

2014

LEGISLATIVE ASSEMBLY OF THE  
NORTHERN TERRITORY

ATTORNEY-GENERAL AND MINISTER FOR JUSTICE

**TERMINATION OF UNITS PLANS AND UNIT TITLE SCHEMES BILL 2014**

**SERIAL NO. 104**

**EXPLANATORY STATEMENT**

**GENERAL OUTLINE**

The Termination of Units Plans and Unit Title Schemes Bill 2014 provides:

- for the repeal of the provisions of the *Unit Title Schemes Act* and *Unit Titles Act* that deal with terminations of schemes (under the *Unit Title Schemes Act*) and units plans under the *Unit Titles Act* (collectively referred to as “developments” in the Bill);
- for the termination of developments by unanimous agreement of all of the owners of units in the development;
- for developments having less than 10 units, for the Northern Territory Civil and Administrative Tribunal to have jurisdiction to terminate the development;
- for developments comprising 10 or more units, a process (“the Part 4 process”) by which the prescribed majority can decide that the development be terminated. The extent of support required for the prescribed majority varies from 80% to 95% of interest (ownership) depending on the age of the development with the Part 4 process having no application if the development is aged under 15 years;
- that the Part 4 process involves the schemes supervisor issuing an approval certificate (regarding compliance with the Act) before the proponent of termination can require the body corporate to formally vote on the proposed termination;
- that the Part 4 process provides objecting owners with the options of selling their unit to a third party, selling the unit to the proponent (under the processes laid out in the Act) or appealing to the Northern Territory Civil and Administrative Tribunal against the termination;

- that if the Part 4 process fails the proponent can then apply to the Northern Territory Civil and Administrative Tribunal for termination. Developments comprising 10 or more units can only be terminated by the Northern Territory Civil and Administrative Tribunal if an attempt is first made under Part 4;
- for the principles to be applied by the Northern Territory Civil and Administrative Tribunal when it is making decisions about terminations for both large developments (as an outcome of a failed Part 4 process) or in respect of contested terminations for small developments;
- for amendments to the *Land Title Act* dealing with the registration of terminations;
- for transitional provisions covering terminations in the process occurring as at commencement of the legislation; and
- for consequential amendments to the *Unit Titles Act*, *Unit Title Schemes Act*, *Real Property (Unit Titles) Act* and the

*Real Property (Unit Titles) Regulations.*

## NOTES ON CLAUSES

### **Part 1 Preliminary Matters**

#### **Clause 1. Short title**

This is a formal clause which provides for the citation of the Bill. The Bill, when passed, may be cited as the *Termination of Units Plans and Unit Title Schemes Act 2014*.

#### **Clause 2. Commencement**

This is a formal clause which provides that the Act will commence on 1 January 2015.

#### **Clause 3. Act binds the Crown**

This is a formal clause that provides that the Act binds the Crown in the right of the Territory and, to the extent that the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

#### **Clause 4. Interpretation**

Sub-clause (1) sets out the definitions for the purposes of the Act. The main definitions include:

**“approval certificate”** - this is a certificate issued by the schemes supervisor under clause 10 regarding compliance of an application for termination under Part 4 with the requirements of clause 9(2).

**“development”** – this is short hand to references to schemes under the *Unit Title Schemes Act* and to the variety of units that have been created under the *Unit Titles Act*.

**“objecting owner”** – this is a reference to persons who, under Part 4, have not agreed to a termination. Such persons have the right to sell their unit to the proponent, sell the unit to a third party or to appeal against a Part 4 termination to the Northern Territory Civil and Administrative Tribunal.

**“owner”** – this definition includes both owners of units and others, such as mortgagees in possession, who have the right to sell a unit.

**“plan of termination”** – is a reference to the plan that is lodged with the Land Titles Office following approval of a termination under this Bill.

**“prescribed number of days”** – the Bill contains numerous provisions setting out actions that must account within a specified number of days. This definition, read with the regulation making power in clause 23, provides for the making of regulations that can prescribe different periods of time to those set out in the Bill.

**“proponent”** – this is a reference to the persons or entity making an application for a termination under Part 4. The proponent must either be the owner of a unit or be an entity formed by 2 or more owners.

In the case of terminations of higher schemes a body corporate can be a proponent (see paragraph (a)(i) of the definition of “owner” (in this Bill)).

