Thinking of buying a unit or apartment in the ACT

Key consideration when buying a unit

- **Read your contract and all documents thoroughly**. Meeting minutes and financial documentation will help give you information about how the units plan is performing and any key issues you need to be aware of before deciding to buy.
- **Talk to the professionals and the people in the know who can advise you and give you more information**: solicitors, sales agents, managers, building assessors, the Executive Committee and other owners etc.
- **Can you afford the initial purchase and future ongoing costs you will need to contribute to?** This is important to consider if your financial circumstances change or unexpected costs arise that you will need to contribute to as an owner.
- **Be ready to join and participate in a community.** Being an owner of a unit means you have shared responsibilities and obligations. Be prepared and get involved in contributing to a positive community lifestyle.

Buying a unit or apartment means you are also buying into a small community

Being part of a community can have great benefits and is often a key drawcard for this type of living.

It is important to be aware that, due to shared common spaces and close proximity to neighbours, there may also be restrictions to some of the things you can do, such as where you park your car, making noise in your unit or when and how you can renovate. This can differ from owning a standalone home. Understanding these differences before moving in can help reduce issues down the track.

Units and apartment may be either Class A or Class B

There are two classes of units in the ACT and knowing the difference is important as it impacts on what an owner actually 'owns' and future maintenance and management in a units plan.

Class A Units are generally multi-storey apartments. The owner owns the inside of the unit to the mid-point of shared walls and may own one or more subsidiaries, such as a car parking space or storage area.

Class B Units are generally townhouse style units. The owner owns a plot of land (such as a small courtyard) and the inside and the outside of their unit and to the mid-point of any adjoining walls. The owner also has responsibilities for maintaining their unit which includes fencing and maintaining any garden within their unit boundary.

Generally units plans will be comprised of either Class A or Class B units, but some units plans will have both Class A and Class B units within the units plan.

Some complexes are 'mixed use'

Mixed-use units plans have both residential and commercial units in the same building/complex. These buildings can offer a range of benefits, including having cafes and bars, small businesses, gymnasiums, and supermarkets close by.

However, it is important that you consider whether this type of living is suitable for you. For example, there may be an increase in noise and odours, as well as competition for visitor parking and general busyness around the complex.

Gyms can mean noise and vibration early in the morning and into the evening, and bars may mean there will be noise later at night. Seek advice and understand if, and what, mixed use properties may be permitted or planned in your complex. You might want to visit the complex and check these things for yourself.

Some mixed-use units plans may also attract higher insurance costs. The presence of a high-risk business (e.g. tobacconist) may result in significantly higher insurance costs.

Some complexes are 'multi lease'

Some buildings in the ACT can be divided into multiple leases, which means that instead of there being one Owners Corporation (also known as a body corporate) for the whole building, there may be one or more Owners Corporations and other owners for different parts of the building. For example, there may be an Owners Corporation for the residential apartments located on the top floors, but the lower floors with commercial units may have a different Owners Corporation. This is common where there are larger commercial services, like supermarkets operating from the building.

In these circumstances and to ensure all the different Owners Corporations work together a Building Management Statement (**BMS**) may be required. A BMS is a binding agreement that requires all lease owners to comply with the terms of the statement to help manage and maintain the building into the future. That allows, for example, unit owners who occupy the upper floors of a building to work with ground floor businesses to manage areas of common property as well as the building as a whole. A copy of the BMS will be included in the contract for sale if one applies.

From 1 November 2020, existing multi-lease buildings have been able to opt-in to the adoption of a BMS if all lease owners agree.

Since1 July 2021 all new multi-lease buildings must have a BMS and form a building management committee, made up of the owners of all the different leases, to jointly deal with issues such as shared facilities and easements (which is a right of access, for things like utilities, that allows another owner to pass through your title).

Before buying

The purchase of a property is often the biggest financial commitment you will make. It is therefore important that it is carefully considered – including if it will meet your needs now and into the future. Buying into a units plan means there are more issues for you to consider than if you are buying a standalone property.

- **Location** – Are you close to shops, schools, work, friends, family, public sporting fields, greenspace or a busy town centre?
- **Transport** – Do you need a car park and, if yes, how many? Is it close to public transport? Cycle or footpaths? What about traffic noise? How long will your commute be to key places you'll want to go?
- **Size** – Does it meet your needs now and in the future? Note: when size increases so will cost - think heating/cooling, fees and charges.
- **Amenities** – Do you want access to a pool? Gym? Garden? Outdoor areas?
- **Safety and security** – What security features does the property have (e.g. gates, fences, security cameras, secure pass access, lighting)?
- **Finances** – Consider fees and charges and how costs may be managed if your personal circumstances were to change. You will be liable for Government charges such as rates and land tax (if you intent to rent out your unit) as well as Owners Corporation contributions (also known as levies or charges). The Owners Corporation determines the amount of contributions at its Annual General Meeting each year and these costs may change over time. These will include contributions to a General Fund to cover regular maintenance and shared utilities costs, as well as contributions to longer term costs through a Sinking Fund. Sinking Funds are intended to cover major maintenance costs like servicing and replacing lifts or air conditioning, relining a pool, external painting, replacing gym equipment or irrigation systems. Sometimes Special Purpose Funds will also be established to cover unforeseen expenses, for example, things like defect rectification and engaging consultants or legal experts. These costs can be significant and may require owners to make additional contributions.
- **Management** – Consider the quality of the management provided by manager and Executive Committee. Read the Minutes in your Unit title Sale Certificate (also known as a section 119 Certificate). Does the Executive Committee meet regularly? Is the Executive Committee dealing with issues in a sensible ways? Ask around. Chat to existing owners. Ask the seller.
- **Insurance** – What is the premium and the excess? Are there special conditions? Why?
- **Rules** – What are the rules of the Owners Corporation and will they be suitable for me? Are there any additional rules for keeping pets, common property use including any special privileges or other rules you should be aware of? For example, is there a rule providing different methods of contributions like a user pays principle if there are commercial units (e.g. garbage, water, power, extra insurance costs etc.).

