

Richmond Valley Development Control Plan 2015

Part G. Subdivision

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

Subdivision of land is defined within Section 4B of the EP&A Act.

It generally provides that subdivision of land is the division of land into 2 or more parts that can be used separately or transferred. The term covers freehold title subdivisions as well as strata title and community title subdivisions.

Exclusions from the term subdivision include opening or widening of public roads, consolidation of lots, etc.

This DCP Part applies to the subdivision of land within the Richmond Valley Council area and offers an interpretation of various LEP provisions and development standards.

G.1 General Objectives

The general objectives of this Part are to:

- (1) provide guidelines to assist with the design and construction of subdivisions so that they are compatible with the natural and built environments within which they are sited,
- (2) provide development standards and requirements for the subdivision of land,
- (3) provide criteria for consideration during the preparation of a development application and its subsequent assessment, and
- (4) explain provisions of the *Richmond Valley LEP 2012* as they relate to subdivision.

G.2 Subdivision of Land

Objectives

- (1) to provide a general overview of the basic subdivision requirements of the *Richmond Valley LEP 2012*.

Controls

- (1) Clause 2.6 of *Richmond Valley Local Environmental Plan 2012* requires development consent for the subdivision of land, unless that subdivision is exempt development.
- (2) **Minimum Subdivision Lot Size**
The Lot Size Map (**LSZ**) identifies the minimum lot size that may be created within a subdivision. The map adopts a number of different minimum lot size standards relating to:
 - Ø existing land uses and land use patterns,
 - Ø zoning,
 - Ø agricultural capabilities, and
 - Ø availability of essential infrastructure.
- (3) Clause 4.1 calls upon the Lot Size Map and provides that development consent shall not be granted for subdivisions creating lots less than the minimum shown on the Map in relation to that land.
- (4) Notwithstanding clause 4.1, the LEP provides several exceptions to complying with the minimum lot size, these being for:
 - (a) Strata and Community Titles
 - (b) dual occupancy (in urban zones)
 - (c) rural subdivisions (agricultural allotments)
 - (d) special purposes
 - (e) boundary adjustments.

G.3 Exceptions to Minimum Lot Size

Objectives

- (1) to explain the various minimum lot size exceptions provided for in *Richmond Valley LEP 2012*.

Controls

- (1) There are a number of clauses within the *Richmond Valley LEP 2012* that permit departures from the minimum lot size standards provided by the Lot Size Map. These exceptions are explained below.

Strata Title or Community Title Subdivision

- (2) Clauses 4.1AA and 4.1A prohibit the Strata or Community Title subdivision of land within Zones RU1, R5, E2 and E3 where they relate to the division of a lot used for residential accommodation or tourist and visitor accommodation.
However, residential flat buildings, dual occupancies, shops, industrial units etc. within other zones can be strata titled or community titled with consent, and are not limited by the minimum lot sizes shown on the Lot Size Map.

Rural subdivision

- (3) Clause 4.2 contains the rural subdivision provisions from clause 9 of *State Environmental Planning Policy (Rural Lands) 2008 (Rural Lands SEPP)*.
The clause provides for rural zoned land to be subdivided below the MLS for primary production purposes, as long as:
 - (a) the lot will not contain a dwelling, and
 - (b) the lot will not have a dwelling opportunity.
- (4) Clause 4.1(4A)(b) permits a single residual allotment to be created below the MLS but only if it comprises the entire residue of a clause 4.2 rural subdivision. The residue lot will retain a dwelling opportunity if the land had an opportunity before the subdivision.

Special Purpose subdivision

- (5) Clause 4.2A permits the subdivision of land to create a lot that contains development (other than a dwelling house or a dual occupancy) which has existing development consent.
Clause 4.1(4A)(b) permits a single residual allotment to be created below the MLS but only if it comprises the entire residue of a clause 4.2A subdivision.

Subdivision of Dual Occupancy Development

- (6) As a general rule, dual occupancies (other than those of rural zoned land) can be subdivided by Strata Title or Community Title. Clause 4.1C provides additional flexibility for the subdivision of dual occupancies under as Torrens Title lots where each lot must:
 - Ø be greater than 350m²,
 - Ø only contain a single dwelling, and
 - Ø separately serviced by reticulated water and reticulated sewer infrastructure.
- (7) Council will require both dual occupancy dwellings to be fully constructed prior to release of a subdivision certificate.

