



This advice sheet is intended to assist permit applicants in the planning of any subdivisions, and the preparation of planning applications for subdivisions.

Subdivision generally involves dividing a property into smaller lots that can be sold separately. It can also include the realignment or alterations to title boundaries even if the number of lots do not change, or even decrease.

Whether you are applying for a subdivision permit or considering subdividing your land, you will need to consider the following.

Can I subdivide?

Before making an application to subdivide, you should ensure that the possibility of subdivision is permissible (this will generally be dictated by your land's zoning provisions in the Wangaratta Planning Scheme). You should also consider whether the proposed subdivision is consistent with Local Planning Policy of the Wangaratta Planning Scheme. **Due to the complexity of the controls within the Wangaratta Planning Scheme, it is imperative that you confirm permit and information requirements with officers of Council's Planning Unit before preparing an application for subdivision.**

The Subdivision Process

There are four main stages in the subdivision process:

1. Apply for and obtain a planning permit for the subdivision. If successful, this approves the plan of subdivision under the *Planning and Environment Act 1987* and the Wangaratta Planning Scheme.
2. Apply for and obtain a certified plan of subdivision. This approves the plan of subdivision under the *Subdivision Act 1988*.
3. Complete requirements to allow the issue of a Statement of Compliance for the plan of subdivision under the *Subdivision Act 1988*. This is the final approval after all requirements have been met to Council's and any relevant referral and servicing authority's satisfaction.
4. Lodgement of the certified plan of subdivision, Statement of Compliance and any other plans or documents prepared by your land surveyor at the Land Registry. This allows new titles to be issued for each lot created. Council does not lodge the plan at the Land Registry. Your solicitor or conveyancer will usually deal with this stage.

What is the Planning Scheme?

The Wangaratta Planning Scheme sets out rules and regulations used to assess planning permit applications for subdivision, consolidation (only for heritage sites identified by the Wangaratta Planning Scheme) and the removal and variation of easements and restrictions.

The Wangaratta Planning Scheme is available for viewing at the Council offices or on the Department of Transport, Planning and Local Infrastructure (DTPLI) website www.dtpli.vic.gov.au. There is also a direct link to this website from Council's website.

What does certifying a plan of subdivision mean?

The certification process requires a plan of subdivision prepared by a licensed land surveyor to be lodged at Council with a Form 1 certification application under the *Subdivision Act 1988*. The plan shows the proposed lots, size, area and any easements required.

Both the planning permit application and the certification application are referred by Council to any relevant referral and servicing authorities (which may include VicRoads, GM Water, NECMA, Country Fire Authority and Department of Environment and Primary Industries). These authorities have 28 days in which to respond to the referral and these authorities may request the inclusion of conditions on the planning permit. The plan of subdivision cannot be certified by Council until a planning permit has been issued for the subdivision and pre-certification requirements are met, such as registration of a Section 173 Agreement. However, the two processes can run concurrently.

What does Statement of Compliance mean?

A Statement of Compliance issued by Council is required to be lodged at the Land Registry by the applicant to allow new titles to be created for each of the lots on the certified plan. In order to obtain a Statement of Compliance, each of the referral authorities must advise Council in writing that all of their conditions have been met to their satisfaction. There are usually other conditions included on your planning permit that must be met before a Statement of Compliance can be issued.

What happens once a Statement of Compliance has been issued?

Once your Statement of Compliance has been issued, you (or your surveyor or solicitor) will need to lodge it at the Land Registry along with the certified plan and other documents which your surveyor will provide. These must be lodged and registered before any statement of compliance is issued. The Land Registry will then create individual titles for the lots in your subdivision.

What is a Section 173 Agreement?

A Section 173 Agreement is a legal agreement made between Council and another party or parties, under Section 173 of the *Planning and Environment Act 1987*. The landowner is the other party to the Agreement, while in some cases a third party, such as a referral authority may also be involved. An agreement provides additional, and often enduring, planning controls where a condition on a permit or Planning Scheme controls is not sufficient.

The obligations and requirements of a Section 173 Agreement are on new property titles after subdivision. Therefore, the new landowners of these properties should be aware of the requirements and obligations placed on them by the Section 173 Agreement (refer to Planning Advice Sheet No.12 – Section 173 Agreements).