**“required percentage”** - sets out the level of support required in order for a termination to proceed under Part 4. It also operates to determine how old a development must be in order for it to be the subject of an application under Part 4. The details are spelt out in the explanation of clause 12.

**“schemes supervisor”** – is a statutory officer appointed under section 99 of the *Unit Title Schemes Act*.

**“termination”** (of a development) – is a reference to cancellation of a units plan under the *Unit Titles Act* or the termination of a scheme under the *Unit Title Schemes Act*.

Sub-clause (2) sets out a number of principles for determining the age of a development. This is relevant for the purposes of the definition of “required percentage” and the operation of clauses 9-12.

If the development contains buildings the age is the date on which it can be proved that one of the buildings was substantially completed. If such a date cannot be proven, the next default date is the date on which occupancy of a building was first approved under the current *Building Act* or a former Act dealing with the occupation of buildings.

If neither of these provisions applies the date is the date that appears from the Registrar-General’s register maintained under section 38 of the *Land Title Act* as being the earliest date on which the development’s buildings existed.

If none of the above provide a date or if there are no buildings the date is the date on which the scheme under the *Unit Title Schemes Act* was formed or when a units plan was registered under the *Unit Titles Act*.

Sub-clause (3) provides that if a term used in this Act is not defined but there is a definition in the *Unit Titles Act*, the *Real Property (Unit Titles) Act* or in the *Unit Title Schemes Act* that definition will apply.

## Clause 5.      **Application of Criminal Code**

This is a formal clause that provides that Part IIAA of the Criminal Code applies to an offence against this Act. Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof.

## **Part 2              General rules**

### Clause 6.      **Termination of development**

Sub-clause (1) provides an overview of the circumstances in which a “development” (as defined in clause 4) (being a scheme under the *Unit Title Schemes Act* or a unit, building development,

condominium development and estate development under the *Unit Titles Act*) may be terminated.

They are:

- by unanimous resolution (see clause 7);
- by consent of the relevant majority under this Bill (see Part 4, clauses 9-14); or
- by order of the Northern Territory Civil and Administrative Tribunal or the Supreme Court (see Part 5, clauses 15-18).

The current termination provisions in the *Unit Title Schemes Act* and the *Unit Titles Act* will be repealed. These repealed provisions include those permitting management modules to provide for termination (see section 15(b) of *Unit Title Schemes Act*).

Sub-clause (1) also makes it clear that this Bill does not apply to terminations under section 72 of the *Unit Title Schemes Act*. Under section 72 schemes can be amalgamated. As part of the amalgamation process schemes are terminated. This is conceptually different to what is being covered by the Bill and is considered out of scope for the purposes of this Bill.

Sub-clause (2) provides that a higher scheme cannot be terminated unless all of its subsidiary schemes are also terminated.

Clause 7 (termination by resolution), clause 12(1)(a) (resolution in favour of termination) and clause 17 (order of the Northern Territory Civil and Administrative Tribunal) all operate subject to clause 6(2).

### **Part 3                      Termination by unanimous resolution**

#### **Clause 7.              Termination by resolution**

This clause sets out that a body corporate established under either the *Unit Titles Act* or the *Unit Title Schemes Act* can decide to terminate a scheme. They can do this if there is a unanimous resolution (see definition in clause 4) (this is the same definition as in the *Unit Title Schemes Act* and the *Unit Titles Act*).

This clause maintains the policy position in the current law (as in section 15(a) of the *Unit Title Schemes Act* and section 95A of the *Unit Titles Act*) under which all owners can agree to a termination. In practice this usually only occurs if one person owns all of the units.

### **Part 4                      Termination by vote of required percentage of owners**

Part 4 sets out the circumstances in which a scheme can be terminated after majority support (with the level of support required varying depending on the age of the scheme) is obtained.

#### **Clause 8.              Application of Part**

This clause provides that Part 4 only applies to a development if it comes within both of the

following factual situations:

- the development is at least 15 years of age. Clause 4(2) sets out the rules governing the age of a development with the factual issues relating to when buildings were constructed and when the land titles documents for the development were registered; and
- there are at least 10 units in the development. For developments having less than 10 units, termination can only occur by unanimous agreement (under clause 7) or by order of the Northern Territory Civil and Administrative Tribunal pursuant to an application under clause 16(1). Developments having 10 units or more can only be terminated by the Northern Territory Civil and Administrative Tribunal after an application has been made (and failed) under Part 4 (see clause 16(2)).

