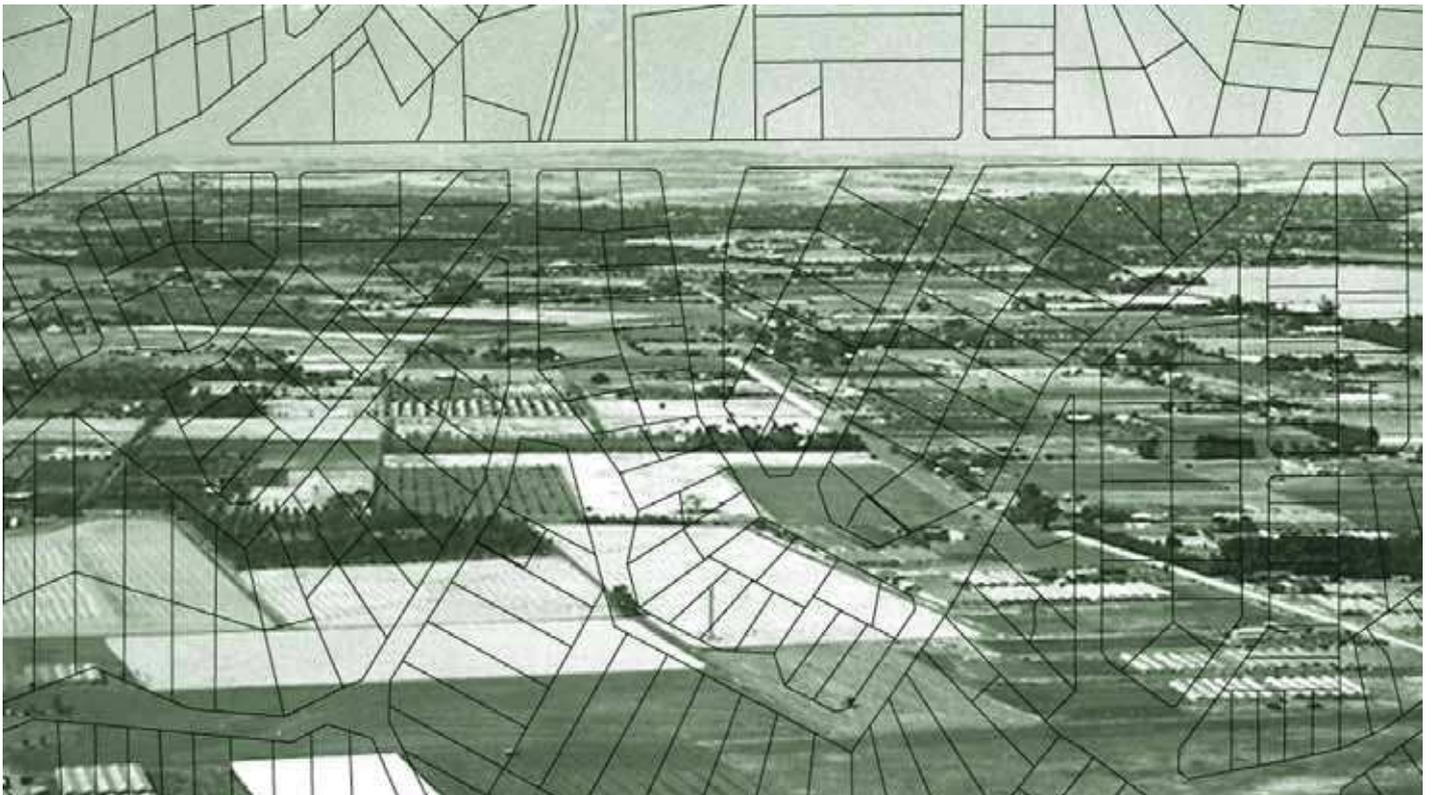




GUIDE FOR APPLICANTS

Land Division Guide



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Land Division Guide

Planning SA

Primary Industries and Resources SA

136 North Terrace

Adelaide

GPO Box 1815

South Australia 5001

www.planning.sa.gov.au

FIS 22517

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1. INTRODUCTION

In South Australia development approval must be obtained before land may be divided into separate allotments. This approval is required pursuant to the Development Act, 1993 and the Real Property Act 1886 and applies whether a boundary between neighbours is shifted, one or more allotments is created, or for large-scale developments of numerous allotments.

