

NORTHERN TERRITORY OF AUSTRALIA

UNIT TITLE SCHEMES (GENERAL PROVISIONS AND TRANSITIONAL
MATTERS) REGULATIONS

Subordinate Legislation No. 18 of 2009

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Subordinate Legislation No. 18 of 2009*

Unit Title Schemes (General Provisions and Transitional Matters) Regulations

I, Thomas Ian Pauling, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Unit Title Schemes Act*.

Dated 24 June 2009

T. I. PAULING
Administrator

By His Honour's Command

D. P. Lawrie
Minister for Justice and Attorney-General

* Notified in the *Northern Territory Government Gazette* on 26 June 2009.

Part 1 Preliminary matters

1 Citation

These Regulations may be cited as the *Unit Title Schemes (General Provisions and Transitional Matters) Regulations*.

2 Commencement

These Regulations commence on the commencement of section 108 of the *Unit Title Schemes Act 2009*.

Part 2 Key elements of scheme

3 Changes to scheme statement

(1) For section 12(2) of the Act, a scheme statement may be changed otherwise than by a subsequent scheme statement if:

(a) the change relates to information mentioned in section 18(1)(f) of the Act and regulation 4(3) because the scheme becomes a higher scheme when all or part of the scheme land comprising one of its units is subdivided to form the scheme land of a new scheme; and

(b) the Registrar-General, on the application of a person responsible for preparing a scheme statement under section 20 of the Act:

(i) endorses the change; and

(ii) records the change in the land register as defined in section 4 of the *Land Title Act*.

(2) On the endorsement and recording of the change, the scheme statement has effect as if the change had been made with effect from the time of the endorsement.

4 Requirements about scheme statement

(1) For section 18(1)(e) of the Act, a scheme statement for a scheme intended to be developed progressively must contain the following information:

(a) if the developer proposes to implement a stage of the development in accordance with a schedule of commencement and completion dates – that schedule;

- (b) if the developer proposes to create additional units and common property in implementing a stage of the development (including units and common property of another scheme):
 - (i) a description of the proposed units and common property; and
 - (ii) the proposed entitlement schedules for the units;
- (c) if the developer proposes to carry out construction works for a stage of the development:
 - (i) a location plan for the proposed stage; and
 - (ii) a description of the uses that can be made of the construction zones and access zones shown in the plan; and
 - (iii) a schedule of working hours for the construction works;
- (d) if the developer proposes to use all or a part of the scheme land for particular purposes for a stage of the development – a description of those purposes;
- (e) if the developer proposes to sell a unit as ready for occupation for a proposed stage of the development – a schedule of materials and finishes for the unit;
- (f) if the developer proposes to create special rights or limitations over common property or body corporate assets for a stage of the development – a statement of the rights or limitations;
- (g) if any of paragraphs (a) to (f) applies – any other information reasonably required to examine the scheme statement to ascertain:
 - (i) the overall nature of the facilities proposed for the development; and
 - (ii) the rights and obligations of the body corporate and unit owners during and after the completion of the development;
- (h) if none of paragraphs (a) to (f) applies:
 - (i) a statement specifying broad concepts in relation to the development; and
 - (ii) a statement that the developer has no specific proposal in relation to implementing a stage of the development.

- (2) To avoid doubt, a developer may propose to do a thing as mentioned in subregulation (1)(a) to (f) without entering into a binding agreement in relation to that thing.
- (3) For section 18(1)(f) of the Act, a scheme statement for a higher scheme or subsidiary scheme must identify each of the scheme's higher schemes and subsidiary schemes.
- (4) For section 18(3)(c)(i) of the Act, the endorsement of the consent authority relates to the following matters:
 - (a) the matters mentioned in section 18(1)(a) to (c) and (e) to (f) of the Act;
 - (b) any exclusive use by-laws of the scheme.
- (5) In this regulation:

location plan, for a stage of a development, means a plan showing:

- (a) the construction zones, access zones, roads and common property relating to the stage; and
- (b) the dimensions and areas of the proposed units relating to the stage as worked out by a licensed surveyor.

5 Obligation of seller – disclosure statement information

- (1) For section 45(2)(b) of the Act, the disclosure statement must contain the following information:
 - (a) if the developer has entered into an arrangement to engage a body corporate manager or service contractor:
 - (i) the name of the body corporate manager or service contractor; and
 - (ii) the nature of the arrangement; and
 - (iii) the period the arrangement is to be in force; and
 - (iv) the rights and obligations of the body corporate manager or service contractor; and
 - (v) details about any service fees payable to the body corporate manager or service contractor under the arrangement;

- (b) if the developer proposes to enter into an arrangement to engage a body corporate manager or service contractor – any proposal relating to the matters mentioned in paragraph (a).
- (2) For section 45(2)(c) of the Act, the disclosure statement must contain the following information:
- (a) if the developer has authorised a person to be a letting agent:
 - (i) the name of the letting agent; and
 - (ii) the period the authorisation is to be in force; and
 - (iii) the rights and obligations of the letting agent; and
 - (iv) details about any service fees payable to the letting agent;
 - (b) if the developer proposes to authorise a person to be a letting agent – any proposal relating to the matters mentioned in paragraph (a).
- (3) For section 45(2)(d) of the Act, the disclosure statement must contain the following information:
- (a) a complete list of the existing body corporate assets and any proposed body corporate assets;
 - (b) any limitation or proposed limitation on the use of the assets.
- (4) For section 45(2)(h) of the Act, if the management module of the scheme provides for a method of adjudicating disputes arising from the disclosure statement, the statement must specify the method.

Part 3 Scheme administration

6 Approval and registration of modified management module

- (1) The scheme supervisor may:
- (a) on the application of a person intending to register the first scheme statement of a scheme – approve changes to the management module that would otherwise apply to the scheme (the ***applying module***); and

- (b) on the application of the body corporate of a scheme – approve changes to the management module currently applying to the scheme (the **applying module**).

Note for subregulation (1)

The Unit Title Schemes (Management Modules) Regulations prescribe management modules that apply to various schemes.

- (2) The application must be made in the approved form.
- (3) Without limiting what may be required by the approved form, the application must be accompanied by the following:
- (a) a document setting out the changes;
 - (b) a document setting out the applying module incorporating the changes.
- (4) The fee payable for the application is 120 revenue units.
- (5) The scheme supervisor may approve changes to the applying module only if satisfied the applying module incorporating the changes (the **modified module**):
- (a) adequately deals with all the matters covered by the applying module; and
 - (b) is fair and equitable.
- (6) The scheme supervisor must tell the Registrar-General about the approval.
- (7) The modified module applies to the scheme only if:
- (a) the modified module is registered under subregulation (8); and
 - (b) if subregulation (1)(a) applies to the approval – the registration is made before or when the first scheme statement of the scheme is registered.
- (8) The Registrar-General must, on the application of a person who has been given approval for a modified module under subregulation (1), register the modified module.
- (9) However, the Registrar-General must not do so if:
- (a) subregulation (1)(a) applies to the approval; and
 - (b) the first scheme statement of the scheme has been registered.

- (10) The Registrar-General may register a modified module in a way decided by the Registrar-General.

Part 4 Transitional matters

7 Formation of scheme from pre-commencement development

Section 112 of the Act applies to the land:

- (a) for which development permit number 05/0547 is in force immediately before the commencement of Chapter 4, Part 4.3 of the Act; and
- (b) in relation to which the following requirements are met:
 - (i) the developer lodges a scheme statement complying with section 18 of the Act;
 - (ii) the consent authority decides that the proposed units and common property are suitable for separate titles.