

SUBDIVISION WITHIN THE TOWN OF KWINANA

This fact sheet provides summary information regarding subdivision within Western Australia (“WA”), with relevance to the Town of Kwinana. It is not a definitive document, but provides a general overview to assist the public in understanding the requirements and processes behind subdivision.

SUBDIVISION CONTROL

The Western Australian Planning Commission (“WAPC”) is the State Government authority with the ultimate control over the processing and determination of subdivision within WA. Although Local Government does not share such decision making powers, it is nonetheless an important partner in the subdivision process through providing comment and recommendation on every subdivision proposed in its local area. Local Government also plays an important role in assessing the design and construction of subdivisions which have been granted approval by the WAPC, to ensure requirements are met and each condition relevant to Local Government is been satisfied.

The WAPC also commonly imposes conditions relevant to servicing authorities (Water Corporation, Western Power, Telstra, Alinta Gas etc.), and these authorities similarly ensure each condition relevant to them is satisfied as part of the design and construction of subdivision.

RESIDENTIAL SUBDIVISION

The WAPC sets minimum standards and requirements for residential subdivision in a number of Policy documents, however the two most relevant are Statement of Planning Policy No. 3.1 (*Residential Design Codes of WA*) (“Residential Design Codes”) and Development Control Policy 2.2 (*Residential Subdivision*). Both of these can be found under the ‘Publications’ section of the WAPC website (www.wapc.wa.gov.au).

The capacity to subdivide residential land is based on the zoning and size of the land. Most residential land within the Town of Kwinana has been assigned a residential density code, known as its ‘R-Code’. The R-Code of your land specifies the minimum and average lot size requirements relating to subdivision and grouped dwelling development, and these are summarised in the following table:

Common R-Codes within the Town of Kwinana

| | | |
|-------|-------------------------------|---------------------|
| R12.5 | Minimum Lot Size | 700m ² |
| | Average Lot Size | 800m ² |
| | Minimum Area of Battleaxe Lot | 762.5m ² |
| R20 | Minimum Lot Size | 440m ² |
| | Average Lot Size | 500m ² |
| | Minimum Area of Battleaxe Lot | 540m ² |
| R30 | Minimum Lot Size | 270m ² |
| | Average Lot Size | 300m ² |
| | Minimum Area of Battleaxe Lot | 420m ² |

| | | |
|-----|-------------------------------|-------------------|
| R40 | Minimum Lot Size | 200m ² |
| | Average Lot Size | 220m ² |
| | Minimum Area of Battleaxe Lot | 400m ² |

In addition to meeting lot size requirements, the Residential Design Codes specify other requirements relating to lot design, setbacks, driveways, open space, plot ratio, parking areas etc. The Town of Kwinana encourages all land owners to become familiar with the Residential Design Codes, or seek professional advice prior to making a formal subdivision application. Although planning staff from the Town of Kwinana can discuss general requirements of the R-Codes, they cannot design your subdivision or comment as to whether it will be approved by the WAPC.

Dual Coded Properties

Dual coding means that your land has more than one R-Code i.e. R12.5/20. In this example, the R12.5 R-Code is your as of right density code, and the R20 R-Code can only be used when you meet specific requirements, most commonly specified in the Town Planning Scheme. The use of dual coding within the Town of Kwinana has historically related to only allowing the higher coding when land is connected to reticulated services.

Battleaxe Subdivision

Where a proposed lot does not have the capacity to have direct access to a constructed road or right of way, subdivision will usually occur through the creation of a battleaxe lot. A battleaxe lot is most commonly a lot or site that has frontage to a public road only through a vehicular access way. The Residential Design Codes defines the minimum land area for a rear battleaxe lot, as shown above. Only 20 per cent of this land area may comprise the battleaxe leg itself, with the remaining 80 per cent needing to comprise actual developable land. This ensures a suitable land area for building is achieved.

The Residential Design Codes also specify requirements for the minimum width and size of an battleaxe access leg (4m). If a battleaxe subdivision is approved, the subdivider will be required to construct the battleaxe access leg and extend any services prior to the clearance of subdivision.

OTHER SUBDIVISION (RURAL, INDUSTRIAL AND COMMERCIAL)

The subdivision of land zoned 'Rural', 'Commercial' or 'Industrial' within the Town of Kwinana is subject to various other requirements of the Town Planning Scheme and related Policies. Prior to lodging a subdivision application within any of these zones, you are encouraged to contact a planning staff member to discuss the various requirements of subdivision.

FREEHOLD (GREEN TITLE), SURVEY STRATA OR STRATA SUBDIVISION – WHAT'S THE DIFFERENCE?

