utility interest to every principal unit and every accessory unit. (2) The utility interest assigned to a unit is the same as the ownership interest assessed for the unit under section 38(2). (2A) Alternatively, the registered proprietor or owner may assign to a unit a different utility interest if that different utility interest is— (a) fair and equitable, in the view of the registered proprietor or owner, having regard to the relevant benefits and the costs to units; and (b) shown on the documentation lodged with the unit plan. (3) The utility interest is used to determine a range of matters including, but not limited to,— (a) the extent of the obligation of the owner of the principal unit in respect of contributions levied by the body corporate under section 121 in respect of the long-term maintenance fund, the optional contingency fund, and the operating account: (b) the rights of the owner of the principal unit in relation to a distribution of any surplus money in the long-term maintenance fund, the optional contingency fund, or the operating account, or personal property of the body corporate under section 131.	After section 39(2A), insert: (2B) A utility interest apportionment for the purposes of subsection (2A) may be— **(a)** a single uniform interest; or **(b)** a multiple set of interests, each targeted at a particular service or amenity.	▪ Ambiguous wording. Based on the description, it appears the intent is that a unit could have multiple UI's, targeted at individual budget line items. An UI when currently amended can already consider a 'fair and equitable' basis of a unit's use of all budget items. For instance, less / more lift use, less / more waste removal (for instance commercial / residential mixed-use complexes). Each line item can be assessed and a percentage of use on that item value applied to it. At the end of the item evaluations, each unit will have a total value, which when scaled out of the 100% is the overall UI that is applied to the whole budget. ▪ It is not feasible to have a unit have multiple sets of interests on each item. The end effect is the same and from a levying perspective, raising a levy invoice which has potentially 20 different UI's allocated to a unit is simply unworkable on a practical level. ▪ Strongly disagree on this and feel this needs more work. The current regime does not cater for all options, for example: units with car stacker AU's that may wish to do an upgrade. There needs to be a mechanism to charge owners by a way other than UI and S126. ▪ Having said that, not sure the proposed wording fixes and would like to discuss further. ▪ Also, is this just for new complexes being S39 not 41?
Part 2 Subpart 12	6	79	S79 amended (Rights of owners)	An owner of a principal unit— (e) subject to section 80(1)(h) and (i), may make any alterations, additions, or improvements to his or her unit so long as these are within the unit boundary and do not materially affect any other unit or common property:	In section 79(e), after "do not materially affect", insert "the use, enjoyment, or ownership interest of ".	▪ By specifying this, does this limit it to just those items. ▪ How does damage that does not affect the use, enjoyment or ownership interest fall into this category. ▪ Uncertain if this wording adds to clarification or limits it.
	7	80	S80 amended (Responsibilities)	(1) An owner of a principal unit— (i) must not make any additions or structural alterations to the unit that materially affect any other unit or the common property without the written consent of the body corporate:	In section 80(1)(i), after "materially affect", insert, "the use, enjoyment, or ownership interest of"	As per clause 6, s.79, same concerns.
	8	95	S95 amended (Quorum)	(1) At a general meeting of a body corporate, the persons entitled to exercise the voting power in respect of not less than 25% of the principal units or their proxies constitute a quorum, provided that if the body corporate contains 2 or more members a quorum must be at least 2 members.	Replace section 95(1) with: (1) A quorum for a general meeting of a body corporate is the number of persons (including proxies)— (a) who are entitled to exercise the voting power in respect of not less than 25% of the total number of principal units; and (b) who also satisfy the eligibility requirements to exercise that voting power (for example, have no outstanding levy amounts owing to the body corporate).	▪ S95(1) The wording '(including proxies)' does not consider postal votes, yet regulation 13 mentions 'may proceed without a quorum if the persons who have cast postal votes, together with those present'. If you can have quorum with postal votes in accordance with regulation 13, then why not just state that in S95. ▪ S95(1((a) & (b) No issue with this.

Part #	Clause #	Section(s)	Heading	Original UTA 2010 Wording	Description of Amendments	Feedback
	8	95	S95 amended (Quorum) Continued	No existing subsection	(1A) However, if a body corporate comprises 2 or more members, a quorum must be at least 2 persons who satisfy the requirements of subsection (1).	▪ S95(1A) - This does not assist with clarification of whether this must be two people physically present as a minimum, or whether one person can attend holding the proxies / postal votes for others, or the body corporate manager can attend by themselves with no owners / others in physical (in person or by virtual) attendance because they hold 2 or more proxies or postal voting forms (which currently happens with some companies as means of running some small AGM's, the body corporate manager just moves / second everything as they type up the minutes). ▪ For ethical integrity, this should be clarified to state two people physically present (proxies, postal voting or virtual).
	8	95	S95 amended (Quorum) Continued	No existing subsection	(2) After subsection (2), insert: (3) To avoid doubt, nothing in this section prevents those who are entitled but not eligible to vote from attending meetings and taking part in any discussions. (4) For entitlement to vote, *see* section 79(c). For eligibility to vote, *see* section 79(c), section 96, and the regulations.	▪ S95(3) No issue with this. ▪ S95(4) Is this necessary. No other section has this and seems a bit redundant.
	9	101	S101 amended (How matters at GM decided)	(1) Any matters at a general meeting of a body corporate relating to an exercise of a duty or power that may not be delegated under section 108(2), or that have not been delegated to the body corporate committee, must be decided by special resolution. (2) Except as otherwise provided in this Act, all other matters to be decided by the body corporate at a general meeting must be decided by ordinary resolution.	Replace section 101(1) and (2) with: (1) A matter to be decided by a body corporate must be decided by ordinary resolution at a general meeting. (2) Subsection (1) applies unless— (a) the Act provides for the matter to be decided by the body corporate by special resolution; or (b) the body corporate committee has delegated authority to decide the matter.	▪ 101(1) No issue with this and agree with the amendment. ▪ 101(2) No issue with this and agree with the amendment.
	10	102	S102 amended (Voting: proxies)	(1) An eligible voter may exercise the right to vote either by being present in person or by proxy. (2) A proxy for an eligible voter is entitled to attend and be heard at a body corporate meeting as if the proxy were the eligible voter. (3) A proxy must be appointed by notice in writing signed by the eligible voter. (4) If there are 2 or more eligible voters who own 1 principal unit and they are jointly entitled to exercise 1 vote and wish to do so by proxy, that proxy must be jointly appointed by them and may be 1 of them.	After section 102(4), insert: (5) A proxy cannot act as a proxy for the eligible voter or voters of— (a) more than 1 principal unit, if the unit title development comprises fewer than 20 principal units (b) more than 5% of the total number of principal units, for any other unit title development.	▪ 102(4) Disagree with this amendment for the following reasons: - It will make achieving quorum particularly difficult, if not impossible for large bodies corporate. This means a second meeting at additional expense to the body corporate. - The issue is not large enough in the NZ industry to warrant this amendment which will cause significantly more difficulties, workload and expense than the amendment will resolve. - Particularly for overseas investors, they do not know who to give a proxy to, aside from the chairperson, building manager, body corporate manager or property manager. - It is not the body corporate's right to interfere in an owner's right to provide a proxy to whomever they so wish to represent them. - Disagree with the suggestion of directed proxies instead, as this would be logistically unworkable for larger bodies corporate. - An example being an owner who owns multiple units (ie Kainga Ora), they will not want to split their proxy vote up between multiple people. Perhaps they own 10 units and want their son to represent them at the meeting, they will potentially not be able to dependent upon the size of the unit development.

Part #	Clause #	Section(s)	Heading	Original UTA 2010 Wording	Description of Amendments	Feedback
	11	104A	S104A inserted (attending meetings and voting by remote access)	No existing subsection	After section 104, insert: 104A Attending meetings and voting by remote access (1) A general meeting of a body corporate may be conducted, and voting undertaken, by 1 or more members participating by telephone, audiovisual link, or other remote access facility if— (a) the body corporate has, by special resolution, previously authorised its members to participate at general meetings by remote access (whether in all cases or in specified circumstances); and (b) the chairperson considers that— (i) it is appropriate to conduct the meeting with members participating by remote access, given the agenda for the meeting; and (ii) the specified circumstances (if any) of the special resolution authorising remote access are met; and (c) the necessary facilities are available. (2) A meeting conducted under this section must comply with any procedures or other matters prescribed in the regulations, including those relating to electronic voting.	▪ Agree support the concept, but needs clear parameters around what's acceptable. What if owners want an audit of votes, how do we know who was in the 'room' voting?
	12	112	S112 amended (establishment of body corporate committee)	No existing subsection.	After section 112(2), insert: (3) A body corporate committee must be formed and conduct its business in accordance with this Act and the regulations.	▪ 112(2)(3) - The wording is ambiguous and needs to be amended to reflect that where a body corporate committee is formed, it must be formed and conduct its business in accordance with this Act and the regulations. - Having said that, the Act defines how a committee must be formed and conduct business, so this seems superfluous.
	13	112	New section 112A (chairperson of body corporate committee)	No existing subsection.	After section 112, insert: 112A Chairperson of body corporate committee (1) The chairperson of a body corporate is— (a) a member of its body corporate committee; and (b) the chairperson of the body corporate committee. (2) Subsection (1)(b) applies unless, at its annual general meeting, the body corporate decides by ordinary resolution that the chairperson of the committee should instead be a person that is elected to the committee (by the process prescribed in the regulations).	▪ 112A No issue with this and agree with the amendment.
	14	113	S113 replaced (Decision-making of committee)	113 Decision-making of body corporate committee Any matters at a meeting of a body corporate committee must be decided by a simple majority of votes.	Replace section 113 with: 113 Decision-making of body corporate committee (1) A body corporate committee must keep written records of its meetings.	▪ 113 Agree, but should there be a reference to email resolutions/flying minutes for clarity?
	14	113	S113 replaced (Decision-making of committee) Continued	113 Decision-making of body corporate committee Any matters at a meeting of a body corporate committee must be decided by a simple majority of votes.	(2) Matters must be decided by a simple majority of votes and each resolution must be recorded and included in the written records for the meeting. (3) The committee must promptly report to the body corporate on the meetings it holds in the manner prescribed in the regulations.	As Above
	15	114A to 114I	S114A to 114I inserted	No existing sections	After section 114, insert: 114A Body corporate committee to comply with code of conduct The members of a body corporate committee must comply with the code of conduct for committee members prescribed in the regulations.	▪ S114A No issue with this and agree with the amendment.
					114B Conflicts of interest of members of body corporate committee The members of a body corporate committee must comply with the conflict of interest rules contained in sections 114C to 114F.	▪ S114B No issue with this and agree with the amendment.
					114C Duty to disclose conflicts of interest (1) A member of a body corporate committee who is interested in a matter must disclose details of the nature and extent of the interest (including any monetary value of the interest, if it can be quantified)— (a) to the committee; and (b) in an interests register kept by the committee (*see* section 114F).	▪ S114C(1)(a) & (b) No issue with this and agree with the amendment. ▪ S114C(2) No issue with this and agree with the amendment. ▪ S114C(3)(a) & (b) No issue with this and agree with the amendment.