#### Clause 9.      **Application for approval certificate**

In the absence of any unanimous resolution under clause 7 unit owners within large developments seeking termination must make an application under Part 4. Under this Part a proponent for the termination of a scheme seeks termination by way of obtaining the required majority support. This is said noting that there is no obligation to seek a unanimous resolution under clause 7 before proceeding under clause 9.

The clause does not apply if the proponent (as defined in clause 4) has, by whatever means, obtained unanimous agreement as provided for in Part 3. The proponent can be either an owner (or collection of owners) or a “person” (usually a corporation) formed by 2 or more owners of units.

The first step in the Part 4 process is that an application must be made to the schemes supervisor. Sub-clause (2) provides that the application to the schemes supervisor must contain the following information about the proposed termination:

- an explanation, in the form prescribed by the schemes supervisor, of the Part 4 process;
- a statement of rights concerning the sale of units, including the right of an objecting owner to sell his or her unit in accordance with clause 13;
- a statement about any proposed disposition of any property owned by the body corporate for the development;
- a statement of what is to happen to common property;
- details about any redevelopment of the land (eg plans, dates, costs, relocations, details of any future scheme, estimated value of any completed new development);
- proposed interest entitlements for any new development;
- statement disclosing any arrangements with other persons (eg developers);
- any other information that may be required in regulations made for the purposes of clause

9.

The proponent must also pay the fee to be prescribed under the Regulations. The fee will be set having regard to the commercial risks that need to be covered by the schemes supervisor in considering the issuing of an approval certificate.

**Clause 10. Approval certificate**

This clause provides that after receiving an application under clause 9 the schemes supervisor must before the end of the prescribed period of time (currently proposed to be 56 days) do one of the following:

- issue an approval certificate if satisfied that the draft application is sufficient to permit the owners of the units in the development is sufficient for them to make an informed decision about

the termination (clause 10(1)(a));

- seek further information if not enough information has been provided by the proponent regarding the proposal (and must fix a date by when this further information should be provided

(clause 10(1)(b));

- serve on the proponent an explanatory notice outlining issues that need to be addressed if not satisfied that the draft application

is sufficient (clause 10(1)(c)(i)); or

- reject the application (clause 10(1)(c)(ii)).

In response to a notice served under clause 10(1)(c)(i) the proponent has, under clause 10(2), the following options:

- the proponent may address the outstanding matters;
- the proponent may abandon the proposal (and serve notices to that effect on the persons mentioned in clause 12(1) and on the schemes supervisor);
- appeal to the Northern Territory Civil and Administrative Tribunal within the prescribed period (currently proposed as 28 days) (see clause 10(2)).

Sub-clause (3) provides that a proponent is deemed to have abandoned the application for an approval certificate if the proponent fails to provide the required information under sub-clause (2)(b) by either the time set by the schemes supervisor or within any extension of that time as given by the schemes supervisor.

Sub-clause (4) sets out that the schemes supervisor must, on receiving an amended application under clause 10(2)(a), deal with it as though

it was made under clause 9 excepting that the schemes supervisor cannot seek further information under clause 10(1)(b) or serve another explanatory notice under clause 10(1)(c)(i).

Sub clause (5)(a) provides that the schemes supervisor is deemed to have rejected the application for an approval certificate if the schemes supervisor does not complete any actions mentioned in sub-clause (1) within the times set under that clause.

Sub-clause (5)(b) provides that a proponent may apply to the Northern Territory Civil and Administrative Tribunal within the prescribed period (currently proposed to be 14 days) if the schemes supervisor has not made a decision under sub-clause (2). However sub-clause (5)(c) provides that if the schemes supervisor makes a decision before the Northern Territory Civil and Administrative Tribunal commences to hear an application the schemes supervisor's decision is valid as if made in time. In these circumstances the Northern Territory Civil and Administrative Tribunal must not proceed with the recommendation but the schemes supervisor must, on application, refund to the proponent the filing or hearing fee that may have been paid in respect of an appeal to the Northern Territory Civil and Administrative Tribunal.

#### **Clause 11. Resolution – proposed termination**

This clause sets out the processes that must be followed by the proponent following the obtaining of an approval certificate from the schemes supervisor or from the Northern Territory Civil and Administrative Tribunal.

