

This brochure provides general information about the options and issues related to doing a land division. If it does not address your questions, please contact Council or obtain professional advice from a Planning Consultant or Surveyor.

### What forms of land division are there?

Land division includes:

- dividing land into two or more allotments;
- changing the location of allotment boundaries without creating new allotments (known as a boundary realignment);
- 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.

These above forms of land division require approval from Council.

The amalgamation of 2 or more allotments does not require Council approval and can be lodged directly with the Lands Title Office (through a surveyor).

### What is the difference between title types?

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

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

#### Torrens Title

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

### Community Titles

Community Titles include a mixture of private lots and common property. Common property typically includes the utility infrastructure and shared driveways or parking areas. These forms of Title are governed by the Community Titles Act 1996.

There are two types of Community Titles:

- Community Schemes:
  - Lot boundaries are based on surveyed land measurements and are unlimited in height and depth (typically this is a fenced area of a dwelling outside of any common driveway or walkway).
  - Owners are responsible for the maintenance and insurance of their own structures / lots.

These are typically used in multi-unit sites that share common driveways, but also sometimes for semi-detached or terraces (where the common property is in the form of utilities).

Note that where private roadways are proposed, these need to be built prior to the creation of titles, or a bond paid to council.

- Community Strata Schemes:
  - At least one lot must exist above another, with boundaries defined by parts of the building.
  - The structure is common property, maintained and insured by the corporation.

These are restricted to developments such as apartments.

Community Title lots require the establishment of a Community Corporation to administer by-laws (mandatory) and

manage the common land and any fixtures erected on it. By-laws set out the obligations of the Community Corporation in administering the scheme and are the rules by which the scheme is to be run.

Where Community Title land divisions involve 6 or more residential lots or a development lot (large lot set aside for future redevelopment), then they also require a Scheme Description. This is a document that gives a prospective purchaser an overall view of how a community title development is to be developed and the end result.

### 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.

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

### Which type of title is right for me?

Which land division format is right for you will depend on your specific requirements and the proposed development of the land. Torrens Title land divisions require utility connections of each allotment, making them more expensive to deliver than Community Title allotments (which can share utility connections).

However, there may also be a beneficial price difference for Torrens Title allotments as they tend to be preferred by the market.

You are encouraged to get advice from land agents or surveyors as to which would be the most appropriate land title type for your specific proposal.

### What does Council consider when assessing land divisions?

You should have regard to the following design issues when you propose a land division, to make sure that your proposal is well considered and aligns with Council's expectations and requirements.

- the appropriate size and shape of any proposed allotments for their intended use. This includes achieving minimum site areas and street frontage widths identified within the relevant Zone for the land;
- the slope of the land (where applicable), and if this creates difficulties in developing the proposed allotment for its intended purpose, or will require substantial earthworks and retaining walls;
- whether any existing structures will be retained on any of the allotments. This will require assessment of how the existing building will achieve Building Code criteria relating to fire rating (distances from boundaries and / or materials used in the building);
- whether any easements, rights of way or encumbrances apply to the land being divided, and the implications on these (sometimes this may need consent of those that are party to the covenants);
- any existing Regulated or Significant Trees on the land (or neighbouring property) that may impact the ability to develop any proposed lot;

- how stormwater from the proposed allotments will be managed back to the street system. Where slopes are to the rear, there may be a need for an easement across allotments to manage this
- a safe and efficient access for the proposed allotments, including any possible conflicts with street trees, traffic control devices (such as roundabouts, medians or protuberances) and other infrastructure on the road verge;
- access to utility services

For larger land divisions that involve new roadways, then there are additional considerations, including

- roadway design and locations – achieving appropriate road safety criteria
- provision of public open space (where more than 20 allotments are proposed)
- utility infrastructure able to service the development, and how this will occur across the land.

### **What is involved with a land division application?**

Land division development applications are a little different to those for buildings or structures. While both require a Planning Consent and Development Approval, land divisions also require a Land Division Consent.

Applications are also referred to various agencies and utility providers for their comments and specific requirements.

In assessing your proposal, Council will likely apply conditions to both the Planning Consent and Land Division Consent (as instructed by the referred agencies and utilities). Conditions relating to the Land Division Consent would relate to things like:

- constructing the driveway crossovers;
- installation of stormwater connections to the street (or within an easement if necessary);
- connection of utility services (such as power, mains water and sewer) – these typically also involve the payment of fees to agencies for this to occur;
- payment into the Planning and Development Fund.

For larger land divisions, the conditions may also apply to construction requirements for any new roads and stormwater systems than need to be put in place.

Before a new Title can be issued for any allotment, the relevant conditions attached to the approval need to be satisfied. Council, along with any relevant agencies, will confirm when this is done by issuing a certificate on the Planning Portal.

Once all relevant signoffs are received, then the Surveyor can make application to the Lands Title Office for the Certificates to be issued.

Legislation provides Councils with 60 business days to assess and make a decision on a land division application.

The length of time from the issue of the approval and the issue of titles will be dependent on the conditions applied to the approval, and how quickly they can be satisfied.

### **Who can help me do a land division?**

You are encouraged to speak to a surveyor regarding the likely timeframes, requirements and costs that will apply to your specific development.