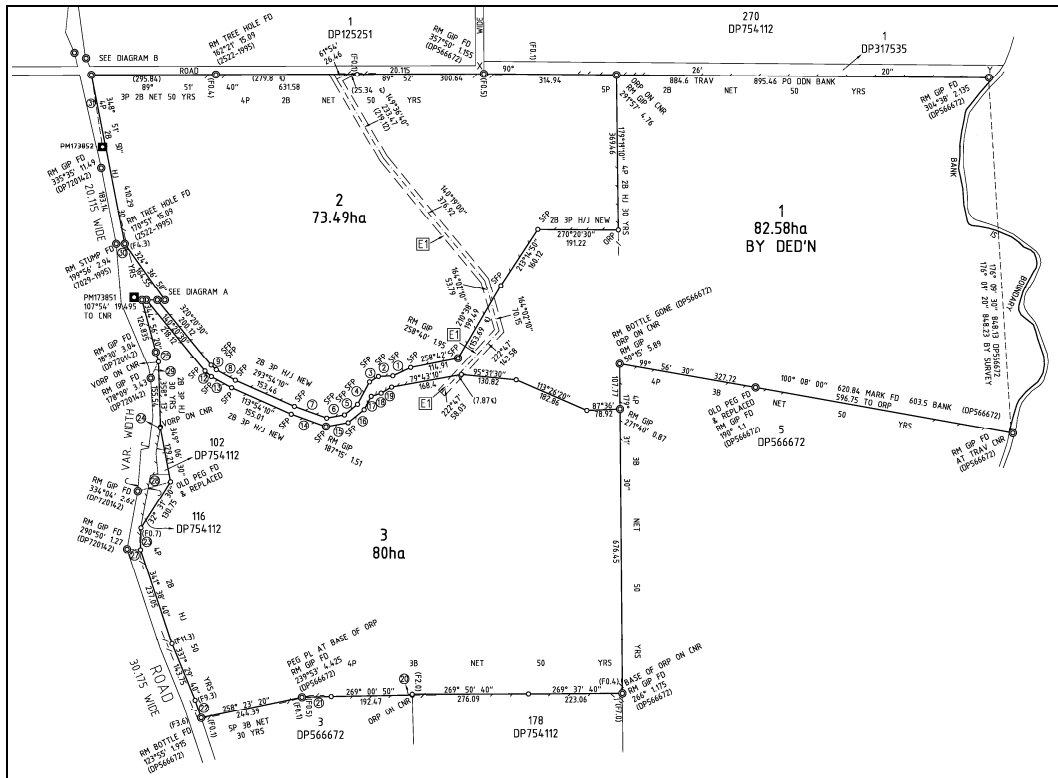


# RURAL SUBDIVISION PROCESS

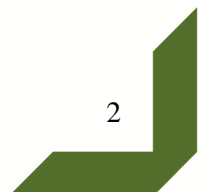


**IMPORTANT NOTE:** The following information is intended as a guide only and should not be relied upon solely for time or costs involved in a subdivision, and may vary with requirements from Council or any other authority.



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## **1. LAYOUT PLAN**

The layout plan is an initial plan to best suit the needs of the applicant, the subject land and any Council requirements. To prepare a layout plan for any proposed subdivision an initial site or office meeting is required to discuss the following:

- ❖ lot layout
- ❖ zoning
- ❖ proposed roads and access
- ❖ vegetation
- ❖ topography
- ❖ drainage
- ❖ existing improvements
- ❖ utilities etc.

## **2. DEVELOPMENT APPLICATION**

A Development Application (DA) is then prepared which needs to be approved by the relevant Council. The DA consists of the following:

- ❖ DA form (provided by Council) with owner & applicant signatures and property details.
- ❖ Plan of Proposed Subdivision (a finalised Layout Plan)
- ❖ Descriptions of the proposed development
- ❖ Statement of Environmental Effects
- ❖ Photographs or aerial photos
- ❖ Dam Study assessment
- ❖ Bushfire Report
- ❖ Preliminary Engineering Design
- ❖ Onsite Effluent Capability Study (prepared by a consultant)

Council may request further information from other authorities depending on each development.