2. WHERE TO FIRST ?

If you want to subdivide or change the boundaries of your land it is worthwhile preparing a simple sketch plan of your ideas. A copy of the certificate of title will help you and provide details of the land description or property address.

It is highly recommended you then contact the relevant officer of the local council applicable to your land, to discuss the merits of the application and planning requirements. In broad terms, these requirements are contained in the Development Plan applying to the area. Council will also be able to advise you of any requirements for construction or alteration to roads and drainage etc..

The existence of private easements or easements in favour of the council, SA Water Corporation or ETSA Utilities (not always indicated on the land title certificate) should be discussed at an early stage with the relevant authority.

Using an Agent

You may choose to use an agent (eg licensed surveyor) to investigate and prepare your Planning Application. An agent can provide professional advice on the planning procedure and some likely planning requirements prior to lodging your application. An agent can lodge a planning application on your behalf if required, and also will be able to advise on Lands Titles Registration Office requirements.

The majority of Surveying Agents are now lodging applications electronically from their offices via the EDALA system. Electronic applications enjoy advantages in the speed and efficiency of lodgement and distribution, and enable the Agent to monitor and assist the progress of applications.

The Development Plan

The Development Plan is a statutory document which sets out the planning policies for each council area. Each Development Plan describes the way land should be developed for different parts of the area, the types of development preferred and the policies and standards against which land division proposals will be assessed.

Policies cover a range of social, environmental and economic matters including planning, building, heritage and environmental protection. Such policies are set out in terms of word descriptions, zoning maps, diagrams and tables.

The Development Plan may be viewed or purchased at your local council or at Planning SA, on the Fifth Floor, Roma Mitchell House 136 North Terrace, Adelaide, or via the web at: www.planning.sa.gov.au. If you elect to use the services of an agent, they may be able to advise you on the policies of the Development Plan.

3. THE APPLICATION

An application for land division must be lodged with the Development Assessment Commission and must be in the form prescribed by the Development Regulations comprising the following:

- completed Application Form;
- Plan of Land Division (2 copies);
- application fees;
- one copy of the current Certificate(s) of Title; and
- supporting documentation (where applicable).

Applications may be lodged at:

Planning SA, Level 5, 136 North Tce, Adelaide
Phone: 8303 0601

Application Form

Application forms are available from your local council and the Development Assessment Commission upon request. The form comprises one page and is easily completed. A copy of the form is available from www.planning.sa.gov.au

Plan of Division

The plan of land division required for Planning Approval must be drawn to a reasonable drafting standard and in the format prescribed by Schedule 5 of the Development Regulations. Advice on the preparation of the plan may be obtained from the Development Assessment Commission. While any person may prepare the plan (creating 5 allotments or less), it is generally recommended an agent is sought due to the complex drafting requirements associated with legal identification of land and associated easements or encumbrances. Any structures like buildings, fences, power lines and any relevant topographical features (creeks, native vegetation, quarries etc) are required to be depicted on the plan. Plans creating more than 5 allotments must be vouched for (regarding accuracy of details) by a licensed surveyor. (For further information see item 9 - Frequently Asked Questions.)

Application Fees

Application fees are payable to the Development Assessment Commission as prescribed by Schedule 6 of the Development Regulations. A copy of this schedule is available from Planning SA upon request. Additional fees may be requested after the application has been further assessed depending on the location, nature and impact of the proposal. These additional fees can be for any required public notification, advertisement, and costs associated with referral of applications to other government agencies (eg Coast Protection Board or Commissioner of Highways). A fee advice will be sent to the applicant or agent prior to a decision being made on the application if extra fees are applicable.

4. STAGED APPROVALS

Land Division applications are assessed in two broad ways. Firstly the, planning merits of the application are assessed, then the land division requirements are considered.

An application may be lodged in two stages by applying initially for the Provisional Development Plan Consent (planning assessment) only. Once this is approved by the decision-making authority a further application (on the same proposal) is made (within 12 months) by the applicant for the Land Division Consent and complete Development Approval. Applicants signify their intention in this regard by the amount of fees they pay when lodging their application with the Development Assessment Commission in the first instance.

