

Guide to changes to the unit title application process

To ensure unit title applications can be processed quickly the unit title application process has changed.

Legislation introduced in early 2010 created a new occupation known as a unit title assessor. The unit title assessor will work with the applicant (the developer and/or lessee) to create a unit title assessment report which is used when applying to unit title a development.

Like most of other construction-related occupations the unit title assessor will be licensed. They will need insurance and will face penalties e.g. demerit points off their licence, if they do the wrong thing.

The purpose of the guide

This guide provides a simple explanation of the unit title application process and details the steps required to make a unit title application.

The unit title application process has five main steps. It involves a licensed unit title assessor, an application to ACTPLA and registration at the Land Titles Office.

Who can be a unit title assessor?

The scope of work for a licensed building surveyor has been expanded to include unit title assessment work. This means that all licensed building surveyors are automatically able to undertake unit title assessment work. Other professionals such as landscape architects, engineers, practising planners and land surveyors can apply to ACTPLA for a licence.

A building surveyor who is the building certifier for the development may also be engaged as the unit title assessor. A unit title assessor may seek advice or certifications from other people such as a landscape architect for an assessment against the approved landscape plan.

The role of a unit title assessor

The unit title assessor, working with the applicant, will manage all requirements for a unit title assessment report (UTAR). This means that the subsequent unit title application will in most instances include all the information that ACTPLA requires to assess the application. ACTPLA can also request more information to help determine an application.

The unit title assessor, working with the applicant, will compile the documents needed for an UTAR. He or she will assess whether or not the completed building matches the planning documents; site plan and floor plan. The assessor will do this by requesting documents from the lessee and conducting a site inspection. If anything does not match then they can discuss this with the applicant and make changes if necessary.

To help assessors know and understand how certain assessments are made a code of practice, made under the *Construction Occupations (Licensing) Act 2004*, will be available. The use of a code will help unit title assessors make consistent assessments across different projects.

A unit title assessor cannot sign an incomplete report. If they can't obtain all the information they need, legislation says that the assessor need not complete the work.



ACT Planning &
Land Authority





The new unit title process can be broken down into five steps.

Step one: applicant engages unit title assessor

(This is a new step in the process)

Note: the applicant who engages the unit title assessor to compile a unit title assessment report can be the lessee; a developer or a solicitor on behalf of the lessee.

The *Unit Titles Act 2001* lists what information should be included when someone asks a unit title assessor to do a UTAR. This is because the applicant must provide sufficient details to enable the unit title assessor to make an informed decision about accepting the job.

The applicant should provide in writing:

- details of the parcel of land to be sub-divided
- details of who is applying
- types of units A or B, staged or un-staged
- commencement and completion dates
- relevant development approval
- a signature.

If the unit title assessor agrees to undertake the work he or she must complete the unit title assessment report.

When should the unit title assessor be engaged?

There is no set time to engage a unit title assessor. There are benefits, however, in leaving enough time before the estimated completion date to allow the assessor to advise the applicant on requirements.

The assessor will discuss with the applicant, any issues that arise during preparation of the UTAR. For instance, during the site inspection the unit title assessor may notice a change in the buildings that will require an amendment to the relevant development approval.

Step two: unit title assessor prepares unit title assessment report

(This is a new step in the process)

To allow a unit title assessor to do their job they must have access to certain information and documents and they can request this material using the Further information provisions in the *Unit Title Act 2001*. This material will allow them to assess certain things, conduct site inspections and provide documents to accompany the UTAR.

The scope of documents that the unit title assessor can ask for is not limited but must be reasonable, related to the development and assist in the preparation of a UTAR. The *Unit Title Act 2001* (section 22D) details how a request for information can be made including what timeframes apply. If the requested information is not provided then the unit title assessor is not required to complete the work.

The composition of a UTAR is detailed in the unit title regulation and can be broken down into two key parts: the assessment, by the unit title assessor; and the materials that must accompany the UTAR.



Things the unit title assessor completes or assesses

This includes:

administrative information relative to the site inspection such as:

- date of inspection
- evidence that the inspection was done after construction
 - staged
 - un-staged
- statement about unit entitlements
- certificate matches schedule
- letter box, and unit numbering

information relating to development approval such as:

- conditions of approval complied with
- development consistent with DA
- is a DA amendment needed?
- landscaping consistent with approved plan
- allowed encroachments

(It does not include re-checking the building certifier)

information relative to the site plan and floor plan such as:

- structures not shown – encroachments
- consistency with site plan and floor plan
- address schedule
- structures within certain boundaries
- building footprints
- common property access

A site inspection should establish:

- that the building is built in accordance with the approved plans which will form part of the registered units plan
- that the landscaping is consistent with the approved landscape plan
- that the location of units and unit subsidiaries is consistent with the site plan and floor plan
- that encroachments are identified and are permitted
- that the proposed units and car spaces are correctly numbered and letter boxes provided.



