

# Part 3

## SUBDIVISION, AMALGAMATION AND MOVEMENT NETWORK







# Contents

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<b>Part 3</b>	<b>Subdivision, Amalgamation and Movement Networks .....</b>	<b>1</b>
<b>3.1</b>	<b>Introduction .....</b>	<b>1</b>
<b>3.2</b>	<b>Torrens title subdivision and amalgamation .....</b>	<b>2</b>
<b>3.2.1</b>	<b>General Torrens title subdivision and amalgamation controls.....</b>	<b>2</b>
<b>3.2.2</b>	<b>Residential Torrens title subdivision and amalgamation controls.....</b>	<b>3</b>
<b>3.2.3</b>	<b>Industrial Torrens title subdivision and amalgamation controls.....</b>	<b>4</b>
<b>3.2.4</b>	<b>Commercial Torrens title subdivision and amalgamation controls.....</b>	<b>5</b>
<b>3.3</b>	<b>Strata and stratum title subdivision .....</b>	<b>7</b>
<b>3.4</b>	<b>Community title subdivision .....</b>	<b>9</b>
<b>3.5</b>	<b>Subdivisions and major developments affecting movement networks and public domain .....</b>	<b>10</b>
<b>3.6</b>	<b>Subdivision of Secondary Dwellings.....</b>	<b>12</b>





## Part 3 Subdivision, Amalgamation and Movement Networks

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### 3.1 Introduction

Under the *Environmental Planning and Assessment Act, 1979* (EP&A Act), subdivision is defined as development that seeks division of land into two or more parts that, after the division, would be adapted for separate occupation, use or disposition. Common subdivision types are Torrens title (including boundary adjustments and consolidations), strata title, stratum title and community title.

The subdivision of land is usually followed by its development for different uses. How subdivisions are undertaken has a significant impact on how well the land can be developed and used. As such, development consent is required for all proposals involving subdivision.

Subdivisions or major developments that relate to streets, blocks, lots and open space can reduce or improve street connectivity and permeability, change the character of an area and affect the safety and vibrancy of public space. Those matters therefore need careful consideration.

## 3.2 Torrens title subdivision and amalgamation

### 3.2.1 General Torrens title subdivision and amalgamation controls

A Torrens title subdivision involves the division of real property land into two or more independent lots.

A boundary adjustment is defined as the realignment of an existing Torrens lot boundary. While not creating an additional number of lots, it is considered subdivision for the purposes of assessment where a development application is required.

#### Objectives

- O1** To ensure site features and constraints are considered as part of the subdivision.
- O2** To ensure subdivision relating to existing uses is appropriately considered.

#### Controls

- C1** Subdivision or site amalgamation must not compromise the significant features of the existing site or adjoining sites, including streetscape, landscape features, trees, fences and rocky outcrops.
- C2** Applicants must demonstrate that the following issues have been considered in the preparation of the subdivision or amalgamation application:
  - i. Site topography and other natural and physical features of the land;
  - ii. Existing services;
  - iii. Existing vegetation;
  - iv. Existing easements or the need for any new easements;
  - v. Stormwater management; and
  - vi. Vehicle access to the lots, minimising access to State roads.
- C3** Corner properties must have splayed corner(s) for road widening purposes and to improve sight lines at intersections for vehicles, pedestrians and cyclists and increase the footpath area for pedestrian access at corners, especially in centres. Splays will generally be as follows:
  - i. 3 metres x 3 metres at street and street corner;
  - ii. 2 metres x 2 metres at street and lane corner; and
  - iii. 2 metres x 2 metres at lane and land corner.
- C4** When a proposal involves boundary adjustment or excision of land where it is proposed to continue existing uses:
  - i. Development consent, by way of a new application must be sought for any continuing use on the newly proposed lots;
  - ii. The new lot boundaries must relate appropriately to the boundary of existing and any new separate occupancies and any associated spaces; and



- iii. The arrangement of new lot boundaries must not create any non-compliances with any controls within this DCP that the property currently complies with, reduce from the existing extent of compliance, or otherwise impact on the functioning of the existing uses.

