# Pre-contract disclosure statement for purchases

# off-the-plans

This is a sample template for providing the information required under Regulation 33(2) of the Unit Titles Regulations 2011 (the Regulation) for a pre-contract disclosure statement for purchases off-the-plans. There is currently no prescribed form for this statement, the specific wording and layout used in this template are not requirements of the Regulation.

Important: There are legal consequences for the seller should they fail to provide a complete and accurate pre-contract disclosure statement in the timeframes required by the Unit Titles Act 2010.

Pre-contract disclosure statement for purchases off-the-plans

*Section 146, Unit Titles Act 2010*

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| --- | --- |
| Unit number: | Unit [***number***] and accessory unit(s) [***number(s)***] if known |
| Unit plan: | Deposited Plan [***number***] if known or copy of the draft plan if available |
| Body corporate number: | [***number***] *if known, or address of unit title development* |

1 This pre-contract disclosure statement is provided to prospective buyers of the property in accordance with Section 146 of the Unit Titles Act 2010 and relates to an “off-the-plan” unit in a unit title development.

Financial information

2 The summary of the draft financial budget for the unit title development is attached.

3 The estimated cost for operating the body corporate in an average 12 months is

$ [*amount*].

4 The estimate of the proposed ownership interest for the unit is:

[*Set out an estimated ownership interest based on the sales value for the unit. If an actual sales value is not available at the date this disclosure is provided, based on an estimated sales value.*]

5 The estimate of the proposed utility interest for the unit is:

[*Set out an estimated utility interest for the unit, it may be the same as the proposed ownership interest.*]

Governance information

6 *Select the statement that applies:* A draft of the body corporate’s operational rules is attached.

 A draft of the body corporate’s operational rules is not attached, because they have not yet been drafted.

7. The body corporate has entered into, or proposes to enter into, the following service contracts that will continue in force after the unit purchase is settled:

[*Provide information about every service contract, including the date the contract was entered into or is proposed to be entered into, the services that will be supplied under the contract (for example, electricity, telecommunication and water, body corporate management), the length of the contract and the amount payable under the contract.*]

General information

8. The following section contains a brief explanation of important matters relevant to the purchase of a unit in a unit title development. You should read and understand the information contained in this section and this statement before signing a contract to buy a unit in a unit title development.

 Further information on buying, selling a unit and living in a unit title development can be obtained by:

* reading the publication “Short guide to unit titles”, which is available on the Unit Title Services website: [unittitles.govt.nz](http://www.unittitles.govt.nz)
* contacting the Ministry of Business, Innovation & Employment service centre: 0800 UNIT TITLES (0800 864 884)

You are strongly advised to obtain independent legal advice regarding any questions or concerns you have about purchasing a unit, or your prospective rights and obligations as a member of a body corporate.

**Unit title property ownership**. Unit titles are a common form of multi-unit property ownership. They allow owners to privately own an area of land or part of a building and share common property with other unit owners. Unit title developments may also be structured in various ways, including staged unit title developments and layered unit title developments.

This combination of individual and shared ownership of land and buildings, often in an intensive built environment, means owning a unit title involves a different set of rights and responsibilities to traditional house and land ownership.

Unit title developments have a body corporate management structure to ensure decisions affecting the development can be made jointly by the unit owners. The creation and management of unit title developments is governed by the Unit Titles Act 2010 and supporting regulations.

**Unit plan**. Every unit title development has a unit plan, which shows the location of the principal units as well as any accessory units and common property in the development. The unit plan is the formal record of all of the boundaries of the units, and the common property. Unit Titles Act 2010

**Ownership and utility interests**. Each unit is allocated an ownership interest and a utility interest, and such interests are relevant to the determination of many of the unit owner’s rights and responsibilities under the Unit Titles Act 2010.

Ownership interest is a number that reflects the value of each unit relative to the other units in the development, and is used to determine a range of matters including the unit owners’ beneficial share in the common property, and share in the underlying land if the unit plan is cancelled.

By default, the utility interest of a unit is the same as the ownership interest (unless it is otherwise specified on the deposit of the unit plan or subsequently changed), and is used to calculate how much each owner contributes to the operational costs of the body corporate.

**Body corporate operational rules**. The body corporate for a unit title development can make its own operational rules on the use of the development, and governance of the body corporate. These operational rules are subject to the provisions of the Unit Titles Act 2010 and regulations made under that Act.

All unit owners, occupiers, tenants and the body corporate must follow the body corporate operational rules that apply to their unit title development.

**Pre-settlement disclosure statement**. Before settlement of the sale of a unit, the seller must provide a pre-settlement disclosure statement to the purchaser, which includes information on:

* the unit number and body corporate number
* the amount of the contribution levied by the body corporate for that unit
* the period covered by the contribution
* how the levy is to be paid
* the date on or before which the levy must be paid
* whether any amount of the levy is currently unpaid and, if so, how much
* whether legal proceedings have commenced in respect of any unpaid levy
* whether any metered charges (for example, for water) are unpaid and, if so, how much
* whether any costs relating to repairs to building elements or infrastructure contained in the unit are unpaid and, if so, how much
* the rate of interest accruing on any unpaid amounts
* whether there are any legal proceedings pending against the body corporate
* whether there are any legal proceedings initiated by the body corporate or intended to be initiated by the body corporate
* whether there is any written claim by the body corporate against a third party that has not been resolved
* whether there have been any changes to the body corporate rules since the pre-contract disclosure statement was provided.
* the name and contact details of the body corporate manager if there is one
* a summary of the insurance cover the body corporate maintains for the unit title development, including the insurer’s name and contact details, the type and amount of cover, the premium and excess payable, exclusions, and a statement of where the insurance policy can be viewed.