However, the majority of applications are not staged in this manner and are lodged for all the consents required and the complete development approval.

5. THE ASSESSMENT PROCESS

Once an application is lodged with the Development Assessment Commission it is receipted and given a development number which should be quoted whenever an enquiry is made about the application. The application is forwarded to the local council and to any government agencies which may need to be consulted eg. SA Water Corporation, Commissioner of Highways etc..

The extent of this consultation process depends on the location, nature and magnitude of the proposal and these agencies have 28 days (or in some instances longer) to provide comment to the Development Assessment Commission.

The local council is the relevant decision-maker for the majority of applications and will issue the planning decision in most cases. Schedule 10 of the Development Regulations defines the applications which are to be determined by the Development Assessment Commission. In all cases discussion with the council is recommended prior to lodging the application to determine whether council or the Commission will be the decision-maker.

When the council is the relevant decision-making authority for an application, the Development Assessment Commission is required to provide the council with a report (within two months of the application being lodged) incorporating its land division requirements for inclusion in the Development Approval. The 'land division' requirements generally relate to any necessary road and/or drain construction, provision of water, sewer and power services, and open space.

Some types of land division are given public notice to either the neighbours, or the public generally. For a small number of applications, objectors may seek to comment on an application. In some circumstances an objector may even have appeal rights against an approval. The council or Commission staff will be able to advise you if there are objection rights available to neighbours or the public about your application.

The Development Assessment Commission fast tracks many minor applications by providing its report (including requirements) to council within several days of lodgement.

Land Division requirements of the Development Assessment Commission may include an open space monetary contribution in lieu of a reserve area being provided and/or a financial contribution for water and sewer connections payable to the SA Water Corporation. Council will include both its and the Commission's requirements in the final decision. (See Item 6 - How Much Will It Cost.)

While most applications are approved, occasionally the council or Commission will refuse a proposal if it considers the application contrary to the Development Plan. Common examples include where the division is proposed in a rural area not intended for subdivision, or where the allotment size is considered too small for the land use envisaged. In most cases (but not all) appeal rights are available against a refusal. The council or Commission will advise you of the reason for any refusal, and of available appeal rights.

The responsible decision-making authority will assess the application against the Development Plan and is required to issue its decision (Planning Decision Notification Form) within three months of lodgment (unless a time extension is granted due to delays in providing necessary information).

Development approval may include Provisional Development Plan conditions of consent and also land division requirements of the council and the Development Assessment Commission. These requirements generally relate to any necessary road and/or drain construction, provision of water, sewer and power services, and open space.

It is then the applicant's responsibility to comply with any planning conditions and/or land division requirements to the satisfaction of the council and the Development Assessment Commission.

Once the Development Assessment Commission is satisfied all the conditions and requirements have been fulfilled and council advises the Commission its requirements are met, the Commission will issue the final Land Division Certificate of Approval which may then be lodged with the Registrar General for deposit in the Lands Titles Registration Office. (See Item 7 - The Final Step.)

It is possible to enter binding contracts for construction of roads and services. If this form of contract is entered into, the Certificate of Approval can be issued prior to final construction of any roads or services.

6. HOW MUCH WILL IT COST ?

There are a number of fees to be paid when dividing land. These are:

Application Fees

As discussed in 3 above.

SA Water Corporation Fees

In most cases there is a fee payable to the SA Water Corporation for the connection of the proposed allotments to water and sewer mains. The cost depends on the number of allotments proposed and the distance located from existing water and sewer mains. In the case of boundary adjustments between neighbouring properties where no additional allotments are proposed this fee is generally not applicable.

In addition, any internal drains (generally sewer) servicing the existing allotments may need to be altered or relocated depending on the effect of the proposed allotment boundaries.

It is recommended you obtain an approximate quote by discussing your proposal with the Customer Connections Branch of the SA Water Corporation, which can also provide a copy of the existing drain plan for the land being subdivided. Alternatively, you may ask your surveyor to obtain this information for you.

