

Fact Sheet 9

Land Services Group

Land Division Process

A guide to subdividing land within South Australia

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

by Torrens Title, Community Title or Community Strata Title (or for an existing strata scheme - Strata Title).

Division of land requires the approval of the local council, statutory authorities and the Development Assessment Commission. To finalise the process, documentation and the Plan of Division (DP) must be lodged at the Lands Titles Office (LTO).

Dividing land is a costly and timely process. It is recommended that thorough research and proper preparation is made before beginning the division process.

Types of Land Division

When considering land division it is also important to consider what type of property title you wish to create.

There are four types of land title

- Torrens Title
- Community Title

- Community Strata Title
- Strata Title

Torrens Title

Torrens title land division is the division of land into at least two allotments, which are held independently of one another. There are generally no shared facilities or infrastructure.

Community Title

A community title is the division of land into at least two lots and an area of common property. Common property relates to those parts that do not form part of a lot and typically includes the service infrastructure and driveways that are shared.

Community Strata Title

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. The structure itself forms part of the common property and it is therefore the responsibility of the corporation to maintain and insure it.

By-laws are a compulsory document for all community 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.

Note: For further information refer to the 'Fact Sheet 4 – Strata and Community Titles'.

Strata Title

It is no longer possible to create new strata divisions but existing strata schemes can continue and are regulated under the Strata Titles Act. It is possible to amend an existing scheme or cancel and convert to Torrens Titles. These are considered as land division.

▪ **Amendment of an Existing Strata Scheme**

The amendment may affect the boundaries of units, unit subsidiaries or common property, buildings and structures shown on the plan. Alternatively, land may be added to or removed from the strata plan boundaries.

▪ **Cancellation of Strata Plan and Conversion to Torrens Title**

It may be possible to cancel an existing scheme and issue Torrens Titles. The potential benefits may include improved market valuation and lifestyle flexibility.

Factors that may influence the decision on which type of title include:

- Development costs (water/sewer/fees/surveying/documentation costs etc)
- Marketplace evaluation
- Professional advice (e.g. surveyor, real estate agent)
- Family/personal choice
- Size, design and nature of development proposal
- Character of locality
- Development Plan requirements (allotment size, site area, road frontage etc)

Where to begin?

▪ **Council**

It is recommended that preliminary advice be sought from your local council's planning section. Using a copy of the Certificate of Title, available from www.propertyassist.sa.gov.au, prepare a simple sketch plan of the proposed division. Based on provisions in the Council's Development Plan, easement details shown on your title and infrastructure issues such as stormwater management and road access. The Council's

Planning Officer will be able to give advice on the merits of your proposal.

▪ **Surveyor**

If the council is positive to your proposal you may choose to employ a Land Surveyor to investigate and prepare your application. Surveyors can provide advice on the merits of the various forms of land division, lodge the application for you with the Development Assessment Commission and advise on Lands Titles Office requirements. Land Surveyors can be found in the Yellow Pages under "Surveyors - Land".

The surveyor will initiate survey work over the subject land and draft a plan in accordance with Lands Titles Office (LTO) standards. The surveyor can also provide a breakdown on all related costs, e.g. Surveyor's/Drafting fees, SA Water, Development Assessment Commission fees, LTO fees etc

Note: a Survey firm, Drafting Services firm or Conveyancer may include the term "Property Development Consultant" within their title.

▪ **Development Assessment Commission**

The application is lodged with the Development Assessment Commission (DAC) who will notify the surveyor/lodging agent of the DAC number. The Development Assessment Commission will also forward copies of the development application to various state agencies responsible for providing utilities and services such as ETSA Utilities, SA Water and Transport SA. These authorities will determine what requirements they may have in respect to the proposal. Copies of the application are also forwarded to the Council, who as the relevant planning authority will assess the proposed land division against its requirements for the proposed use.

Once all conditions and requirements are met the state agencies and council give clearance and the Development Assessment Commission issue a Certificate of Approval

Application Fees and Open Space

Contributions are payable to the Development Assessment Commission for the land division. Information about the cost of lodging a land division application can be obtained by telephoning the Planning Services Branch on 8303 0601.

Other organisations (SA Water, ETSA Utilities etc) will charge fees for connection of services to the proposed new allotments. These fees must also be considered at the early planning stages of the development.

▪ **Land Services Group**

Once the Certificate of Approval is given by the Development Assessment Commission, an application together with the duplicate title, plan of division and necessary consents may then be lodged with the Lands Titles Office (LTO) within the Land Services Group. The plan is uniquely numbered with a 'DP' or 'CP' number and the accompanying application/documents numbered also.

Note: other documentation may be required to bring the division into effect, including additional documentation for community titles such as by-laws and scheme description.

The application is in the form of a legal LTO document and is required to be lodged with the plan of division. A Registered Conveyancer or Solicitor normally prepares the application. Registered Conveyancers can be found in the Yellow Pages under "Conveyancing Services" and Solicitors are found in the Yellow Pages under "Solicitors".

The division document also involves gaining the consent to the division by not only the registered proprietors but also any registered interests on the Certificate of Title.

It is important that before signing any of the documentation that you understand what the effect of plan and application/documents is. Ask questions of your surveyor, conveyancer or solicitor to ensure you are fully aware of the implications of all the documents you are required to sign.

It is suggested that a regular review of the progress of the plan and application is made with your agent (surveyor/registered conveyancer/solicitor). If it is intended to on-sell the land or borrow money using the new allotments as security it is important to realise that most financial institutions will require the plan to be "deposited" (when the allotments are legally created) before settlements can occur.

Fees apply for the examination and deposit of the plan, the application and issue of new titles. A schedule of these fees can be obtained by

contacting the Land Services Group on 8226 3983 or via the website www.landservices.sa.gov.au.

How long does it take?

Due to the numerous agencies involved and the various processes the application must go through, the division of land can take many months, sometimes even years. This fact must be taken into consideration in the early stages of the planning process.

Cost

At the time of the printing of this publication the cost of a simple division dividing land into two allotments is approximated at between \$ 15,000 to \$ 20,000. This figure will give you an idea of the expense of a land division. It is suggested that thorough research is done in relation to the financial considerations and timing involved in dividing your land prior to beginning the Land Division.

Summary

The Land Division Process takes the following steps

1. Preliminary enquiry at Local Council
2. Contact Land Surveyor and possibly Registered Conveyancer or Solicitor.
3. Lodgement and approval from the Development Assessment Commission
4. Lodgement at the Lands Titles Office
5. Examination of Plan
6. Examination of Documents
7. Deposit of Plan
8. Issue of Title

Further Information

For further information please contact:

Land Services Group
101 Grenfell Street Adelaide SA 5000

General enquiries 8226 3983
Country callers 1800 648 176

lsgfeedback@sa.gov.au
www.landservices.sa.gov.au

PropertyAssist provides South Australian land and property information.

www.propertyassist.sa.gov.au

Additional information on Community or Strata Titles is available on the Legal Services Commission website at www.lsc.sa.gov.au

Local Government Association
www.lga.sa.gov.au

Planning SA
www.planning.sa.gov.au/

SA Water
www.sawater.com.au/sawater

The information contained in this publication is a guide only and independent professional advice should be sought before beginning the process of dividing land.