



# Stonnington Conveyancing

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## SUBDIVISION – PROCESS AND COSTS – at 1/7/2019

### The Role of the Local Council/Shire

The Council is the most important party in the whole process – in particular, the Subdivision Officer in the Planning Section of the relevant Council. If you have not already done so, it is very much in your interests to talk to the Subdivision/Planning Officer in the Council and get some preliminary advice as to whether your property is *potentially suitable* for the proposed Subdivision and **costs**. Especially if you are looking to develop one or more of the allotments, issues they will look at include amount of total area, street frontage/s available, safe legal access points to a public road, amount of yard-space and set-backs available to any dwellings, provision of essential services, overlooking and shadowing neighbour issues, etc, etc, etc.

If suitable in principle, and you decide to apply for a Planning Permit, the Council will send out a copy of your proposal to various other **Authorities** (the relevant water and sewer authority, the local electricity and gas infrastructure authority, VIC Roads, Telstra, NBN, the Metropolitan Fire Brigade (or Country Fire Authority, as applicable), etc., etc.), and possibly neighbours for comment. The Council is then responsible for three of the “approvals” you will need, namely: -

1. Issue of the ***Subdivision Planning Permit*** (usually contains several conditions from Council and the Authorities to be satisfied);
2. ***Plan Certification*** of the Final Survey Plan showing exact boundaries & measurements, and
3. Issue of the ***Statement of Compliance*** (issued when all conditions in the Planning Permit in 1 above are inspected and satisfied).

The conditions in a typical Subdivision Planning Permit for a vacant land subdivision may include ensuring that the new allotments have suitable provisions for services such as drainage, water, sewer, electricity, gas, phone etc. This may involve paying for physical works such as re-locating existing services, increasing drainage capacities, adding pits or new transformers, creating new easements so one block can obtain services over a portion of land from an adjoining piece of land etc.

If any of the resultant Lots are **Vacant Land AND LESS than 500m<sup>2</sup>** (less than 400m<sup>2</sup> in some Council Areas/Zones), it is likely that Council will require a Subdivider to show that the resultant Vacant Lot/s can be used for a Dwelling that complies with the “Res Code” for new homes, and that may involve proving the availability of enough “Private Open Space” (“POS”), adequate on site Car Parking based on the number of Bedrooms, adequate Natural Light, etc. etc. In essence, even if you don’t intend to build that Dwelling yourself, Councils will typically force a Subdivider to have full “Town Planning” drawings done for that Dwelling, showing Floor Plan, Site Plan, all four Elevations, Landscaping etc, and obtain a “Development Planning Permit” and they will then “tie” the Development Planning Permit to the Subdivision Planning Permit by way of a “Section 173 Agreement”. This will then mean that you, AND any future Purchaser of that Land can ONLY Build that pre-approved Dwelling, without going all the way back through Planning before Building. If you or any other Purchaser wants to build a *differently designed Dwelling*, they will have to get their own new Planning Permit.

If any of the Subject Land is currently serviced by a **Shared Sewer**, and the resultant Subdivision is **3 Lots or more**, the local Water Authority (especially Yarra Valley Water), will typically impose a Condition in the Planning Permit that a compulsory “Limited Owners Corporation” is formed to create a legal mechanism for the ongoing Management and Costs of Maintenance of that Shared Sewer (even if there is NO other “Common Property”. If they decide that the current sewer is not large enough in capacity to service the resultant Lots, they may enforce additional on-site Sewer Works to separate the Sewer so each lot is on its own Sewer Branch line.

If a **Subdivision of an existing Building** (for example a ‘Block of Flats’ currently on one title, wanting to be subdivided to a new title for each Flat), **where a wall or walls will form part of the new Boundaries**, it is likely there would be a Condition in the Planning Permit requiring a Fire Safety upgrade, or at least an Audit Report, checking the Fire Rating of those Walls.

