

Subdivision Certificate Preparation & Lodgement Guide



Coolamon Shire Council

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About this guide

The Subdivision Certificate Preparation and Lodgement Guide explains how to prepare a Subdivision Certificate Application. It provides a step-by-step guide to submitting an application.

The guide is to be used in conjunction with Council's **Subdivision Certificate Application Checklists**, to assist you in preparing and completing your plans and other supporting documentation.

Please Note: To obtain a Subdivision Certificate, you must first obtain development consent for your proposed subdivision. For details on preparing and lodging a Development application, please refer to **Councils Development Application Preparation and Lodgement Guide**.

Any questions?

If you need more information or advice, phone **Council on (02) 6930 1800** or call in personally. See the back cover for details.

Visit Council's websites:

www.coolamon.nsw.gov.au

Council's website may assist you during the process of preparing your Subdivision Certificate Application. You can access the application forms and other important information and documents from this site.

Step 1 - Prepare plans, drawings and other material

Which plans, drawings and other material?

You will need to prepare several types of plans, drawings and other material. The actual material required for your subdivision certificate application will depend on the type of subdivision proposed and is outlined in Council's **Subdivision Certificate Checklist(s)**. The checklists cover various subdivision types including:

- Community Title or Strata Title Subdivision
- Torrens Title Subdivision

Note: You will need to engage a qualified surveyor to prepare the plans required for a Subdivision Certificate.

You will need to select, complete and submit the relevant **Subdivision Certificate Checklist(s)** as part of your Subdivision Certificate Application. If your application includes all the required details as stipulated on the relevant checklist(s), Council can process it more efficiently. Failure to provide the information as outlined within the checklists may result in the subject application not being accepted for processing or being returned to the applicant with resulting delays.

What information should my documentation contain?

Once you have selected the appropriate subdivision checklist(s) for your development proposal, you will need to address the items listed on the checklist. The following section provides detailed information on the specific requirements for each item

A. Development Consent

A copy of the relevant development consent (or complying development certificate) must be provided with the subdivision certificate application.

B. Plan of Subdivision

This is the survey plan of your proposed subdivision that is ultimately submitted to the **Land and Property Management Authority** for registration and issue of title. Prior to lodging the plan for registration, the plan must be submitted to Council with your application for Subdivision Certificate. Upon approving the Subdivision Certificate, Council is required to sign the plan of subdivision which will ultimately enable its registration by the Land and Property Management Authority.

You will be required to engage the services of a registered land surveyor to prepare the Plan of Subdivision. The plan is prepared by a surveyor in accordance with the specific requirements outlined by the Land and Property Management Authority (for further information on these requirements visit www.lands.nsw.gov.au or speak to your surveyor).

Council will require you to submit with your application the original (A3) Plan of Subdivision (which will be signed and returned), an A3 copy of the Plan of Subdivision and an electronic copy of the Plan of Subdivision (on CD and in PDF format).

C. Certificate of Compliance / Acceptance (Golden Fields Water County Council/ Essential Energy / APA Group)

You will need to obtain a Certificate of Compliance from **Golden Fields Water County Council**, a Certificate of Acceptance or Notice of Arrangement from **Essential Energy** and a Certificate of Acceptance from **APA Group** prior to lodging your application with Council. You will need to provide all authorities with a copy of your plan of subdivision for their consideration. Once the authority is satisfied with the content of the plan, they

will provide you with the certificate. A copy of this document is required to be submitted with your application to Council.

To arrange for Certificate of Compliance / Acceptance contact:

Golden Fields Water County Council

84 Parkes Street
PO Box 220
Temora NSW 2666
email: office@gwcc.nsw.gov.au
Telephone: 02 6977 3200

Essential Energy

Riverina Region
PO Box 718
Queanbeyan NSW 2620
Planning & Engineering Officer
Phone: 02 6933 5805

APA Group

11A Blaxland Road
Wagga Wagga NSW 2650
www.pipelinetrust.com.au
Phil Jenkins
Phone: 02 5933 0800

D. Statement of Compliance

It is important to carefully read your development consent documentation and ensure that **ALL** required conditions (including any Deferred Commencement Consent matters) have been met prior to you lodging your subdivision certificate application with Council. These conditions include any that are identified as being required 'prior to the release of the Survey Certificate' (plan of subdivision).

A statement of Compliance is a written document listing these conditions and including a statement of how each condition has been complied with. This statement must be submitted with all Survey Certificate applications.