Sub-clause (1) provides that the proponent must serve a request that a body corporate meeting be held to deal with the application for termination.

Sub-clause (2) provides that the body corporate must then serve a copy of the approval certificate and the notice of the proposed termination on each owner of a unit and on each mortgagee of a unit.

Sub-clause (2) also obliges the body corporate to hold a meeting to deal with the proponents' proposal. This meeting must be held within 12 months after the date of the approval certificate (but not earlier than 3 months).

Sub-clause (3) provides that a mortgagee who attends the body corporate meeting (to object) must be heard at the meeting.

Sub-clause (4) provides that if the body corporate does not comply with clause 11(2) (regarding notifications and the holding of a meeting) the proponent may apply to the Northern Territory Civil and Administrative Tribunal for orders directed to the body corporate and for such other order or action as is necessary for ensuring that the notices are given and the meeting is held.

#### **Clause 12. If resolution passed**

Sub-clause (1)(a) provides that an application is approved by the body corporate if the required percentage of owners support the proposal.

The term "required percentage" is defined in clause 4. This definition operates as follows:



- if the development has 10 or more units and is at least 30 years old – the required percentage is 80% of the total interest entitlement on the day on which the notice was served under clause 9(1);
- if the development has 10 or more units and is at least 20 years old but less than 30 years – the required percentage is 90% of the total interest entitlement on the day on which the notice was served under clause 9(1);
- if the development has 10 or more units and is at least 15 years old but less than 20 years – the required percentage is 95% of the total interest entitlement on the day on which the notice was served under clause 9(1).

For the purpose of determining the age of a development, clause 4(2) sets out the various principles (as summarised in respect of clause 4(2))(above).

Sub-clause (1)(b) provides that the body corporate must, within 14 days of the making of a termination resolution under clause 11, serve copies on each owner and mortgagee of a unit.

Sub-clause 12(1)(c) and sub-clause (2) provide that an owner who objected to the termination or did not otherwise support the termination (eg did not attend the meeting or did not vote) must, within the prescribed number of days (currently 182 days (26 weeks)) do one of the following:

- abandon the objection (clause 12(1)(c)(i)) and must then cooperate with the proponent in the termination (clause 12(2)(a)); or
- sell the unit to a third party and give notice of the sale (or agreement for sale) to the proponent (clause 12(1)(c)(ii)) and must then proceed to finalise the sale as soon as practical) (12(2)(b)); or
- commence the process of selling the unit to the proponent in accordance with clause 13 (clause 12(1)(c)(iii) and clause 12(2)(c)); or
- appeal to the Northern Territory Civil and Administrative Tribunal (clause 12(1)(d)).

Sub-clause (3) provides that the proponent may apply to Northern Territory Civil and Administrative Tribunal for an order for the sale of the unit if the objecting owner does not take any of the actions set out in sub-clauses (1) and (2). The Northern Territory Civil and Administrative Tribunal can fix the price and the terms and conditions of such a sale. Before doing so it must arrange for a valuation of the unit (sub-clause (4)).

If there is an application under sub-clause (1) it must be served on the proponent and also on each of the owners of units each of

the mortgagees and on the schemes supervisor (sub-clause 5).

Sub-clause (6) provides that the termination of a development is suspended pending an application to Northern Territory Civil and Administrative Tribunal by an owner under clause 12(1)(c)(iv) or by a mortgagee under clause 12(1)(d) (or of any appeal to the Supreme Court in

respect of the decision of the Northern Territory Civil and Administrative Tribunal).

Sub-clause (7) deals with the situation where a person buys or enters into an agreement to buy a unit in the period between when a resolution is passed under clauses 11 and 12 and the time when details of the resolution are entered in the register of administrative interests as referred to in clause 12(8)(b). If this happens the body corporate must within 14 days of becoming aware of the agreement to purchase or the purchase serve a copy of the termination resolution on that person (clause 13(7)(b)). From that time the Act applies to that person as if that person is an objecting owner who with an obligation to comply with one or other of the requirements set out in clause 12(1)(c).

Sub-clause (8)(a) provides that the proponent must give to the Registrar-General a copy of the proposed termination, the prescribed fee and any other information required by regulations. This must be done within 14 days of the date of the meeting when the resolution was made. The Registrar-General must then record the details for the purposes of section 38 of the *Land Title Act* (sub-clause (8)(b)).