**NB** *Where a new development relates to land that extends over two or more existing lots, a condition of any approval will require the person acting on the consent to consolidate the allotments to create one lot under one title and be registered at the NSW Department of Lands before the issue of a Construction Certificate.*

#### *Building Code of Australia (BCA)*

*Creating a new Torrens title lot or adjusting an existing Torrens title property boundary may, for existing buildings, mean they are not complying with the BCA. Consequently, upgrades to existing buildings may be required. Typical upgrade requirements include, but are not limited to, improving the fire and sound rating of building, providing a smoke detection system or other fire safety measures, providing alternate sources of light and ventilation to rooms, or providing easement of support for any encroachments. A BCA consultant can advise on any possible issues.*

### **3.2.2 Residential Torrens title subdivision and amalgamation controls**

The residential subdivision pattern of the land where this DCP applies is characterised by small lot subdivisions of attached and detached row housing along the northern and eastern parts, and larger lot subdivisions with detached housing in the western and southern areas.

In response to the diversity of household sizes and open space needs, Council's subdivision controls permit a variety of lot sizes provided the allotment size and shape relate to the existing subdivision pattern of the locality, the context of the site, and can adequately provide room for open space, parking and landscaping.

Amalgamation is the combination of two or more lots for the purpose of redevelopment. This is usually required where the current cadastral arrangement contains lots that are too small or impractical in area, dimensions, shape and orientation to achieve the desired future built form. For residential land uses, this may be required for large higher density developments, such as masterplanned sites where amalgamation allows for a particular site planning such as providing new streets, allowing building massing to new orientations, providing new open spaces and providing combined car parking and access. Despite amalgamation being required in some instances, the existing cadastral pattern, which is mainly fine grained in pattern, forms part of the historic character of the area and is usually appropriate to be retained.

As development on any newly created allotment can potentially impact on the streetscape and amenity of the locality, it is essential that all design elements contained in this DCP are considered at subdivision stage. This will ensure future development on the site maintains and enhances the character and amenity of the locality.

#### **Objectives**

- O3** To retain the prevailing cadastral character of the street.

- O4** To ensure that the size of new allotments caters for a variety of dwelling and household types and permits adequate solar access, areas for open space, landscaping and car parking.
- O5** To ensure that the subdivision or amalgamation of sites reflects and reinforces the predominant subdivision pattern of the street.

### Controls

- C5** The proposed subdivision or amalgamation must have characteristics similar to the prevailing cadastral pattern of the lots fronting the same street, in terms of area, dimensions, shape and orientation. For the purpose of this control, Council generally considers the 'prevailing cadastral pattern' to be the typical characteristics of up to ten allotments on either side of the subject site and corresponding number of allotments directly opposite the subject site, if applicable.
- NB** *Properties located in the surrounding streets do not form part of the streetscape context, and are therefore not taken into account to determine the prevailing subdivision pattern.*
- C6** Proposed lots must be of a size, and have dimensions to enable, the siting and construction of a dwelling and ancillary buildings that:
- Protect any natural or cultural features, including heritage items and their curtilage;
  - Acknowledge site constraints such as terrain or soil erosion;
  - Address the street;
  - Minimise impact on neighbours' amenity including access to sunlight, daylight, privacy and views;
  - Provide usable outdoor open space;
  - Provide activities for relaxation, recreation, outdoor dining and children's play areas; and
  - Provide convenient pedestrian, bicycle and motor vehicle access and parking.
- C7** Subdivision or site amalgamation must not compromise the setting of any existing building on the site or the setting of adjoining sites.
- C8** Where a proposal for subdivision or site amalgamation involves the creation of new allotments, the development application must be accompanied by a conceptual building plan, demonstrating that the relevant DCP controls can be complied with.

### 3.2.3 Industrial Torrens title subdivision and amalgamation controls

Industrial Torrens title subdivisions may be required for different types of development. Industrial amalgamations may accommodate a type of industrial or warehouse process requiring a large open floor plate or requiring large turning circles for long freight vehicles. IWLEP 2022 does not set any minimum lot area for Torrens title industrial subdivision or amalgamation on land where this DCP applies, as the required lot area varies widely. A merit assessment will consider what is appropriate, depending on the location and circumstances.