Things that the unit title assessor collects

This includes:

certificates such as:

- certificate of occupancy and use
- certificate of unit entitlement
- fitness for unit title certificate

approvals and permits:

- relevant development approval
- *Roads and Public Places Act 1937*, s9 permit (if required)

other information:

- any other information that the unit title assessor uses to determine the report
- includes those things requested under the 'further information' provisions.

To ensure information is accurate and current, certain documents such as the site plan cannot be more than three months old when the unit title assessor completes the UTAR.

Step three: unit title assessor delivers report to applicant

(This is a new step in the process)

As the UTAR is compiled the unit title assessor will liaise with the applicant so that they have the opportunity to rectify any matters before the report is completed. Ideally the UTAR should assess that the development meets all those things required under the unit titles regulation. A UTAR must be able to satisfy the completeness check requirements when being submitted with ACTPLA. The benefit of a UTAR is that it allows the unit title assessor to work with the developer to ensure that this happens.

When the applicant receives the UTAR they can use this report as part of their application to ACTPLA to unit title the development. There is no legal requirement that an applicant/lessee, subsequent to obtaining a UTAR, must make an application for unit title to ACTPLA. However if the applicant/lessee does make an application a UTAR is requested and cannot be more than 3 months old.

The unit title assessor also has to provide a copy of the completed UTAR to ACTPLA. This copy will be used to cross-check the one used in a unit title application.

Step four: applicant submits unit title application to ACTPLA

(This part of the process has changed)

When ready, the applicant can submit an application to unit title to ACTPLA. The application must use the approved form and contain a UTAR that is not more than three months old.

The application should contain any approvals and information from third parties, such as electricity and water utilities, submitted with the unit title assessment report.



The application process includes the following stages:

- applicant submits the application including the report to ACTPLA in person or by post
- ACTPLA does a completeness check to ensure the minimum requirements have been met (ACTPLA aims to complete this within 2-3 business days). The application cannot be approved if the development covenants have expired or the proposal is inconsistent with the lease purpose clause.
- if the application is complete, ACTPLA will send a fee advice requesting payment of the relevant fees
- once fees are paid ACTPLA will process the application
- additional information may be required.

Step five: Lessee registers approved unit title documentation at the Land Title Office

(This stage of the process has not changed)

ACTPLA determines if an application to unit title meets the requirements in the Act. If approved ACTPLA will provide information and documents to the applicant so that the application can be registered at the Land Titles Office. When the application is registered title is created for each individual unit.

The Land Title Office is in the Office of Regulatory Services at 255 Canberra Avenue, Fyshwick, ACT 2609.
Phone (02) 6207 0466

When do the new regulations take effect?

The Construction Occupations Legislation Amendment Act commences on 3 September 2010.

Introductory period

ACTPLA will work with unit title assessors during September and October to ensure the accurate and efficient delivery of the new system.

Penalties for non compliance

Changes to the *Unit Titles Act 2001* create a number of offences and fix maximum penalties of not more than 60 penalty units. Offences include preparing a false or misleading unit title assessment report. There are also offences for applicants knowingly or recklessly including false information, or omitting something in a false or misleading way in an application to a unit title assessor to prepare a UTAR. Licence demerit points and other licence disciplinary action may also apply.

Common terminology

Unit titles application – an application by the lessee of the parcel of land under the *Unit Title Act 2001*. The lessee may appoint a solicitor to manage the unit title application process.

Unit Title Assessment Report – a UTAR is a report by a unit title assessor that states certain things and includes certain documents that then can be used in a unit title application. Without a UTAR a unit title application can not be made.

Applicant – for a small development the applicant may be the lessee while for larger developments it may be a third-person engaged by the lessee to manage the development and initial stages of the unit title application.

Lessee – the person or persons who own the parcel of land that a unit title application may be made for.

Planning documents – the unit titles regulation says what is classified as a planning document. These can include development approvals under the Planning and Development Act or its predecessor or a works approval from NCA.

Site plan – a site plan is drawn up by a registered land surveyor and must include those things listed in the unit titles regulation or in a practice direction.

Floor plan – a floor plan is drawn up by a registered land surveyor and must include those things listed in the unit titles regulation or in a practice direction.



Key contacts

- Leasing (Unit Titles) 6205 5313
- Construction Services 6207 9370
- Mitchell Client Services 6207 6267
- Dickson Client Services 6207 7907
- Legislation 6207 1662

More information

- www.actpla.act.gov.au
- www.ors.act.gov.au/LandTitles/
- [ACT Legislation Register](#)

Relevant legislation

- *Unit Titles Act 2001*
- *Unit Titles Regulation 2001*
- *Construction Occupations (Licensing) Act 2004*
- *Construction Occupations (Licensing) Regulation 2004*