Sub-clause (8)(c) provides that a person who enters into a contract or acquires a unit after the time of recording under section 38 has

the same rights and duties (in respect of the termination) as the owner from whom the person acquired the unit.

### **Clause 13. Sale to proponent of unit of objecting owner**

If an objecting owner wishes to sell his or her unit to the proponent the owner must serve a notice of such an intention on the proponent and on any mortgagee of the unit and on the body corporate. This notice must include a price at which the objecting owner is willing to sell, the period of the offer and any other information prescribed under the regulations. This must occur within the prescribed number of days after service of the resolution under clause 12(1)(b). The proposed number of days is 182 (26 weeks).

If agreement for sale does not occur following this process, sub-clause (4)(a), (b) and (c) provides for the appointment of a valuer by the relevant professional organisation (following a request to do so by the proponent and the schemes supervisor). The valuer must assess the value of the unit having regard to the same principles that would, under the *Lands Acquisition Act*, apply if the NT Government were compulsorily acquiring the unit. A copy of the valuation must be provided to the proponent, the objecting owner, the body corporate and the schemes supervisor. The proponent is responsible for paying the reasonable fees for the valuation.

Sub-clause (5) provides that the objecting owner must, within the prescribed number of days (proposed to be 14 days), either enter into a contract to sell the unit at the price contained in the valuation report or appeal to the Northern Territory Civil and Administrative Tribunal. The terms and conditions of the sale must comply with any terms and conditions prescribed by regulation.

Sub-clause (6) sets out powers for the Northern Territory Civil and Administrative Tribunal to make various orders for the purpose of facilitating the operation of sub-clauses (4) and (5).

For example:

- the objecting owner can seek an order for the appointment of a valuer if the proponent has not taken the necessary action under sub-clause (4)(a) (see sub-clause (6)(a));
- the proponent may seek an order in respect of the appointment of a valuer if the schemes supervisor has failed to comply with sub-clause 4(b) (see sub-clause (6)(b));
- an order may be sought for the appointment by the Tribunal of a valuer if the professional organisation has failed to make an appointment under sub-clause (5)(c) (see sub-clause (6)(c));
- an order may be sought requiring the valuer to provide a report if the valuer has not done so under sub-clause (5)(a)(ii) (see sub-clause (6)(d));
- an order can be made for the sale if the objecting owner has not complied with sub-clause (5)(a)(i) (see sub-clause (6)(e));
- an order can be sought fixing the terms and conditions of the sale if the proponent and the objecting owner have not reached agreement (see sub-clause (6)(f)).

Sub-clause (7) provides that the proponent is responsible for any costs of a sale made under sub-clause (3), (5)(a) or sub-clause 6(e) and (f).

#### **Clause 14. Limits on vote after resolution defeated**

If the proposal for a termination does not achieve the required level of support under Part 4, another proposed termination cannot be made within the period of 26 weeks following the meeting at which the earlier proposal failed to achieve the appropriate level of support (see sub-clause (3)).

If a second proposal is identical to the first proposal the proponent may either serve a second request on the body corporate for another meeting (and rely on the previous approval of the schemes supervisor) or commence the whole process again.

If the second proposal is not identical the proponent must start the process again by way of seeking an approval certificate under clause 9.

The limitations regarding a second proposal within the 26 week period apply regardless whether or not the proponent for the second proposal is the same as the proponent of the original proposal.

The principles of clause 14 also apply to any third or subsequent proposal.

## **Part 5            Termination by Tribunal**

### **Clause 15.      Application of Part**

This clause provides that Part 5 applies so as to permit applications to the Northern Territory Civil and Administrative Tribunal to be made under clause 16(1) (developments having less than 10 units) and 16(2) (developments having 10 or more units).

### **Clause 16.      Who may apply to Tribunal**

Clause 16 provides for the jurisdiction of the Northern Territory Civil and Administrative Tribunal regarding terminations of developments.

The Northern Territory Civil and Administrative Tribunal only has jurisdiction if an application can be made under clause 16.

These persons are as follows:

#### *Small schemes*

- If the development is a development under the *Unit Titles Act* having less than 10 units – the corporation, the administrator,

or the owner;

- If the development is scheme under the *Unit Title Schemes Act* having less than 10 units – the body corporate or an owner and,

in the case of a higher scheme, any unit owner of any subsidiary scheme.