- (8) Existing dual occupancies (whether they are already subdivided by strata/community title or not) may be eligible to be subdivided under this clause.
- (9) Development consent for such subdivisions will require all shared services to be separated, as well as having separate water meters, sewer connections, power connections, etc. Further details regarding dual occupancy development and its subsequent subdivision under clause 4.1C can be found in Part A-Chapter A2.

Boundary Adjustment Subdivision

- (10) Richmond Valley Local Environmental Plan 2012 is being amended to permit the adjustment of allotment boundaries so as to:
 - (a) not create any additional lots,
 - (c) not create an opportunity to create additional lots or dwelling opportunities.
- (11) There will be no restriction on the size of the boundary adjusted allotments other than:
 - (a) there needs to be sufficient land area for on-site wastewater disposal, and
 - (b) no resulting lot can be of a size that would enable it to be further subdivided, so as to create additional dwelling opportunities.
Note. This means that the larger lot(s) cannot have an area greater than double the MLS.
- (12) In considering whether to support a boundary adjustment subdivision, the consent authority should be satisfied that the new lots:
 - (a) can be adequately serviced by water and sewer,
 - (b) the land will be suitable for the erection of a dwelling house (where the original allotment has a dwelling opportunity)—this means it will be suitable having regard to flooding, bushfire, contaminated land, nature resource sensitivity, coastal hazard or any other like matter,
 - (c) the boundary adjustment will not negatively impact the long-term agricultural viability of the land direct involved, or the surrounding locality.

G.4 Subdivision of Secondary Dwellings Prohibited

Objectives

- (1) to identify that secondary dwellings cannot be subdivided.

Controls

- (1) Clause 2.6(2) of the LEP prohibits the subdivision of land containing a secondary dwelling, if it would result in the primary and secondary dwellings being located on separate allotments, unless the lots each meet the minimum lot size for the land.

G.5 Exceptions to Development Standards (the SEPP1 equivalent clause)

Objectives

- (1) to explain the operation of clause 4.6 (the SEPP1 equivalent) under the *Richmond Valley LEP 2012*.

Controls

- (1) Clause 4.6 of the LEP replaces *State Environmental Planning Policy No 1* (SEPP1) for granting variations to development standards.
- (2) The clause requires an application seeking a development standard variation to justify the standard is unreasonable and unnecessary in the circumstances of the case.
- (3) Council has delegation to determine variations under clause 4.6 subject to quarterly reporting of such applications to the Department.

Rural Subdivision Variations

- (4) The clause specifically requires that a variation of up to 10% is permissible but for only one allotment in the development.

As such variations greater than 10% cannot be supported even with concurrence of the Director-General. Furthermore, all other lots must meet the minimum lot size.

Commercial Subdivision Variations—Zone RU5

- (5) The minimum lot size (MLS) development standard for subdivision of land within Zones B1, B2, and B3 is set at 400m² while Zone RU5 Village is generally at 600m².

Council will consider applications to vary the 600 m² standard down to 400m² in Zone RU5 where it involves commercial development.

G.6 Integrated Development

Objectives

- (1) to explain how subdivision of bushfire prone land will be Integrated Development.

Controls

- (1) Subdivision of bushfire prone land where the lots could be used for residential or rural residential purposes is integrated development under Section 91 of the EP&A Act.
- (2) Council must refer such applications to the NSW Rural Fire Service to obtain their general terms of approval, or refusal to issue a Section 100B Bush Fire Safety Authority under the *Rural Fires Act 1997*.
- (3) To assist with processing the Integrated Development Application the accompanying Statement of Environmental Effects (**SEE**) must include a report demonstrating compliance with the *Planning for Bushfire Protection 2006* guidelines.

G.7 Design standards/controls

Objectives

- (1) to identify design considerations for the layout of subdivisions.
- (2) to achieve the most effective and efficient use of land having regard to topographic, climatic, ecological, and agricultural features, along with land uses patterns, zoning and infrastructure/servicing.

Controls

- (1) Applicants are to comply with the following controls unless it can be demonstrated that an alternative solution to all or any of the controls will achieve an improved development outcome.

(2) Site Analysis

- (a) A site analysis plan is required to identify opportunities and constraints relating to the subdivision pattern and potential end use of the land.
- (b) A site analysis plan should be prepared having regard to the following, where relevant:

- § waterways (creeks, rivers, streams),
- § natural resources such as significant vegetation, habitat corridors, key fish habitat, wetlands,
- § flood prone land,
- § steep land/land slip,
- § bush fire hazard,
- § access points (vehicles, pedestrians, cyclists),
- § soil conditions (acid sulfate soils, contaminated land),
- § surrounding land uses,
- § service connections,
- § easements,
- § archaeological sites,
- § topography (contours to Australian Height Datum at 1 metre intervals),
- § aspect,
- § drainage systems,
- § existing buildings, driveways, septic tanks and disposal areas, and
- § street and lot layout of locality.

