

14 February 2013

Ministry of Business Innovation and Employment  
PO Box 10-729  
Wellington 6143

Attention: Unit Titles Amendment Bill Services Team

### **Unit Titles Amendment Bill - Consultation Document**

The Insurance Council of New Zealand (Insurance Council) appreciates the opportunity to comment on the Ministry's Unit Title Amendment Bill Consultation Document. Our comments are limited to section 18, "Insuring Stand Alone Units".

#### **The Insurance Council**

The Insurance Council is the industry representation body for fire and general insurance in New Zealand. The Council aims to assist members in key areas affecting their business through effective advocacy and communication.

The Council currently has 26 members who collectively write more than 95 percent of all fire and general insurance in New Zealand. Insurance Council members, both insurers and reinsurers, are a significant part of the New Zealand financial services system. Our members currently protect more than \$0.5 trillion of New Zealanders' assets.

The Insurance Council plays an active role in representing the insurance industry. Our members are licensed under the Insurance (Prudential Supervision) Act 2010 and signatories to the Fair Insurance Code that requires insurers to act ethically. We also perform an important role in informing and educating consumers about key insurance issues and risks.

#### **Insurance of Multi Unit Properties**

The Insurance Council has identified some concerns about the insurance of multi unit properties, including properties that are fee simple, cross lease or unit titled. These concerns flow from claims experience following the Canterbury earthquake which highlights delays, complexities and inefficiencies in the claims process.

The Consultation Document, section 18, outlines a proposal to amend the definition of stand alone units to allow more body corporates to permit their unit owners to insure their own units.

This is a technical amendment to allow stand alone units which have attached accessory units, to qualify under section 137(2)(a) of the Unit Titles Act 2010, to insure separately from the body Corp. Currently they can only insure separately if their stand alone units and accessory units are separate.

This proposal seeks to allow stand alone property owners more flexibility in insuring their properties, which could allow unit holders to find insurance cover that is more appropriate to their needs. This is a commendable aim, however the Insurance Council is concerned that the option to insure outside the body corporate will have some unintended consequences for unit holders, particularly at claim time.

Following the Canterbury earthquake, multi unit and cross lease properties have experienced major difficulties as a result of unit holders insuring separately from the other owners. The problems include:

- Different policy coverage for attached units which pay different amounts for damage (eg: replacement v indemnity value or different levels of excess).
- Coordination difficulties with multiple insurers at claims time with resulting inefficiencies, and delays
- Coordination difficulties with unit holders with different levels of health, wealth, understanding and dependency
- Difficulties with uninsured or under underinsured unit holders

While these difficulties affect cross lease and fee simple multi unit properties more than unit title properties, nevertheless, the move to allow unit title property owners to insure separately from the body corporate will only increase their problems at claim time.

We see the following problems for unit title properties when the whole property suffers severe damage in, for example, a catastrophe event or fire:

- Parts of the property being uninsured or underinsured because of confusion over what unit holders or the body corporate are required to insure. This could particularly apply to common areas.
- Options for unit holders to insure separately from the body corporate resulting in some unit holders not insuring at all. This impedes the repair of the whole property.
- Different policy wordings providing different levels of cover which result in varying standards of repair.
- Insurers or EQC offering cash settlements to the unit owners, resulting in the potential for varying levels of repair.
- Duplication of resources with different insurers insuring different units.

These problems will affect all unit title properties where unit holders insure their properties separate from the body corporate and will cause major delays in the event of a significant catastrophe event.

**Recommendation**

The Insurance Council recommends the proposal to amend the definition of stand alone unit to allow more unit holders to insure separately from their body corporate be dropped and that Section 137(2)(a) be repealed.

The Insurance Council would like to meet with the Ministry to expand on the issues around the Canterbury earthquake and discuss the wider issues of insurance of multi unit and cross lease properties.

Yours sincerely



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