

Residential Land Subdivision Policy

produced by

Statutory Planning Unit

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BOROONDARA
City of Harmony

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Residential Land Subdivision Policy

The Residential Land Subdivision Policy applies to newly created residential allotments, and it has been prepared in response to an increasing amount of applications for residential land subdivision being lodged prior to a development application, thus avoiding an assessment against the Good Design Guide and the Residential Urban Character Study. Applicants and the general community should refer to Council's policies for residential development, including "Let's Get it Right From the Start" and "How to Apply for a Medium Density Housing Permit" for more information about Council's expectations for residential development in the municipality.

1. Corporate Framework

Vision

The Residential Land Subdivision Policy has been prepared having regard to Council's caring and enterprising vision. The policy will ensure that planning permits for residential land subdivision result in good quality residential development which meet the objectives of local and State policy.

Mission Statement

This policy has been prepared in accordance with Council's Mission Statement to:

Preserve and enhance the amenity of Boroondara's high quality urban environment, and facilitate appropriate development.

By providing higher standards in regard to future development of new residential allotments by requiring details of a building envelope, Council will have more influence in how a future development preserves and enhances neighbourhood character.

Values

Key values relevant to this policy are:

- Concern for citizens
- Transparent processes

There has been widespread community concern about the nature of residential development, which includes single dwellings on new residential allotments. This policy will ensure that single dwellings are more appropriately developed, and that through Council's public notice requirements that affected residents will have an opportunity to view applications for residential allotments, be able to make submissions and be informed of decisions.

2. Key Policy Statement

The purpose of this policy is to ensure that planning permits for residential land subdivisions will result in good quality residential development which meets the objectives of the Good Design Guide and Boroondara's Residential Urban Character Study.

Applicants will be required to submit details of building envelopes on existing and future buildings on a plan of subdivision, and Council will only approve a residential subdivision if it is satisfied that the building envelope meets Council's objectives for high quality residential development.

3. Strategy

Context of Policy

Council's decision-making process for assessing proposals for residential land subdivision will include a consideration of the following controls and policies:

Boroondara Planning Scheme

Clause 16-2 of the Boroondara Planning Scheme requires council to consider such matters as the usability of the lots to be created, the area and dimensions of the lots and the provision of off-street car parking.

Application of Vic Code 1 – Lot Size and Usability

Vic Code 1 (Single Dwellings and subdivisions) is a useful reference document for the assessment of subdivision applications. Vic Code 1 provides for the design and siting of single dwellings and subdivision of land. As a guide, Vic Code 1 provides that building envelopes should provide for lots between 300 square metres and 450 square metres. Performance Measure 2 of Element 1 of the Guide provides that lots should be capable of containing a rectangular measuring 10 metres x 15 metres whilst maintaining compliance with building setbacks.

Residential Urban Character Study

The purpose of the Residential Urban Character Study (RUCS) is to better manage development that is responsive to the City's existing residential character. In order to achieve this, elements which contribute to character were identified. Each residential area within Boroondara was then assessed in relation to these elements. There are 23 elements in all, the main ones being landform, land use, subdivision pattern, lot size and frontage setback, access, traffic characteristics, housing type, building scale, vegetation and front fencing. The Residential Urban Character Study has been supported by the Victorian Civil & Administrative Tribunal (VCAT) (formerly the Administrative Appeals Tribunal), which stated in a recent case:

“The final matter which needs to be addressed is the question of the Council's Residential Urban Character Study which has been completed in relatively recent times. The tribunal was impressed with the approach taken by this document. Planning is about the sensitive management of change in urban form. The Character Study will assist in this process.”

In preparing subdivision proposals, applicants must consider the RUCS elements in a designated character area. Particular attention should be given to the very important, important and quite important elements.

Scope of Policy

Council's Policy on residential land subdivisions will apply to new residential allotments to be created as a result of subdivision permits. As a general benchmark, the policy will apply to new lots above 300 square metres and lots that are under the dominant lot size as specified in the Neighbourhood Character Statements of the Residential Urban Character Study. Development on lots under 300 square metres require a planning permit. It is considered that lots under the dominant lot size specified in the urban character areas of the Residential Urban Character Study create the conditions for higher density development to occur, hence the justification of a building envelope and an assessment against the Good Design Guide and the Residential Urban Character Study.