Part #	Clause #	Section(s)	Heading	Original UTA 2010 Wording	Description of Amendments	Feedback
		15	114A to 114I Continued	No existing sections	(2) Disclosure under subsection (1) must be made as soon as practicable after the member becomes aware of being interested in the matter. (3) A person is *interested* in a matter if the person— (a) may derive a financial benefit from the matter; or (b) is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or (c) may have a financial interest in a person to whom the matter relates; or (d) is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or (e) may be interested in the matter because the body corporate's operational rules say so. (4) However, a person is not interested in a matter— (a) merely because they receive an indemnity, insurance cover, remuneration, or other benefit authorised by the body corporate; or (b) if the interest is due to their membership of the body corporate and it is the same or substantially the same as the interest of all or most other members of the body corporate; or (c) their interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the person in carrying out their responsibilities under this Act or the body corporate's operational rules. (5) In this section, and sections 114D to 114F, *matter* means— (a) the body corporate committee's performance of its functions or exercise of its powers; and (b) an arrangement, agreement, or contract (a *transaction*) made or entered into, or proposed to be entered into, by the body corporate committee (whether on behalf of the body corporate or otherwise).	▪ S114C(3)(c), (d) & (e) No issue with this and agree with the amendment. ▪ S114C(4)(a), No issue with this and agree with the amendment. Possible issue if there when a single owner (developer) especially re signing? ▪ S114C(4)(b) & (c) No issue with this and agree with the amendment. ▪ S114C(5)(a), (b) No issue with this and agree with the amendment.
					114D Consequences of being interested in matter (1) A member who is interested in a matter— (a) must not vote or take part in any decision of the body corporate committee that relates to the matter; and (b) must not sign any document relating to the entry into a transaction or the initiation of the matter; but (c) may take part in any committee discussion relating to the matter and be present at the time the decision of the committee is made (unless the committee decides otherwise). (2) A member who is prohibited from voting under subsection (1) may still be counted for the purpose of determining whether there is a quorum at any meeting at which the matter is considered, with one exception, as set out in subsection (3). (3) If 50% or more of the members of the committee are prohibited from voting under subsection (1), an extraordinary general meeting of the body corporate must be called to consider and determine the matter.	▪ 114D No issue with this and agree with the amendment.
					114E Consequences of failure to disclose interest (1) A body corporate committee must notify the members of the body corporate of a failure to comply with section 114C or section 114D, and of any transactions affected, as soon as practicable after becoming aware of the failure. (2) A failure to comply with section 114C or section 114D does not affect the validity of the committee's decision on the matter concerned or the matter itself (but the member's behaviour may be censured under Part 4).	▪ 114E(1) No issue with this and agree with the amendment. ▪ 114(2) - Potentially this might be an issue. Why have a code of conduct if you are going to say it does not affect the validity of the committee's decision. What if the vote is split and (one or more) members with a person agenda vote, the body corporate is bound by that decision (ie: building management contract, body corporate management contract). - Perhaps if there is a failure to comply, the matter must be referred back to general meeting for the body corporate to either confirm the decision or revoke it.

Part #	Clause #	Section(s)	Heading	Original UTA 2010 Wording	Description of Amendments	Feedback
	15	114A to 114I	S114A to 114I inserted Continued	No existing sections	114F Interests register (1) The body corporate committee must keep a register of disclosures made by members under section 114C (an interests register). (2) The register must be available for inspection by the members of the committee. (3) The operational rules of the body corporate may provide for whether (and, if so, the extent to which) the interests register is to be made available for inspection by other members of the body corporate or any other person.	▪ 114F(1) If a body corporate has a body corporate manager, the manger will likely hold this on behalf of the committee. ▪ 114F(2) No issue with this and agree with the amendment. ▪ 114F(3) Disagree with this, it adds yet another area to look, plus is yet another thing bodies corporate must do by writing yet another operational rule, then go to general meeting to adopt. Suggest this be incorporated into the S206(1)(g) & (2) provisions of documents instead, as that at least covers the costs aspect of time and attendance. Disaffected owners will use this as a tactic for communication harassment of supplying a deluge of multitude documents / constant information and if cost is not incorporated into this, this can be a significant time expense.
					114G Definition of body corporate manager (1) In this Act, *body corporate manager* means a person who is employed or engaged by a body corporate (whether itself or through its body corporate committee) to provide (or manage the provision of) 1 or more of the services specified in subsection (2). (2) The services are: (a) record-keeping and other administrative services: (b) financial services, including the handling of money belonging to the body corporate or members of the body corporate: (c) regulatory compliance services, including the making or preparing of statutory disclosures.	▪ S114G No issue with this and agree with the amendment.
					114H Functions and duties of body corporate manager (1) A body corporate manager must exercise or perform the functions and duties— (a) that the body corporate may lawfully authorise the body corporate manager to exercise or perform; and (b) that are specified in a written agreement setting out the manager's terms of employment/engagement. (2) The agreement must also provide for any matter prescribed by the regulations. (3) Subsection (4) applies if a body corporate intends to employ or engage a body corporate manager that is the owner of a principal unit within the unit title development. (4) The person or a proxy for the person is not entitled to vote on any resolution relating to the person's employment or engagement as the manager 114I Body corporate manager must act in interests of body corporate (1) A body corporate manager must always act in the best interests of the body corporate. (2) Without limiting subsection (1), a body corporate manager must— (a) act in good faith, exercise due care and diligence, and not make improper use of the position; and (b) comply with all relevant requirements of this Act and the regulations applicable to the body corporate for which the manager has responsibility (including financial management and reporting responsibilities); and (c) comply with the requirements of this Act and the regulations applicable to body corporate managers; and (d) as soon as practicable after becoming aware of any conflict of interest, disclose it to the body corporate committee or, if there is no committee, to the body corporate chairperson, and the committee or the chairperson (as the case may be) must decide whether, and on what terms, the manager may continue to act in the matter concerned.	▪ 114H(1) The only concern is 'must'. There may be times where a committee instruction is received that either pushes the boundaries of the scope of services or are perhaps not within the intent and meaning of the Act. The body corporate manager must be able to refuse those services if the committee refuse to pay additional fees, or if the manager feels the action is detrimental to the well-being of the body corporate or the management company reputation. ▪ 114H((1)(a) & (b) No issue with this and agree with the amendment. ▪ 114H(2) No issue with this and agree with the amendment. ▪ 114H(3) & 114H(4) No issue with this and agree with the amendment. ▪ S114I(1), (2)(a), (b), (c) No issue with this and agree with the amendment. ▪ 114I(2)(d) No issue with this and agree with the amendment.

Part #	Clause #	Section(s)	Heading	Original UTA 2010 Wording	Description of Amendments	Feedback
	15	114A to 114I	S114A to 114I inserted Continued	No existing sections	(3) To avoid doubt, if a person is engaged as a body corporate manager by more than one body corporate— (a) the manager must act independently in relation to each body corporate; and (b) all matters for which the manager is responsible in relation to each body corporate must be independently satisfied; and (c) the manager must not intermix the funds, records, or any other things of any of the body corporates with 1 or more of the other body corporates. (4) For the purposes of determining whether there is a conflict of interest in relation to a matter, section 114C(3) to (5) applies— (a) as if a reference to a body corporate committee were a reference to a body corporate manager; and (b) with any other necessary modifications. (5) The chairperson of a body corporate must keep a register of disclosures made by its body corporate managers (an interests register). (6) The register must be available for inspection— (a) by members of the body corporate committee (if any); and (b) if the operational rules of the body corporate allow, by any other members of the body corporate or any other person to the extent that the rules provide.	▪ 114I(3)(a) & (b) No issue with this and agree with the amendment. ▪ 114I(3)(c) In general, agree with this addition, although note sometimes you do have bodies corporate that might be separately titled but are on the same common ground and might share some services (ie: fire systems, garages, pool, gym). In those instances, quotes and / or actions might be taken that concern both parties. ▪ 114I(4)(a) & (b) No issue with this and agree with the amendment. ▪ 114I(5) No issue with this, however, note the chairperson is unlikely to keep this and the manager will be holding the registers. ▪ 114I(6)(a) No issue with this and agree with the amendment. ▪ 114I(6)(b) The same issues noted as with 114F(3). Disagree with this, it adds yet another area to look, plus is yet another thing bodies corporate must do by writing yet another operational rule, then go to general meeting to adopt. Suggest this be incorporated into the S206(1)(g) & (2) provisions of documents instead, as that at least covers the costs aspect of time and attendance. Referring to those disaffected owners who will use this as a tactic for communication harassment of supplying a deluge of multitude documents / constant information and if cost is not incorporated into this, this can be a significant time expense.
Part 2 Subpart 13	16	116	S116 amended (LTMP)	No existing subsection	Section 116 amended (Long-term maintenance plan) In section 116(3), before paragraph (a), insert: (aaa) identify any defects in or repairs required to the unit title development and estimate the costs involved in resolving the issue; and	▪ 116(3)(aaa) - Why call it (aaa). It would read better to simply add it at the bottom and call it 116(3)(e). - Strongly disagree that the intent of the LTMP is changed to become a defects or condition/repairs report. The original intent is to identify future maintenance, estimate costs, establishment and management of funds; provide a basis for levying; guidance on annual maintenance decisions. - A defects / condition report is a different report that requires a significantly more in-depth review of the condition of the building and equipment, verses identification of roof, lifts etc and giving end of life timeframes, then estimated costs for budgeting purposes. - A defects report will need to do investigation testing (ie: cutting holes in cladding and walls) to determine what hidden defects there are in the building. That itself requires fixing and once you cut holes in the cladding, you are required to fix and dependent upon the type of cladding, this might trigger a reclad (plus it just looks ugly to have squares with temporary fixes everywhere. The cost for this is likely to be astronomical. - This is simply going to drive a new 'defects' industry where the only people who will make money are consultants, lawyers, builders. The Act requires that when a body corporate is aware of repairs and maintenance issues they must repair and maintain. As mentioned, this is simply going to drive a new 'defects' industry that will fill the space normally allocated by 'weathertight' complexes. - All buildings have defects, there is no perfectly built development and the larger the development, the more likelihood of defects simply due to more complexity of build.

