

Subdivision

Fact sheet

What is “subdivision of land”?

The *Environmental Planning and Assessment Act 1979* defines ‘subdivision of land’ as:

the division of land into two or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition. The division may (but need not) be effected:

(a) by conveyance, transfer or partition, or

(b) by any agreement, dealing, plan or instrument rendering different parts of the land available for separate occupation, use or disposition.

Subdivision of land is the process that creates new lots of land or changes the size of the existing lot or the location of the property boundaries. This process creates a new Title for each new lot that can then be registered with NSW Land Registry Services.

Is approval required to subdivide?

Most subdivisions require development consent, which requires a development application submitted to Council.

For some minor boundary adjustments, consent may not be required if the development meets the provisions contained in [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 \(Codes SEPP\)](#).

Subdivision can sometimes be approved as complying development if it meets the relevant standards set out in the Subdivision provisions of the Codes SEPP. You should speak to a private certifier (external to Council) if you are looking to subdivide under complying development.

Different Types of Subdivision

The below information outlines the most common types of subdivisions.

Torrens Title

Torrens Title subdivision involves the creation of new allotments from an existing allotment. This may be achieved by:

- Boundary adjustments - realignment of a lot boundary
- Site consolidations - amalgamation of two or more lots into one lot
- The subdivision of an existing lot into two or more lots

Community Title

Community Title subdivision involves the subdivision of land so that each resultant lot has a separate title but also shares a common piece of land such as a pool, BBQ area, driveway, garden, etc. The Community Plan associated with the subdivision may also outline a number of development guidelines for the subdivision design and construction.

Strata Title

Strata Title subdivision gives ownership to individual portions of a larger property and a share of common property such as gardens and driveways. Owners become members of the body corporate and may share responsibility for the whole property. Strata subdivision is most commonly used with dual occupancies, multi dwelling housing development, apartment buildings and commercial and industrial buildings.

What is the subdivision process?

There are several steps involved in the subdivision process:

Step 1 – Development Application (DA)

A DA is required to be lodged via the NSW Planning Portal. An assessment will be undertaken and if approved, Development Consent will be granted to subdivide land subject to certain conditions.

Step 2 - Subdivision Works Certificate (SWC)

If required for your subdivision a SWC must be applied for via the NSW Planning Portal; an approval for works required to complete the subdivision.

Step 3 - Subdivision Certificate (SC)

When all conditions contained in the Development Consent have been satisfied and all necessary works have been completed, a SC will be issued. This SC authorises the registration of a plan of subdivision.

Step 4 - Land registration

All relevant documentation will need to be registered with the NSW Land Registry Office.

Can I subdivide my land?

The [Shoalhaven Local Environmental Plan 2014](#) (referred to as the 'LEP'), [Shoalhaven Development Control Plan 2014](#) (referred to as the 'DCP'), and Council policies set down minimum lot sizes and other requirements for subdivision.

Clause 4.1 and Clause 4.2 (rural) of the LEP provides the minimum lot size for subdivision. The minimum lot size map outlines the minimum lot size required for the lots once subdivision has occurred. Therefore, where the mapped indicates a minimum lot size of 40ha you would require an initial minimum 80ha of land to be able to subdivide.

[Shoalhaven Planning and Development \(nsw.gov.au\)](http://shoalhavenplanninganddevelopment.nsw.gov.au)

There are several additional clauses of the LEP that may be applicable to the site and must be considered when it comes to the potential of subdivision.

It is recommended that you review the Shoalhaven Local Environment Plan 2014 as well as the Shoalhaven Development Control Plan 2014 (DCP).

Chapter G11 of the DCP relates to the subdivision of land and provides relevant information in relation to the design and construction requirements for subdivision.

It is recommended in most circumstances that you engage a suitably qualified professional to assist with exploring your development options and preparing the required documentation.

What else do I need to consider?

There are several important factors which must be considered when determining whether a site is suitable for subdivision. These are covered in the Shoalhaven Development Control Plan 2014 (DCP) and include, but are not limited to:

- Zoning and land use objectives;
- Physical constraints such as bushfire, flooding, geotechnical issues, sea level rise, mine subsidence;
- Lot configuration;
- Access;
- Availability of public utilities, including water, sewer, electricity and roads;
- Restrictions on the use of land, such as easements;
- Loss of environmental quality, including removal of vegetation or impact on watercourses;
- Heritage implications;
- Solar efficiency of proposed allotments; and
- Development potential.

What is the cost involved?

The cost associated with subdividing varies depending on the nature of the application. Fees and Charges are available on Council Website, and a fee estimate can be created by emailing Council.

Subdivision may also require payment of section 7.11 contributions under the [Environmental Planning and Assessment Act 1979](#). Shoalhaven Contribution Plan 2019 outlines the development to which local infrastructure contributions are often required to be paid.

The [Housing and Productivity Contribution](#) may also apply which is required to be paid for certain development types including residential subdivision.

What do I need to provide with my application?

All applications in relation to subdivision are required to be applied for via the NSW Planning Portal. The following will assist in prepare the documentation you need to submit with your application.

Development Application

The Development Application Requirements for Lodgement Checklist (DA Matrix) outlines the documentation required to be submitted with your

development application. This can be accessed on Councils website – [View the DA Matrix](#).

Subdivision Works Certificate

- Nomination of Private Certifier Authority or Council
- Engineering Construction Drawings

Subdivision Certificate

- Schedule of Compliance
- Notice of Arrangement
- Notice of Compliance

Useful Links

- Shoalhaven Local Environmental Plan 2014
- Shoalhaven Development Control Plan 2014
- [Shoalhaven Contribution Plan 2019](#)
- [NSW Planning Portal](#)

Disclaimer

This fact sheet provides a summary of key elements. Any person using this document must do so on the basis that not every scenario and issue can be addressed. This document is subject to change without notice.