

EXEMPT & COMPLYING DEVELOPMENT (SUBDIVISIONS)

WHAT IS EXEMPT AND COMPLYING DEVELOPMENT?

Refer to Council's separate fact sheets entitled "Exempt Development Fact Sheet" and "Complying Development Fact Sheet", copies of which are available on Council's website: <http://www.thehills.nsw.gov.au/Fact-Sheets.html>

WHAT ASPECTS OF LAND SUBDIVISION ARE ABLE TO BE CARRIED OUT AS EXEMPT OR COMPLYING DEVELOPMENT?

The subdivision of land requires the submission of a development application, except for subdivisions permitted as either exempt or complying development under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP). The following types of subdivision can be carried out as exempt development pursuant to Part 2 Subdivision 38 of the Codes SEPP:

1. Widening of a public road;
2. A minor realignment of boundaries:
 - (a) That will not create additional lots or the opportunity for additional dwellings;
 - (b) That will not result in one or more lots that are smaller than the minimum size specified in an environmental planning instrument in relation to the land concerned;
 - (c) That will not adversely affect the provision of existing services on a lot; and
 - (d) That will not result in any increased bush fire risk to existing buildings.
3. Rectifying an encroachment on a lot;
4. Creating a public reserve; and
5. Excising land that is, or is intended to be, used for public purposes, including trunk drainage, public open space and the like.

The following types of subdivision can be carried out as complying development pursuant to Part 6 of the Codes SEPP:

6. The strata subdivision of a building, other than a dual occupancy, for which development consent or a complying development certificate has been issued, but only if the development consent or complying development certificate was issued less than five years ago.

Refer to the referenced sections of the Codes SEPP for more information.

COMPLYING DEVELOPMENT CERTIFICATE:

A complying development certificate for those types of subdivision able to be carried out as complying development listed above can be issued by either Council or a suitably accredited private certifier. Part 6 of the Codes SEPP lists the development standards that apply to the strata subdivision of a building.

Should you choose to apply to Council for a complying development certificate for subdivision, a "Complying Development Application Form" and a "Subdivision Code

Checklist (Strata Subdivision)" is available on Council's website: <http://www.hillscertifiers.com.au/>

SUBDIVISION CERTIFICATE/ STRATA CERTIFICATE:

Whether carried out as exempt or complying development, all of the above forms of subdivision require either a Strata Certificate or a Subdivision Certificate.

A Strata Certificate is required for the strata subdivision of a building, other than a dual occupancy, for which development consent or a complying development certificate has been issued. This Strata Certificate can be issued by either Council or a suitably accredited private certifier in accordance with Clause 37A of the Strata Schemes (Freehold Development) Act 1973.

All other forms of subdivision require a Subdivision Certificate issued pursuant to Division 4 of the Environmental Planning and Assessment Regulation 2000. A Subdivision Certificate can only be issued by Council, except for some road widening and acquisition plans which are able to be issued by various other public authorities.

For Subdivision Certificate applications that are the subject of an issued development consent or complying development certificate, the requirements that must be satisfied before a Subdivision Certificate is able to be granted are included with the issued consent or complying development certificate.

For Subdivision Certificate applications relating to subdivisions proposed as exempt development, Council's Duty Subdivision Officer should be contacted on 9843 0374 to discuss the information required to accompany the application.

A copy of Council's Subdivision Certificate application form is available on Council's website:

<http://www.thehills.nsw.gov.au/Application-and-Registration-Forms.html#creatingasubdivision>

FURTHER INFORMATION

If you are unsure, please ask
Time spent early may avoid delays later

Customer Service Centre:

3 Columbia Court, Baulkham Hills NSW 2153

Phone: 9843 0555

Duty Town Planner: 9843 0469

Hours: 8:30 am to 4:30 pm, Monday to Friday

Website: www.thehills.nsw.gov.au

DISCLAIMER

This fact sheet provides a summary of the major issues concerning the subdivision of land as either exempt or complying development. Any person using this document must do so on the basis that not every scenario and issue can be addressed, and discussion with relevant staff at Council's Customer Service Centre should be undertaken. This document is subject to change without notice.

THE HILLS SHIRE COUNCIL

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