

## POLICY NO EP11 STRATA DEVELOPMENT POLICY

<b>DEPARTMENT:</b>	Development Services
<b>RESPONSIBLE OFFICER:</b>	Development Services Coordinator
<b>LINK TO STRATEGIC PLAN:</b>	Appropriate Development
<b>Strategic Plan – 2017 – 2027 Revised March 2022</b>	Encourage sensible and sustainable development through sound land use planning, building and design
<b>STATUTORY AUTHORITY:</b>	<i>Strata Titles Act 1998</i>
<b>OBJECTIVE:</b>	To satisfy Break O'Day Council responsibilities when determining applications for a Strata Scheme or a Staged Development Scheme made pursuant to the <i>Strata Titles Act 1998</i> .
<b>POLICY INFORMATION:</b>	Adopted 21 August 2023 – Minute No 08/23.16.2.204

### POLICY

#### 1. PURPOSE AND BACKGROUND

- 1.1. The purpose of this Policy is to provide guidance and consistency for the consideration of applications and requests for approval made pursuant to the *Strata Titles Act 1998*.
- 1.2. This Policy provides requirements that the Council must consider when exercising its discretion under the *Strata Titles Act 1998*.
- 1.3. This policy should be read in conjunction with the legislative requirements of the *Strata Titles Act 1998*.

#### 2. APPLICATION

- 2.1. This Policy applies to all request for approval by the Council pursuant to the *Strata Titles Act 1998*, including applications for a certificate of approval in relation to the creation of a Strata Scheme or Staged Development Scheme as well as a stage of a Staged Development Scheme or any cancellation of or amendment to a Strata Scheme or a Stage Development Scheme.

#### 3. DEFINITIONS & INTERPRETATION

- Common Property in this policy has the meaning as set out within section 3A of the *Strata Titles Act 1998* and for the purposes of clarity Common Property can include (but is not limited to):
- Service infrastructure:
- (a) Property areas above and below designated horizontal and vertical lot boundaries;
  - (b) Common service Infrastructure; means cables, wires, pipes, sewers, drains, ducts, plant and equipment connecting a utility to a lot or common property shown on a strata scheme as defined in the *Strata Titles Act 1998*.
- Staged Development Scheme: means a scheme for development of land by the registration of a series of strata plans as defined in the *Strata Titles Act 1998*.
- Strata Scheme: means the complex of lots and common property as defined in the *Strata Titles Act 1998*.
- Vacant land: Any vacant lot within a strata scheme intended to be used for future development, including any land which contains only outbuilding(s), agricultural shed(s) or similar building(s) but excluding any vacant lot set aside as Common Property within the scheme..

#### **4. POLICY STATEMENT**

- 4.1. A certificate of approval for the creation, alteration or amendment of a Strata Scheme or a Staged Development Scheme will only be issued where the application has clearly distinguished the proposed division of land by strata plan from division of land by subdivision, in accordance with section 31(6) of the *Strata Titles Act 1998*. This will be achieved where necessary by demonstrating that the scheme contains :
- (a) meaningful provision of common property addressing open space, areas set aside for shared amenities and/or shared services and strata lots maintaining characteristics responding to approved use and development;
  - (b) strata lot boundaries respond to the extent of the approved use and development;
  - (c) establishment of a Body Corporate with a meaningful role to play clearly articulated in submitted by-laws, including how common property is to be managed;

- (d) In the case of a Staged Development Scheme, a master plan which:
  - (i) identifies the site by reference to the relevant folio of the Register and delineates the site; and
  - (ii) contains a plan for each proposed stage of the development (identifying its specific location by reference to the site);
  - (iii) shows the location of existing and proposed buildings;
  - (iv) identifies the boundaries of the proposed lots and common property; and
  - (v) indicates proposed construction zones, access zones and the nature of the use to be made of them.
- (e) In the case of a Staged Development Scheme, the inclusion of a Disclosure Statement that provides information concerning:
  - (i) stages of the scheme;
  - (ii) commencement and completion dates;
  - (iii) common property for each stage;
  - (iv) location of shared infrastructure;
  - (v) responsibilities of the body corporate; and
  - (vi) responsibilities of tenants and lot owners.

4.2. A certificate of approval for a Strata Scheme or a Staged Development Scheme will only be issued where:

- (a) a planning permit has been granted under the *Land Use Planning and Approvals Act 1993* for a development and use that provides separate occupancy of individual buildings or parts of building(s), or
- (b) a site has existing use rights pursuant to section 12 of the *Land Use Planning and Approvals Act 1993* for a development that provides separate occupancy or individual buildings or parts of building(s).

4.3. A Strata Scheme or a Staged Development Scheme will only be approved where, in addition to the requirements of the *Building Act 2016* and the *Land Use Planning and Approvals Act 1993*, all infrastructure and buildings on the subject land satisfy relevant Council policy, by-laws and engineering standards. This includes issue of relevant certificates of completion for

new building work or issue of a building report from a building surveyor for lots which contain existing buildings.

- 4.4. A Strata Scheme or a stage within a Staged Development Scheme, other than a balance lot set aside for a future stage of a Staged Development Scheme, will not be approved if any lot on the Strata Scheme contains Vacant land.
- 4.5. A Strata Scheme or a Staged Development Scheme will only be approved where the documentation submitted to the Council includes a system of administration and management of the scheme.

## **5. Staged Development Scheme – Further Considerations**

- 5.1. Applicants are required to obtain approval in principle for a Staged Development Scheme in accordance with section 37 of the *Strata Titles Act 1998*. For the purposes of clarity Council advises that it will, other than in exceptional circumstances as to which it retains full discretion, require an applicant to obtain approval of all stages of a Staged Development Scheme.
- 5.2. Prior to Council issuing a certificate of approval for any stage of an approved Staged Development Scheme, the following work must be completed:
  - (a) all building works as approved by that stage with all relevant certificates of completion and approval issued;
  - (b) all common areas within the vicinity of each stage, including all adjacent driveways, car parking, landscaping and retaining walls;
  - (c) all service infrastructure for that stage; and
  - (d) any fencing between any stage and the remainder of the site, comprised of any necessary private open space and temporary fencing around construction works.

## **6. PROCEDURES**

- 6.1. All applications or requests for approval will be determined in accordance with the *Strata Titles Act 1998* and Council delegations.

## **7. MONITORING AND REVIEW**

- 7.1. This Policy will be reviewed every three (3) years in line with the Council's Policy Framework or earlier in the event of major changes to legislation or related policies, procedures or if deemed necessary by the General Manager.