Part #	Clause #	Section(s)	Heading	Original UTA 2010 Wording	Description of Amendments	Feedback
	16	116	S116 amended (LTMP) continued	No existing subsection		If the intent is to provide purchases with more information about a complex they are buying into, then it is the wrong solution. Buyers should always get their owner prepurchase inspection and it should not be on the body corporate to have to prove a building has no defects, as that is never going to happen. - Cost. A LTMP is usually anywhere from $650 to around $4,000. A defects report would not start until around $3,000 - $5,000, then go upwards from there and can be $15,000 - $20,000. Who is going to pay this, especially if this has to be done every three years as per current mandatory updates. Strongly oppose this amendment.
	17	139	S139 amended (Original owner's obligation in relation to service contracts)	139 Original owner's obligation in relation to service contracts (1) This section applies if a body corporate enters into a service contract for the unit title development before the date that the control period ends. (2) The original owner and any associate of the original owner who is a member of the body corporate during the control period must exercise reasonable skill, care, and diligence and act in the best interests of the body corporate, as constituted after the date that the control period ends, in ensuring that— (a) the terms of the service contract achieve a fair and reasonable balance between the interests of the service contractor and the body corporate as constituted after the date that the control period ends; and (b) the terms are appropriate for the unit title development; and (c) the powers able to be exercised, and functions required to be performed, by the service contractor under the service contract— (i) are appropriate for the unit title development; and (ii) do not adversely affect the body corporate's ability to carry out its functions.	After section 139(2), insert: (3) Despite subsection (2), the body corporate must not enter into a service contract that has effect for longer than 24 months after the date that the control period ends, unless the contract also includes— (a) a term providing for the contract to be varied by the body corporate after the control period ends (by negotiation with the contractor and including a right for either party to cancel, without penalty, if agreement cannot be reached); and (b) a term providing that any rights of renewal under the contract exercisable after the control period ends are exercisable only if the body corporate agrees (by ordinary resolution) to each renewal as it arises.	▪ 139(3)(a) - The timeframe is not workable in practice. Several companies have 36 months agreements, including fire monitoring and lift contracts. - The contract is the contractors and the body corporate cannot force a contractor to have termination clauses that allow the body corporate to cancel without penalty. This infringes on their businesses practices and rights to not suffer financial loss if the body corporate changes it mind. - Ecomomies of scale in longer contracts if reasonable. - The business is not concerned with the internal governance functionality (or dysfunctionality) of the entity they contract with, merely that the entity has entered into a contract for a specified timeframe. The contract will stipulate termination clauses and it is unfair and unreasonable to expect a contractor to simply walk away empty handed if an entity's internal ownership changes and they do not agree with the previous internal ownerships decision-making. ▪ 139(3)(b) A body corporate cannot force a contractor to insert a clause in their contracts that state the body corporate must pass an ordinary resolution for each renewal. A contractor is not concerned with the internal governance mechanisms of the entities it contracts with, merely concerned with roll over clauses and the actual instruction (yes/no), not how they make that decision.
Part 2 Subpart 14	18	146 -149	S146 to S149 replaced	146 Pre-contract disclosure to prospective buyer (1) Before a buyer enters into an agreement for sale and purchase of a unit the seller must provide a disclosure statement (a *pre-contract disclosure statement*) to the buyer. (2) The pre-contract disclosure statement must be in the prescribed form and contain the prescribed information.	Replace sections 146 to 149 with: 146 Pre-contract disclosure statement to buyer (1) Before a buyer enters into an agreement for sale and purchase of a unit, the seller must provide a disclosure statement to the buyer (a *pre-contract disclosure statement*). (2) The disclosure statement must— (a) be in the prescribed form and contain the prescribed information (to the extent that it is applicable to the unit and the development concerned); and (b) be endorsed by the body corporate (or the original owner if there is not yet a body corporate) in accordance with section 148. (3) The seller— (a) must not delegate responsibility for providing the statement to the buyer to any other person; and (b) is responsible for discussing any issues arising from the statement with the buyer. (4) Subsection (3) does not prevent a body corporate manager from preparing a statement to be provided under this section (so long as the manager is authorised by the body corporate to do so).	▪ S146(1) No issue with this. ▪ S146(2)(a) No general issue with this, but why clarify 'to the extent that it is applicable to the unit and development concerned'. That seems redundant. ▪ S146(2)(b) Strongly disagree with this. The seller should be endorsing, not the body corporate. ▪ S146(3) No issue with this. ▪ S146(4) No real issue with this aside from the document is specific to the unit, so not a body corporate matter. It is the seller who requests this, not the body corporate to authorise the preparation of it, nor the payment for the preparation of the document.

Part #	Clause #	Section(s)	Heading	Original UTA 2010 Wording	Description of Amendments	Feedback
	18	146 -149	S146 to S149 replaced continued	147 Pre-settlement disclosure to buyer (1) This section applies if a buyer and a seller have entered into an agreement for sale and purchase. (2) No later than the fifth working day before the settlement date, the seller must provide a disclosure statement (a *pre-settlement disclosure statement*) to the buyer. (3) The pre-settlement disclosure statement— (a) must contain the prescribed information; and (b) must contain a certificate given by the body corporate certifying that the information in the statement is correct. (4) A body corporate may withhold a certificate referred to in subsection (3)(b) if any debt that is due to the body corporate by the unit owner is unpaid.	147 Additional disclosure statement to buyer (1) A buyer may request an *additional disclosure statement* from the seller at any time after an agreement for sale and purchase of a unit has been entered into and before the settlement date. (2) The additional disclosure statement must— (a) be in the prescribed form; and (b) be endorsed by the body corporate (or the original owner if there is not yet a body corporate) in accordance with section 148; and (c) be provided to the buyer no later than the fifth working day after the request is made. (3) The seller— (a) must not delegate responsibility for providing the statement to the buyer to any other person; and (b) is responsible for discussing any issues arising from the statement with the buyer. (4) Subsection (3) does not prevent a body corporate manager from preparing a statement to be provided under this section (so long as the manager is authorised by the body corporate to do so). (5) The buyer must pay to the seller all reasonable costs incurred by the seller in providing the additional disclosure statement, but the non-payment of these costs does not justify the seller withholding disclosure.	- 147(1) It seems the wording is wrong, this should be called 'pre-settlement disclosure', not an additional disclosure statement. This entire section seems to be mistyped and mixed up. - 147(2)(a) Wording as noted above. - 147(2)(b) - This is ambiguous. Previously the body corporate only signed the certificate, but the seller signed the actual disclosure. - Strongly oppose the body corporate being required to 'endorse' the information. Again, it is placing the onus back on the body corporate for disclosure to a purchase and that should squarely sit with the seller, not the body corporate (being all owners who have nothing to do with preparation of the form or the supply of information). - 147(2)(c) - Currently this is the fifth working day before settlement, not the fifth working day after request. This will mean lawyers will wait until the last possible moment to request it from managers, then expect it on an urgent basis (so as to have the most up to date information possible). This will place havoc on managers time management and planning and sometimes they cannot always drop everything else to do urgent disclosures. This will create problems and may result in the scenario above in missed deadlines and burnout of managers due to workload pressure stress uncertainty. - Strongly oppose this change. 147(3)(a) & (b) No issue with this. - 147(4) As per the s146, no real issue with this aside from the document is specific to the unit, so not a body corporate matter. It is the seller who requests this, not the body corporate to authorise the preparation of it, nor the payment for the preparation of the document. ▪ 147(5) - Strongly oppose this. The seller is always liable for the payment of the s147 to the manager/body corporate and an undertaking is always required by the lawyer for payment of the fee and any outstanding levies before the document is supplied. By making the buyer responsible for the costs you are adding delay in the process and deadlines are likely to be missed (ie: seller finding out how much, advising the buyer, waiting for buyer response, instructing the manger, producing the levy invoice, issue to seller, seller issue to buyer, buyer pay the invoice (as the seller will not want to pay it and then have to try and recover it)). - In the meantime, stating the non-payment of the costs is not a reason to withhold the disclosure means the manager / body corporate has no ability to enforce payment. **Missing**: the body corporate no longer has the ability to withhold the disclosure if debt is unpaid to the body corporate. Removing this clause means the body corporate has no method of forcing payment of overdue debt on settlement and as now it is intended the S147 is a 'may' not a 'must' be provided, removing this subsection 147(4) in the original wording is going to cause problems.

