

# IAG Submission on the Unit Titles Amendment Bill Consultation Document

1 February 2013

## Introduction

This submission presents the IAG New Zealand Group's ('IAG') response to the Unit Titles Amendment Bill Consultation Document.

We limit our comments to consideration of and recommendation in response to technical amendment '18 insuring stand-alone units'. We are happy to discuss the points we raise with the Ministry.

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### About the IAG New Zealand Group Limited

IAG New Zealand Limited trades under the NZI and State brands and AMI Insurance limited. IAG New Zealand Limited also underwrites general insurance for some of the country's leading financial institutions (including ASB, BNZ and The Cooperative Bank). IAG New Zealand Limited and AMI Insurance limited have a combined 42% share of the general insurance market, managing 3.8 million policies of 1.5 million New Zealanders. IAG New Zealand Limited and AMI Insurance limited are wholly owned subsidiaries of Insurance Australia Group (IAG), Australasia's largest general insurer.

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## Summary

As New Zealand's built environment continues to become more urban and dense, the risk posed by natural hazards and other perils to our major towns and cities increases.

Managing these risks has always been important in maintaining the economic and social contribution our built environment makes to New Zealand. We can't eliminate all risk, but we can reduce its impact on property owners. There are many ways to do this, insurance being a critical one.

Insurance works best when property owners make informed decisions in matching their insurance cover to the risks and potential losses they face. The Ministry's proposal in relation to stand-alone units risks negatively impacting these decisions.

The proposed technical amendment will allow more Body Corporates to pass special resolutions requiring individual unit owners to insure the improvements within their units.

IAG's experience suggests that this will exacerbate the potential for unit holders to under-insure or not insure common areas, compromising the ability to repair or reinstate the property after a major claim.

IAG recommends that Section 137(2)(a) either be repealed or additional provisions added to mitigate the associated risks of non- and under-insurance.

## Insuring stand-alone units

The Ministry has proposed that the definition of 'stand-alone unit' be amended to enable more Body Corporates to exercise the option, under Section 137(2)(a) of the Act, to require individual unit owners to insure the improvements within their own unit.

To achieve this, the definition will be changed to include "a principal unit and adjacent accessory unit that contain attached buildings but are otherwise freestanding, provided that the units are in the same ownership".

This is intended to address situations where unit title developments made up of separate buildings that are for all intents and purposes free standing, fall outside the definition of stand-alone because the principle and attached secondary structure sit across two units.

On the face of it this amendment simply seeks to clarify the meaning of stand-alone unit so as to avoid any confusion and broaden the application of Section 137(2)(a).

## Our thinking

IAG believes that the issue in relation to Section 137(2)(a) is not that some Body Corporates are unable to take advantage of it. Rather, that a number of potentially significant issues arise when they do, issues that are most apparent when there is major damage to the development or it is considered at total loss.

In our experience there are four common issues:

- Insufficient direction is provided to owners on what they are required to insure (versus what the Body Corporate will continue to insure, if anything), leaving improvement (most often common areas) either un-insured or under-insured.
- Differences in the policy benefits and wordings offered by insurers can create gaps in cover or inconsistent levels of cover across units and can lead to different outcomes when claims are lodged and settled.
- With multiple insurers managing claims, different decisions about if and how they settle claims can have undesirable outcomes for the overall repair / reinstatement work being carried out within the wider property
- Payment to the unit owner rather than the Body Corporate creates a risk that the funds are not put to the purpose for which they were paid.

The net result is that individual property owners may not be able to meet their commitment to the Body Corporate; compromising its ability to fully repair or reinstate the property.

This potential for shortfall will be exacerbated by New Zealand shifting from 'full replacement' to 'sum insured' house policies, where the cover is capped to an agreed value and not to an outcome, being either repair or reinstatement.

This issue is not limited to unit title developments. Any situation where there is shared ownership of property and individual insurance policies can have these issues. One such situation is cross lease arrangements.

Cross lease arrangements often see the issues we listed above exacerbated due to: the quality of some cross-lease agreements in relation to the delineation of individual and common areas and the respective insurance, repair and maintenance obligations; a greater level of inertia and neglect in adhering to the agreements; the absence of a body corporate-type secretariat function (even when it's a multi storey building) that gives consideration to the entire development.

## Recommendation

In response to the proposal and to the issues we list above, IAG recommends:

- That Section 137(2)(a) should be repealed and the proposed amendment dropped; or
- If Section 137(2)(a) is retained and the proposal adopted, then:
  - The unit owner must insure the property in the name of the Body Corporate; and
  - Common property must be insured by the body corporate; and
  - All insurance must be placed with the same insurer.

IAG would like to discuss with the Ministry how we respond to the same issues in other forms of joint property ownership, in particular cross leases.