There will also be financial contributions, including the “Open Space Requirement”, up to 5% of the **Vacant Site Value** (as assessed on your rates notice). For example if seeking to develop a property with a Council assessed Site Value of \$500,000.00, the contribution will be up to \$25,000.00, but *may* be negotiated down in some circumstances. This does not apply to 2 Lot subdivisions unless either or both Lots are capable of further subdivision. In larger subdivisions, an alternative to paying is to

“donate:” 5% of the total site by area (must be useable land as a Public Reserve, walkways etc.).

### **The Land Surveyor**

After you have had a preliminary chat with the Subdivision/Planning Officer at the local Council, if you are going ahead, please let us know. Then, the next thing to do is appoint a Surveyor to come out to the land, measure up, and decide on the position for the proposed new boundary with you. The surveyor may put surveyor's pegs in the ground at that time as a guide, but the exact position may change from proposal stage to final survey. **Please advise us who your surveyor is as soon as possible.**

The Surveyor will then draw up the proposal plan and make the Application for Planning Permit for you. There is a Council Application fee and the surveyor will probably now send an interim account.

Virtually all Councils, Land Surveyors and we at Stonnington Conveyancing use the online Planning Portal for Subdivisions, which is known as “**SPEAR**”, so it is highly likely that your Application for Subdivision Planning Permit will be lodged by your Land Surveyor, online in SPEAR and can be monitored online thereafter.

A surveyor that we and many of our clients have found very good (and pleasant to deal with) is Brian Watson from **Brian Watson Surveying** of Level 1, 454 Waverley Road, Malvern East VIC 3145 Phone 03 9572 3122 (and fax 03 9572 3144). E-mail is [admin@brianwatsonsurveying.com.au](mailto:admin@brianwatsonsurveying.com.au) For more information, Brian’s web site is <http://www.brianwatsonsurveying.com.au>

When the Planning Permit is issued, the surveyor will advise you of the conditions and guide you through what you need to do to satisfy (or appeal) those conditions. If the project involves complex or a large degree of capital works (e.g. laying new major underground drainage infrastructure), the surveyor may advise you to appoint a “project manager” – often a civil engineer, who will get quotes for, appoint and supervise the earthmoving, location and installation of the new services etc. The surveyor will also advise the “open space” contribution payable (allow 5%), collect & forward the fees.

Lastly, the surveyor will prepare the final “fully certified” copy of the plan of subdivision and upload it on SPEAR for Council certification and when all conditions from the Planning Permit are satisfied, will chase and obtain the Statement of Compliance from Council (also uploaded to SPEAR).

You can expect the total account for the surveyor’s own fees to be a minimum of \$3,000.00 and for small (say, 2 to 5 Lots) subdivisions rarely over \$6,000.00, plus all the Council and authorities’ application fees. Large subdivisions involving major infrastructure conditions and those involving complex Overlays, or other more complex Planning issues will cost considerably more to the Surveyor.

## **Stonnington Conveyancing**

Apart from “monitoring and co-ordinating” the whole of the subdivision process, we also:-

- Prepare and arrange correct signing of the “Application to Register a Plan of Subdivision” document. We can sign this document for you and can only be lodged at Land Registry after Council have Certified the final version of the Plan of Subdivision (and Council have issued the Statement of Compliance) on SPEAR
- If there is an “Owners Corporation” (for example, to manage a Shared Driveway, or Shared Sewer), we will create and lodge the “OC1” Document. If “Special Rules” are required, extra Drafting and Fees will apply
- If you have a Mortgage registered on title, we will prepare and arrange for you to you (all owners/Borrowers/Guarantors) to sign a Consent and Production of Title Authority authorising and instructing the mortgagee to Consent to our Application to Register, Make your Certificate of Title Available at Land Registry at the appropriate time to allow our Lodgement and to give the Land Registry instructions for delivery of the new titles (usually back to the existing mortgagee). After you have signed the Authority, we will do all further liaison with your mortgagee
- We will advise you of the new, legal Street Addresses for each of the resultant Lots.
- We will then calculate the lodgement fees and make the final lodgement at Land Registry of all of the required items described above (either electronically or on Paper, as appropriate)
- After lodgement and examination, the Plan of Subdivision is Registered and the new certificates of title issue. If you have a mortgage, they will be sent to your mortgagee; if you do not have a mortgage they will be sent to us
- We will advise you of the new Volume & Folio Certificate of Title references for each of the resultant Lots.
- If you are selling any allotment/s, we will liaise with your selling agent throughout the entire process (please note Preparation and Supply of “Subdivisional” Contracts of sale and Vendor Statements are not included in the Subdivision costs herein, and are billed separately on a Vendor file