Part #	Clause #	Section(s)	Heading	Original UTA 2010 Wording	Description of Amendments	Feedback
	18	146 -149	S146 to S149 replaced continued	148 Buyer may request additional disclosure (1) A buyer may request an *additional disclosure statement* or may request some, but not all, of the information required to be in an additional disclosure statement (specific prescribed information). (2) The request may be made at any time before whichever of the following dates occurs first: (a) the close of the fifth working day after the date that the agreement was entered into; or (b) the close of the tenth working day before the settlement date. (3) If a buyer makes a request in accordance with subsections (1) and (2), the seller must provide the additional disclosure statement to the buyer no later than the fifth working day after the date on which the request was made. (4) The additional disclosure statement must contain the prescribed information or, if the buyer has requested only specific prescribed information, the specific prescribed information requested. (5) The buyer must pay to the seller all reasonable costs incurred by the seller in providing the additional disclosure statement or specific prescribed information, but the non-payment of these costs does not justify the seller withholding disclosure.	148 Body corporate or original owner must endorse disclosure statements (1) A body corporate or the original owner (as the case may be) must endorse a disclosure statement to be given under section 146 or section 147 to the effect that the body corporate or original owner, taking account of all of the information that it has in its possession, is satisfied that the information in the statement is complete and correct. (2) For the purposes of this section, the following persons may endorse a certificate on behalf of a body corporate: (a) the chairperson of the body corporate: (b) if there is a body corporate committee for the body corporate, the chairperson of the committee: (c) if there is 1 or more body corporate managers for the body corporate, a manager that is authorised by the body corporate to do so.	▪ S148 - Complete removal of third additional disclosure document. - Perhaps suggest incorporation of both the S147 & S148 original together instead. - The ADS provides information that is not contained elsewhere, including contracts and lease documents, current balances and current invoices. ▪ S148(1) - Strongly oppose this - As per S146 & S147 wording on '*endorse*' - The wording '*all of the information it has in its possession'* is problematic. A body corporate could have 15 – 20 years plus of documents, with most archived. A current member (chair or committee), would not necessarily know about reports received years before they took ownership, especially if those documents were deliberately ignored and buried (ie: not discussed in minutes beyond quick mention, then refuted by membership as inaccurate at the time). Also, if the body corporate manager has changed over the years, reports and communications get lost, so a report or information may exist, but is not know about, as body corporate managers usually only read 3 – 5 years of relevant material, plus do a quick review of the rest when taking management. The possibility of having something in their possession they do not know about is quite large. ▪ S148(2)(a) & (b) Our recommendation would be no chairperson or committee endorse something with this liability. ▪ S148(2)(c) - Likewise, as a body corporate manager I will never sign or endorse this with this wording. - Remove '*if there is 1 or more body corporate managers'*. There will only be one body corporate manager or management company
	18	146 -149	S146 to S149 replaced continued	149 Buyer may delay settlement if disclosure late or not made (1) This section applies if— (a) the seller provides a pre-settlement disclosure statement or an additional disclosure statement on a date that is later than the fifth working day before the settlement date; or (b) at the close of business on the last working day before the settlement date the seller has not provided a pre-settlement disclosure statement or, if one had been requested, an additional disclosure statement. (2) The buyer may, by notice in writing, postpone the settlement date— (a) in the case referred to in subsection (1)(a), until the fifth working day after the date on which the latest disclosure statement to be given was provided; or (b) in the case referred to in subsection (1)(b), until the fifth working day after the date on which the disclosure statement is provided or, if more than 1 is required to be provided, the latest to be provided.	149 Buyer may delay settlement if disclosure late, incomplete, or not made at all (1) A buyer may delay settlement of an agreement for sale and purchase in accordance with this section if any of the following circumstances apply: (a) the seller provides an additional disclosure statement to the buyer on a date that is later than the fifth working day before settlement date; or (b) the seller has not provided a complete statement on a date that is earlier than the fifth working day before settlement date, when any of the following circumstances apply: (i) the seller has not provided a pre-contract disclosure statement to the buyer: (ii) the seller has provided an incomplete pre-contract disclosure statement to the buyer: (iii) the seller has provided an incomplete additional disclosure statement to the buyer: (c) the seller does not provide an additional disclosure statement to the buyer before the close of business on the last working day before the settlement date. (2) The buyer may, by notice in writing, delay the settlement until the fifth working day after the date on which the seller provides a complying statement. (3) However, if another statement is required to be provided (for example, because the statement provided during the delay period is incomplete), the buyer may, by notice in writing, extend the delay date until the fifth working day after the date on which the seller provides the last complying statement.	▪ S149 - This section as written is a little confusing - The term '*incomplete*' could be deemed to be an arbitrary interpretation as to '*incomplete'*. ▪ 149(1)(a), (b)(i)(ii)(iii) - Refers to the previous issue raised under 147(2)(c) being time crunch, with lawyers waiting until the last possible day before requesting so they can have as close to settlement as possible and body corporate managers not being able to drop everything to accommodate time frames. Currently, lawyers can request them at any time and they have to be provided within the 5 workings. - Is inconsistency with amended wording in S147, as the *"fifth working day before settlement'* was removed and replaced with the wording '*five days after request*'. ▪ 149(1)(c) This timeframe is confusing, when the amended (1)(a) states '*ADS to the buyer on a date that is later than the fifth working day before settlement date'*, yet (1)(c) states '*an ADS to the buyer before the close of business on the last working day before the settlement date'*.

Part #	Clause #	Section(s)	Heading	Original UTA 2010 Wording	Description of Amendments	Feedback
	18	146 -149	S146 to S149 replaced continued		(4) In each case, notice in writing must be given by the buyer no later than the fifth working day after the date of the triggering event for postponement arises. (5) Nothing in this section limits or affects any other remedy available to a buyer for the disclosure or accuracy of information supplied by a seller in relation to an agreement for sale and purchase.	Overall, this is a confusing amendment and completely removes the original ADS.
	19	151	S151 replaced (cancellation by buyer)	151 Cancellation by buyer (1) This section applies if— (a) the seller does not provide the disclosure statements referred to in section 147 or 148 within the times prescribed in those sections; and (b) the buyer does not postpone the settlement date under section 149(2). (2) The buyer may, by giving 10 days' notice in writing to the seller, cancel the agreement for sale and purchase.	Replace section 151 with: 151 Buyer may cancel agreement for sale and purchase if disclosure late, incomplete, or not made at all (1) The buyer may cancel the agreement for sale and purchase if— (a) the seller has not provided a pre-contract disclosure statement to the buyer in accordance with section 146, or the pre-contract disclosure statement provided by the seller is defective or incomplete; or (b) the seller has not provided an additional disclosure statement to the buyer in accordance with section 147, or the additional disclosure statement provided by the seller is defective or incomplete; and (c) the buyer chooses not to delay the settlement in accordance with section 149. (2) Before cancelling an agreement for sale and purchase under this section— (a) the buyer must give the seller notice in writing that they intend to cancel the agreement; and (b) the seller has 10 working days from the notice being given to fully comply with the seller's obligations under section 146 or section 147, or both. (3) The buyer may cancel the agreement for sale and purchase by notice in writing if the seller has not fully complied with their obligations at the conclusion of the period provided by subsection (2)(b). (4) If subsection (1)(a) applies, and the seller has fully complied with their obligations at the conclusion of the period provided by subsection (2)(b), the buyer may still cancel the agreement	▪ 151 - There is cross over with S149. - A concern the definition of '*defective'* or '*incomplete'*. - 151(4) & (5) are not consistent, as buyer can cancel if seller has fully complied with S146 which is a mandatory document, yet buyer cannot cancel if seller has fully complied with S147, yet that document is only a '*may'*. - This is a very confusing section when looking at the amended s146, 147, 148, 149 sections. What if the settlement date falls within the 10 days.
	19	151	S151 replaced (cancellation by buyer) Continued	151 Cancellation by buyer (1) This section applies if— (a) the seller does not provide the disclosure statements referred to in section 147 or 148 within the times prescribed in those sections; and (b) the buyer does not postpone the settlement date under section 149(2). (2) The buyer may, by giving 10 days' notice in writing to the seller, cancel the agreement for sale and purchase.	for sale and purchase by giving 10 days' notice in writing to the seller. (5) If subsection (1)(b) applies, and the seller has fully complied with their obligations at the conclusion of the period provided by subsection (2)(b), the buyer may not cancel the agreement for sale and purchase in accordance with this section.	As above
2A	20	157A	S157A Application of Part	No existing section	157A Application of Part (1) This Part applies to large residential developments and medium residential developments as those terms are defined in subsection (4). (2) If there is an inconsistency between a provision in this Part and a provision in the rest of the Act (or any regulations made under the Act), the provision in this Part prevails, but only to the extent of the inconsistency. (3) To avoid doubt, except to the extent expressly provided in this Part or as set out in subsection (2), unit title developments to which this Part applies must also comply with all the relevant provisions of the rest of this Act and the regulations. (4) In this Part,— *large residential development* means a unit title development that includes no fewer than 30 principal units that are primarily used as places of residence *medium residential development* means a unit title development that includes no fewer than 10 and no greater than 29 principal units that are primarily used as places of residence	▪ S157A(1) - 30 units is not a large residential development, this is medium sized development - Dividing complexes by sizes is irrelevant when discussion complexity of complex - This is not supported as an amendment ▪ S157A(2) & (3) ▪ No issue with these subsections ▪ Agree, but still think something is needed to protect existing and smaller uncomplicated BC's. ▪ Would rather see it stay as is than not at all. ▪ 157A(4) - Size of complex does not equate to complexity of complex - Why restrict to residential. The commercial can be complex and require expertise to manage. - This is not supported as an amendment

