Subdividing your land

Planning guide and checklist

Find out about the subdivision process and the information you need to provide when applying for a planning permit to subdivide your land.

Subdivision is the division of land into two or more parts that can be sold separately. To subdivide land or buildings you need permission from Council and your utility authorities.

There are four key stages in the subdivision process. This guide provides information about each stage and how to prepare and submit your application to Council. To ensure your application can be processed efficiently, it is important to include all relevant information.

Stage 1 – Obtain a Planning Permit (Council)

Prepare and submit an application for a planning permit to subdivide your land with Council’s Planning Team. This application is assessed in accordance with the Planning and Environment Act 1987 and the Kingston Planning Scheme. There are two ways to obtain a permit:

VicSmart

VicSmart is a streamlined process for straightforward planning permit applications. It sets specific information requirements, assessment processes and decision guidelines so these types of applications can be processed quickly.

Your application may qualify for the VicSmart process if it is seeking to:

- realign a boundary between two lots
- subdivide land into lots each containing an existing building or car parking space, or
- subdivide land with an approved development into two lots.

If you are unsure whether your application qualifies, please discuss with the Planning Team.

Information about the VicSmart process and how to prepare your application is available from Council’s Planning Team or by visiting Kingston.vic.gov.au/planning/VicSmart. A range of guides, checklists and forms are available.
Stage 2 - Certification of your Plan (Council)

Once you have planning permission to subdivide, you need to get a Certified Plan of the subdivision that can later be lodged with the State Government Titles Office. This plan must be prepared by a licensed land surveyor and then certified by Council under the Subdivision Act 1988. Council’s Planning Team refer it to relevant authorities for their consent (e.g. water, gas, electricity, roads), before certification.

An application for certification must include:

- A completed application form (Form 1) ensuring the owner consent section is signed
- The relevant fee
- Ten (10) copies of the plan of subdivision (A4 size)
- Two (2) heavyweight copies of the plan of subdivision (A3 size)
- A copy of the property title for the parent lot (the existing parcel of land that you are subdividing)

Stage 3 - Statement of Compliance (Council)

A Statement of Compliance is required to register the subdivision at the Titles Office so new titles can be released. A requirement of the Subdivision Act 1988, it provides assurance that all conditions of the planning permit have been met (e.g. appropriate drainage works) and that all the relevant service authorities are satisfied. Council and authorities may not carry out an inspection of the land before issuing the Statement of Compliance.

To obtain the Statement of Compliance:

- Submit a Form 13 to Council (completed by your surveyor)
- Ensure all planning permit conditions have been met

Stage 4 – Lodge with the Titles Office (State Government)

Once the Certified Plan of Subdivision and the Statement of Compliance have been issued to your licensed Land Surveyor, the plan can then be lodged with the State Government Titles Office. This will formally record the subdivision and new Certificates of Title will be issued for each piece of land. For more information on this process visit www.dtpli.vic.gov.au/property
Important information about subdividing land

The following information is important to understand and consider when deciding to subdivide land.

Contributions
Like most other metropolitan councils, Kingston has an Open Space Strategy. The policy seeks to ensure that as housing density increases and population grows there are appropriate open spaces (such as parks) for residents to access and enjoy.

Under the policy, when subdividing you may be required to make a contribution to Council for the provision of public open space. This contribution is either financial (a percentage of the land value) or a portion of the land can be set aside to be used for such purposes.

Referrals
As part of the assessment of your application, it may be referred internally to other departments within Council (such as traffic and assets) and also to external authorities (such as South East Water or VicRoads) for feedback.

These authorities often require conditions to be placed on a planning permit issued, which may require you to undertake specific actions, or conversely, amend or refrain from aspects of your proposal for the site. It’s a good idea to be mindful of this possibility and potential budget implications.

Section 173 Agreements
As part of the planning permit process, in some instances it is identified that specific conditions or restrictions need to be applied on the way the land can be used or developed. For example, only one house is permitted per lot or an existing significant tree must be retained and protected.