## **3. COUNCIL DA FEES**

Council fees must be paid at the time of lodgement of the DA at Council. DA fees vary depending on the number of lots in the proposed development and whether any new roads are to be constructed.

Council will then assess the proposal based on the Local Environmental Plan (LEP) and Council Policies. Currently Council requires a minimum of 6-8 weeks to assess small size subdivision proposals. Larger projects will therefore take a longer period of assessment.

## **4. DEVELOPMENT CONSENT RECEIVED FROM COUNCIL**

If a proposal is approved, a development consent will be issued by Council. The consent is a very important legal document and should be read and thoroughly understood by the applicant before proceeding further.

The consent will have many conditions attached that must be met in order for the development to be finally approved by Council.

Development consents generally have a time limit of 5 years. At the end of that period, the consent will lapse if not acted upon. An applicant must lodge a new DA to continue with that proposal, incurring more DA fees and possibly tighter restrictions on development.

However, if a development is in stages, the remaining stages are not subject to the 5 year limit providing physical commencement has been recognised by Council or evidence of it can be provided to satisfy Council.

## **5. CONTACT AUTHORITIES**

Part of the conditions set by Council may include gaining written confirmation from Authorities, such as Telstra and Essential Energy, that provisions have been made for services to new lots in the development.

If electricity needs to be constructed, initially a survey and design will need to be completed either by Essential Energy or an approved designer. The lines then need to be constructed and power made available before Council will approve the Plan of Subdivision. This is all at the developer's expense.

If telecommunications are required, Telstra will usually provide the phone infrastructure but any trenches required are to be provided at the developer's expense. Also it is common practice that other service providers will share the same trench where possible.

## **6. DETAIL SURVEY**

If any roads or services are to be constructed, a detail survey will be required to enable Engineers to design them. The detail survey may provide information such as levels, contours, vegetation, fencing, existing improvements and services etc.

## **7. ENGINEERING DESIGN**

An engineering design would be carried out with the above information obtained from a detail survey. The design may include roads, culverts, driveways and services e.g. phone, power, and telecommunications.

When completed, the plans must be lodged at Council for approval before any construction may commence.

## 8. CONSTRUCTION

If the engineering plans are approved, the Council will issue a construction certificate before any contractors may commence any construction. A fee must be paid to Council for the construction certificate. The cost of that fee will depend on the construction cost of the development.

Council may also require certain levels of construction to be checked and approved before continuing. Each of these inspections will have a Council fee and may require a compliance certificate. Again, the cost of the fee is dependent on the number of lots in the development.

For example, Council may require compliance certificates for:

- ❖ Sub-base
- ❖ Base
- ❖ Seal
- ❖ Driveway construction
- ❖ Boundary fencing

We may also perform some survey work to assist in the construction, such as setting out levels and positions of services and roads.

Council may require the road boundaries or all the lot boundaries to be fenced to specific stock proof standards.

## 9. WORK AS EXECUTED SURVEY

Where a road or services are to be constructed, Council will also require a “Work as Executed” survey to be undertaken. This confirms that the construction has been done in accordance with the approved design plans.

## 10. LAND RELATED SURVEY FIELD & OFFICE WORK

Whilst the engineering plans are at Council awaiting approval, field work may begin to assist in the preparation of a Plan of Subdivision. This work includes:

- ❖ Request survey search
- ❖ Locating sufficient survey marks
- ❖ Complex survey calculations and boundary definition
- ❖ Lot staking (if required)
- ❖ Lot pegging
- ❖ Placing sufficient survey marks to comply with Surveying and Spatial Information Regulation 2012

## 11. CONTACTING A SOLICITOR

Clients should be aware that there are some tasks that should be done by a solicitor in the process of doing a subdivision. See “Preparation of Plan of Subdivision” below regarding Section 88B Instruments.