Part #	Clause #	Section(s)	Heading	Original UTA 2010 Wording	Description of Amendments	Feedback
		157B	S157B Employment or engagement of body corporate manager or managers	No existing section	157B Employment or engagement of body corporate manager or managers (1) The body corporate of a large residential development must employ or engage 1 or more body corporate managers. (2) The body corporate of a medium residential development must employ or engage 1 or more body corporate managers, unless the body corporate (by special resolution) votes against doing so.	▪ S157B - Size has nothing to do with complexity - All bodies corporate should be required to appoint a body corporate manager. It does not have to be a professional company or person, an owner could undertake the duties of secretary, however, all complexes should have to appoint someone to do this and not have the option of opting out. - That person should have to undergo a basic training certification for competency. - not sure why they refer to 'manager or managers?'
		157C	S157C Additional reporting requirements regarding delegations	No existing section	157C Additional reporting requirements regarding delegations (1) This section applies to— (a) the body corporate committee of a large residential development; and (b) the body corporate committee of a medium residential development, unless the body corporate (by special resolution) has excused the committee from complying with the section.	▪ 157C(1)(a) & (b) - Again, defining by size does not take into account complexity of complex. If a body corporate has a committee, they need to comply with reporting requirements. - 157C(2) & (3) No issue with these subsections.
		157C	S157C Additional reporting requirements regarding delegations Continued	No existing section	(2) The committee must report to the body corporate at every general meeting on the performance of the duties or the exercise of the powers delegated to it under section 108(1). (3) A report must include the following information: (a) a description of the duties and powers delegated to the committee in the period since it last reported on its delegations (whether reporting under this section or as otherwise required by this Act or the regulations); and (b) an update on the fulfilment of any duties or the exercise of any powers by the committee for all delegated functions and duties, if performed or exercised during the period since it last reported on its delegations (whether reporting under this section or as otherwise required by this Act or the regulations).	▪ As above
		157D	S157D Additional requirements regarding long-term maintenance plans	No existing section	157D Additional requirements regarding long-term maintenance plans (1) The body corporate of a large residential development must comply with all the requirements of this section. (2) The body corporate of a medium residential development must comply with— (a) the requirements of subsection (3) and subsection (5); and (b) the other requirements of this section, unless the body corporate votes (by special resolution) to not do so. (3) The long-term maintenance plan for the body corporate must cover a period of at least 30 years from the date of the plan or the last review of the plan. (4) The long-term maintenance plan for the body corporate must be reviewed in accordance with this section every 3 years. (5) However, if the body corporate becomes aware of any matter that may have a material impact on the long-term maintenance plan, it must review the plan in accordance with this section as soon as practicable (and the date on which the review is conducted becomes the start date from which the next review cycle is calculated).	▪ 157D(1) - Again, size does not equate to LTM complexity requirements ▪ 157D(2) - As S157D(1), size does not equate to LTM complexity requirements. If you provide a body corporate with the option of opting out, the vast majority of the time, they will. ▪ 157D(3) - Disagree with this subsection. ▪ This is simply too onerous and brings in costs that most owners (particularly those in the aging bracket who will only reside at a body corporate for a few years as they age in place) will have to pay but realistically see no benefit in. The current term of 10 years is fine, although no objection if this is raised to 15 years. ▪ 157D(4) & (5) No issues with these subsections.

Part #	Clause #	Section(s)	Heading	Original UTA 2010 Wording	Description of Amendments	Feedback
		157D	S157D Additional requirements regarding long-term maintenance plans Continued	No existing section	(6) At each review, the long-term maintenance plan of the body corporate must be peer reviewed by a member of one of the following: (a) the New Zealand Institute of Building Surveyors: (b) the Royal Institute of Chartered Surveyors (also known as RICS): (c) the Institute of Professional Engineers New Zealand (also known as IPENZ): (d) any other body prescribed in the regulations. (7) For the purposes of the peer review, the body corporate must provide the reviewer with a written statement that to the best of the body corporate's knowledge, having made all reasonable investigations, the known or suspected building defects listed in the statement is a complete list. (8) The peer reviewer, on completion of the review, must provide a written statement to the body corporate as to whether the plan, in the reviewer's opinion, having made all reasonable investigations, is as accurate and complete as possible and identifies any defects in or repairs required to the unit title development. (9) The current plan for a body corporate must be signed by the chairperson at each annual general meeting to the effect that to the best of the body corporate's knowledge, the plan records as accurately and completely as possible all defects in or repairs required to the unit title development.	▪ 157D(6) - Disagree with this subsection. - If a plan is professionally prepared, this basically says the plan is not able to be relied on and that is contra to standard practice, where a party is able to relay on a documents / advise provided by a professional (ie: lawyer, accountant, surveyor, etc). If you are trusting the second peer review by the same professionals, why do you not trust the first preparation. - This is just generating a new industry and adding costs to owners. If a plan already costs $4,000 to produce, this is asking owners to pay yet another - $4,000 to have a different professional undertake this review. - No company is going to sign off on another companies work. They will not do it currently and I doubt they will do it in the future. They will insist on preparing their own from their own investigations and then will compare the two. Hence, the second review will actually cost more than the initial plan preparation. - Why stipulate who must review it? This provides a free, government mandated and owner paid income stream to those organisations while denying other professional organisations with the same qualifications the opportunity to benefit in this bonanza of free cash for no purpose. Those organisations noted must be rubbing their hands in glee at the thought of all this free cash pouring into their organisations. Owners receive absolutely no benefit from this. - Instead suggest, that only those bodies corporate who prepare the plan themselves, must have it peer reviewed by a qualified professional (without noting names of organisations). Or better yet, require all plans must be professionally prepared. ▪ 157D(7) - Disagree with this subsection. - Bodies corporate are not building experts and will not be able to undertake 'all reasonable investigations into known or suspected building defects'. Bodies corporate will refuse (and should refuse) to sign something that has this level of liability. Basically this is asking the body corporate to absolve the professional who prepared the plan from all the liability that the plan is accurate. - Defects. Again as noted under previous sections, a LTMP should **NOT** be a defect report. ▪ 157D(8) - Disagree with this subsection Good for the professional to sign off on the report, again, come back to **defects. This changes the entire nature of the LTMP and makes this a condition report / defects report.** This will drive a new industry called 'defects' to replace the 'weathertight'. All buildings have defects. All bodies corporate once notified of a defect must repair and maintain (more money for owners to have to pay, more money for consultants to advise owners what they have to do to 'fix the defect', more money for builders). Never ending cycle. Even new builds have defects. This entire 'defects' added to LTM planning has a detrimental effect on owners. ▪ 157D(9) - Disagree with this subsection. No chair will ever commit to this legal liability as noted at 157D(7).

Part #	Clause #	Section(s)	Heading	Original UTA 2010 Wording	Description of Amendments	Feedback
		157E	S157E Mandatory Long-term maintenance funds	No existing section	157E Mandatory long-term maintenance funds (1) The body corporate of a large residential development or a medium residential development must establish and maintain a long-term maintenance fund. (2) To avoid doubt, section 117 applies to the fund, other than the ability of the body corporate to opt out of establishing a fund.	▪ 157E - This seems redundant. Why not just remove the wording in S117(1) that refers to the opt out clause? Having multiple references throughout the Act / regulations simply confuses people and means intent might be missed as individuals do not know about the second reference in 2A that might overwrite S117's intent.
		157F	S157F Mandatory auditing of long-term maintenance funds	No existing section	157F Mandatory auditing of long-term maintenance funds (1) The body corporate of a large residential development or a medium residential development must, annually, submit its records, statements, and other relevant information in relation to its long-term maintenance fund for audit to an independent auditor. (2) The body corporate must provide each owner of a principal unit with a summary of the auditor's findings as soon as practicable after the audit is completed. (3) For the purposes of this section, section 132(4), (6), and (7) apply with any necessary modification.	▪ 157F - Disagree with this subsection and it needs to be removed - This section is nonsensical, as the body corporate already has audit requirements in S132 (including opt out provisions), why single out LTMF from any other fund the BC holds (which actually might hold more funds than a LTMF). - There is not a provision in the Act that stipulates a LTMF must be funded in strict accordance with the LTMP suggestions, so what is the intent of this subsection. - An unnecessary financial burden on owners. - Size does not equate to complexity of financial structures.
4	21	171	S171 Amended (Jurisdiction of Tenancy Tribunal)	171 Jurisdiction of Tenancy Tribunals (1) Except as provided in this section, a Tenancy Tribunal (a *Tribunal*) constituted under section 67 of the Residential Tenancies Act 1986 has jurisdiction to hear and determine all disputes arising between any persons of the kind listed in subsection (2) in relation to a unit title development (a *unit title dispute*). (1A) To avoid doubt, and without limiting subsection (1), a unit title dispute may relate to a claim for unpaid levies. (2) The persons mentioned in subsection (1) are— (a) the owner of a principal unit or a former owner of a principal unit: (b) a future development unit owner: (c) an occupier of a future development unit: (d) a body corporate: (e) an administrator: (f) a registered valuer: (g) an occupier of a principal unit: (h) a service contractor: (i) a prospective buyer of a principal unit: (j) an original owner: (k) a lessor of base land: (l) the chief executive.	Section 171 amended (Jurisdiction of Tenancy Tribunal) After section 171(2)(d), insert: (da) a body corporate manager:	▪ 171 - As per previous point about naming conventions, why (da) instead of simply (m).
5 Subpart 4	22	217	S217 Amended (Regulations)	Regulations The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes: (a) prescribing the form and content of, and anything required to accompany, any application to deposit a unit plan or an amendment to a unit plan or to cancel a unit plan: (b) prescribing the form and content of financial statements to be provided by specified bodies corporate: (c) prescribing for the regulation of the funds set up under sections 115, 117, 118, and 119: (d) specifying the matters to be included in a body corporate committee report: (e) specifying the information to be included in the register of unit owners:	Section 217 amended (Regulations) (1) After section 217(c), insert: (ca) prescribing any professional or expert body for the purposes of peer reviewing a long-term maintenance plan under section 157D(6)(d): (2) In section 217(f), after "committee", insert ", including in relation to meeting requirements and procedures for participation by remote access". (3) After section 217(f), insert: (fa) specifying matters associated with the functions and duties that a body corporate manager may perform or exercise, including any terms that must be included in a manager's terms of employment/engagement: (4) In section 217(n), after "this Act", insert ", including in relation to the settling of disputes". (5) In section 217(h), after "voting", add ", including in relation to electronic voting".	▪ 217(ca) - Again, naming conventions. Why not just do 217(s). It would make reading so much easier. - Disagree with naming any specific professional body. - Disagree with peer review of LTMP. ▪ 217(f) - No issues with this addition. ▪ 217(fa) - No issue with the wording or intent of this addition, however, again, naming conventions of this section. Just call it 217(s) (or (t) if (ca) is to remain. ▪ 217(n) - Uncertain of the implication of this one. No issues at this time.