(3) Subdivision and Road Design

- (a) Subdivisions should be designed having regard to the environmental constraints of the site, having regard to:

- § Koala Habitat,
- § Acid Sulfate Soils,
- § Contaminated Land,
- § Flood Prone Land,
- § Landform Modification,
- § Coastal Hazards, and

- § Bush Fire Hazard.
- (b) The road hierarchy of subdivisions should also reflect road function, and should be designed accordingly.
- (c) The layout of new roads should be designed so as to:
 - § provide road links to adjoining properties,
 - § facilitate the use of public transport,
 - § achieve efficient access to all lots,
 - § encourage safe levels of vehicle speed,
 - § provide adequate sight distances (particularly at intersections),
 - § provide efficient access for service vehicles (bushfire and garbage trucks),
 - § provide for safe and functional vehicle and pedestrian movement,
 - § adopt CPTED design principles (refer to Chapter I-10), and
 - § provide for landscaping, utility services, driveways, mailboxes, street lighting, etc.

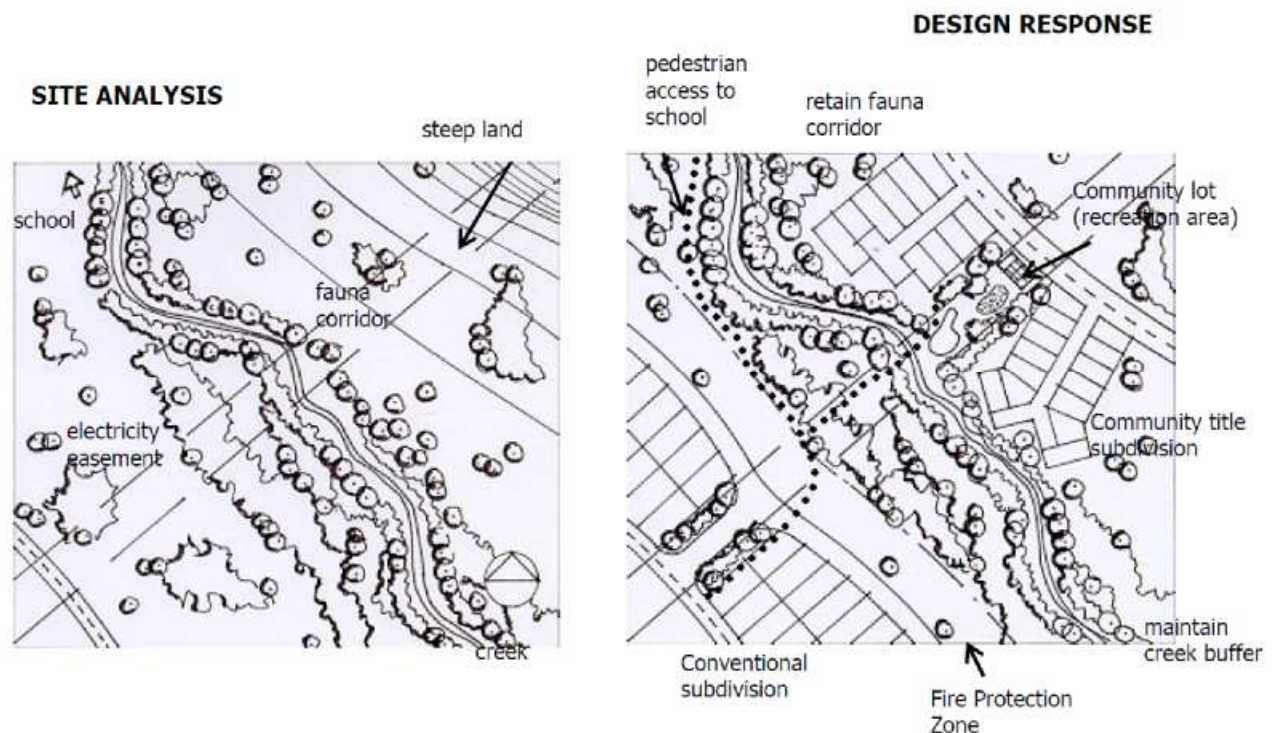


Figure G.1 Example of a subdivision design (right) having regard to the site analysis plan (left)

- (d) The layout of main roads should follow a reasonably regular configuration to make the subdivision easy to navigate, and should:
 - § provide memorable places to aid navigation,
 - § provide people with directional choice to enable traffic to run smoothly and not confuse or overtly hinder thoroughfare,
- (e) Cul-de-sacs should be avoided, but be short in length if utilised.
- (f) Lots are to be designed to allow the construction of a dwelling which does not involve more than 1 metre cut or fill, measured from natural

ground level, outside the dwellings external walls. Geotechnical reports are required for subdividing steep land.