Additionally, if the project is a ***boundary adjustment*** between adjoining landowners, other legal documents that need to be prepared include transfers. The Office of State Revenue also needs to be notified if a dealing is taking place, even if no monies are to be paid between the parties involved, so that Stamp Duty may be arranged. A solicitor is best suited to prepare and lodge all these documents.

## **12. PREPARATION OF PLAN OF SUBDIVISION**

The Plan of Subdivision is then prepared which contains all necessary information to enable registration at Land and Property Information (LPI), Sydney, and for the new titles to be issued for the new lots.

Where any easements, rights of carriageway, covenants or “restrictions on the use of land” are to be created, a Section 88B Instrument needs to be prepared and lodged with the Plan of Subdivision for registration. This Section 88B Instrument is usually prepared by your solicitor and will incur additional costs.

A preliminary plan may be drafted to assist in contractual requirements for solicitors. The Plan of Subdivision shows lot numbers, dimensions, areas, easements and other survey information.

The Plan of Subdivision must be submitted to Council for their approval being lodged for registration at LPI. A Council fee applies for them to assess the plan and release it.

## **13. COUNCIL FEES**

Once development consent is received, a summary of the Council fees that may be incurred is as follows:

- ❖ Construction certificates
- ❖ Compliance certificates
- ❖ Section 94 administration fees
- ❖ Section 94 contributions
- ❖ Subdivision fees

As for DA fees, all of the above fees vary depending on the size of the project.

## **14. SUBDIVISION CERTIFICATE**

A subdivision certificate needs to be applied for with payment of the relevant fees above before the Plan of Subdivision can be signed and released from Council. The application is to ascertain that all conditions of Development Consents issued have been addressed correctly. The application can be completed by the developer, the developer’s solicitor or by us, bearing in mind that a fee would be incurred.

All conditions of the consent must be met and all fees paid before Council will release the Plan of Subdivision.

All landowners must sign the plan, along with any banks if a mortgage is held on the land.

## **15. AUTHORITIES ENDORSEMENT**

After Council issues the subdivision certificate, any other authorities that have an interest in the plan or Section 88B Instrument must sign and endorse the plan. These authorities can include:

- ❖ Essential Energy
- ❖ Telstra
- ❖ RailCorp

These authorities generally sign the plan prior to it going to the bank. Each of these authorities can take up to 6 weeks to endorse the plan.

## **16. PLAN REGISTRATION AT LPI**

Once the plan has been signed and endorsed by all the relevant parties, it must then be lodged at LPI.

Generally we offer our services to lodge the plan using E-Plan, the electronic lodgement system for LPI. Original signed documents are scanned and sent directly to LPI, with a lodgement fee applying for registration. This is based on the number of lots, easements and sheets in each plan.

There is also an over-the-counter lodgement option, where the original copies of the plan and accompanying paperwork are handled by the solicitor, who obtains the necessary signatures and then lodges the hard copies at LPI in Sydney for registration.

Original Certificates of Title must be sent to LPI concurrently with the electronic lodgement. If there is a mortgage on the property, the bank will send the title to the Titles Office of LPI. If there is no mortgage, the titles are generally held either by the landowner or the solicitor. Either party will need to lodge the original documents over the counter (via a lodging agent) at the Titles Office of LPI in Sydney.

Depending on any backlog, LPI can take 3 – 4 weeks to register a plan from the date of lodgement.

## **17. OPTIONAL PRE-EXAMINATION**

Plan registration can be a time consuming exercise particularly when large banks are involved. To help speed up the process, a service called pre-examination is available.

The Plan of Subdivision can be lodged for pre-examination at the time it is lodged at Council for their approval. By the time Council has released the plan and signatures obtained, the titles office has already assessed the plan and can register it when received for final registration.

There is an additional LPI fee for pre-examination.

## **18. SUBDIVISION COSTS**

All the above processes have their associated costs, charges or fees. Before proceeding with the subdivision, it may be prudent to obtain estimates for all the costs involved and when they need to be paid. We can help with determining the estimated costs though it is often necessary to at least prepare a layout or concept plan to base the estimate on.

If required a Project Budget may be prepared from the cost estimates together with estimated sales returns as advised by your Real Estate Agent.