Part #	Clause #	Section(s)	Heading	Original UTA 2010 Wording	Description of Amendments	Feedback
5 Subpart 4	22	217	S217 Amended (Regulations) Continued	(f) prescribing matters relating to the administration of a body corporate and a body corporate committee: (g) specifying matters associated with the functions, powers, and duties of a body corporate and a body corporate committee: (h) prescribing the manner and form of voting procedures and all other matters relating to voting: (i) prescribing body corporate operational rules: (j) prescribing requirements of a long-term maintenance plan and matters to be included in that plan: (k) prescribing the form and content of disclosure statements required under this Act: (l) prescribing the form and content of certificates: (m) prescribing for matters relating to the register and requirements for depositing unit plans and amendments to unit plans with the Registrar: (n) imposing fees and charges for anything authorised by this Act: (o) prescribing the rate of interest payable on money owing to a body corporate: (p) regulating the practice and conduct of business under this Act: (q) prescribing forms for the purposes of this Act: (r) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect		▪ 217(h) No issues with this addition.
1AA Part 2	23	1AA Part 2	1AA Part 2 Amendments related to Part 1	Subpart 1 – Consequential amendments to the UTA 2010		
	24			Amendments to UTA, this subpart consequentially amends the UTA		
	25	4	S4 amended (Overview)	No existing section	After section 4(1)(f), insert: Special provisions for certain medium and large unit title developments (fa) Part 2A applies to particular types of unit title developments, characterised by the number of residential units that are contained within the entire complex. The Part imposes extra or more specific obligations, or both, on these types of developments over and above the general obligations in the rest of the Act and the regulations, although, in most cases, developments that include no fewer than 10 but no more than 29 residential units may opt out of the requirements if its body corporate decides to do so.	▪ 4(1)(f) - As noted, disagree on separating bodies corporate by size, as size does not equate to complexity of financial or maintenance management. - Clarity around how commercial are to be treated?
Part 1	26	5	S5 amended (Interpretation)	5 Interpretation (1) In this Act, unless the context otherwise requires,— *unit title development* means the individual units and the common property comprising a stratum estate	Section 5 amended (Interpretation) In section 5(1), definition of *unit title development*, after "*development*" insert "or *development*".	▪ Part 1:S5(1) No issue with this addition
Part 2 Subpart 14	27	150	S150 amended (Seller must rectify inaccuracies in disclosure statement)	150 Seller must rectify inaccuracies in disclosure statement (1) This section applies if, before the settlement date, the seller becomes aware that information contained in a disclosure statement given under any of sections 146, 147, and 148 or this section— (a) was inaccurate when the disclosure statement was given; or (b) has, since it was given, become inaccurate. (2) The seller must, within 5 working days after the date on which this section begins to apply, or any longer period agreed between the buyer and the seller, give the buyer a statement correcting the inaccuracy. (3) If a statement is given under subsection (2) within the period of 5 working days before the settlement date, the buyer may, by notice in writing, postpone the settlement date until the fifth working day after the date on which the statement under subsection (2) was provided.	Section 150 amended (Seller must rectify inaccuracies in disclosure statement) In section 150(1), replace "any of sections 146, 147, and 148" with "section 146 or section 147".	▪ 150(1) Refer previous notes on sections 146, 147.

Part #	Clause #	Section(s)	Heading	Original UTA 2010 Wording	Description of Amendments	Feedback
Part 2 Subpart 14	28	152	S152 replaced (further requirements concerning disclosure statements)	152 Further requirements concerning disclosure statements A disclosure statement given under any of sections 146, 147, 148, and 150 must be dated and signed by the seller or a person authorised by the seller.	Section 152 replaced (Further requirements concerning disclosure statements) Replace section 152 with: 152 Further requirements concerning disclosure statements A disclosure statement provided under any of sections 146, 147, or 150 must be dated and signed by the seller.	▪ 152 No issues with this clarification.
Schedule 1AAA Part 2	-	Schedule 1AAA, Part 2	New Part 2 inserted in schedule 1AAA of the UTA	No existing Part.	Part 2 Provisions relating to Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Bill 1 Definitions In this Part,— *2020 Act* means the Unit Titles (Strengthening Body Corporate Governance and Other Matters) Act 2020 *principal Act* means the Unit Titles Act 2010. 2 Savings provision for existing service contracts (1) This clause applies to a service contract entered into before the commencement of section 17 of the 2020 Act (which relates to section 139 of the principal Act). (2) The amendments made to section 139 of the principal Act by section 17 of the 2020 Act do not apply to any service contract entered into before the commencement of section 17. (3) This section is to avoid doubt.	No issue with this

Regulations

Part #	Clause #	Regulation	Heading	Original UTR 2011 Wording	Description of Amendments	Feedback
Subpart 2	29		Amendments to UTR		This subpart amends the UTR	
	30	10	Regulation 10 amended (Election of Chairperson)	No existing subclause	After regulation 10(2), insert: (2A) Despite subclause (2), a candidate for election as chairperson may nominate themself— (a) during the control period; and (b) at any time that all the principal units in the unit title development are owned by the candidate.	▪ 10(2) No issue with this clarification.
	31	24	Regulation 24 amended (Election of body corporate committee)	24 Election of body corporate committee (1) A body corporate that decides to form a body corporate committee must do the following at an annual general meeting: (a) decide by ordinary resolution how many members the body corporate committee must have and the number of members required to constitute a quorum; and (b) elect the members of the body corporate committee. (2) A body corporate that is required to form a body corporate committee under section 112(2) of the Act (because it has not decided, by special resolution, not to do so) must take the steps specified in subclause (1) at the first annual general meeting of the body corporate. (3) Except as provided in subclause (5), a candidate for election as a committee member must— (a) be nominated by another unit owner in the unit title development; and (b) consent to the nomination. (4) If a candidate for election as a committee member is not a natural person, the candidate must nominate a director to act as a committee member on the candidate's behalf. (5) A candidate for election as a committee member may nominate himself or herself. (6) A committee member must be— (a) the owner of a principal unit in the unit title development; or (b) a director who has been nominated under subclause (4). (7) Unless a committee member sooner resigns or is removed from office by ordinary resolution of the body corporate, he or she holds office from the close of the general meeting at which he or she is elected until the close of the next annual general meeting. (8) A committee member is eligible for re-election.	Regulation 24 amended (Election of body corporate committee) (1) In regulation 24(1)(a),— (a) after "how many", insert "elected"; and (b) after "have and the", insert "total"; and (2) In regulation 24(1)(b), after "elect the", insert "elected". (3) Replace regulation 24(3)with: (3) A candidate for election as a committee member must— (a) be the owner of a principal unit in the unit title development; and (b) at the time of nomination, have no overdue body corporate levies or other amounts payable and owing to the body corporate in respect of the owner's unit. (4) Replace regulation 24(5) and (6) with: (5) A candidate for election as a committee member may— (a) be nominated by another unit owner in the unit title development; or (b) nominate themselves. (5) After regulation 24(8), insert: (9) *See* section 112A of the Act that confers automatic membership of the body corporate committee on the chairperson of the body corporate.	▪ 24(1)(a) - Not sure why this amendment is required, although perhaps they are intending there will be unelected members on the committee. Currently the committee only has elected members. - 'total', does not improve the clause and seems redundant. ▪ 24(1)(b) This appears to be redundant. This is electing members, why is the next elected word necessary. ▪ 24(3) No issue with this amendment. ▪ 24(5) & (6) No issue with this amendment. ▪ 24(8) No issue with this insertion. Not sure how practical it is, but it would be good to see a provision for a non-director, perhaps with a company minute? Does mean some that are invested but not Directors are excluded e.g., Govt departments or corporates and managers.
	32	26	Regulation 26 amended (Body corporate committee chairperson)	26 Body corporate committee chairperson (1) At the first meeting of a body corporate committee, the committee must appoint a chairperson, who must be a member of the committee. (2) A committee chairperson may be removed from office at a meeting of the body corporate committee. (3) Where a committee chairperson is removed from office under subclause (2), the body corporate committee must elect a new committee chairperson at that meeting or the first meeting that is held after the office of committee chairperson has become vacant.	Regulation 26 amended (Body corporate committee chairperson) Before regulation 26(1), insert: (1AA) This regulation applies only if a body corporate has decided (in accordance with section 112A of the Act) that the chairperson of the body corporate committee is to be a person other than the chairperson of the body corporate.	▪ 1AA ▪ No issue with the wording, although again a question as to the naming conventions. There is no (1A), so why jump straight to (1AAA).
	33	27	Regulation 27 amended (Body corporate committee business)	27 Body corporate committee business (1) A body corporate committee must meet within 1 month of the date of service of a notice of delegation under section 108(1) of the Act. (2) A body corporate committee may meet as often as it considers necessary. (3) If there is no quorum at a body corporate committee meeting, the following procedure applies:	Regulation 27 amended (Body corporate committee business) (1) In regulation 27(2), after "considers necessary", insert "(so long as it has a quorum)" (2) After regulation 27(2), insert: (2A) A meeting may be conducted by telephone, audiovisual link, or other remote access facility if— (a) the chairperson considers that it is appropriate for 1 or more members to participate by remote access, given the agenda for the meeting; and	▪ 27(2) No issue with this clarification. ▪ 27(2A) Need to ensure this does not prevent the meeting being held fully virtual, as the wording states 'for 1 or more members' ▪ 27(3A) No issue with this clarification.

