

Subdivisions

Subdivision involves dividing a property into smaller lots that can be sold separately. It can also mean the realignment or alteration to title boundaries even if the number of lots does not change.

Can I subdivide?

We know the controls within the Murrindindi Planning Scheme regarding subdivision are very complex and we do not want you to waste your time, so please check with us before you make an application to subdivide. Contact us on (03) 5772 0317 or planning@murrindindi.vic.gov.au and make an appointment to discuss your ideas with a planning officer before you put the work into preparing an application to subdivide.

What is the Planning Scheme?

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

A copy of the planning scheme is available from our Planning Unit on (03) 5772 0317 or <http://planningschemes.dpcd.vic.gov.au/schemes/murrindindi>. There is also a direct link to this website from Council's website www.murrindindi.vic.gov.au.

Subdivision in rural areas

The minimum lot sizes in the rural areas of Murrindindi are as follows:

Farming Zone	40 hectares
Rural Conservation Zone	5 hectares
Rural Living (Mount Pleasant Road)	1 hectare
Rural Living (Kinglake West/Pheasant Creek)	2 hectares
Rural Living (All other land)	4 hectare minimum, but a 6 hectare average across the subdivision

You may not be able to subdivide in any of the above rural zones if each proposed lot does not meet the minimum lot size within the applicable schedule of the zone, so talk to us first so we can discuss your options.

Development Plans

Land within the Shire that is covered by a Development Plan Overlay in the Murrindindi Planning Scheme has an approved *Development Plan* which sets out broad strategies, layout, and subdivision requirements. Subdivisions proposed within these locations should be planned in accordance with the approved development plan.

Public open space contribution

If you propose to subdivide residential, commercial or industrial land into three or more lots (or two or more if any lot could be further subdivided in future) Council may require you to make a contribution to public open space. This is specified under Section 18 of the *Subdivision Act 1988*.

However, Council is open to discuss the form your contribution might take; for example, it could be a percentage of the site value not exceeding 5%, or setting aside up to 5% of the land in your subdivision for public open space such as public parks, playgrounds and reserves, or it may be a combination of both payment and land.

The Subdivision Process

The stages in the subdivision process are:

- 1. *Planning Permit***
Applying for and obtaining a planning permit approves (in principle) the plan of subdivision under the *Planning and Environment Act 1987* and the Murrindindi Planning Scheme.
- 2. *Certified Plan of Subdivision***
This approves the plan of subdivision under the *Subdivision Act 1988*.
- 3. *Statement of Compliance for the Plan of Subdivision***
Complete planning permit condition requirements to allow issue of this statement under the *Subdivision Act 1988*. This is the final approval letter issued after all requirements have been met to Council's satisfaction.
- 4. *Lodgement of documents at the Land Registry***
The Certified Plan of Subdivision, Statement of Compliance, and any other plans or documents prepared by your land surveyor have to be lodged at the Land Registry Office by you or your representative. This allows new titles to be issued for each lot created. Council does not lodge plans at the Land Registry.

Applying for a planning permit

A well prepared submission will assist us in processing applications as quickly as possible and we are happy to advise you further on the requirements. You will need to lodge your application for a planning permit with a plan of your proposed subdivision and any other information required by the planning scheme. This application can be prepared by any person and the subdivision plan does not have to be drawn up by a licensed land surveyor for the planning application.

What does certifying a plan of subdivision mean?

You will need to lodge a plan of subdivision, prepared by a licensed land surveyor, to Council with a Form 1 certification application under the *Subdivision Act 1988*. This plan will show the proposed lots, size, area and any easements required.

Council will refer the certification application to any relevant authorities such as VicRoads, Goulburn Valley Water, Goulburn Murray Water, Telstra, AusNet Services, the Country Fire Authority and the Department of Environment, Land, Water and Planning.

Your plans 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 can only be issued when each of the referral authorities has advised Council in writing that all of their conditions have been met to their satisfaction. There may also be 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?

This will need to be lodged by you, or your representative, at the Land Registry Office along with the certified plan and other documents (such as a Section 173 Agreement) which your surveyor will provide. The Land Registry Office will then create individual titles for each of the lots on the certified plan of your subdivision.

What is a Section 173 Agreement?

A Section 173 Agreement is a legal agreement made between Council, the landowner and another party (such as a referral authority), under Section 173 of the *Planning and Environment Act 1987*. A Section 173 Agreement provides additional planning controls where a condition on a permit or Planning Scheme controls is insufficient.

If a planning permit requires you to enter into a Section 173 Agreement (which is usually prepared by a solicitor), you will be required to meet the costs of preparing and registering this agreement.

Who does a Section 173 Agreement affect?

The obligations and requirements of a Section 173 Agreement are on owners of the land. Therefore, the new landowners of these properties will need to be aware of the requirements and obligations placed on them by the Section 173 Agreement.

Other approvals

You will need to satisfy any other relevant requirements that Council may have such as:

- Infrastructure Assets Department for roads, vehicle crossings and drainage
- Building Regulations
- Environmental Health for septic tank and effluent disposal
- Local Laws

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 is true and accurate. However, we recommend that you 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 (03) 5772 0317.