## Objectives

- O6** To ensure that industrial Torrens title subdivisions are configured so that future industrial development is viable and suitable to the location and circumstances.
- O7** To ensure that proposed subdivisions consider site opportunities and constraints.
- O8** To ensure safe and efficient motor vehicle, pedestrian and bicycle access within, and to and from, a site.
- O9** To prevent the excising of land that may be detrimental to the function of an existing continuing industrial use.

## Controls

- C9** Torrens title subdivision developments with lots less than 600m<sup>2</sup> or width less than 20 metres must be accompanied by a conceptual plan for the industrial development of the site, demonstrating that the proposed lots have suitable area, dimensions and a layout that allow for an industrial use that complies with this DCP and is suitable to the location and circumstances.
- C10** The depth to width ratio of new lots must not be greater than 4:1.
- C11** If a battleaxe type subdivision is proposed, any access driveway must be a minimum width of 6 metres.

### 3.2.4 Commercial Torrens title subdivision and amalgamation controls

The commercial centres in the Inner West LGA predominantly retain the traditional narrow Torrens title cadastral pattern, containing individual small commercial tenancies on each small lot, which creates a rich, varied and vibrant streetscape.

Later amalgamations of various lots have accommodated larger site requirements, with buildings having greater frontages and footprints, and often having multiple occupancies with common internal parking/loading facilities, and typically being strata or stratum subdivided.

While it is important to maintain the character of the narrow built form in the building design, amalgamations can achieve increased densities and improved design quality, especially in the Marrickville, Dulwich Hill and Petersham commercial centres, where significantly higher densities are permitted. Inner West LEP 2022 does not set any minimum lot area for Torrens title commercial subdivision or amalgamation, as the required lot area varies widely. A merit assessment will consider what is appropriate, depending on the location and circumstances.

## Objectives

- O10** To retain the character of the commercial centres.
- O11** To ensure lots have usable sized frontage.
- O12** To ensure the configuration of lots are appropriate to the site context.

## Control

- C12** The lots in a proposed subdivision must have street frontage widths not less than the prevailing cadastral pattern of the lots fronting the same street and have a compatible shape and orientation. For the purpose of this control, Council generally considers the 'prevailing cadastral pattern'

to be the typical characteristics within the particular commercial centre of up to ten allotments on either side of the subject site and corresponding number of allotments directly opposite the subject site, if applicable.

**NB** *Properties located in the surrounding streets do not form part of the streetscape context, and are therefore not taken into account to determine the prevailing subdivision pattern.*



### 3.3 Strata and stratum title subdivision

Strata title is a subdivision of a parcel of real property land into separate lots and common property. This title gives individual ownership to smaller portions of a larger property and an undivided share to common property such as gardens or driveways. Owners become members of the owners' corporation which controls maintenance. A strata subdivision is commonly used for residential flat buildings, multi dwelling housing, shoptop housing developments and industrial unit developments. Strata lot boundaries must be defined in relation to a building on the land.

A stratum subdivision is the vertical subdivision of sections of a building of a parcel of real property land into separate titles, each of which can then be sold, leased, mortgaged or further subdivided by a strata scheme. An example is the stratum subdivision of a ground floor retail or commercial area from the above residential floors. Stratum lot boundaries must be defined in relation to a building on the land.

Strata and stratum title subdivision can occur as part of a new development or may be proposed for existing properties held in single ownership, to enable separate titles to be created. As strata and stratum subdivision is required to be referenced back to a building structure, the size and arrangement of strata and stratum residential subdivision is not required to be directly controlled, only indirectly through the building controls in other sections of this DCP that the subdivision needs to relate to.

#### Objectives

- O13** To ensure the arrangement of lots relates appropriately to the separate occupancies.
- O14** To ensure legal rights of access and management are accommodated for communal use areas.
- O15** To ensure any required facilities are provided.
- O16** To ensure common areas are appropriately managed.

