

RAINEY COLLINS LAWYERS



What Bodies Corporate must do in response to the Unit Titles Act 2010

1. Hold an AGM as soon as practicable, but within 6 months of the Act coming into force (20 June 2011)

- a. Make sure you give 3 weeks notice (or as otherwise provided in your rules)
- b. Prior to AGM, send out:
 - i. Agenda.
 - ii. Financial statements for the most recent financial year end.
 - iii. Existing Body Corporate rules and new rules under the Act. We recommend you provide a summary and an analysis of the changes.
 - iv. A list of the powers proposed to be delegated to the Body Corporate Committee.

2. At the AGM, you will need to deal with the following:

- a. **Rules.** Do you want to adopt the new rules under the 2010 Act straight away? They don't replace the old rules automatically until 15 months have passed. Need special resolution to adopt new rules. **Now** **Wait**
- b. **Changes to rules regarding maintenance.** New section 138 says a Body Corporate can enter into a principal unit to carry out repair to common property and "building elements" or "infrastructure" that affect more than one unit. Do you want this to apply now? **Now** **Wait**
- c. **Long term maintenance plan.** This is a new requirement under the Act. Need to plan 10 years ahead. Can't contract out of this but can wait 15 months to implement. Implement now or later? Special resolution to adopt now. **Now** **Wait**
- d. **Long term maintenance fund.** A fund to cover the maintenance in the plan. Do you want to have such a fund? Special resolution required if you adopt a maintenance plan but choose not to have a maintenance fund. **Fund** **Not**
- e. **Reassess ownership and utility interests.** You can choose at any time whether you want to assess these separately. **Yes** **No**
- f. **Chairperson.** Do you need to appoint a new chairperson? Chairperson must be an owner. **Yes** **No**
- g. **Powers of Body Corporate Committee.** Need to approve the list of powers delegated to the Body Corporate Committee. Powers first to be approved by special resolution with written notice to Body Corporate Committee Members. **Approved** **No** **Sent**
- h. **Current account.** Who is going to be able to operate the current account and how? Needs to be by special resolution. **Who** **How**
- i. **Financial Statements.** An ordinary resolution approving the financial statements is needed. Accounts to be audited unless a special resolution to the contrary is passed. **Audit** **Don't**
- j. **Other funds.** It is optional to have contingency and capital improvement funds. Do you want to have such funds? Ordinary resolution required. **Contingency** **Capital**

3. Ongoing responsibilities

- a. Have process in place for disclosure – 3 types: pre-contract, pre-settlement and additional. Who will collate documents? Please contact us for a copy of our free Unit Titles Disclosure Checklist.
- b. Implementing the new Act.

See our example Pre-Contract Disclosure Statement at www.raineycollins.co.nz

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