This is achieved by entering into a legal contract under section 173 of the Planning and Environment Act 1987 between the responsible authority (for example, Council) and the land owner (normally the registered proprietor) or the person that will become the owner of the land. This agreement is referred to as a ‘Section 173 Agreement’.

A Section 173 Agreement is registered on the title of the land so that it applies to all current and future owners of the land.

If an agreement is required, the responsible authority (Council) will prepare the agreement (this is subject to a fee). Three copies of the agreement must be executed (signed and witnessed) by the landowner (or the person that will become the owner of the land) and any mortgagee, with the signed copies provided to Council for final execution and lodgment to the Titles Office.

Once registered on title the Section 173 Agreement will be given a Dealing Number. This Dealing Number is often required by Council to further process an application, such as the Statement of Compliance. A copy of the registered agreement will then be sent to all parties.
Applicable Fees
The subdivision process can attract a number of fees. Fees and costs generally depend upon the type and size of the subdivision. Fees include, but are not limited to:

- Planning Permit Application fee
- Certification Application fee
- Open space contributions
- Creation of the Section 173 Agreement
- Service authority fees and/or costs
- Land Victoria fees for lodgement of Certified Plans
- Works supervision fees
- Maintenance of works and bonds
- Professional fees for relevant parties (e.g. licensed Land Surveyor)

Options for lodging your application

You can choose to lodge a planning permit application for subdivision online through SPEAR (Surveying and Planning through Electronic Applications and Referrals) or in hard copy direct to Council. Each option has different requirements.

Online lodgment
SPEAR is a state-wide system that allows subdivision planning permit and certification applications to be compiled, lodged, managed, referred, approved and tracked online, anytime, with no additional fee to use. It can be used by all parties involved in the planning and subdivision processes, for example:

- You can lodge and manage your application and track its progress
- Council can receive, manage, refer and make a decision on the application
- Referral Authorities can receive and respond to referrals
- Members of the public can find out basic information about an application and lodge and view objections

To learn more about SPEAR and use it to lodge your application visit www.spear.land.vic.gov.au

Once you lodge your subdivision application in SPEAR, please send Council a letter quoting the SPEAR reference number and a cheque for the lodgment fee. Once these items are received, Council will commence assessing your application.

Tip
To find out what lodgment fee applies, please visit kingston.vic.gov.au/planning or call the Planning Team on 9581 4131.

Hard copy lodgment
This is the traditional way of lodging planning permit applications with Council and may be preferred should you be unfamiliar with the process and/or require assistance. The next section outlines in detail what information you will need to include with your application.
What does your Planning Permit application need to include?

**Certificate of Title – 1 copy**

A Certificate of Title is the formal legal record of a piece of land. It contains basic information such as current ownership and a ‘plan of subdivision’, a plan of the property that may also show adjoining properties and roads.

Please provide an up-to-date Certificate of Title and plan of subdivision with your application. The Certificate of Title must be clear, legible, complete and issued within the last three (3) months.

If the land is already covered by a Restrictive Covenant or Section 173 Agreement, a copy will also need to be provided. This will be registered on the Certificate of Title.

A Restrictive Covenant is a private agreement between land owners which may restrict the way land may be used and developed.

A Section 173 Agreement is a legal contract between a land owner and the Council which may restrict the way land may be used or developed.

If you need an up-to-date copy of the Certificate of Title, you can purchase a copy from:

- **Landata**
  landata.vic.gov.au

- **Council**
  Electronic
  Complete the request form available on our website
  kingston.vic.gov.au/planning
  and email to planningapplications@kingston.vic.gov.au;

  In Person
  Planning Enquiry Counter
  Level 1, 1230 Nepean Hwy
  Cheltenham
  Operating hours
  8:30am–5:30pm (Mon–Fri)
  Telephone: (03) 9581 4131
A Written Submission helps Council get a good understanding of your proposal and is an opportunity for you to explain the merits of your application.