#### Controls

- C13** The strata subdivision boundary must relate appropriately to the boundary of separate occupancies and any associated spaces and be consistent with, and not cause the contravention of, any relevant development consents that apply to the land.
- C14** Common pedestrian, vehicular or service access must be accommodated in the common property or in other easements or rights of way.
- C15** The plan of subdivision must have only one lot for each occupancy, with any car parking spaces or other ancillary areas associated with each occupancy being part lots.
- C16** Separate letterboxes must be provided for each occupancy and an additional letterbox provided for the owners' corporation, with numbering and "owners' corporation" title clearly displayed.
- C17** The strata management statement must include all matters relevant to the ongoing common management of the building(s) and site.

### Building Code of Australia (BCA)

*Through the process of assessing the development application for a strata subdivision, an inspection of the property may reveal the necessity for fire upgrading of residential building to occur to a satisfactory standard in accordance with the BCA.*

### State Environmental Planning Policy (Affordable Rental Housing) 2009 (Affordable Housing SEPP)

*The strata subdivision of an existing residential flat building may be captured under the Affordable Rental Housing SEPP. Under the Affordable Rental Housing SEPP, consent can not be granted for strata subdivision of boarding houses.*



## 3.4 Community title subdivision

A community title subdivision is a subdivision of a parcel of real property land into three or more separate lots. The lot numbered one is the association property. The association property is similar to common property in a strata scheme and is owned by an association comprising the registered proprietors or each of the other lots. Unlike strata or stratum title, the boundaries of lots relate to the land and do not need to relate to a building.

Community title subdivision is usually created where a development is large and separate parts of the development will be completed in stages. In such a situation the original parcel of land is subdivided to create lots that are intended for future stages of development and the remaining land becomes “association property” for common uses for the whole complex such as access roads, fencing, general landscape areas, waste areas and recreation facilities. Lots for development can subsequently be further strata or Torrens title subdivided as appropriate. Where these lots are strata subdivided, for example, for a residential flat building, they must contain separate common properties associated only for that lot. This enables the owners’ corporations of separate strata plans to be a manageable size and only requires collective management for components that have common use for the whole complex via the community scheme management statement.

### Objectives

- O17** To ensure the community scheme is appropriate for the development of the land and surroundings.
- O18** To ensure all areas common to the whole community scheme are appropriately nominated and managed.

### Controls

- C18** The proposed community scheme subdivision must be accompanied, at a minimum, by a conceptual plan for the redevelopment of the whole community scheme.
- C19** The arrangement of community development lots and association property must appropriately relate to the layout for the redevelopment of the whole community scheme.
- C20** All areas common to the whole community scheme must be accommodated within the association property.
- C21** A draft of the community scheme management statement must accompany the development application for the community scheme subdivision and include all matters relevant to the ongoing common management of the community scheme including the impact on the surroundings.
- C22** If the community scheme subdivision layout includes a type similar to a typical Torrens title subdivision, then Section 3.2.1 of this DCP must be applied to the assessment of the community scheme subdivision.



### 3.5 Subdivisions and major developments affecting movement networks and public domain

This section relates to subdivisions and major developments that may create or impact on movement networks or affect the functionality of the public domain.

Movement networks accommodate movement of pedestrians, vehicles, services and infrastructure and provide space for social interaction and general amenity. The LGA's grid street structure means the movement network generally has a high level of permeability, allowing good connection between streets and key locations. Sustainable forms of transport, such as walking and cycling, can be better utilised by quick and direct paths of travel and a variety of routes through quieter back streets. Where development creates new streets or has the potential to affect movement networks it is crucial that connection and permeability are retained and wherever possible enhanced.

The structure of private land interconnected by public land (streets and other open spaces) is fundamental to the creation of well functioning neighbourhoods.

#### Objectives

- O19** To retain and enhance an interconnected and permeable movement network.
- O20** To ensure the layout of subdivisions, streets and open spaces enable buildings to front onto public space to create vibrant and safe public spaces.
- O21** To ensure streets, blocks, lots and open space are appropriate for their intended purpose, respond to the topography and natural features and reinforce the existing patterns and character in the surrounding area and/or desired future character.

