

19 June 2020

Attn: Craig Pursell
Land Tasmania
Department of Primary Industries, Water and Environment
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HOBART 7001

By email: Craig.Pursell@dpipwe.tas.gov.au

Dear Craig

Meander Valley Council Submission - Review of the Strata Titles Act 1998

Thank you for the opportunity to make a submission in response to the review of the Strata Titles 1998. Council notes that the discussion paper provides an in-depth discussion at the many components of the Act, however Council has focussed only on the planning and development components for which Council has jurisdiction in issuing the Certificate of Approval.

The following outlines Council's views on the development components that require attention in the review of the Act. The resolution of the issues below would remove a significant amount of inconsistency from the system and simplify the Council's role in it. Council notes the absence of discussion and analysis in regard to the Tasmanian Government's planning reform agenda and the regulatory reform agenda that is intended to support the housing market and the prompt release of land for housing. Multi-unit development now constitutes a significant proportion of new housing development in urban areas.

1. Strata title or subdivision?

The Act contains a vague provision at section 31(6) whereby Council must refuse a certificate of approval where it 'reasonably considers' that the proposal is for a subdivision, as defined in the Local Government (Building & Miscellaneous Provisions) Act 1993. There are no assessment criteria and often a strata scheme is applied for after shared services are installed.

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The Act must clearly prescribe the circumstances where the division of land is to be a standard subdivision or can be a strata scheme. Council considers that most common and efficient indicator is shared access. If a scheme does not provide common land that is shared access, it should be a mandatory requirement that it be a subdivision. A potential exemption could be included for commercial developments in CBD type zones, where there are exemptions for development in regard to access and parking.

2. Vacant titles

This is a particularly vexed issue for management and Council considers that the State Government should finalise a clear policy position. The Act contains contradictory statements which have resulted in very different approaches amongst Councils. The contradictions in the Act allows for the certificate of approval to be used as leverage to force the absolute completion of unit development, when no other type of development is subject to this type of 'persuasion'.

There is a requirement for developers to obtain a planning permit for development prior to issuing any certificate of approval for vacant titles, which clashes with other requirements for the issuing of certificates for 'relevant' buildings under the Building Act 2016.

If the intention is to allow for vacant title release, which can be a critical component of 'house and land' financial models, the State government needs to be clear that this is acceptable and specify the permissions that need to be obtained for the various components of development, in order for vacant titles to be issued a certificate of approval.

Council considers that the planning permit is a reasonable indicator that development can be compliant. Building permits will be issued as a matter of course. It is noted however that compliance with planning permits is a regular problem in regard to aspects of higher density development such as privacy screening, parking, sealing of trafficable areas and stormwater detention.

If vacant titles (or titles for partially completed developments) are supported by the State Government, the Act must include requirements for disclosure statements regarding the completion status of the development, under the Building Act particularly, for any prospective purchasers.

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3. Staged Strata Schemes

The requirements for staged strata schemes are complex and there are many inconsistencies with building and planning regulatory approvals. The disclosure statement required under the Act provides a good understanding for any prospective purchasers of when components will be completed for release to the market and the subsequent works.

Council often receives applications for the certificate of approval before developments have been completed, which officers then have to determine whether the works are compliant with approvals. There are no clear criteria in the Act about how to treat a partially completed, but compliant development.

Notwithstanding comments above regarding a clear position on vacant strata titles, Council considers that the Act should just clearly state that the developer is either to finish the entire development and obtain completion certificates under the Building Act before any strata titles are issued, or they prepare a staged scheme with all of the requisite detail and plan their regulatory approval for each stage under the Building Act accordingly.

If you have any queries regarding the above, please do not hesitate to contact Council's Development Services Department on 6393 5300.

Yours sincerely



John Jordan
GENERAL MANAGER