Part #	Clause #	Regulation	Heading	Original UTR 2011 Wording	Description of Amendments	Feedback
	33	27	Regulation 27 amended (Body corporate committee business) Continued	(a) the meeting must be adjourned until the same day 1 week later: (b) the reconvened meeting must be held at the same time and place, unless the committee chairperson has notified the committee members of a change to the time or place (or both) at least 3 days before the reconvened meeting is due to take place: (c) the reconvened meeting must proceed, whether a quorum exists or not. (4) If the chairperson of a body corporate is not a committee member, he or she is entitled to attend and be heard at a body corporate committee meeting, but not to vote. (5) The body corporate committee must provide copies of the minutes of its meetings to a unit owner in the unit title development if the unit owner requests them.	(b) the necessary facilities are available. (3) After regulation 27(3), insert: (3A) A committee member who, at a committee meeting, does not satisfy the eligibility requirements to exercise a vote as if the meeting were a general meeting of the body corporate (for example, because the member has outstanding levy amounts owing to the body corporate)— (a) must not be counted when determining whether there is a quorum for the meeting; and (b) must not vote on any resolution put at the meeting; but (c) may remain at the meeting and take part in any discussions. (4) Repeal regulation 27(4). (5) In regulation 27(5), replace "a unit owner in the unit title development if the unit owner requests them" with ", excluding any "in committee" items if privacy or other issues require that items be redacted, to all unit owners promptly but no later than 1 month after the meeting date". (6) After regulation 27(5), insert: (6) *See* regulation 24 for how the quorum number is determined. *See* section 79(c) and section 96 of the Act for eligibility to vote at a general meeting.	▪ 27(4) Repealed No issue with this and aligns with body corporate chairperson automatically being a committee member and committee chairperson. ▪ 27(5) - This amendment means the sentence does not make sense as follows: *The body corporate committee must provide copies of the minutes of its meetings to, excluding any "in committee" items if privacy or other issues require that items be redacted, to all unit owners promptly but no later than 1 month after the meeting date* Was this supposed to be **after** instead of **replace "** a unit owner in the unit title development if the unit owner requests them"? The sentence then makes sense: ▪ *The body corporate committee must provide copies of the minutes of its meetings to a unit owner in the unit title development if the unit owner requests them, excluding any "in committee" items if privacy or other issues require that items be redacted, to all unit owners promptly but no later than 1 month after the meeting date".* ▪ 27(6) No real issue with this, although is it necessary?
	34	28	Regulation 28 amended (Body corporate committee reports)	28 Body corporate committee reports (1) A body corporate committee must report to the body corporate at each annual general meeting of the body corporate. (2) A body corporate committee must report to the body corporate at such other times and in such manner as the body corporate decides by ordinary resolution. (3) A body corporate committee report must include the following information: (a) a description of the duties or powers that have been delegated to the body corporate committee during the period covered by the report; and (b) an update on the fulfilment of those duties or the exercise of those powers by the committee.	Regulation 28 amended (Body corporate committee reports) (1) In regulation 28(3)(b), replace "committee." with "committee; and". (2) After regulation 28(3)(b), insert: (c) a summary of the committee's decisions during the period covered by the report.	▪ 28(3)(b) Agree a summary of the committee's decisions should be supplied, although is this not already covered by (a) & (b), as the committee only have the duties delegated, so cannot make decisions outside of (a).
	35	28A – 28C	New heading and regulations 28A to 28C inserted	No existing regulations	28A Body corporate committee code of conduct The code of conduct set out in Schedule 1A is the code prescribed for the purposes of section 114A of the Act.	▪ 28A No issues with this wording.
	35	28A – 28C	New heading and regulations 28A to 28C inserted Continued	No existing regulations	28B Body corporate manager must be member of industry organisation (1) A body corporate manager must— (a) be a member of an organisation whose purpose, or one of its purposes, is to foster the professional development of body corporate managers; and (b) abide by the code of conduct for members of the organisation (if any, and to the extent that it is relevant). (2) A body corporate manager must annually provide to the body corporate details of the organisation to which the manager belongs and a summary of any dealings that the manager has had with the organisation in that year (for example, continuing education courses attended). (3) However, if the dealings with the organisation relates to a breach or alleged breach of its code of conduct, the manager must provide details of the matter to the body corporate as soon as it is raised and at such other times as the chairperson of the body corporate requires until the matter is resolved.	▪ 28(1)(a) & (b) **100% agree** ▪ 28(2) Agree ▪ 28(3) Agree

Part #	Clause #	Regulation	Heading	Original UTR 2011 Wording	Description of Amendments	Feedback
	35	28A – 28C	New heading and regulations 28A to 28C inserted Continued	No existing regulations	28C Terms that must be included in agreement engaging body corporate manager The agreement setting out the terms of engagement for a body corporate manager must include the following terms: (a) the manager's reporting requirements to the body corporate on the performance of the manager's functions and duties; and (b) the requirement for reviews of the manager's performance at specified intervals and the key performance targets and other measures by which the manager's performance is to be judged; and (c) the grounds for termination and the process for doing so, if met; and (d) the role, if any, of the manager at general meetings of the body corporate; and (e) the records, funds, or other things of or relating to the body corporate that must be returned by the manager to the body corporate if the agreement is terminated or the term of the agreement ends; and (f) the latest date, whether specified or able to be calculated, by which the things must be returned.	▪ 28C(a), (b), (c), (d), (f) ▪ No issue with any of these insertions.
	36	30	Regulation 30 amended (Long-term maintenance plans)	30 Long-term maintenance plans (1) A long-term maintenance plan must— (a) cover— (i) the common property, building elements, and infrastructure of the unit title development; and (ii) any additional items that the body corporate has decided by ordinary resolution to include in the plan; and (b) identify those items that the body corporate may decide by ordinary resolution not to maintain for any period during the lifetime of the plan; and (c) state the period covered by the plan; and (d) state the estimated age and life expectancy of each item covered by the plan; and (e) state the estimated cost of maintenance and replacement of each item covered by the plan; and (f) state whether there is a long-term maintenance fund; and (g) if there is a long-term maintenance fund, state the amount determined by the body corporate to be applied to maintain the fund each year; and (h) state who has prepared the plan. (2) A body corporate must carry out a review of its plan at least once every 3 years. (3) Subject to subclause (2), a body corporate may carry out a review of its plan as frequently as it considers necessary.	In regulation 30(1), insert after paragraph (a): (aa) summarise the current state of the common property; and	▪ 30(1)(aa) This is very ambiguous. What does 'current state of the common property mean'. I.e.: is messy, or tidy and clean acceptable. If this is intended to be a condition / defect summary, then strongly disagree.
	37	33 – 35	Replace regulations 33 – 35	*33 Pre-contract disclosure statement* The following information is prescribed for the purposes of section 146(2) of the Act (which requires a pre-contract disclosure statement to be in the prescribed form and to contain the prescribed information): (a) the amount of the contribution levied by the body corporate under section 121 of the Act in respect of the unit being sold; and (b) the period covered by such contribution; and (c) details of maintenance that the body corporate proposes to carry out on the unit title development in the year following the date of the disclosure statement, and how the body corporate proposes to meet the cost of that maintenance; and (d) the balance of every fund or bank account held or operated by the body corporate at the date of the last financial statement; and	33 Disclosure statement (1) The following information is prescribed for section 146(2)(a) of the Act (which requires a pre-contract disclosure statement to contain prescribed information): (a) whether any part of the unit development has— (i) weather tightness issues for which a claim has been made under the Weathertight Homes Resolution Act 2006; or (ii) weather tightness issues that have been remediated without a claim under that Act or other proceedings before a court or tribunal; or (iii) earthquake-prone issues: (b) whether the body corporate is involved in any proceedings in any court or tribunal and, if so, details of the proceedings: (c) financial statements and audit reports for the previous 7 years or (as the case may be) audit reports for those of the previous 7 years for which an audit was carried out and a statement of the years in that time period for which no audit was carried out:	▪ 33(1)(a) It is not possible for an owner, manager or the body corporate manager to know if 'any part of the unit development' has the items noted. The parties can only speak to their own unit and the common property. ▪ 33(1)(i) & (ii) Refer comment below under 'Other Issues' ▪ 33(1)(iii) No issue with this addition. ▪ 33(1(b) No general issue with this addition, however, this does not cover whether any proceedings are pending, but not yet lodged. Some of those proceedings might be confidential. ▪ 33(1)(c) 7 Years is too long. Suggest 3 years as that is currently standard best practice. Owners can request other years if they require, although it should be noted there are additional charges for the supply of material beyond 3 years.