- **Sustainability Infrastructure** – Does the complex have solar panels, electric vehicle charging or plans to replace gas with electrified solutions in individual units or for communal hot water heating? What are the costs associated to these and are there any plans for future works?
- **Engagement with fellow unit owners** – When you live in a unit you live in close proximity to your neighbours. This can impact on you in terms of noise, odours etc. You might need to think about how you will manage this. As a unit owner, you will also jointly own the common property of the units plan with other owners and will need to make decisions with other unit owners on how you manage the common property and the finances of the owners corporation. You should be aware that the *Unit Titles (Management) Act 2011* sets out a framework for how owners corporations should be managed and also provides a dispute resolution framework, if owners can't agree on how to address a problem.

When you buy a unit

When buying a unit in an existing units plan, you will receive a range of documents in your contract of sale which will help you decide whether buying that unit is the right choice for you. The documents include, but are not limited to, the following:

- the registered units plan document which details the boundaries, entitlements, common property and subsidiaries – this document is fundamental to the operation of the OC, particularly the entitlement for the unit which determines your contribution to the Owners Corporation budget
- a certificate of title for the common property
- a lease conveyancing inquiry document which will provide information such as heritage listing, development applications affecting the property, contaminated land search etc
- for a Class B unit, a building, pest inspection report and building and compliance inspection report
- an Energy Efficiency Rating (EER) statement the higher the number the lower your operating costs.

A key part of a contract for sale for a unit is the inclusion of a Unit Titles Sale Certificate. This includes, but not limited to, information such as:

- the registered rules of the Owners Corporation
- meeting minutes for all Owners Corporation and Executive Committee meetings for the previous 2 years
- financial information about the Owners Corporations funds
- when the next contribution payments are due and the amounts you will pay
- insurance information, including Certificate of Currency for all the required building and common property insurances held by the Owners Corporation and the excess amounts
- names and contact details of the Executive Committee and managing agent (if any).
- summary of any service contractors currently appointed by the Owners Corporation
- details of any sustainability infrastructure that the Owners Corporation has installed, such as EV charging and solar panels, and who is responsible for it
- if there is a regulated swimming pool on the common property, information about whether the pool fencing is compliant
- if the units plan is subject to any embedded networks for electricity or other utilities (e.g. centralised gas hot water), information about the provider and if the choice of energy provider is limited
- how you can request to inspect other records of the Owners Corporation if needed.

It is important you review this information and seek advice from your solicitor or the Owners Corporation manager and the Executive Committee if you have any questions or need to obtain more information. Also, before settlement of the unit, you may seek to obtain an updated Unit Title Sale Certificate from the seller to see whether any of the details have changed.

Living in an Owners Corporation

When you buy into a units plan you become a member of the Owners Corporation (sometimes called the body corporate). The *Unit Titles (Management) Act 2011* is the legislation that governs the administration and management of units plans in the ACT. Get a copy at https://www.legislation.act.gov.au/

As an eligible member you will have the right to vote on decisions about the management of the units plan. You must contribute to the costs for repairs, maintenance and insurance for all the units and the common property, called contributions. These contributions are usually paid quarterly. You must ensure that you pay your contributions on time as failure to pay can result in you being unable to vote on decisions of the Owners Corporation and may also result in additional interests charges being added to the amount you owe, and may also lead to debt collection action being taken against you.

There are several funds in an Owners Corporation; an Administrative Fund to pay the day-to-day costs; Special Purpose Funds that collect funds for specific purposes only; and a Sinking Fund that collects funds to pay for major maintenance and renewal of Owners Corporation facilities. The Sinking Fund must also have a Sinking Fund Plan which works out how much money is needed to be saved over various time frames so that the Owners Corporation has the funds available to undertake major maintenance or to pay for unexpected repairs.

The amount an owner contributes is usually based on their unit entitlement. It is important to understand how much your contributions will be prior to buying into a units plan. And you need to consider the likely increases to contributions over time, especially if there are major works that need to be undertaken in the units plan.

The day-to-day management of the Owners Corporation is overseen by the Executive Committee elected at each Annual General Meeting. A unit owner may nominate for election to the Executive Committee to help manage the Owners Corporation on behalf of other owners. An Owners Corporation may also decide to appoint a manager to help carry out functions on behalf of the Owners Corporation and Executive Committee.

Owners must:

- pay rates (including ACT Government land tax if applicable) and Owners Corporation contributions
- maintain their unit and seek approval from the Owners Corporation and obtain any necessary planning approvals before undertaking any alterations or additions to their unit or the common property
- comply with rules set out by the legislation or as amended by the Owners Corporation, noting the rules apply to tenants and visitors too.

Ongoing management and maintenance of common property

The common property of a units plan is the area that can be used by and belongs jointly to all owners. The Executive Committee manages the common property on behalf of the Owners Corporation. The common property may have facilities like a gym, pool or BBQ or gardens and landscaping. The common property also includes plumbing, wiring and lighting. These facilities require upkeep and all owners contribute to that.

An Owners Corporation may also grant a special privilege to unit owners or occupiers to use areas of the common property for certain purposes, such as an outdoor café or restaurant dining area. Special privileges for longer than three months are required to be registered as a rule.

Where can I get more information?

Access Canberra: accesscanberra.act.gov.au or 13 22 81

Owners Corporation Network of the ACT: www.ocnact.org.au

Strata Community Association (ACT): strata.community/act-chapter

Real Estate Institute of the ACT: reiact.com.au