



We are pleased to announce that Associate Penny Coffey returned from maternity leave on 10th January 2011.

PROPERTY UPDATE

CHANGES TO UNIT TITLE APPLICATION PROCESS IN THE ACT

On 8 September 2010 changes to the Unit Titles Act 2001 (ACT) (the Act) came into effect that introduces a new unit title application process. The improved process aims to reduce delays in ACTPLA decisions on unit title applications by creating a new occupation known as a unit title works assessor (an Assessor) who conducts some of the unit title assessment work previously undertaken by ACTPLA.

Unit title applicants are now required to lodge a unit title assessment report (the report) with their application to unit title. The report is to be prepared by an Assessor. An Assessor is required to be licensed under the Construction Occupations (Licensing) Act 2004. Licensed building surveyors are automatically able to undertake unit title assessment work while other professionals including landscape architects, planners and land surveyors can apply to ACTPLA for a licence.

When engaging an Assessor applicants must provide the Assessor with certain information including; details of the parcel of land to be subdivided, the types of units in the development (A or B, staged or unstaged), commencement and completion dates and relevant DA approvals. The information must be in writing and signed by the applicant.

The Assessor will conduct a site inspection and assess whether or not the completed building and landscaping is in accordance with development approvals and other planning documents. The Assessor may request any reasonable document from the application to enable them to prepare the report. Such requests must be made in accordance with section 22B of the Act, if the applicant fails to provide the requested documentation the Assessor is not required to complete the report.

The Assessor will work with the applicant to prepare the report by discussing with the applicant any issues that arise during the preparation of the report and notify the applicant of any rectifications that may need to be made. For example, if the Assessor notices that there is a change in the building from the plans, it may direct that an amended development application be applied for before the Assessor can complete their report.

Once finalised, the Assessor's report will form part of the unit title application to ACTPLA. The application must be made within 3 months of the report being made otherwise a new report will need to be prepared. The amendments have introduced a new form that applicants are required to complete to lodge the unit title application and must be accompanied by the necessary approvals and other documents in the checklist.

NEW LAND TRANSFER CHARGE FOR TRANSFERS IN NSW LAND

Following the introduction of the State Revenue Legislation Amendment Act 2010 (the Act) all land transfers in NSW entered into after 1 July 2010 for a purchase price of more than \$500,000 are subject to an ad valorem charge as part of the Torrens Assurance Levy. This is in addition to stamp duty payable.

Currently, the Torrens Assurance Levy (the Levy) imposes a \$4 charge as part of the lodgement fee for registration of land transfers. The Act introduces an additional ad valorem component to the Levy which operates on a sliding scale according to the purchase price for the land transfer as follows:

1. where the purchase price is greater than \$500,000 but less than \$1 million the ad valorem component of the Levy is 0.2% of the amount by which the purchase price exceeds \$500,000;
2. where the purchase price is greater than \$1 million the ad valorem component of the Levy is calculated at \$1,000 plus 0.25% of the amount by which the purchase price exceeds \$1 million.

An example of the sliding scale is below:

Purchase Price	Basic Levy	Ad Valorem Component	Total
\$400,000	\$4	-	\$4
\$500,550*	\$4	\$1	\$5

Purchase Price	Basic Levy	Ad Valorem Component	Total
\$750,000	\$4	\$500	\$504
\$1,000,000	\$4	\$1,000	\$1,004
\$1,500,000	\$4	\$13,500	\$13,504

*In practice, no ad valorem component will be payable if the purchase price is less than \$500,500 as the ad valorem component on amounts less than this will be less than \$1.

The ad valorem component of the Levy applies to all land transfers greater than \$500,500 unless it is merely a transfer where registration occurs to give effect to matters such as a distribution of a deceased estate, order of the court, statutory vesting or gifts of land.

The purchaser is responsible for payment of the Levy, including any ad valorem component, at the time the transfer is lodged for registration. The Levy, together with the lodgement fee should be made available to the Land and Management Property Authority (LPMA) at the time of settlement. The lodgement fee (which includes the \$4 basic component) and the ad valorem component of the Levy (if any) must be paid together; it is not possible to pay the Levy separately.

The revenue from the Levy goes to the Torrens Assurance Fund from which compensation payments are made to landowners who suffer loss due to fraud or error in the title registration.

CHANGES TO DISCLOSURE REQUIREMENTS FOR NSW CONTRACTS FOR SALE

The Conveyancing (Sale of Land) Regulation 2010 came into operation on 1 September 2010 repealing the operation of the 2005 regulation. The Regulation introduces a number of changes to the disclosure requirements for contracts for sale of land including:

- introduction of a Warning Swimming Pools notice to be included in the contract for sale irrespective of whether or not there is a swimming pool located on the property.
- requirement that all other prescribed notices be in a designated font size which differs from the printing size stipulated in the current regulation.

If the correct form of the prescribed notices is not attached to a contract for sale from 1 September 2010, a purchaser may rescind the contract at any time prior to completion in the case of a cooling off notice and within 14 days of exchange in the case of the remaining prescribed notices.

The other major changes include:

- that if commercial premises are being sold, and those premises are subject to a lease or leases, each of the relevant lease folios is a prescribed document needing to be attached to the contract of sale;
- that a 'recognised sewerage authority' which can issue a sewerage diagram that is required to be attached to the contract for sale, includes a licensed network operator under the Water Industry Competition Act 2006 (NSW);
- clarification that the prescribed property certificates in relation to the sale of a strata or community title lot explicitly includes registered dealings that burden or benefit the common property; and
- clarification that if more than one strata lot is being sold, only one zoning (s 149) certificate needs to be attached to the contract for sale.

For more information, please contact:

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