Open Space Contribution Fees

The Development Act requires 12.5% of the land within a proposed land division for urban sized allotments to be set aside as reserve which vests free of cost in the local council for use by the general community. The design, size and location of this reserve area is generally negotiated with council during preliminary discussions on the proposal.

However, in the case of small land division applications where only several allotments are proposed, the areas of the land being subdivided make the provision of reserves impractical. In these circumstances a monetary open space contribution is payable to the Development Assessment Commission instead of providing a reserve.

The amount payable is based on the number of additional allotments being proposed and the current rate prescribed by the Regulations.

The rate is changed on 1 June each year, based on the market value of land, determined by the Valuer General.

Examples (based on three additional allotments proposed and 1 June 2007 rates):

Land within the Metropolitan Planning Area

| | |
|-----------------|--|
| \$3,875 | (Current rate/additional allotment) |
| <u> </u> | x3 (Number of additional allotments proposed) |
| <u>\$11,625</u> | (Total payable to the Development Assessment Commission) |

Land outside of the Metropolitan Planning Area

| | |
|-----------------|--|
| \$2,310 | (Current rate/additional allotment) |
| <u> </u> | x3 (Number of additional allotments proposed) |
| <u>\$6,930</u> | (Total payable to the Development Assessment Commission) |

This money is paid into the Planning and Development Fund which is administered by the Minister for Urban Development and Planning and is used primarily to fund State and Local Government Regional and Metropolitan Open Space System programs for the enjoyment of the general community. Since the inception in 1987 approx. \$39 million has been allocated to local government for the purchase or development of regional open space throughout the State.

Agent's Fees

Fees to engage the services of an agent (licensed surveyor or conveyancer) to prepare the plan and application and lodge them on your behalf may vary considerably and will depend on the surveying and drafting requirements for your particular proposal, the extent of services you require and your individual negotiations with appropriate agents.

Lands Titles Registration Office Fees

A schedule of these fees for the deposit of the plan and the issue of new Certificates of Title may be obtained from the Lands Titles Office.

Electricity Power Supply

The connection of or alteration to existing electricity power supply to the proposed allotments is not part of the statutory planning process but there may be implications for the existing registered proprietor or the prospective purchaser. It is possible this could impact on the overall development costs associated with the land division proposal, particularly in the hills region and rural areas. Enquiries should be directed to ETSA Utilities (Builders and Contractors line - tel. 1300 650014)

7. THE FINAL STEP

After receiving the final Land Division Certificate from the Development Assessment Commission you may then lodge an application with the Registrar-General (Lands Titles Office) for the deposit of the plan of division and the issue of the new Certificates of Title.

This application must include the following:

- original of the plan of division;
- current Land Division Certificate from the Development Assessment Commission;
- duplicate Certificate(s) of Title for the land; and
- any other documents which may be required to bring the division into effect (including additional documentation for Strata or Community Titles).

As mentioned previously, the original of the plan of division, drawn on a transparent material must be of a high standard and drawn to strict requirements set out by the Real Property Act and Regulations and in the majority of cases, signed by a licensed surveyor. Enquiries may be made to the Lands Titles Office.

8. LEASES

It is necessary to lodge a land division application with the Development Assessment Commission for development approval to a lease of portion of an allotment where the term of the lease (including any right of renewal) is for a period greater than six years.

Leases exempt from the approval process include:

- lease of existing shops, offices, factories and like commercial buildings for any term;
- lease of a portion of an allotment which is vacant for a term six years or less (inclusive of any right of renewal);
- lease of a home unit under a "company owned" home unit scheme; and
- lease of the whole of an allotment.

In effect this means that development approval is only required to lease 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.

9. FREQUENTLY ASKED QUESTIONS

Conventional Land Division vs Strata Title vs Community Title

Council and Development Assessment Commission officers are often asked for their advice on which of the three types of land division currently available would best suit a customer's requirements.

There are a number of factors a land owner or developer should consider before deciding on the tenure of the land division for their proposal.

Factors which may influence this decision are :

- development costs (water/sewer fees, surveying/documentation costs etc);
- marketplace evaluation;
- professional advice (eg surveyor, real estate agent, valuer etc);
- family/personal choice;
- size, design and nature of development proposal (future use);
- character of locality; and
- Development Plan (planning) requirements (eg allotments sizes, site areas, car parking, road frontage etc).