As a guide, our base fee for a simple Plan of Subdivision file equates to about 4 hours work, so about \$1,200.00, and if you have a mortgage on the current title we charge an extra \$300.00 for each Mortgagee/Caveator consent and production of title attendances described above. Larger and/or more complex subdivisions (over 5 lots, “Section 32/32A Subdivisions”, “NICO” Subdivisions (see later), etc.) are costed individually on hourly rate, as at 1/7/2019, \$300.00 per hour). All charges are ex GST.

Your lender will also charge their own fee for assessing the Application, Consenting and making the Title Available for us to lodge the Subdivision at Land Registry. Most lenders charge in the range \$300.00 - \$450.00.

At 1/7/2019, for the **2019/2020** Financial Year, , the Land Registry fee is \$620.20 for a fully certified Plan of Subdivision plus \$191.80 per Lot (Common Property & Road Reserves are also counted – and charged - as a Lot), and Land Registry also charge more for multiple Owners Corporations structures, OC Special Rules, etc. You should expect these Government Fees to go up, at least by CPI, each and every year, on the 1<sup>st</sup> July, and occasionally, more often.

Lastly, the fees shown above for us do not include GST (but there is no GST on the Land Registry fees) and file disbursements will be a fresh title search of each "parent title", general file costs and our city agent's lodging fee (\$132.00 inc GST at 1.7.2019), a total usually in the vicinity of about \$190.00 to \$250.00. “all up”.

We are assuming there is no “Section 173 Agreement” (see above) imposed by Council and no "Owners Corporation" with Common Property between the Lots - if so, it is a bit more complex (Insurance issues, “Model Rules” or “Special Rules”, Limitations on the Owners Corporation and other “Additional Information” required by Land Registry. For Owners Corporations, sometimes you will need our assistance for arranging/Calling the Inaugural (first) General Meeting of the new owners, etc.), there will be other costs and we will need to see the surveyor's plan before discussing those additional issues and costs, as there are variables. If we need to do Notices, call, Chair, Minute the Inaugural General Meeting and Set up the OC Records, Hourly rate of \$300.00, and assume about 3-4 Hours all up.

Please note that the above fees do not apply to/allow for “Partition Transfers” (where Joint Owners want 1 Lot in 1 name at the end, and the Other Lot in the other name), “Section 32 Plans”, and especially “Section 32A Plans” (being Re-Subdivisions/alterations to *existing* Owners Corporation Plans), “NICO” (Not In Common Ownership) Plans (usually where one neighbour is buying land from another), all of which have to be looked at separately, vary enormously in complexity and therefore can only be costed at the **end** of the file, at \$300.00 per hour + GST. That said, for these types of files, they are typically about 9-10 hours work including getting the Mortgagees organised, so about \$2,700.00 plus disbursements and GST.

Most types of subdivisions can be cost estimated reliably on the above information. However, as subdivisions can be complex and contain surprises, we must reserve our rights to revert to an hourly rate of \$300.00 per hour plus GST for any attendances not included as detailed above. Also, before giving you an estimated costing, we would like to see the surveyor's plan - even if it is only a proposal plan (i.e. not yet a fully certified survey).

Hope this Helps!

**Should you require any further information please contact our  
Directors & Licensed Conveyancers, Paul Garson or Garvin Pereira.**

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