Note: *As per the EPA Regulation 2000 (Division 4 section 157) - evidence that the applicant has complied with all conditions of consent that are required to be complied with before a subdivision certificate can be issued is to be supplied with the application for subdivision.*

E. Section 88b Instrument

A section 88B instrument is related to the Plan of Subdivision and provides specific details relating to easements, covenants and restrictions that may be identified on that plan. Specifically, a Section 88B Instrument is prepared for the following purposes:

- The creation of easements, restrictions on use of land and positive covenants. [cl.31 Conveyancing (General) Regulation 2003]
- The release of easements and profits à prendre. [cl.32 Conveyancing (General) Regulation 2003]

Note: Restrictions on use of land and positive covenants cannot be varied or released by a Section 88B instrument.

Where the Plan of Subdivision proposes any of the above matters (e.g. creation of an easement or a positive covenant), you will be required to submit a Section 88B instrument with your Subdivision Certificate Application.

In certain circumstances, your development consent may also specify the requirement to submit a Section 88B instrument in a condition of development consent. The

conditions of consent may specify certain easements/covenants that must be included on your Plan of Subdivision and Section 88B Instrument.

A Section 88B instrument comprises three parts:

Part 1:

Identifies each easement, restriction on use of land or positive covenant to be created.

Note: Each easement, restriction on use of land or positive covenant must be separately created. An easement and/or a restriction on use of land and/or a positive covenant cannot be combined into a single notification.

Part 1A:

Identifies each easement to be released.

Part 2:

Sets out the terms and conditions of easements, restrictions on use of land or positive covenants referred to in Part 1 (if required). Part 2 may not be required if statutory terms are adopted.

Generally, your solicitor (or other legal representative) will prepare the Section 88B Instrument. It is recommended that you contact your solicitor for further information in this regard.

Council will require you to submit with your application the original Section 88B Instrument (which will be signed if required and returned), a copy of the Section 88B Instrument and an electronic copy of the Section 88B Instrument (on CD and in PDF format).

F. Management Statement (Community Title)

A management statement must be lodged with each community, precinct and neighbourhood scheme. A management statement is the document which sets out by-laws to assist the efficient running of the scheme. Unlike strata schemes there are no model by-laws for community schemes.

The approved forms, in accordance with the legislation, list areas to be covered in the statement but leaving the terms of the by-laws up to the discretion of the developer. The management statement may indicate:

- The theme of the development (if any),
- Any special requirements for use or maintenance of the association property,
- Whether access ways will be created. Access ways are effectively private roads within the association property and are maintained by the association and not the local council, and
- If statutory easements are to be created in accordance with clause 36 Community Land Development Regulation 2007 and who is responsible for provision and maintenance of service lines.

Note: The above may be guided by conditions of development consent.

It may also cover issues necessary for the better enjoyment of residents, such as:

- The keeping of pets
- The hanging of washing, and
- Noise

The terms of the management statement are binding on the community association, each subsidiary body within the scheme and each person who is a proprietor, lessee, occupier or mortgagee in possession of a community development lot, precinct development lot, neighbourhood lot or strata lot within the scheme.

Council will require you to submit a copy of the Neighbourhood Development Contract and an electronic copy of the Neighbourhood Development Contract (on CD and in PDF format).

G. Development Contract (Community Title)

Development contracts pertaining to the community title subdivision are required to be lodged with all neighbourhood schemes and are optional with community and precinct schemes.

Note – The submitted Neighbourhood Development Contract must be consistent with the contract submitted and approved under the relevant development consent.

The contract comprises of 3 parts:

Part 1

This part will provide a description of the development and must address the following headings indicated in schedule 2 of the *Community Land Development Act 1989* and in Approved Form 27:

- Description of the land
- Amenities
- Theme and architectural design
- Landscaping
- Pictorial representation

The approved form gives directions for what should be included under each of the above headings.

Part 2

This part is headed Original Proprietors Rights and Undertakings. It is to provide details of the requirements to enable the future developments and constructions.

Undertakings by the Original Proprietor - If the original proprietor does not intend to provide any further development, the original proprietor should complete the undertaking and Part 1 and Part 2 should be left blank.

