

This Information Sheet has been prepared to provide general advice to proponents in relation to planning approvals over strata titled properties.

MRS Form 1 – Application for Approval to Commence Development

In submitting an application for planning approval, proponents are required to submit a completed MRS Form 1, signed by the owner of the land on which development is proposed. In the case of a strata property:

- Where development is wholly within a strata lot, the owner of that strata lot is required to sign the application; or
- Where development is proposed wholly within the common property area on the strata plan, the application must be endorsed by the Strata company, as the Strata company has the duty to control and manage the common property for the benefit of all of the proprietors under Section 35(1)(b) of the *Strata Titles Act 1985*; or
- Where development is proposed partially over a strata lot and partially over common property, the application must be endorsed by the Strata company, and signed by the owner of that strata lot.

Where an application for approval to commence development does not include the requisite endorsement of the Strata company or signature of the strata lot owner, the application is incomplete and will not be accepted by the City.

Strata By-laws and the City of Belmont Local Planning Scheme No. 15

In some cases, the By-laws of a Strata Scheme may prohibit certain types of development or land uses (e.g. Massage Parlours, Serviced Apartments etc.), even though those development or land use types may be permitted under the provisions of the City's Local Planning Scheme No. 15 (LPS15).

In considering the planning application, Council has the role as the decision maker to determine the proposal on its planning merits. Matters to be considered by the Council are outlined under Clause 10.2 of LPS15. In most cases, the terms of a strata by-law are unlikely to be determinative of the merits of an application for planning approval. Prohibition of a development or land use type under the terms of a strata by-law therefore cannot in itself form a reason for the Council to refuse the development or land use.

In circumstances where a planning application satisfies all the requirements of the planning framework, Council must grant approval for the development or land use under the provisions of the City of Belmont Local Planning Scheme No. 15 empowered by the *Planning and Development Act 2005*.

It is essential for proponents to understand that planning approval from the City does not negate the need for further approval from the Strata Company, or compliance with any applicable strata by-laws as provided under the Strata Titles Act 1985.

The City of Belmont strongly recommends in all cases that proponents seek consent/approval from the relevant strata body prior to submitting an application for planning approval to the City.