Part #	Clause #	Regulation	Heading	Original UTR 2011 Wording	Description of Amendments	Feedback
	37	33 – 35	Replace regulations 33 – 35 Continued	(e) whether the unit or the common property is, or has been, the subject of a claim under the Weathertight Homes Resolution Services Act 2006 or any other civil proceedings relating to water penetration of the buildings in the unit title development; and (f) an explanation of the following: (i) unit title property ownership; and (ii) unit plans; and (iii) ownership and utility interests; and (iv) body corporate operational rules; and (v) the information required to be contained in a pre-settlement disclosure statement; and (vi) the information required to be contained in an additional disclosure statement; and (vii) records of title; and (viii) the land information memorandum issued under section 44A of the Local Government Official Information and Meetings Act 1987; and (ix) easements and covenants; and (g) how to obtain further information about the matters referred to in paragraph (f); and (h) an estimate of the cost of providing an additional disclosure statement.	(d) notices and minutes of general meetings of the body corporate and the body corporate committee for the previous 3 years— (i) including all supporting documentation; but (ii) excluding any "in committee" items if privacy or other issues require that the items be redacted: (e) the name and contact details of the body corporate manager or managers: (f) the body corporate levies payable for the unit for the current financial year and the amounts that have been paid or are owing: (g) any outstanding amounts of body corporate levies payable for the unit from previous financial years:	▪ 33(1)(d) No issue with providing 3 years of AGM and Committee Minutes. ▪ 33(1)(d)(i) & (ii) Strongly oppose 'all supporting documentation', as sometimes the information prepared for committee meetings can be upwards of 50 – 80 pages. If they are meeting every month, this is a substantial amount of information to review and have to remove items that might be sensitive to owners or still 'in committee'. Who is going to pay for the body corporate manager's time and attendance to do this, as it would need to be done each time to ascertain what might still be 'in committee'. Who is liable if due to sheer volume of 'all supporting documentation', private or 'in committee' information is included? Body corporate manager will refuse to take on this liability. ▪ 33(1)(e) No issue with this, provided they understand the body corporate manger will not be providing any further information other than that legal required and the buyer must refer all questions to the seller. ▪ 33(1)(f) & (g) ▪ No issue with this.
	37	33 – 35	Replace regulations 33 – 35 Continued	*34 Pre-settlement disclosure statement* The following information is prescribed for the purposes of section 147(3)(a) of the Act (which requires a pre-settlement disclosure statement to contain the prescribed information): (a) the unit number; and (b) the body corporate number; and (c) the amount of the contribution levied by the body corporate under section 121 of the Act in respect of the unit being sold; and (d) the period covered by such contribution; and (e) the manner of payment of the levy; and (f) the date on or before which payment of the levy is due; and	(h) any amounts being held in credit by the body corporate for the unit for the purposes of any long-term maintenance fund, contingency fund, or capital improvement fund of the body corporate: (i) any proposed works under the long-term maintenance plan for the unit title development to be carried out or begun within the next 3 years and the estimated costs of the works: (j) the next review date for the long-term maintenance plan for the unit title development:	▪ 33(1)(h) There will never be any amounts held in credit by the body corporate for a unit owner for LTMF, Contingency Fund or capital improvement funds. Once a body corporate levies an owner and the funds are paid by the owner to the body corporate, they belong to the body corporate not the owner. If this is in reference to section 131 (distribution of surplus funds), then that is always in the proportion as prescribed. ▪ 33(1)(h)(i) & (ii) No issue with these. ▪ 33(1)(K)(i), (ii), (iii) & (iv) No issue with these. ▪ 33(2)(a), (b), (c),)d) & (e)
	37	33 – 35	Replace regulations 33 – 35 Continued	(g) whether a levy, or part of a levy, due to the body corporate is unpaid and, if so, the amount of the unpaid levy; and (h) whether legal proceedings have been instituted in relation to any unpaid levy; and (i) whether any metered charges due to the body corporate are unpaid and, if so, the amount of unpaid metered charges; and (j) whether any costs relating to repairs to building elements or infrastructure contained in the unit are unpaid and, if so, the amount of unpaid costs; and (k) the rate at which interest is accruing on any money owing to the body corporate by the seller; and (l) whether there are any proceedings pending against the body corporate in any court or tribunal; and (m) whether there have been any changes to the body corporate operational rules since— (i) the additional disclosure statement, if one has been provided; or (ii) the pre-contract disclosure statement. *35 Additional disclosure statement* The following information is prescribed for the purposes of section 148(4) of the Act (which requires an additional disclosure statement to contain the prescribed information): (a) the contact details for the body corporate and body corporate committee (if any); and	(k) a summary of the insurance cover the body corporate maintains for the unit title development, including— (i) the insurer's name and contact details; and (ii) the type and amount of cover, the annual amount payable for it, and the excess payable on any claim under it; and (iii) any specific exclusions from cover; and (iv) a statement of where and how the insurance policy can be viewed. (2) The following information is also prescribed for section 146(2)(a) of the Act if the pre-contract disclosure statement is provided in relation to the sale and purchase of an "off-the-plan" unit: (a) a summary of the financial budget for the unit title development: (b) the proposed ownership interest for the unit: (c) the proposed utility interest for the unit: (d) the body corporate operational rules that will first apply: (e) what, if any, service contracts that are proposed to be entered into that will continue in force after the unit purchase is settled: (f) whether the original owner has been involved in any capacity in any previous unit title development or other building-related work that has resulted in weather tightness issues— (i) for which a claim has been made under the Weathertight Homes Resolution Act 2006; or (ii) that have been remediated without a claim under that Act or other proceedings before a court or tribunal:	No issue with these. ▪ 33(2)(f) - This might be construed as prejudice. Just because a development the owner / developer was involved with in the past had previous weathertight issues, this does not correlate to the current building being a weathertight and this might affect sale prices of the current development. - Disagree with this clause. ▪ 33(3) No issue with this. **Other Issues:** - The section does not cover other remediation works that might be know, or soon to be levied that are not classified as 'weathertight' or for which no claim or other proceedings have been lodged (ie: aged related membrane deterioration on balconies, or end of life on cladding, aged related roof replacements). - The explanation of things is now removed, and this is an important opportunity to educate prospective new owners. - The period covered by the levy is no longer noted. - Changes to operational rules is no longer covered. - Current balance of funds is no longer provided. - Details of regular expenses incurred is removed.

Part #	Clause #	Regulation	Heading	Original UTR 2011 Wording	Description of Amendments	Feedback
	37	33 – 35	Replace regulations 33 – 35 Continued	(b) the balance of every fund or bank account held or operated by the body corporate at the date of the last financial statement; and (c) amounts due under invoices to be paid by the body corporate at the date the additional disclosure statement is requested; and (d) details of regular expenses that are incurred at least once a year; and (e) amounts owed to the body corporate at the date the additional disclosure statement is requested; and (f) the following details of every current insurance policy held by the body corporate: (i) the name of the insurer; and (ii) the type of policy; and (iii) the amount of the current premium; and (iv) the amount of any excess payable under the policy; and (g) the following details of every current contract entered into by the body corporate: (i) the names of the parties; and (ii) the goods or services to be provided under the contract; and (iii) the price at which the goods or services are to be provided; and (iv) the term of the contract; and (h) information about every lease to which the base land is subject; and (i) the text of motions voted on at the last general meeting and whether each motion was passed or not; and (j) whether the body corporate's operational rules are different from the prescribed body corporate operational rules, and if so, what the differences are; and (k) a summary of the long-term maintenance plan, including— (i) details of maintenance to be carried out; and (ii) details of maintenance carried out in the last year; and (iii) whether there is a long-term maintenance fund; and (iv) if there is a long-term maintenance fund,— (A) the amount determined by the body corporate that has been, or will be, levied during the term of the long-term maintenance plan to maintain the fund; and (B) whether the current balance of the fund is projected to be sufficient to meet the body corporate's obligations under the plan.	(3) The information required by this regulation must be provided to the extent that it is applicable to the unit and the development concerned (*see* section 146(2)(a) of the Act).	- Debtor levels is removed and this is important to advise if a body corporate has a significant debtor problem. - Contractor list is removed. Lease details is removed (ie: ground lease, signage rights)
Schedule 1A	38 & 39	1A	Ne schedule 1A is inserted after schedule 1	No schedule existing.	Subpart 3 – Amendments to Unit Titles (Unit Titles Disputes-Fees) Regulations 2011	
Schedule 1A Subpart 3	40	5	Regulation 5 replaced	5 Filing fee • (1)The fee payable for the filing of an application with the Tenancy Tribunal under section 86 of the 1986 Act in relation to a unit title dispute is— ○ (a)$3,300 for category 1 proceedings; or ○ (b)$850 for category 2 proceedings. (2)The fee includes goods and services tax.	Replace regulation 5 with: 5 Fees (1) The fee payable for filing an application with the Tenancy Tribunal under section 86 of the 1986 Act in relation to a unit title dispute is $100. (2) The following fees are also payable: (a) for a dispute that is referred to mediation with a Tenancy Mediator— (i) $600 for category 1 proceedings (divided equally between the parties); and (ii) $300 for category 2 proceedings (divided equally between the parties): (b) for a dispute that is referred to adjudication (whether directly or because 1 or more of the parties refuses to have the matter considered by a Tenancy Mediator or because mediation has failed to resolve the dispute)— (i) $1,000 for category 1 proceedings (divided equally between the parties unless a party has refused mediation, in which case that party pays the fee); and	▪ 5(1) - Strongly disagree with this low fee. This will generate nuisance / harassment claims from unhappy / disgruntled owners. The current schedule 2 fee of $850 means claims are only lodged where this is a genuine dispute and the parties are unable to reach resolution. Agree that the schedule 1 fee of $3,300 is excessive. ▪ 5(2)(a)(i) & (2) - No issue with the fees. - Strongly disagree with the wording 'divided equally between the parties'. Does this mean that irrespective of who is successful in the claim, both parties have to split the fee? That is neither fair nor reasonable to the successful party. - By the time the body corporate takes Tribunal action the body corporate will already have spent many hours trying to resolve with the other party. Why should the other owners have to pay anything out of their pockets because one (or more) owners have breached the UTA or Operational Rules).

Part #	Clause #	Regulation	Heading	Original UTR 2011 Wording	Description of Amendments	Feedback
					(ii) $600 for category 2 proceedings (divided equally between the parties unless a party has refused mediation, in which case that party pays the fee). (3) To avoid doubt, a fee is payable under both clause (2)(a) and (2)(b) for a dispute that, in the course of resolution, is referred to both a Tenancy Mediator and for adjudication before the Tenancy Tribunal.	▪ 5(/b) Object to this clause as noted above, by the time the body corporate takes action against another party, they have already tried to mediate a resolution privately and have no interest in wasting further time and money attending a mediation. ▪ 5(b((i) & (ii) - No issue with the fees. - As above strongly disagree with the wording. As noted above, a body corporate will already have tried to mediate the problem. Why should a party be penalised because they do not wish to waste even more time and expense going through a mediation. Disaffected owners will use this mediation tactic as a delaying mechanism against the body corporate and also to force the body corporate to cover the full fee. ▪ 5(3) No issue with this
Schedule 2 Schedule 1A	-	Schedule 1A	Schedule 2: New Schedule 1A to be inserted in the UTR	No existing schedule	Schedule 1A Code of conduct for body corporate committee members r 28A 1 Commitment to acquiring understanding of Act, including this code A member must have a commitment to acquiring an understanding of so much of this Act and the regulations, including this code of conduct, as is relevant to the member's role on the committee. 2 Honesty, fairness, and confidentiality (1) A member must act honestly and fairly in performing the member's duties as a committee member. (2) A member must not unfairly or unreasonably disclose information held by the body corporate, including information about an owner of a unit, unless authorised or required to do so by law. 3 Acting in body corporate's best interests. A member must act in the best interests of the body corporate in performing the member's duties as a committee member, unless it is unlawful to do so. 4 Complying with Act and this code A member must take reasonable steps to ensure the member complies with this Act, including this code, in performing the member's duties as a committee member. 6 Conflict of interest A committee member who is eligible to vote must disclose to the committee any conflict of interest the member may have in a matter before the committee.	No issue with this.

Other Notes

- No facility is included for the body corporate to charge fines or fees and it would be good to have this ability. This would reduce the need to go to Tribunal sometimes, as often a fine / penalty will resolve the issue.
- Need to clarify the election rules for committee regarding when a member resigns or is removed from office. Currently, there are two schools of thought, that the body corporate sets the size of the committee and therefore any reduction of a member requires that the body corporate call an EGM to elect another member to bring the committee to the correct size resolved by the body corporate. The other opposing view is that the body corporate only needs to hold an election if the committee falls below quorum. This should be clarified in the Act.
- Insurance: Clarification around what insurance is required.
- Committee: Clarification around membership for multiple owners in one unit, or voting rights for those with multiple units sitting on a committee
- Clarification: It would be helpful if the Act definitively set out the quorum number requirements for general meetings, particularly around whether ineligible voters count towards quorum. Currently, ineligible voters have no voting rights, however, there is some dispute in the industry around whether they can be counted for quorum.