Part 3

This part is for the provision of the signature of the original proprietor or his authorised agent and a witness. **There is also a certificate of approval from the consent authority which must be completed.**

Council will require you to submit with your application the original Neighbourhood Development Contract (which will be signed and returned), a copy of the Neighbourhood Development Contract and an electronic copy of the Neighbourhood Development Contract (on CD and in PDF format).

H. Proof of Payment

If a monetary payment(s) is required to be paid to Council as a condition of your development consent “**prior to release of the subdivision certificate**”, you will need to provide proof of this payment. This may include a copy of your receipt of payment.

Required monetary payments may include:

- A contribution under the provisions of either Section 94 or 94A of the Environmental Planning and Assessment Act 1979.
- A contribution under the provisions of Section 64 of Local Government Act 1993 or Council's Sewer Policy.
- A bond or security deposit.

In some instances, a development consent condition may require the submission of a bank guarantee. Where a bank guarantee is required, a copy of the guarantee will be required as proof.

Note: Prior to making a payment, please ensure that any applicable adjustment has been made with respect to the **Consumer Price Index (CPI)**. Details of the current CPI can be made by contacting Council's Development Services section.

I. Construction Certificate

A copy of the relevant construction certificate(s) (e.g. a construction certificate issued for any civil engineering works) must be provided with the subdivision certificate application when civil engineering works are proposed as part of the subdivision.

J. Completion of works (including Works as Executed Plans)

You are required to provide evidence of the completion of engineering works prior to the release of the subdivision certificate. Completion of works is confirmed through the preparation and submission of **Works as Executed Plans**. Works as executed Plans are to be submitted with the Subdivision Certificate Application or, alternatively, details of the prior submission of these plans to Council shall be provided.

K. Electronic copy of any documents

A Compact Disc (CD) shall be provided with copies of the following plans and documentation (as identified above) in PDF format:

- Plan of Subdivision
- Section 88b Instrument
- Neighbourhood Management Statement
- Neighbourhood Development Contract

L. Required Signature Locations

You are required to identify all areas on the original plans, administration sheets and other documents that are required to be signed by Council. It is suggested that you use 'post-it tags' (or similar) to identify required signatures.

How many copies?

Refer to the relevant **Subdivision Certificate Application Checklist** for specific details on the number of copies of each type of document that are required and whether original documents are also required.

Step 2 - Completing the application form

(Incomplete applications will result in processing delays and may be rejected)

The following sections of the form require particular attention:

Applicant Details

Please check that you (and any other applicant listed) have signed the application.

Site Details

Ensure the Lot, Section and Deposited Plan numbers are identified and are correct.

Description of Development

Please accurately describe the type of subdivision that you are proposing. This corresponds with the description nominated on your development consent documentation

Related consent or certificates

The application number of the relevant development consent (or complying development certificate) must be provided.

The application number of any relevant construction certificate(s) must also be provided.

Consent of all owners of the property

You must obtain the consent of the landowner. **If there is more than one landowner, every owner must sign.** If the application form is not signed by the landowner(s), Council will not accept your application. The following are considered to be acceptable forms of owner's consent:

1. Individual Ownership and Joint Owners

All owners **MUST** sign the application form/or provide a letter of authority stating:

- the correct Lots and DP/SP/NPP the application is to be lodged on,
- the site address/es and
- the development description

2. Company Ownership

A company can provide owners consent with or without a common seal and the application or authorisation letter must be signed by:

- a) two (2) directors of the company; or
- b) a director and a company secretary of the company; or
- c) for a proprietary company that has a sole director who is also the sole company secretary - that director.

Note: The application must be accompanied by an Australian Securities and Investment Commission (ASIC) register search that provides proof of the company officers. Visit <http://asic.gov.au/>

3. Owners Corporation (Strata Plan)

When the owner of a lot is the Owners Corporation the corporation must either:

- a) Sign and stamp the application form; or
- b) provide letter of authority on the corporation's letterhead or with the corporation seal. If the corporation does not have a corporation seal or letterhead, the corporation secretary is to sign the application form/letter of authority stating so.

When the application is lodged on a Strata Plan the Owners consent is required from the Owners Corporation as well as the owner of the subject lot. This can be in the form of:

- a) A letter on the corporation's letterhead or with the corporation seal. If the corporation does not have a corporation seal or letterhead, the corporation secretary is to sign the application form/letter of authority stating so; or
- b) The official minutes of Body Corporate meeting giving consent for that particular application. There should be verification of the minutes by seal or signatures by office bearers or at the very least a signed covering letter verifying the minutes.