#### Controls

- C23** A subdivision or major development must include a new street or pedestrian/cycle path or open space where there is the potential for it to provide an appropriate street connection.
- C24** Any proposed new street or pedestrian/cycle path or open space connections must be dedicated to Council as public land, or otherwise have right of way legal entitlement as part of the proposal, to allow for public access in perpetuity.
- C25** A development must not remove, create barriers or degrade the quality of existing connections, or reduce permeability.
- C26** In determining connection routes, direct and safe routes must be provided in order of priority for pedestrians, cyclists then motorised vehicles, in a way that minimises conflicts.
- C27** New or altered street blocks must be kept as small as possible, as appropriate for different land uses, while complying with other relevant controls within this Part of the DCP.
- C28** The layout of new or altered streets, blocks, lots and open spaces must consider the topography and natural features of the site and surrounding area.
- C29** Rear lanes must be provided where appropriate, especially where they continue the street pattern in the area.



- C30** New street intersections should generally be perpendicular.
- C31** The type and design of new or altered streets must facilitate the desired speed, traffic volume, parking and service and emergency vehicles access.
- C32** The layout of new or altered streets, blocks and lots must ensure that buildings can be designed to front onto a street.
- C33** Subdivision, street and open space layout must ensure there is a road carriageway and footpath between any open space and any lots.
- C34** Where possible and appropriate, streets should terminate with a view of a special site feature (such as a landmark building) and be aligned and designed to enable viewing and framing of the view.
- C35** Where a street view will terminate with a building (or building lot), the building (or building lot) must be on axis with the street.
- C36** Notwithstanding the above controls, the street, block, lot and open space layout should generally reinforce the existing patterns and character in the surrounding area in regards to size, shape, proportion and orientation, unless the area is isolated and it is appropriate to set a new character in accordance with the applicable precinct's desired future character statement.



## 3.6 Subdivision of Secondary Dwellings

Property owners may apply to Torrens title or Strata subdivide secondary dwellings under Clause 2.6 (2) of Inner West LEP 2022. As the Minimum subdivision lot size map for Inner West LEP 2022 does not include minimum lot sizes for the land where this DCP applies, an application for the subdivision of a secondary dwelling will be assessed on merit. An application for the subdivision of a secondary dwelling will be assessed using the following considerations, in addition to the relevant controls contained within Part 3 of this DCP.

### Objectives

- O22** To ensure the suitability of the existing secondary dwelling to perform as a stand alone dwelling house.
- O23** To ensure the prevailing cadastral character of the street is retained in any Torrens title subdivision.
- O24** To ensure an application for subdivision of an existing secondary dwelling does not detrimentally affect any heritage values of the subject site, principal dwelling or surrounding area.
- O25** To ensure that any application for the subdivision of an existing secondary dwelling will not result in the net loss of off-street parking spaces.
- O26** To ensure that suitable access is provided to a subdivided existing secondary dwelling.
- O27** To ensure that the subdivision of an existing secondary dwelling located on a rear lane contributes to the reactivation of the rear lane.
- O28** To ensure the subdivision of an existing secondary dwelling does not compromise the privacy of the principal dwelling or adjacent dwellings.

### Controls

- C37** The proposed Torrens title subdivision of an existing secondary dwelling must have characteristics similar to the prevailing cadastral pattern of the lots fronting the same street or laneway, in terms of area, dimensions, shape and orientation. For the purpose of this control, Council generally considers the 'prevailing cadastral pattern' to be the typical characteristics of up to ten allotments on either side of the subject site and corresponding number of allotments directly opposite the subject site, if applicable.
- C38** The secondary dwelling the subject of the subdivision application must be able to function as a separate dwelling house.
- C39** Suitable access arrangements must be able to be provided to the secondary dwelling the subject of the subdivision application.
- C40** The subdivision of an existing secondary dwelling must not compromise the privacy of the principal dwelling or adjacent dwellings.
- C41** The subdivision of an existing secondary dwelling must not result in the net loss of off-street car parking spaces from the principal dwelling.