- (g) Subdivisions should be designed to minimise impacts on the natural environment and retain significant landscape features.
- (h) Subdivisions should incorporate regular sized lots to avoid clashes involving housing character and amenity.
- (i) It must be demonstrated that each allotment to be created, that is capable of being used for residential or rural residential development, has at least one suitable building site having regard to:
 - § flooding,
 - § effluent disposal,
 - § bush fire hazard,
 - § safe, practical, access between the building site and a formed public road, and
 - § readily capable of being connected to infrastructure and services.

(4) Energy Efficiency – Lot Orientation

- (a) Subdivisions should be designed to maximise solar access.
- (b) Where possible roads are to be orientated so that the majority of their length are within the range N20°W to N30°E or E20°N to E30°S.
- (c) On sloping sites, north-facing slopes improve opportunities for solar access while south facing slopes impose a penalty on solar access. Accordingly, smaller lots should be concentrated on northern slopes and large lots on southern slopes.

(5) Density (Minimum Lot Size) and dimensions

Subdivisions are not to produce lots which have areas less than that set out in the Lot Size Map.

(a) Residential Subdivisions

Ø Battle Axe Lots

§ Battle axe allotments are largely to be avoided, except in circumstances to provide access to a small number of allotments which would otherwise be difficult, or cost prohibitive to access by formal road system.

§ If a small number of battleaxe lots are utilised, they are required to be larger in size, exclusive of the access handle (i.e. 1000 m² where regular lots are 600-800 m²).

§ The handle should have a minimum width of 4.5 metres in areas requiring line-of-sight and should be constructed of concrete at the subdivision stage.

Note. The subdivision of dual occupancies under clause 4.1C would have regard for, but not necessarily required to adhere to the abovementioned standards.

Ø Minimum Frontage

§ Allotments should have a minimum frontage to a public road of 15 metres, to be measured at the front boundary building line.

§ A subdivision which will involve a lot having vehicular access to a lane will only be permitted after the lot has been substantially developed (i.e. vacant lots off laneways are not to be created), and the lot adjoining the lane is to have 2 metres wide frontage fenced and paved to the primary road, to provide for pedestrian access, mailbox, services (water, sewer, electricity, communication).

Ø **Strata/Community Title**

§ Inspection of existing buildings will be required to ensure compliance with all relevant building and fire regulations standards.

§ Certification of all building work, including final occupation certificates, will be required prior to release of the strata/subdivision certificate.

Ø **Dual Occupancy**

§ Both dwellings within the development must be complete prior to release of the subdivision certificate. As such no vacant allotments can be created.

§ Each allotment must comply with BCA requirements for fire separations.

§ Each resulting allotment must maintain private open space requirements for each dwelling along with an equitable distribution of communal open space, car parking etc.

(b) **Rural Subdivisions**

Ø **Battle Axe Lots**

§ Battle axe allotments are to be avoided.

§ Reciprocal rights of carriageway are not supported as to avoid conflict between neighbours over maintenance.

§ Where justified, the access handle should be a minimum 10 metres wide, and should be no longer than 200 metres.

(c) **Commercial Subdivisions**

Ø **Battle Axe Lots**

§ Battle axe allotments are not permitted for subdivisions in Zones B1, B2 and B3.

§ Each allotment to be subdivided must demonstrate that the resultant allotment is capable of being developed for commercial development based upon its lot size, dimensions, frontage, access and services.

(6) **Services**

(a) **Urban Areas**

Ø Subdivisions in urban areas are generally required to provide infrastructure to all lots including:

§ road;

§ footpath;

§ kerb and gutter;

- § drainage (including interallotment drainage);
- § reticulated sewer and water;
- § telecommunications;
- § street lighting; and
- § electricity.

