

What is Land Division?

Land division includes:

- The alteration of the boundaries of land
- The division of land into at least two or more allotments
- Large scale developments containing numerous allotments
- 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.

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.

Lodging a Land Division Application

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

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Post: GPO Box 1815, Adelaide SA 5001
In person: 5th Floor, 136 North Terrace, Adelaide SA 5000

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 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.

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.

Development Information Guides are intended to help applicants to submit applications which are complete, well prepared, and can be processed efficiently. The information provided is intended as a general guide only and applicants are encouraged to refer to the Town of Walkerville Development Plan and to seek professional advice if necessary. This information is subject to frequent updates. This version last updated in January 2018.

Access the Development Plan and current versions of information guides at <http://www.walkerville.sa.gov.au/>

Should you have any further enquiries or wish to discuss this process, please do not hesitate to contact the Planning and Environment team via:

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