From 9 May 2024, new information is required as part of the Pre-settlement disclosure statement for an “off-the-plans” purchase, please see the required information below:

* the name and contact details of the body corporate manager if there is one
* insurance information
* details of any contract that will bind the body corporate or the unit owner after the settlement date
* details of any obligation arising from the decision of a court or tribunal that will bind the body corporate or the unit owner after the settlement date
* a copy of the long-term maintenance plan
* a copy of the written agreement setting out the body corporate manager’s terms of employment or engagement
* a copy of the body corporate operational rules that apply to the body corporate, including any amendments, revocations, or additions to the rules that have been made by the body corporate but that do not yet have effect
* a copy of the minutes of the most recent general meeting of the body corporate.

There are legal consequences for the seller should they fail to provide a complete and accurate pre-settlement disclosure in the timeframes required by the Unit Titles Act 2010, including delay of settlement and cancellation of the contract.

**Records of title**. Previously known as a computer register or certificate of title, for a unit title development this document records the ownership of a unit, contains a legal description of the unit boundaries, and records any legal interest registered against the title to the unit (for example, a mortgage or easement). A copy of the record of title for a unit should come with:

* the unit plan attached – refer to the information on unit title plans earlier in this section
* a supplementary record sheet attached. This should record the ownership of the common property, any legal interests registered against the common property or base land, and other information such as the address for service of the body corporate and the body corporate operational rules.

The common property in a unit title development does not have a record of title.

**Land Information Memoranda**. A land information memorandum (LIM) is a report that provides information held by the local council about a particular property. You must order and pay for a LIM from the council. Delivery times can vary from council to council. The information contained in a LIM will also vary between councils, but is likely to include details about:

* rates
* private and public stormwater and sewerage drains
* any consents, notices, orders or requisitions affecting the land or buildings
* District Plan classifications that relate to the land or buildings
* any special feature of the land the local council knows about, including the downhill movement, gradual sinking or wearing away of any land, the falling of rock or earth, flooding of any type and possible contamination or hazardous substances
* any other information the local council deems relevant.

Full details of what a local council is obliged to provide in a LIM is contained in section 44A of the Local Government Official Information and Meetings Act 1987.

**Easements and covenants.** An easement is a right given to a landowner over another person’s property (for example, a right of way, or right to drain water). A land covenant is an obligation contained in a deed between two parties, usually relating to the use of one or both properties (for example a covenant to restrict one party using their property in a certain way).

Easements or covenants may apply to:

* a unit, usually recorded on the record of title for that unit
* common property, recorded on the supplementary record sheet for the unit title development.

Further information about the matters set out above can be obtained from:

|  |  |
| --- | --- |
| Unit title property ownership  | Ministry of Business, Innovation and Employment[www.unittitles.govt.nz](http://www.unittitles.govt.nz)0800 UNIT TITLES (0800 864 884) |
| Unit planOwnership and utility interestsRecord of titleEasements and covenants | Land Information New Zealand[www.linz.govt.nz](http://www.linz.govt.nz)0800 ONLINE (0800 665 463) |
| Body corporate operational rulesPre-settlement disclosure statement | The body corporate of the unit title development |
| Land Information Memorandum | Your local council |

For detailed information on any of the above matters relating to your specific circumstances, the Ministry of Business, Innovation and Employment recommends you obtain independent legal advice from your lawyer.

Corrections

9 *Select the statement that applies:*

|  |
| --- |
|  This disclosure statement, including any additional information that forms part of this disclosure, does not have any known inaccuracies. This disclosure statement, including any additional information that forms part of the disclosure, does have any known inaccuracies. Details of the known inaccuracies are: |

[*If you have included any information in this disclosure statement that is inaccurate, you must explain where and what the known inaccuracies are below and add a correction here or explain what information cannot be corrected because either it does not exist, or despite reasonable efforts, cannot be found – attach extra sheets if required.*]

|  |  |
| --- | --- |
| Signed by the seller or a person authorised by the seller: | [***signature***] |
| Name: | [***name***] |
| Date: |  [***day, month, year***] |

*Disclaimer: This template has been created by the Ministry of Business, Innovation and Employment as an example of a pre-contract disclosure statement that complies with the requirements of regulation 33(2) The information contained in the form is intended as an example of how these sections may be completed, and the specific wording used is not a requirement of the Unit Titles Regulations 2011.* *This document is a guide only. It should not be used as a substitute for legislation or legal advice. The Ministry of Business, Innovation and Employment is not responsible for the results of any actions taken on the basis of information in this document, or for any errors or omissions.*