If a planning permit requires you to enter into a Section 173 Agreement (which are prepared by a solicitor), all costs through to the registration of the agreement are to be met by the applicant.

Preparing your documentation for subdivision

An application for a planning permit must be made on the appropriate form, together with a plan of your proposed subdivision. A checklist is attached to this advice sheet outlining the information required to make an application to subdivide land or existing buildings. A properly prepared submission will assist Council in processing applications as quickly as possible.

Subdivision before development (for urban land)

For all land in urban zones, while it is possible to apply to subdivide your land before obtaining approval to develop your land, it is Council's preference that approval for a development is obtained before applying to subdivide your land. This will enable all development matters to be considered in the planning process. Some exceptions may apply to larger subdivisions (ie. more than 10 lots) on urban zoned land.



Subdivision in rural areas

For all land contained within rural zones, subdivision may not be permissible if each proposed lot cannot meet the minimum lot size within the applicable schedule of the zone. Before lodging any application an applicant must ensure that the proposed subdivision meets the respective minimum lot size.

Development plans

Some land within the Municipality that is covered by a Development Plan Overlay in the Wangaratta Planning Scheme has an approved 'development plan' which sets out broad strategies, layouts, and subdivision requirements. Subdivisions proposed within these locations should be planned in accordance with the approved development plan.

Development contributions

Land covered by a Development Plan Overlay may also be covered by the Development Contributions Plan Overlay. This overlay has an approved development contributions plan for the purpose of levying contributions for the future provision of works, services and facilities.

A development contribution is required to be paid by the developer prior to the issue of a Statement of Compliance for the plan of subdivision. Development contribution rates shown in an approved development contributions plan are adjusted at June 30 each year in accordance with the annual change in the consumer price index.

Public open space contributions

When proposing to subdivide land into three or more lots, or two if any lot could be further subdivided in the future, assessment is made for a contribution to Council for the upgrade and/or purchase of land for open space such as public parks, playgrounds and reserves. Under Section 18 of the Subdivision Act 1988, you are likely to be required to pay to Council 5% of the site value, or set aside at 5% of the land on the plan of subdivision for public open space, or a combination of both.

Other approvals

Applicants will need to satisfy the requirements of Council's Technical Services Unit (for roads, vehicle crossings and drainage), the building regulations, Public Health Unit requirements (for septic tanks and effluent disposal where relevant) and local laws (where relevant), as well as the requirements of relevant referral authorities for the servicing of the land.

This advice sheet is to be used as a general guide only. Council has made all reasonable effort to ensure the information provided in this series is true and accurate. However, it is recommended that readers seek professional advice before acting or making decisions on the basis of this information. For any questions or clarification, please contact Council's Planning Unit on 5722 0888.



CHECKLIST FOR PLANNING ASSESSMENT

The following information (as a minimum) must accompany any planning permit application for the subdivision of land:

- Appropriate application fee (schedule of fees available at Council offices or on Council's website);
- Completed application form (form available at Council offices or on Council's website);
- Full copy of property title, searched from the land titles office within the last 3 months, along with copies of any restrictions, covenants or agreements (available from the Land Titles Office or at www.land.vic.gov.au);
- Three (3) copies of a scaled and fully dimensioned Existing Conditions Plan, showing (as a minimum):
 - the location of all existing buildings, structures and vegetation.
 - internal building layout for existing buildings and structures.
 - the location and layout of driveways and car parking areas.
 - contours/site levels.
 - the location of effluent disposal system (for non-sewered properties);
- Three (3) copies of a scaled and fully dimensioned Site Plan, showing (where relevant):
 - the location of existing buildings on adjacent properties (including nominated setbacks from the common boundaries to the subject site)
 - the location of existing and proposed buildings (including nominated setbacks from boundaries and other key site features).
 - any existing or proposed earthworks.
 - location of existing individual trees within 10 metres of all proposed buildings, structures and excavations.
 - all trees to be removed and those to be retained.
 - the setback of the buildings and works from title boundaries.
 - details and location of any car parking structures, areas and accessways;
- Three (3) copies of a Plan of Subdivision drawn to scale showing:
 - the proposed configuration of the lots, including any common property.
 - any existing or proposed easements.
 - dimensions of boundaries.
 - lot sizes.
 - adjoining roads;
- A written report including information on the number of lots, the lot sizes, access details for each of the lots, type of roads and the existence of stormwater drainage infrastructure, the services to be provided, and other details (as relevant);
- For applications relating to residential subdivision within the Residential or Township Zones, three (3) copies of a Subdivision Site and Context Plan, as required by Clause 56.01-1 of the Wangaratta Planning Scheme (ResCode), must be provided, together with a Subdivision Design Response, as required by Clause 56.01-2 of the Wangaratta Planning Scheme (ResCode);