Freehold (Green Title) Lots

Freehold (green title) lots are the most common form of lots within the Town of Kwinana. They are individually identified, totally independent from one another and owned in fee simple, the greatest estate that a person can hold without being the absolute power, which in the case of Australia is the Crown. Each freehold lot has its own Certificate of Title issued under the *Transfer of Land Act 1893*.

A dwelling on a freehold lot is classified as a 'Single House' under the Residential Design Codes, except where there is more than one dwelling on the lot, which classifies the dwellings as 'Grouped Dwellings'.

Strata Lots

Strata lots are defined in relation to surveyed building parcels. Strata lots are individually owned building parcels, and have an ongoing relationship with others strata lots created on the same Strata Plan. A Strata Plan also identifies areas of common property, which may be used for their specified purpose by other strata lots (common access ways, boundary walls etc.).

Strata lots may include only the building parcel, however may also include the land area around the building parcel. For instance duplex and unit developments are often strata titled and include a land area component. Strata titles are created under the *Strata Titles Act 1985*.

Survey Strata Lots

Survey strata lots, as opposed to strata lots, consist only of surveyed land boundaries. Survey strata lots are individually owned, and on the Survey Strata Plan will have a similar appearance to a conventional freehold (green title) subdivision. Although a Survey Strata Plan may include common property, and indicates an ongoing relationship between the other strata lots created on the same Survey Strata Plan.

A dwelling on a survey strata lot without any associated common property is generally classified as a 'Single Dwelling' under the Residential Design Codes. A dwelling with associated common property is generally classified as a 'Grouped Dwelling' under the Residential Design Codes.

SUBDIVISION PROCESS

1. Application to WAPC

Application for subdivision must be made to the WAPC. The following information is required to be submitted for all subdivision applications:

- i. Application Form (Form 1A);
- ii. Proposed Subdivision Plan;
- iii. Application Fee.

A checklist of submission requirements can be obtained from the WAPC website under the 'Applications' section. Fees are also specified under the 'Products and Services' section of the website.

2. Referral to Relevant Authorities

Subdivision applications submitted to the WAPC are then referred to the relevant Local Government as well as other authorities for comment. Once a subdivision application is received by the Town of Kwinana, planning staff will:

- i. Assess the application;
- ii. Notify the WAPC of whether the application complies with the Town of Kwinana's requirements or not.

Where an application complies with the requirements, the Town of Kwinana will recommend conditions where appropriate.

3. Preliminary Subdivision Approval

If the WAPC supports the subdivision application, the proponent will receive a preliminary approval with conditions that are required to be met prior to the issue of final approval. Common conditions placed on preliminary approvals include:

- i. Preparation of the lot for development (clearing of land, construction of fences etc.);
- ii. Connection to services;
- iii. Road service construction.

4. Reconsideration / Appeal of Conditions and Decisions

A request to reconsider the conditions of the WAPC may be made to the WAPC within 28 days of the date of approval. If the proponent is still not satisfied with the conditions or the decision after the reconsideration, the proponent may appeal the decision and or the conditions to the State Administrative Tribunal within 28 days of the date of approval or refusal, depending on the application type.

5. Carrying Out of Works

The conditions imposed on the preliminary approval require a certain level of work to be undertaken prior to the clearance of these conditions. Once all necessary work is completed, in accordance with the conditions, clearance of the conditions may be obtained.

6. Clearance of Conditions

To gain clearance of all the conditions the proponent is required to liaise with the relevant referral authorities after the required works have been undertaken. The proponent is also required to:

- i. Lodge two copies of the Deposited Plan with the Town of Kwinana;
- ii. Lodge a request for the Town of Kwinana's clearance of conditions;
- iii. Pay the associated clearance fee.

Town of Kwinana officers will then:

- i. Inspect the property;
- ii. Check that all conditions have been met;
- iii. If the Town of Kwinana is satisfied that all the conditions have been met, a clearance letter for all the relevant conditions will be issued.

7. Final Approval

Once all conditions have been cleared, and the necessary clearance letters obtained from all the relevant authorities, the proponent must apply (on a Form 1C with copies of clearance letters attached) to the WAPC for endorsement of the Deposited Plan.

8. Lodge Survey Plan for Registration

Following final approval from the WAPC, the proponent must then lodge the endorsed Deposited Plan at the Land Title Office of the Department of Land Information to obtain new title documents.

FURTHER INFORMATION

Further information relating to land subdivision can be obtained from:

Western Australian Planning Commission
Albert Facey House
469 Wellington Street
Perth WA 6000
Phone: (08) 9264 7777
Fax: (08) 9264 7566
Website: www.wapc.wa.gov.au

Town of Kwinana
Planning Services
Phone: (08) 9439 0200
Fax: (08) 9439 0222
Website: www.kwinana.wa.gov.au

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