If either of the above cannot be provided consent is required from all unit owners in the Strata Plan.

4. Department of Education Ownership

If the Principal of a school signs the development application on behalf of the owner they must also provide a letter of Authority from the Department of Education or a letter from the Minister of the Department of Education.

5. Legal representative for the true owner(s)

Where a person is legally authorised to provide consent on behalf of the true owner(s) in a Power of Attorney, Executor or Trustee capacity, documentary evidence of that legal authority must be attached to the application form/letter of authority or in the case of a Power of Attorney they must provide their Power of Attorney Number.

Note: documentary evidence of a person's Power of Attorney, Executor or Trustee capacity is not sufficient by itself. The authorised person must still sign the Development Application form or alternatively provide a letter of authority as outlined at point 1 above.

6. Crown Land

When the application relates to Crown Land the application form/letter of authority must be signed by an authorised officer from the Department of Lands.

7. The site is in the process of changing hands or has changed hands in the past six months

- A settlement letter from a solicitor stating that settlement has taken place and the date of settlement must be provided; or
- The current landowners consent to lodge the application; or
- The transfer of title

Note: If the proposed works affect a joint wall or fence, consent of both property owners is required.

Step 3 - (Optional) Pre-Lodgement Meeting

Council offers free of charge, the option to have a pre-lodgement meeting to pre-assess your application to ensure all relevant information is supplied. This can reduce processing times as it can reduce the need for additional information.

Step 4 - Lodge the application form and fees

How to lodge your application

You can lodge your Development Application and supporting documentation by sending it to us by mail or by lodging it with Council in person. See the back cover of this document for Council's street and postal address.

Whilst Council Offices are open between 8:30am and 5:00pm Monday to Friday, please note that, when submitting your application in person, Council can only process its lodgement prior to 4:30pm.

Don't forget to ensure that your application includes the following:

For all applications

- Completed application form
- Relevant checklist(s)
- Signature of the applicant
- Signatures of all landowners
- Application fees (see below)

Where required (refer to checklists)

- Copy of relevant development consent (and any relevant Construction Certificates)
- Survey Plan (original + copy + electronic copy)
- Section 88B instrument (original + copy + electronic copy)
- Certificates of Compliance (Riverina Water and County Energy)
- Statement of Compliance with relevant development consent conditions
- Other required documentation (refer to checklists)

Fees

Fees must be paid upon lodgement of your application.

Fees for the submission of a Subdivision Certificate are legislated and generally involve a set fee depending on the type of subdivision being proposed along with an additional fee for each lot being created.

A schedule of fees can be obtained from our Customer Service Centre or from our web site at www.coolamon.nsw.gov.au

Payment options:

Cheque: Make cheques payable to 'Coolamon Shire Council'

Credit Card: All major cards accepted

Cash: For applications lodged in person, you can pay cash between 8:30am and 4:30pm.

After you lodge your application

Acknowledgement

Council will formally acknowledge by letter that it has received your application within 4 days of lodgement

If we need more information

Council may need more information beyond the minimum statutory requirements to undertake a proper assessment. If so, Council will request this by letter as soon as possible after receiving the application.

Referral within Council

Your Subdivision Certificate application (and associated documentation) will be referred to specific sections within Council who are responsible for assessing certain aspects of the application including its compliance with any relevant conditions of your development consent. Once confirmation has been received from each of these sections that the application may proceed, the subdivision plans will be prepared for signature and will then be signed by an authorised Council officer. The signed survey plans will then be made available for collection by the applicant.

Making enquires

If you would like to find out how your application is progressing, you can telephone us for details on (02) 6930 1800. When calling, you can assist us by quoting the subdivision certificate application number referred to in your application acknowledgement letter.

Once your application has been approved

Council will contact you (the applicant) once your application is approved and you will be required to collect and sign for the plans at Council Offices. It is then your responsibility to forward the certified plans onto the LPI for registration of title.



Coolamon Shire Council

PO BOX 101
Coolamon NSW 2701
Phone: (02) 6930 1800
Fax: (02) 6927 3168
E-mail: council@coolamon.nsw.gov.au
Web: www.coolamon.nsw.gov.au

Customer Service

Council Offices
55 Cowabbie Street
Coolamon NSW 2701

Hours

8:30am and 5:00pm Monday to Friday
Note: Application lodgement required prior to 4:30pm