Please provide a Written Submission explaining your plans in detail and why you believe your proposal is appropriate for the area.

Provide as much information as possible, however as a minimum the submission should address the list of items below:

- Current use of the land
- Purpose of each subdivision
- Area of each proposed new allotment (small piece of land)
- How the proposal meets the requirements of the Kingston Planning Scheme.

The Existing Conditions Plan is required for vacant lot subdivisions only where no development is proposed or when there are existing buildings on the site.

It is a clear drawing that shows the subject site, land area, existing buildings, driveways, fences, vegetation and adjoining properties. It is drawn as if looking down from above.

Please submit (3) copies of the Existing Conditions Plan with your application.

The Plan should be prepared by a licensed surveyor, must be drawn at a scale of 1:100 and show:

- Site features including the shape, size (m2), dimensions and orientation
- Vegetation, fencing, street frontage features, crossovers any easements and site levels
Proposed Plan of Subdivision - 3 copies

A Proposed Plan of Subdivision is a clear drawing that shows the proposed layout of the land. It is drawn as if looking down from above.

Please submit (3) copies of the Proposed Plan of subdivision with your application.

The Plan should be prepared by a licensed surveyor must be drawn at a scale of 1:100 and show the proposed configuration of the lots including common property, size (m²), adjoining roads, existing or proposed easements, dimensions and orientation of the site.

To help us process your application efficiently please provide a copy of all plans and reports in electronic format, via CD, USB drive or by email to planningapplications@kingston.vic.gov.au (please include the address in the subject line).

Further Information

A range of information is available on our website and a suite of other guides and checklists that may be useful. For further assistance, please contact our Planning Team:

- **Online:** kingston.vic.gov.au/planning
- **In person:** Planning Enquiry Counter
  Level 1, 1230 Nepean Hwy
  Cheltenham
  Operating hours:
  8:30am–5:30pm (Mon–Fri)
- **Telephone:** (03) 9581 4131
- **Email:** info@kingston.vic.gov.au
- **Translation service:** TIS National
Planning guide and checklist for Subdividing your land

To apply simply follow these five steps:

1. **Discuss your plans with Council.** Get initial feedback on your proposal, ensure you are aware of all planning requirements and include all necessary information in your application through a pre-application meeting.

2. **Prepare your application.** Follow this guide to make sure you include all the information required, such as plans and a written submission, including electronic versions to help speed up the process. Refer to the checklist provided.

3. **Complete an ‘Application for Planning Permit’ Form.** These are available at our Planning Enquiry Counter or on Council’s website kingston.vic.gov.au/planning

4. **Determine the fee that applies.** Fees vary depending on the type of application and need to be paid when your completed application is lodged. Refer to the fee schedule available at the Planning Enquiry Counter, on our website kingston.vic.gov.au/planning, or by contacting us on (03) 9581 4131.

5. **Lodge your completed application.** Submit your completed application, including the ‘Application for a Planning Permit’ form and the checklist included in this guide, and pay the required fee. You can do so via:

   Mail: City Development, City of Kingston
   PO Box 1000
   Mentone VIC 3194

   In Person: Planning Enquiry Counter
   Level 1,
   1230 Nepean Hwy,
   Cheltenham VIC 3192

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**Checklist**

One of the best ways you can help speed up the planning permit process is to make sure that your application includes all the information required. This checklist outlines everything you need to include with your application. Please complete it and submit with your application.

- [ ] Completed Application Form
- [ ] Fee (credit card, cheque or money order)
- [ ] Certificate of Title (1 copy, issued within the last 3 months)
- [ ] Written Submission (1 copy)
- [ ] Proposed Plan of Subdivision (3 copies, A4 format)
- [ ] An electronic version of all plans and documents

**Important** Please ensure three copies of all plans are submitted

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Council use only

Officer: ________________________________________

Received: ______________________ Signed: ______________________