

Introduction

This brochure provides information about the process to be followed if you want to undertake land division.

Land division includes:

- the division, subdivision or re-subdivision of land by Torrens Title, Community title or Strata Title;
- the alteration of the boundaries of land; and
- leasing of a portion of an allotment which is vacant land or which contains a dwelling, and where the term of the lease is greater than 6 years including any right of renewal.

Lodging a Development Application for Land Division

If you want to divide land, an application must be lodged with the Development Assessment Commission (DAC). Contact:

**5th Floor
136 North Terrace
Adelaide**

**GPO Box 1815
Adelaide SA 5001**

**Tel: (1800 752 664
Fax: (08) 8303 0604
E-mail: dplgplanningservices@sa.gov.au**

The following information must be submitted with an application for land division:

- A completed Development Application form with relevant fees
- Nine copies of the proposed land division plan drafted in accordance with requirements outlined in the Development Regulations.
- Two current copies of the Certificate(s) of Title

Some land divisions may also require other supporting documentation. For example, a Community Scheme Description is required for Community Title land divisions involving non-residential use of land and larger residential developments.

As the requirements for land division plans are specific, most applications for land divisions are prepared and submitted by a licensed surveyor on behalf of an applicant.

If the land division proposed relates to houses or units that you intend to build on the land, it is also recommended that you lodge a Development Application for that proposed development with the Council prior to, or at least at the same time as, lodging an application for land division with the DAC. An application of this nature relating to the use of land demonstrates that the proposed allotments are of an appropriate size, shape and orientation to cater for their intended use.

How are Land Division Applications assessed?

The Development Assessment Commission will send copies of all land division applications to the various government agencies and authorities that provide utilities and services (e.g. SA Water, Transport SA). These authorities will determine what requirements they may have in respect to the proposal and their comments will be forwarded back to the DAC.

Copies of all land division applications are also forwarded to the Council. As the relevant planning authority, the Council will assess the land division against the requirements set out in that Council's Development Plan.

Marion Council's Development Plan requirements relate to the Zone and Policy Area that the land falls within, minimum site areas, frontages, access to the proposed lots, suitability for the intended purpose and so on.

Council will also assess how the proposed land division might impact upon existing buildings in relation to the Building Code of Australia (e.g. standards relating to setbacks of buildings from boundaries, fire separation and fire rating requirements for building work on boundaries).

Engineering requirements may also apply if a land division involves new roads, footpaths, the establishment of reserves and/or other infrastructure of this nature.

As mentioned previously, lodging a separate application with the Council for the development of any proposed new houses or units on the land can help demonstrate the appropriateness of a proposed land division.

In cases where building demolition or building modifications are necessary as a result of the land division (e.g. construction of a party wall or removal of eaves or blocking up of windows overhanging or on a proposed boundary), details of these proposed modifications can either be lodged as a separate application with the Council and carried out before the

land division application is determined or, details can be lodged and assessed as part of the land division application. In this scenario, proposed building modifications will need to be carried out before Council will advise the DAC it has no concerns with the issue of clearance for the creation of titles.

Issuing of new Titles

If Council determines that a land division is appropriate, a Development Approval will be issued by the Council. The Approval may include conditions and requirements that will need to be satisfied.

Once Council's conditions and requirements have been satisfied, the Council will advise the Development Assessment Commission that it has no objection to the issue of a Certificate for the purpose of creating new titles. Other authorities will also advise the Commission when their conditions or requirements have been met.

The Commission will issue a Certificate of Approval when all conditions and requirements have been met. The Certificate is then lodged (typically by your surveyor) with the Registrar-General of the Land Titles Office. New Certificates of Title can then be issued.

Costs associated with Land Division

Professional Services

Fees will be charged by all professional persons who provide advice to you or are engaged by you to assist with the preparation, processing or finalising of your land division. This may include the services of a surveyor, town planner, building professional, solicitor, and conveyancer.

Development Assessment Commission

Every application lodged must be accompanied by the relevant Development Application fees. Further information on application fees can be obtained by phoning the Development Assessment Commission on Ph 8303 0753.

Land Titles Office

Fees are payable at the Land Titles Office for deposit of the plan. Further information on this component of the process including relevant fees can be obtained by phoning the Land Titles Office on Ph: 8226 3983

SA Water Corporation Fees

In most cases, fees will be payable to the SA Water Corporation for the connection of new allotments to water and sewer mains. In addition, there are sometimes costs associated with required alterations to internal drains (generally sewer).

It is recommended that an approximate quote be obtained from the Land and Services Branch of the SA Water Corporation at the early planning stages of your development.

Open Space Contributions

Land divisions that create more than 20 allotments require 12.5% of the land to be set aside for open space purposes that is vested, free of cost, to the local Council. The design, size and location of reserves must be to Council's satisfaction.

Smaller subdivisions make the creation of reserves impractical and, in these cases, a contribution to the State's Planning and Development Fund is required, payable to the Development Assessment Commission. This Fund is designed to assist in the provision of local and regional open space.

The amount payable to the Fund is prescribed by Regulation. Further information on the current contribution can be obtained by phoning the Development Assessment Commission on 1800 752 664.