A building envelope may also be required on new allotments larger than the dominant lot size should the proposed allotment be irregular in shape and/or the conditions of the site (such as steep terrain) necessitate the requirement for a building envelope. The policy may not apply in areas where Council has control over development (such as heritage overlays).

In assessing applications for land subdivisions, Council will require applicants to submit a site analysis as set out in Clause 21 of the Boroondara Planning Scheme and also submit a building envelope for residential development indicating building height, setbacks, private open space areas and driveway and car parking areas and any other matter considered "very important", "important" or "quite important" in the Residential Urban Character Study. The building envelope must be shown for **existing** and for **future** buildings. The building envelopes are to meet the objectives, criteria or techniques of the Good Design Guide and the requirements of the Residential Urban Character Study to the satisfaction of Council.

To ensure that the building envelopes are attached to the plan of subdivision, Council will require applicants to enter into a Section 173 Agreement under the Planning and Environment Act, 1987 to ensure the building envelope is registered on Title. This requirement will be imposed as a condition of planning permit. Attached are standard conditions on Section 173 Agreements requiring a building envelope as a condition of approval.

Council's Building Surveyor's Comments

The Statutory Planning Unit will refer applications for subdivision of residential allotments greater than 300 square metres to the Manager Building Services for comment in accordance with Council's Referral Guidelines. The Manager Building Services will assess the application against the provisions of Vic Code 1.

Should Council issue a planning permit for a subdivision with a condition requiring a building envelope, the Manager Building Services will support the application if consent from Council is required under Vic Code 1. However, it should be noted that approval under the building regulations must still be obtained from the Manager Building Services.

Information to be Submitted with Applications

Information to be submitted with an application for a planning permit must include all standard documentation required for a permit (refer to City of Boroondara Guideline “How to Apply for a Planning Permit”) as well as a site analysis as required under the Good Design Guide and the Residential Urban Character Study, details of the building envelope indicating storeys component, building height, setbacks, overshadowing impacts, private open space areas and driveway and car parking areas and any other matter considered “very important”, “important” or “quite important” in the Residential Urban Character Study. The building envelope must be shown for **existing** and for **future** buildings. The building envelopes are to meet the objectives, criteria or techniques of the Good Design Guide and the requirements of the Residential Urban Character Study to the satisfaction of Council.

Standard Condition of S173 Agreement Requiring a Building Envelope where building envelope has been submitted with an application

Unless otherwise agreed in writing by the Responsible Authority, prior to the Certification of the Plan of Subdivision the owner of the land at (insert land description) must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 to the satisfaction of the Responsible Authority and such agreement shall require that :

- (a) the Owner will not build, construct or erect or cause or permit to be built, constructed or erected any building on the subject land or any part of the subject land outside the building envelope nominated on Plan No. (insert plan reference) submitted on (insert date) without the written consent of Council:

A memorandum of the Agreement is to be entered on title and the cost of the preparation and execution of the Agreement and entry of the memorandum on title is to be paid by the owner.

Standard condition on s173 agreement requiring a building envelope where building envelope has not been submitted with an application

Unless otherwise agreed in writing by the Responsible Authority, prior to the Certification of the Plan of Subdivision the owner of the land at (insert land description) must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 to the satisfaction of the Responsible Authority and such agreement shall require that:

- (a) three (3) copies of plans showing a building envelope that complies with Elements (insert elements) and Techniques (insert techniques) of the Good Design guide and complies with the frontage setback provisions of The Residential Urban Character Study.
- (b) the Owner will not build, construct or erect or cause or permit to be built, constructed or erected any building on the subject land or any part of the subject land outside the building envelope without the written consent of Council.

A memorandum of the Agreement is to be entered on title and the cost of the preparation and execution of the Agreement and entry of the memorandum on title is to be paid by the owner.

- * *Note: this condition may also apply to plans that have been submitted but which require further amendments*