#### *Large schemes*

- An objecting owner or a mortgagee as mentioned in clause 12(1)(c)(iv) (ie for developments having 10 or more units,

where there is no unanimous resolution but a resolution has been passed following the meeting held under clause 11

(see clause 16(2)(b));

- If the development is a development under the *Unit Titles Act* having 10 or more units and there is no unanimous resolution under clause 7 and no successful resolution under clause 11 – the corporation, the administrator or the owner (see clause 16(2)(b));
- If the development is a basic scheme under the *Unit Title Schemes Act* for which there are at least 10 units and there is neither a unanimous resolution under clause 7 or a successful resolution under clause 11- the body corporate or the owner of a unit (see clause 16(2)(c));
- If the development is a higher scheme under the *Unit Title Schemes Act* having at least 10

units and there has been no unanimous resolution under clause 7 nor a successful resolution under clause 11 the body corporate or the owner of a unit of the higher scheme or of a unit in a subsidiary scheme

(see clause 16(2)(d)).

#### **Clause 17. Order of Tribunal**

This clause sets out the principles that must be applied by the Northern Territory Civil and Administrative Tribunal where considering applications for termination. The same principles apply for applications occurring pursuant to:

- the Part 4 processes (read with clause 16(2)); and
- the Part 5 processes (clause 16(1)).

In order for a termination to be approved the Northern Territory Civil and Administrative Tribunal must, under clause 17(1), be satisfied

of the following main factors:

- that it is “just and equitable”;
- objections are unreasonable;
- that the termination is necessary taking into account any factors that may be prescribed in regulations.

In making its decision the Northern Territory Civil and Administrative Tribunal must, under clause 17(2), also consider the following:

- the extent to which owners suffer adverse consequences if the termination is either ordered or not ordered (clause 17(2)(a)

and (b));

- the financial benefits and risks of the termination (and if applicable, any redevelopment) (clause 17(2)(c));
- whether there is some other order that could be made (clause 17(2)(d)).

The purpose of clause 17(2)(a) and (b) is to ensure that the Northern Territory Civil and Administrative Tribunal looks at the proposed termination from the points of view of both supporters and opponents of a termination. Both can suffer adverse consequences if a termination does or does not proceed.

The purpose of clause 17(2)(d) is to ensure that the Northern Territory Civil and Administrative Tribunal can consider other options.

For example, if a proponent is seeking termination based on the need for expensive repairs with the problem coming about because some owners will not fund repairs, the Northern Territory Civil and Administrative Tribunal could take action to ensure that funding is provided if, say, it is appropriate that the development be retained rather than demolished.

Sub-clause (3) provides that the Northern Territory Civil and Administrative Tribunal must, in making a decision, take into account any views expressed by the schemes supervisor, the relevant

local government body or the views of the body corporate, or the owner or mortgagee of a another unit or in a higher scheme.

Sub-clause (4) sets out the orders that can be made by the Northern Territory Civil and Administrative Tribunal in relation to both the termination of the development and any subsequent redevelopment

of the land.

Sub-clause (5) provides that the powers of the Northern Territory Civil and Administrative Tribunal operate subject to the *Planning Act*.

That is, if the termination involves a subdivision or consolidation under the *Planning Act* there will be a need for the proponent to comply with any necessary requirements. Similarly if any redevelopment of the land involves the creation of new units or a different land use, there will be a need to comply with the provisions of the *Planning Act*.

Sub-clause (6) provides that a termination order made by the Northern Territory Civil and Administrative Tribunal does not commence operation until after the expiry of an appeal period (sub-clause (6)(a) or, if there is an appeal, after the outcome of the appeal (sub-clause (6)(b)).

#### Clause 18. **Appeal to Supreme Court**

Sub-clause (1) provides for appeals against an order made by Northern Territory Civil and Administrative Tribunal in respect of the termination of a scheme under clause 17.

Such an appeal may be on a question of law only and must be instituted within the prescribed number of days (currently intended

to be 28 days) of when the Northern Territory Civil and Administrative Tribunal makes its decision.

## **Part 6            Effect of termination**

### **Clause 19.      When termination takes effect**

Sub-clause (1) provides for time limits by when a registration application must be made – namely:

- Part 3 application – 12 months after the unanimous resolution;
- Part 4 application – 12 months after documents are provided to the Registrar-General under clause 12(8)(a);
- Part 5 application – 12 months after the order of the Northern Territory Civil and Administrative Tribunal takes effect (as set out in clause 17(6)).