(b) Large Lot Residential Areas

- Ø Subdivisions are to provide infrastructure to all lots:
 - § including road and drainage, incorporating sealed driveways to be provided to battle axe shaped lots.
- Ø It must be demonstrated that each allotment can be adequately serviced by on-site sewage effluent disposal (OSMS).

(c) Rural Areas

- Ø Subdivisions in rural areas may permit access by right-of-carriageway.
- Ø The right-of-carriageway is to be constructed to provide all weather two-wheel drive vehicular access with adequate drainage provision, however, the length of the access handle should be no longer than 200 metres, particularly when located on bush fire prone land.
- Ø It must be demonstrated that each allotment can be adequately serviced by on-site sewage effluent disposal (OSMS).

(7) Stormwater Drainage

- (a) Stormwater drainage shall be designed and provided in accordance with Council's specifications.
- (b) The design details will need to be certified by Council before the drainage is provided, and will need to be completed to Council's satisfaction prior to the issue of the Subdivision Certificate.
- (c) Stormwater is to be gravity drained to Council's drainage system. In some circumstances inter-allotment drainage and easements over downstream properties may be required. This will necessitate a letter of consent from the owner(s) of the downstream properties to be submitted with the development application.
- (d) Drainage from sites should reflect the pre-existing or natural situation in terms of location, quantity, quality and velocity.
- (e) Water Sensitive Urban Design principles should be employed, particularly with larger subdivisions.

(8) Utility Services

- (a) Utility services must be extended to all lots within a subdivision in accordance with the following table (except for common property in community title and strata subdivisions).
- (b) Conditions on the development consent will outline how, when and to what standard, these services are to be provided.

Utility Service	Urban Area	Rural Residential Area	Rural area
Council's water main	Yes	No ⁴	No ⁴
Council's sewer main	Yes	No ³	No ³
Telephone	Yes ¹	Yes ¹	No
Electricity	Yes ¹	Yes ¹	Yes ²
<p>Note. ¹ In greenfield subdivisions these services must be underground. ² Unless the applicant can demonstrate that alternative methods of providing electricity exists or that the provision of this service is cost prohibitive. ³ Subject to demonstrating the capability of the lots to accommodate on-site effluent disposal. ⁴ Each allotment would be serviced by rain water tank to be provided as part of the construction of subsequent development.</p>			

(9) Erosion and Sediment Control

- (a) Subdivisions should be designed to minimize the disturbance of lands with topographical constraints.
- (b) Conditions on the development consent will indicate whether erosion and sediment controls will be necessary, and if so, these controls will need to be in place before site works commence. The controls will need to be provided in accordance with Landcom (2004) *Blue Book – Managing Urban Stormwater: Soils and Construction*.

(10) Street Tree Masterplan

- (a) A Street Tree Masterplan will be required for subdivisions on greenfield sites. The Masterplan aims to guide street tree planting, providing for a more appealing streetscape which complements its natural setting.
- (b) Planting proposed by the Masterplan is to be determined having regard to:
 - § site and dwelling boundaries,
 - § location and canopy of existing trees, noting any trees that overhang the sit,
 - § adjacent streets and trees,
 - § any connection to open space networks or proposed public reserves,
 - § paving materials and drainage
 - § treatment,
 - § details of any existing fencing and walls, and
 - § location of underground services.

(11) Developer Contributions

- (a) In many cases the payment of contributions are required to cover the cost of services and facilities which are provided by Council. These contributions are often levied with subdivision, prior to the issue of the Subdivision Certificate. Contributions levied on developments may include:

- § section 64 contributions under the *Local Government Act 1993* for such services as water, sewer and drainage, and/or
 - § section 94A contributions under the *Environmental Planning and Assessment Act 1979* which consists of a levee up to 2% of the cost of the development.
 - (b) Conditions on the development consent will indicate whether these contributions are required.
 - (c) The value of these contributions are outlined in Council's Revenue Policy which is available on-line.
- (12) Adoption of Northern Rivers Local Government Development Design and Construction Manuals**
- (a) The *Northern Rivers Local Government Development Design and Construction Manuals* are utilised for the design and construction of civil engineering works associated with development approvals. The Manual is contained within 3 volumes being:
 - § Development & Design Manual,
 - § Construction Manual, and
 - § Standard Drawings.
 - (b) For the purposes of engineering and subdivision works reference should be made to the standards contained within the manuals.
 - (c) Where doubt exists regarding standards contained within the Manuals, or a subject has not been adequately covered, consultation should be made with Council or any relevant Council policy for clarification or reference to alternatively appropriate standards.