

LOCAL PLANNING POLICY

5.19

TITLE:	STRATA TITLING OF TOURIST DEVELOPMENTS IN THE TOURISM ZONE
ADOPTED:	OCM 17 December 1996 – Page 42
REVIEWED:	OCM 20 March 2001 – Pages 54 - 55 OCM 4 February 2003 – Pages 48 - 51 OCM 13 April 2004 – Pages 19 – 24 OMC 30 July 2015 – Pages 28 – 40 OMC 17 December 2015 – Pages 110-121 OMC 28 September 2017 – Pages 625 – 643 OMC 14 December 2017 – Pages 1030 – 1043 OMC 12 December 2019 – Pages 213 - 221 OMC 30 May 2024 – Pages 10 –16
ASSOCIATED LEGISLATION:	Planning & Development Act 2005 Planning and Development (Local Planning Schemes) Regulations 2015 Local Planning Scheme No 7 (LPS7)
ASSOCIATED DOCUMENTS:	
REVIEW RESPONSIBILITY:	Director of Development Services
DELEGATION:	Delegations are exercised in accordance with delegation granted in terms of Section 5.42 of the Local Government Act 1995 as amended or other statutes as applicable to specified officers.
APPLICATION:	This policy applies to all development within the Tourist zone within LPS7.

Background:

Clause 16 of LPS7 lists the objectives for development in the 'Tourism' zone which includes the following:

To allow limited residential uses where appropriate.

Schedule 4 of LPS7 establishes the site and development requirements within the Tourism zone. At the Ordinary Meeting of Council on the 28 July 2016, the Cable Beach Development Strategy 2016 was adopted. The Strategy also contains development controls for Tourist Developments in the Cable Beach precinct.

This Policy has been prepared to guide the Strata Titling of tourist developments in the Tourism Zone.

Objective:

1. To guide the strata titling of Tourist Developments in the Tourism zone.
2. Ensure that the Tourist Developments which are strata titled are managed and maintained to provide a positive tourist experience.
3. Ensure that when Tourist Developments are strata titled the purpose and objectives of the Tourism zone in LPS7 are maintained.

Policy:

Any tourist development which seeks approval for a strata subdivision within a Tourism zone shall comply with the objectives and provisions of this policy.

- 1.1 No stand-alone residential development/subdivision and/or strata titling shall be approved.
- 1.2 Each tourist development unit shall contain at least a bedroom and bathroom. If laundry and clothes drying areas are not provided for each unit / apartment, laundry facilities shall be provided in a common area of the development.
- 1.3 Car parking for long stay/permanent residential accommodation units and the tourist orientated commercial developments shall be located as close as possible to that particular use and shall be clearly delineated at all times.
- 1.4 The development shall include a caretaker/managers residence or reception area being situated in a location, which facilitates suitable management of the resort.
- 1.5 The Strata Titling of a Tourist Development may only be supported where:
 - (a) the development standards, site and development requirements of the Local Planning Scheme and Cable Beach Development Strategy have been satisfied;
 - (b) the condition(s) of development approval have been complied with; and
 - (c) The visitor amenities/tourist facilities for the tourist development, or stage thereof, as shown on the approved plans are completed including leisure

facilities (such as common swimming pool, gymnasium and tennis courts), reception facilities and caretakers accommodation

- 1.6 The creation of vacant survey strata lots will not be supported.
- 1.7 The planting of landscaping and the installation of reticulation shall be carried out in accordance with an approved landscaping plan prior to the approval of a Strata Plan.
- 1.8 Management Requirements

The applicant/developer shall enter into a formal legal agreement with the Shire (at no cost to the Shire) prior to the issue of Strata Title approval undertaking to:

- (a) Establish and operate a management system which ensures the development is run as a resort.
- (b) The management system to be an annexure to the formal agreement with the Shire and be approved by the Shire and the Australian Securities and Investment Commission (ASIC) if appropriate.
- (c) The management system will incorporate the provision of those features and facilities which identify the development as a resort, e.g. common or uniform furnishings to all units and a common maintenance, gardening and cleaning service.
- (d) The management system will be achieved via a management agreement and the body corporate by-laws established between the developer and purchasers of the units and to embody the following specific provisions:
 - A requirement by way of a deed of agreement that the purchasers of units shall allow their units to be rented out, by the resort manager and/or their agents, to the general tourist sector
 - The deed of agreement to be an annexure to the formal agreement with the Shire.
 - The purchasers of the units shall receive a financial return from the rental of their units less outgoings for matters such as booking fees, managers fees, laundry service, electricity charges, cleaning service, body corporate fees, maintenance and replacement of furniture, refurbishment reserve etc. These financial matters would be resolved and agreed upon between the developer and the purchasers.
- (e) Agree to amend and expand the Strata Title Company By-laws as set out in Schedule 1 of the Strata Titles Act 1985 to incorporate any requirements determined necessary by the Shire.

- (f) Agree to carry out the development in accordance with approved plans, specifications and all conditions of approval in all respects to the satisfaction of the Shire.
- (g) Agree to develop facilities, managers accommodation and amenity buildings as part of the first stage of any staged development. The number of units to be built in the first stage to be determined by the Shire. Upon completion of a first stage to the Shire's satisfaction, a Strata Plan may be registered. The Shire shall, however, require the lodgement of a Caveat on all vacant Strata Lots, which will not be removed until each unit and associated services has been developed.
- (h) Agree to ensure that before any person becomes the registered proprietor of any Strata Lot, that:
 - The By-laws (referred to in point (d)) as endorsed by the Shire have been adopted by the Body Corporate.
 - Such unanimous and other resolutions as may be required under the Strata Titles Act 1985 have been adopted by the Strata Company so that the whole of the development may be completed and the developer is able to comply with the provisions of the legal agreement with the Shire.
 - The Strata Lot is fully serviced and fit for occupation to the satisfaction of the Shire.
 - The applicant/developer shall agree not to transfer, mortgage, charge, assign or encumber the land or any Strata Lot without the written consent of Council and without first having obtained from the person securing an interest in the land their agreement to abide by the provisions of the agreement with Council.

1.9 The legal agreement between developer and the Shire, must contain the following:

- (a) Management system to be put in place (annexure to agreement).
- (b) Strata Company By-laws to be put in place (annexure to agreement).
- (c) Agreement to carry out development in accordance with approvals.
- (d) Agreement to provide amenities as part of Stage One.

1.10 If a Tourist Development is recommended for approval, conditions of development approval are likely to be incorporated addressing the following:

- (a) A manager must be appointed to oversee the operation of the development;

- (b) All units, unless approved as permanent residential accommodation, must be used for short-term accommodation only and units must be made available for rent through a common rental pool, controlled by the manager.
- (c) All units, unless approved as permanent residential accommodation, must be fitted out to a consistent standards and be maintained by the manager.
- (d) All common landscaping areas and common facilities are to be maintained by the manager.

SHIRE OF BROOME LOCAL PLANNING SCHEME No. 7 (LPS7) – LOCAL PLANNING POLICIES

This Policy is a Local Planning Policy adopted pursuant to Part 2 clause 4 of the deemed provisions of LPS7. LPS7 is administered by the Shire of Broome as the responsible authority under the Scheme. LPS7 was gazetted and came into operation on the 28 September 2023.

Planning policies adopted under LPS7 may be amended or rescinded after the procedures set out in Part 2 clause 5 & 6 of the deemed provisions of LPS7 have been completed.