The Northern Territory Civil and Administrative Tribunal can, on application, extend these periods by 12 months (clause 19(2)).

Sub-clause (3) provides that the termination of a scheme takes effect when the Registrar-General cancels a scheme statement or units plan following the lodgment/registration of the relevant documents required by section 54G of the *Land Title Act*.

### **Clause 20.      Effect of termination**

The clause provides that the effect of termination is that the body corporate is dissolved with each former owner being entitled to a share equal to their interest entitlements (under the *Unit Title Schemes Act*) or their unit entitlements (under the *Unit Titles Act*).

The clause also provides for the retention of other registered interests and for the maintenance of respective obligations regarding taxes

and statutory charges.

The clause largely re-enacts sections 96 and 97 of the *Unit Titles Act*.

Sub-clause (2) provides that there is no stamp duty liability for the former owners arising from the consolidation of the units into a single title. This sub-clause also maintains previous respective obligations concerning financial contributions regarding the operation of the former body corporate.

Sub-clause (3) provides that sub-clauses (1) and (2) operate subject to any regulations.

Sub-clause (4) provides a definition of “owner” for the purposes of clause 20. This definition differs from that which applies for the rest of the Bill.

## **Part 7            Miscellaneous provisions**

### **Clause 21.       Misleading information**

Sub-clause (1) makes it an offence for a person to knowingly provide misleading information to the schemes supervisor or valuer.

The maximum penalty for breach is 200 penalty units or 12 months imprisonment.

Sub-clause (2) makes it an offence for a person to knowingly provide document containing misleading information to the schemes supervisor or valuer. The maximum penalty for breach is 200 penalty units or 12 months imprisonment.

### **Clause 22.       Commencing proceedings**

This clause provides that proceedings for an offence against the Act must be commenced within 2 years of the alleged offence or,

with the authorisation of the Minister, 5 years of the alleged offence. This clause is consistent with section 8(2) of the

*Unit Title Schemes Act.*

### **Clause 23.       Regulations**

This is a standard clause allowing the Administrator to make regulations under the Act. A regulation may prescribe fees payable under this Act.

## **Part 8                            Transitional matters for Termination of Unit Titles and Unit Title Schemes Act 2014**

### **Clause 24.                    Definitions**

This clause defines the word “commencement of the purposes of Part 8. It means the date of commencement of the

*Termination of Unit Titles and Unit Title Schemes Act 2014.*

### **Clause 25.            Application for termination made before commencement**

This clause provides that the Supreme Court must continue to hear and determine applications under section 95 of the *Unit Titles Act* or under section 14 of the *Unit Title Schemes Act*, if an application under those sections had been made before the time of commencement.

### **Clause 26.            Notice of termination resolution sent before commencement**

This clause provides that general meetings for resolutions under section 95A of the *Unit Titles Act* or section 15(a) of the



*Unit Title Schemes Act* can be voted on if notices regarding such meetings had been given prior to commencement. If the resolution receives unanimous support the cancellation (under *Unit Titles Act*) or termination (under *Unit Title Schemes Act*) can be registered as if the *Termination of Unit Titles and Unit Titles Schemes Act 2014* had not commenced.

**Clause 27. Termination resolution passed before commencement**

This clause provides that unanimous resolutions under section 95A of the *Unit Titles Act* or section 15(a) of the *Unit Title Schemes Act*

made before commencement can be registered as if the *Termination of Unit Titles and Unit Titles Schemes Act 2014* had not commenced.

**Part 9 Consequential amendments**

**Division 1 Amendment of Land Title Act**

**Clause 28. Act Amended**

This clause provides that this Division applies to amendments to the *Land Title Act*.

**Clause 29. Section 54E amended**

This clause provides for amendment of section 54E so that it no longer applies to terminations of the kind covered by the

*Termination of Unit Titles and Unit Title Schemes Act 2014*. As amended it will only apply to terminations occurring under section 72 of the *Unit Title Schemes Act*.

**Clause 30. Part 4, Division 5 inserted**

This clause provides for new Division 5 and section 54G.

**Division 5 Developments**

**54G Registration of documents required for termination of development**

Proposed section 54G(1) sets out the documents required for the purposes of the registration of a termination approved under

the *Termination of Unit Titles and Unit Title Schemes Act 2014*.