Electricity Power Supply

The connection or alteration to existing electricity power supply is not part of the statutory planning process; however it is possible for this to significantly impact on the overall development costs associated with the land division. Enquiries should be directed to the ETSA Corporation.

Other

Other fees and charges may be applicable or arise from a proposed division of land, particularly as a result of conditions or requirements that may need to be satisfied. You are therefore advised to seek professional advice before undertaking any land division proposal.

Torrens Title, Strata Title and Community Title

When considering land division, it is also important to consider what type of property title you wish to create.

There are three types of property title that exist in South Australia:

- Torrens Title;
- Community Title; and
- Strata Title.

Factors which may influence a decision on what type of title to apply for may include:

- development costs (water/sewer fees, surveying and documentation costs etc);
- professional advice, including advice obtained from a surveyor, real estate agent, valuer etc, particularly in relation to the marketing and sale of the lots created;
- personal choice;
- the nature of development that is being divided (including any proposed future uses) and, in particular, whether the development includes non-residential and residential uses, units/lots above one another, and/or common areas, common infrastructure and/or common structural elements of a building (such as common party walls);
- Building Code of Australia requirements relating to, for example, fire safety provisions and minimum setback requirements of buildings from boundaries.

Torrens Title

Torrens title land division is the most common type of land division used, typically catering for single houses on their own allotments where there is no shared facilities or infrastructure.

Community Titles

There are two types of community titles available:

- Community Schemes
- Community Strata Schemes

Regardless of the type of community title, both schemes divide land to create lots and common property in a similar manner to strata titles. Unlike a strata title however, a scheme may include a development lot, which is retained by the developer, for later division into additional lots within the scheme.

In a community scheme, lot boundaries generally do not relate to a structure, but are determined by surveyed land measurements and are generally unlimited in height and depth. Unlike a strata unit, an owner is therefore typically responsible for the maintenance and insurance of any structures on that lot, and typically no obligation for maintenance of other lot owner's buildings.

In a community strata scheme, there must be at least one lot that exists above another and the lot boundaries must be defined by reference to parts of the building, similar to a strata title. The structure itself is common property and it is therefore the responsibility of the corporation to maintain and insure it.

Common property in a community title land division relates to those parts that do not form part of a lot. Common property typically includes the service infrastructure and driveways that are shared.

A Scheme Description is a document that must be lodged for all community title applications relating to non-residential developments, developments that contain a development lot, or residential developments containing more than 6 lots. This document gives a prospective purchaser an overall view of how a community title development is to be developed and the end result.

A Community Corporation will be established (under the Community Titles Act) to administer by-laws and manage the common land and any fixtures erected on it. By-laws are a compulsory document for all community title land divisions. They set out the obligations of the Community Corporation in administering the scheme and are the rules by which the scheme is to be run.

Strata Title

A strata title is created by dividing a building into separate units. The boundaries of each unit are defined by reference to the actual structure of the building, not the land. There must also be an area of common property.

However since 1 January 2002, it is no longer possible to create new strata title divisions. Existing strata developments and strata corporations can continue and these are regulated under the Strata Titles Act. Typically, developments that were previously divided into strata titles are now divided into community titles.

Other Information

Public Notification

Most land divisions will not require public notification, however land divisions that will change the nature or function of an existing road may require public notification. An additional fee is payable should public notification be required.

Stormwater Drainage

The ability of proposed allotments of land to be appropriately drained will be considered in the assessment process. Where necessary, back of block drains and easements may be necessary.

Easements and Encumbrances

The Certificate of Title for a property contains information regarding the location and nature of any easements and the details of any encumbrances that apply to the land. If an easement or encumbrance exists on your property, documentation must be submitted to the Council demonstrating that the authority controlling the easement (e.g. SA Water, ETSA) or the person(s) holding the encumbrance support the proposed division.

Regulated and Significant Trees

Any work that may damage or affect a regulated or significant tree or trees requires approval from the Council. For clarification on what a significant tree is and what are considered to be tree damaging activities, please refer to separate Information Brochure "*Regulated & Significant Trees*".

Where a regulated or significant tree is located on a property that is proposed to be subdivided or on adjacent land to a property that is proposed to be subdivided, the Council will consider how the land division may adversely affect the health and appearance of that tree. For example, a proposed allotment of land may need to be larger than otherwise required in order to retain a regulated or significant tree and still facilitate development on that allotment.

National Broadband Network (NBN)

The Telecommunications Act requires new dwellings to be "fibre-ready". Residents and developers should familiarise themselves with the technical criteria for the required infrastructure. More information is available at www.nbn.com.au

Want to Know More?

The above information is advisory only. It is intended to provide a guide and a general understanding of the key points associated with the particular topic. It is not a substitute for reading the relevant legislation or the Development Plan.

It is recommended that if you are intending to undertake development, you seek professional advice or contact the Council for any specific enquiries or for further assistance concerning the use and development of land.

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Sturt SA 5047

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Oaklands Park SA 5046

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Website <http://www.marion.sa.gov.au>
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