Must I use an Agent ?

There is no legislative requirement for you to use the services of an agent to prepare the plan of division for Planning Approval or lodge the application for Planning Approval. The choice is yours. However, the plan must be drawn to an acceptable standard and meet the requirements of Schedule 5 of the Development Regulations. Plans creating more than 5 allotments must be vouched for (regarding accuracy of details) by a licensed surveyor.

A surveyor can prepare an acceptable plan, lodge the application on your behalf and monitor the progress of your application through the planning process, ensuring it is dealt with as efficiently as possible by dealing quickly with any conditions and further requirements of either the council or the Development Assessment Commission. Most surveyors are using the electronic lodgement system (EDALA)

Many applications now require a certified survey before the plan can be finally lodged with the Lands Titles Registration Office. This will require the services of a licensed surveyor.

It is worth noting approximately 95% of all applications are lodged by agents (surveyor, conveyancer) acting on behalf of an owner or applicant.

How long will it take ?

The length of time for a land division application to be completed can vary greatly and will depend on the impact, complexity and magnitude of the proposal.

For the majority of land division applications the Development Regulations require that the Development Approval be issued by the relevant planning authority within three months of lodgement.

During this three-month period the Development Assessment Commission has two months to consult with other agencies and forward its report and any requirements it has to the council. The other agencies have 28 days (or in some instances longer) to respond to the Development Assessment Commission.

As stated previously, many minor applications (approximately 55%) are fast tracked by the Development Assessment Commission to council within several days of lodgement and it is not uncommon for these applications to receive development approval within three to six weeks.

The Development Assessment Commission issues the final Certificate of Approval once the applicant or owner complies with any conditions of approval or land division requirements.

You can view the progress of your application on the Public Register at: www.edala.sa.gov.au

Further Reference material:

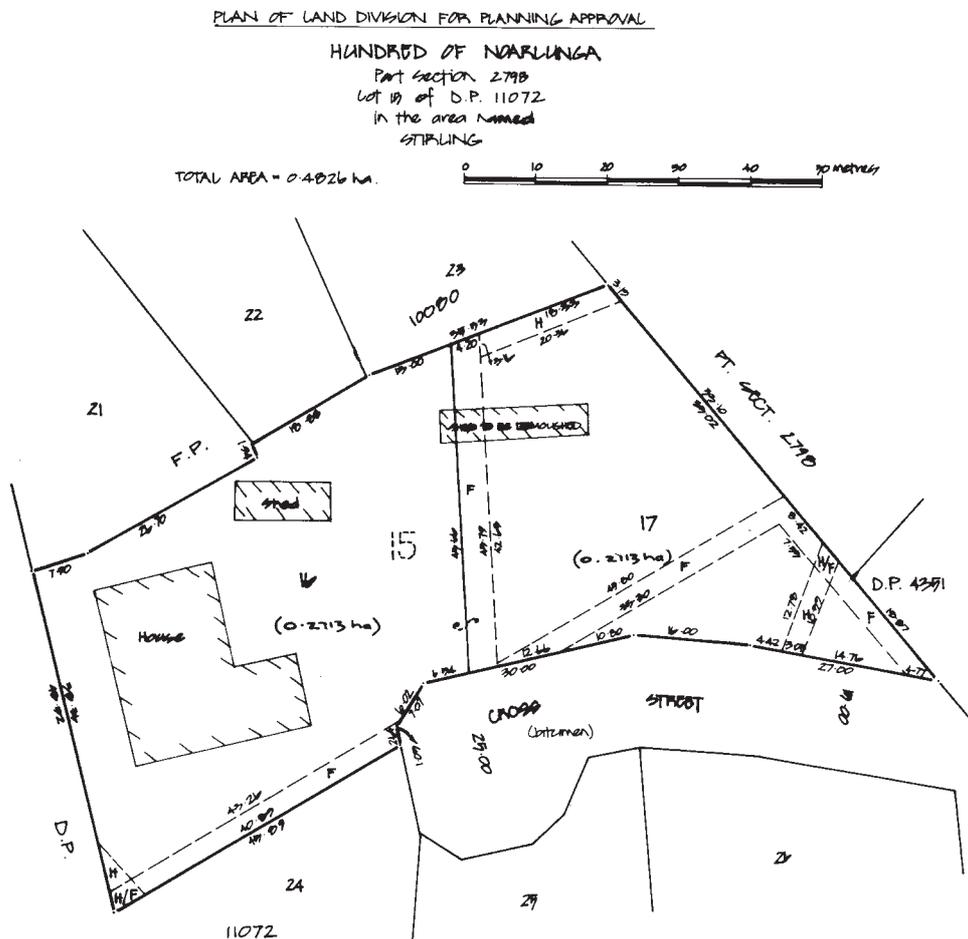
Development Act, 1993 } Service SA, Government Legislation Outlet
 Development Regulations, 1993 } 101 Grenfell St. Adelaide
 www.shop.service.sa.gov.au