- Ten (10) sets of photo reduced A3 plans of all plans outlined above;
- A written submission detailing how the proposal responds to the provisions of the relevant zone, overlays, particular provisions and State and local planning policies (as appropriate);
- For residential subdivisions (in Residential Township Zones), a written response to the objectives and standards of Clause 56 (ResCode) in the Wangaratta Planning Scheme relating to subdivision must be provided in addition to the other relevant Planning provisions..
- Where there are existing trees on the subject site or trees on adjoining properties proximate to future buildings within the subdivision, a report from a qualified arborist (an Arborist Report) must be obtained and submitted. This report should provide the following details:
 - the species, height, girth, canopy width and approximate age of the tree/s to be removed.
 - a statement regarding the health, structure and vigour of the tree/s.
 - comments in relation to the future health of the tree.
 - a recommendation based on all of the above;
- For subdivisions requiring the removal of **0-10 trees** on lots greater than 1 acre (4000 square metres), an Arborist Report must be submitted as outlined in the previous dot point. This report will then be used by Council to ascertain appropriate offset requirements for the native vegetation removal proposed;
- For subdivisions requiring the removal of **10+ trees (and/or the removal of patches of understorey vegetation which is construed as significant remnant vegetation)** on lots greater than 1 acre (4000 square metres), a Flora and Fauna and Net Gain Assessment prepared by a suitably qualified professional (in accordance with the State Government's Native Vegetation Management Framework) will be required to calculate appropriate offset planting requirements;
- For subdivisions on non-sewered land (within Low Density Residential Zone, Rural Conservation Zone or Green Wedge Zone), areas set aside for septic systems for proposed lots on the plans must be provided, with those areas designated for septic systems and associated wastewater treatment and disposal shown away from existing native vegetation;
- For subdivisions on non-sewered land, a Land Capability Assessment prepared by an appropriately qualified professional should be provided which demonstrates that the land is capable of treating and retaining all wastewater in accordance with the State Environment Protection Policy (Waters of Victoria) under the *Environment Protection Act 1970*;
- Where possible, a CD containing a copy of all plans and associated reports in a PDF format.

CHECKLIST FOR CERTIFICATION

The following information must be provided when applying to have a Plan of Subdivision certified:

- Appropriate application fee (\$100 plus \$20 per lot to be created);
- A copy of the planning permit or planning application (if still being considered), if the subdivision requires a planning permit;
- Full copy of property title for the parent lot, searched from the land titles office within the last 3 months, along with copies of any restrictions, covenants or agreements (available from the Land Titles Office or at www.land.vic.gov.au);
- Three (3) heavy weight copies of the Plan of Subdivision as prepared and certified by a licensed surveyor;
- Eight (8) additional copies of the Plan of Subdivision for approvals by the Council and referral authorities;
- A Form 19 surveyor's statement on completion of the required public works;
- A Form 1 – Application for Certification;

The above checklist ensures that all documents are submitted to Council to initiate the assessment of the planning application or certification application. Additional information may be required depending on the precise nature of the proposal and any site-specific considerations. If planning applications are lodged without sufficient information for Council assessment, Council will formally request further information in accordance with the *Planning and Environment Act 1987*.

Please check other planning advice sheets (and their attached checklists) for relevance to your proposal. If applicable, the information requirements provided in that checklist should also be provided when lodging your application.