These documents are:

- the plan of termination;
- the written consents of persons (as prescribed in regulations);

- a certificate from the schemes supervisor stating that there is no impediment to the termination of the development;
- (if relevant) any order from the Northern Territory Civil and Administrative Tribunal or the Supreme Court;
- (if relevant) a copy of a termination resolution as referred to in sections 7 or 11 of the *Termination of Unit Titles and*

*Unit Title Schemes Act 2014.*

Proposed section 54G(2) sets out that the body corporate must lodge documents if the termination is occurring under Parts 3 or 5.

If the termination is occurring under Part 4 (without Tribunal having any role) the proponent is to lodge the application.

Proposed section 54G (3) sets out the duties of the Registrar-General if the Registrar-General is satisfied that the proposed termination complies with the *Termination of Unit Titles and Unit Title Schemes Act 2014.*

Proposed section 54G (4) contains definitions for the purposes of section 54G.

## **Division 2      Amendment of Real Property (Unit Titles) Act**

### **Clause 31.                      Act amended**

This clause provides amendments of the *Real Property (Unit Titles) Act*.

### **Clause 32.                      Sections 10 to 12 and 15A repealed**

This clause provides for the repeal of sections 10-12 and 15A of the *Real Property (Unit Titles) Act*. These sections are being replaced by proposed section 54G of the *Land Title Act* and related clauses in the Termination of Units Plans and Unit Title Schemes Bill 2014.

## **Division 3      Amendment of Real Property (Unit Titles) Regulations**

### **Clause 33.                      Regulations amended**

This clause provides that this Division is amending the *Real Property (Unit Titles) Regulations*.

### **Clause 34.                      Regulation 18 repealed**

This clause repeals regulation 18 of the *Real Property (Unit Titles) Regulations*.

### **Clause 35.                      Schedule 1 amended**

This clause removes form 18 of the *Real Property (Unit Titles) Regulations*.

#### **Division 4      Unit Title Schemes Act**

##### **Clause 36.                      Act amended**

This clause provides that this Division is amending the *Unit Title Schemes Act*.

##### **Clause 37.                      Section 4 amended**

Sub-clause (1) removes the reference to “termination” in section 4(4) (a) of the *Unit Title Schemes Act*.

Sub-clause (2) provides a note for the purposes of section 4(4) (a). This note indicates that terminations are dealt with under

the *Termination of Unit Titles and Unit Title Schemes Act 2014*.

##### **Clause 38.                      Section 5 amended**

This clause removes references to sections 14 and 15 in the definition of “termination” (as those sections are being repealed).

##### **Clause 39.                      Section 9 amended**

Sub-clause (1) removes from section 9(1) the reference to terminations.

Sub-clause (2) provides a note for the purposes of section 9(1). This note indicates that terminations are dealt with under the *Termination of Unit Titles and Unit Title Schemes Act 2014*.

##### **Clause 40.                      Part 2.2, Division 3 repealed**

This clause provides for the repeal of Part 2.2, Division 3 of the *Unit Title Schemes Act*.

##### **Clause 41.                      Section 39 amended**

This clause provides a replacement example regarding the operation of section 39(7) of *Unit Title Schemes Act*.

##### **Clause 42.                      Section 72 amended**

This clause removes the current note for section 72 of the *Unit Title Schemes Act*.

##### **Clause 43.                      Section 84 amended**

This clause provides for the repeal and replacement of section 84(2).

## **Division 5      Unit Titles Act**

### **Clause 44.                      Act amended**

This clause provides that this Division is amending the *Unit Titles Act*.

### **Clause 45.                      Part VIII heading amended**

This clause provides for the replacement of the heading of Part VIII.

### **Clause 46.                      Sections 94A to 97 repealed**

This clause provides for the repeal of sections 94 A to 97 of the *Unit Titles Act*.

### **Clause 47.                      Section 98 amended**

This clause amends section 98 of the *Unit Titles Act* by inserting a cross reference to the *Termination of Unit Titles and*

*Unit Title Schemes Act 2014*.

## **Division 6      Expiry of Part**

### **Clause 48.                      Expiry of Part**

The clause provides that this part of the Bill expires on the day after it commences. This is a standard clause included by Parliamentary Counsel for provisions of an Act that are spent once the Act has commenced operation.