Development Assessment Guide }
 Community Titles - }
 An explanation of the } Planning Services Branch,
 Community Titles Act, 1996 } Planning SA, 136 North Tce, Adelaide (Level 5)
 www.planning.sa.gov.au

Schedule of Application Fees }

Licensed Land Surveyors }
 Planning Consultants } Listed in the Yellow Pages

EXAMPLE PLAN



DEVELOPMENT APPLICATION FORM

PLEASE USE BLOCK LETTERS

COUNCIL: DC ADELAIDE HILLS

APPLICANT: J CITIZEN

Postal Address: 16 SMITH STREET
ADELAIDE 5000

Owner: (AS ABOVE)

Postal Address: -

BUILDER: -

Postal Address: -

Licence No: -

FOR OFFICE USE

Development No: _____

Previous Development No: _____

Assessment No: _____

| | |
|---|-----------------------------|
| <input type="checkbox"/> Complying | Application forwarded to DA |
| <input type="checkbox"/> Non Complying | Commission/Council on |
| <input type="checkbox"/> Notification Cat 2 | Decision: / / |
| <input type="checkbox"/> Notification Cat 3 | Type |
| <input type="checkbox"/> Referrals/Concurrences | Date: / / |
| <input type="checkbox"/> DA Commission | |

CONTACT PERSON FOR FURTHER INFORMATION

Name: J CITIZEN

Telephone: 8389 1113 [work] [AH]

Fax: 8389 1114 [work] [Ah]

EXISTING USE: RESIDENTIAL

| | Decisio. required | Fees | Receipt No | Date |
|-----------------------------|----------------------|------|------------|------|
| Planning: | | | | |
| Building: | | | | |
| Land Division: | | | | |
| Additional: | | | | |
| Development Approval | | | | |

DESCRIPTION OF PROPOSED DEVELOPMENT:

LOCATION OF PROPOSED DEVELOPMENT:

House No: 32 Lot No: 15 Street: CROSS STREET

Town/Suburb: STIRLING

Section No [full/part] PS. 2798 Hundred: NOARLUNGA

Volume: 2169 Folio: 61

Section No [full/part] - Hundred: -

Volume: - Folio: -

LAND DIVISION:

Site Area [m²] 4,826 Reserve Area [m²] 0

No of existing allotments 2

Number of additional allotments [excluding road and reserve]: 0

Lease: YES NO

BUILDING RULES CLASSIFICATION SOUGHT:

Present classification: -

If Class 5,6,7,8 or 9 classification is sought, state the proposed number of employees: Male: - Female: -

If Class 9a classification is sought, state the number of persons for whom accommodation is provided: -

If Class 9b classification is sought, state the proposed number of occupants of the various spaces at the premises: -

DOES EITHER SCHEDULE 21 OR 22 OF THE DEVELOPMENT REGULATIONS 1993 APPLY? YES NO

HAS THE CONSTRUCTION INDUSTRY TRAINING FUND ACT 1993 LEVY BEEN PAID? YES NO

DEVELOPMENT COST [do not include any fit-out costs]: \$ -

I acknowledge that copies of this application and supporting documentation may be provided to interested persons in accordance with the Development Regulations 1993.

SIGNATURE: (J CITIZEN) Dated: 28 / 1 / 98