Guide to Rural Subdivision Approvals

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1 Subdividing in BC

1.01 Roles and Authorities

1.01.01 Ministry of Transportation and Infrastructure

1.01.01.01 Role of the Approving Officer

1.01.01.02 Ministry of Transportation and Infrastructure Involvement

1.01.02 Local Government

1.01.02.01 Regional Districts

1.01.02.02 Improvement Districts

1.01.02.03 Municipalities

1.01.02.04 Islands Trust

1.01.02.05 Local Government Assuming Approving Authority

1.01.02.06 Land Use Contracts

1.01.03 Referral Agencies

1.01.03.01 Health Authorities

1.01.03.02 Crown Land Management

1.01.03.03 Fisheries and Oceans Canada

1.01.03.04 Environment

1.01.04 Special Circumstances

1.01.04.01 Indian Reserves

1.01.04.02 United States Border

1.01.04.03 Pipelines

1.01.04.04 Railway Crossings

1.01.04.05 Covenants

1.01.04.06 Utility Right of Way in Subdivisions

1.01.04.07 Authority for Controlled Access Highways

1.01.04.07a Arterial Highways

1.01.04.08 Authority for Road Closures

1.01.04.09 Agricultural Land Commission

1.02 What Is A Subdivision

1.03 Types of Subdivision

1.04 Subdivision Fees and Costs

1.04.1 Examination Fee and Tax Certificates for Controlled Access Highways

1.04.2 Final Plan Examination Fee

1.04.3 Strata Title Subdivision Application Fees

1.05 Subdivision Costs

1.05.1 Cost of Inspection

1.06 Time Required

2 Rural Subdivision Approval Process

2.1 Preparation

2.2 Application

2.3 Evaluation

2.3.1 Health and Safety

2.3.1.01 Water Supply
2.3.1.02 Water Systems
2.3.1.03 On-Site Sewage Disposal
2.3.1.04 Ground Water Table Elevation and Percolation Tests
2.3.1.05 Community Sewer Systems
2.3.1.06 Natural Hazard Identification
2.3.1.07 Geotechnical Study
2.3.1.08 Flooding
2.3.1.09 Threat of Wildfire
2.3.1.10 Contaminated Sites

2.3.2 Land Use

2.3.2.01 Local Government Bylaws
2.3.2.02 Improvement District Bylaws
2.3.2.03 Suitability for Intended Use
2.3.2.04 Lot Identification
2.3.2.05 Parcel Size
2.3.2.06 Parcel Split by a Road
2.3.2.07 Frontage of Lots
2.3.2.08 Panhandles
2.3.2.09 Remainders
2.3.2.10 Sketch of Further Subdivision
2.3.2.11 Aesthetics
2.3.2.12 Parks
2.3.2.13 Environmental Considerations
2.3.2.14 Creek Considerations
2.3.2.15 Wildlife Considerations
2.3.2.16 Archaeological Interests
2.3.2.17 Aboriginal Interests
2.3.2.18 Farmland Impact
2.3.2.19 Transit Friendly Subdivision Guidelines
2.3.2.20 Servicing Needs
2.3.2.20a Postal Service Arrangements
2.3.2.21 Range Land Impact

2.3.3 Access and Roads

2.3.3.01 Property with Inadequate Access
2.3.3.02 Road Design and Construction
2.3.3.03 Dedication of Road over Crown Land
2.3.3.04 Traffic
2.3.3.05 Offsite Road Improvements
2.3.3.06 Alternatives to Public Roads
2.3.3.07 Access to a Body of Water
2.3.3.08 Criteria for Access to a Body of Water
2.3.3.09 Highway Encroachments
2.3.3.10 Access to Lands Beyond
2.3.3.11 Access to Subdivisions off Section 42 Transportation Act Roads
2.3.3.12 Public Roads and Highways
2.3.3.13 Right of Way Widths
2.3.3.14 Frontage Roads
2.3.3.15 Intersections
2.3.3.16 Turnarounds
2.3.3.17 Subdivisions Adjacent to Controlled Access Highways
2.3.3.18 Lanes
2.3.3.19 Walkways

2.3.3.20 Storm Drainage (Runoff)
2.3.3.21 Drainage Easements
2.3.3.22 Plans Cancellation
2.4 Preliminary Review and Development
2.4.1 Preliminary Layout Review
2.4.2 Reconsideration of Application
2.4.3 Implementation of Preliminary Layout Review
2.4.4 Final Plan Submission
2.5 Final Approval
2.5.1 Report on Final Subdivision
2.5.2 Final Approval or Rejection
2.5.3 Legal Appeal
2.5.4 Registration
2.6 Variations in the Approval Process
2.6.1 Strata Title Subdivisions
2.6.1.1 Approval Process for Bare Land Strata Plans
2.6.1.2 Approval Process for Phased Strata Plans
2.6.2 Approval Process for a Controlled Access Highway
2.6.3 Approval Process When Subdividing For Relatives
2.6.4 Approval Process for Railway Crossings
2.6.5 Approval Process for Pipelines Under Provincial Ministry Jurisdiction
2.6.6 Approval Process for Pipelines Under National Energy Board Jurisdiction
2.6.7 Approval Process for Air Space Parcels
2.6.8 Approval Process in the Islands Trust Area
2.6.9 Approval Process for ALR Land
3 Apply

Table of Contents

NEXT >>

1.0 Subdividing in BC

The Rural Subdivision Approvals site provides information on subdividing land in unincorporated areas. In municipal areas, please contact the municipal office. If you are considering developing a parcel of crown land **Front Counter BC** can assist you.

This guide is designed to lead you through the province's rural subdivision approval process.

Subdividing is a complex process involving many overlapping interests; depending on the size and complexity of your project, it can take many months to get from the idea stage to building. If you are new to subdividing, we strongly suggest that you hire a practitioner to work with you on your proposal; you may choose a **BC Land Surveyor**, an **engineer**, or a development consultant. You can also contact your **local District Office** for more help.

Roles and Authorities

Every subdivision must be approved by an Approving Officer appointed under the **Land Title Act**. For rural subdivisions the Approving Officer is situated in the Ministry of Transportation and Infrastructure district offices. There are other authorities, held by local governments and agencies, that must be adhered to as well. These are listed in detail in the **Roles and Authorities** section.

more>>

What Is A Subdivision?

Consolidating two or more properties into one lot Adjusting or realigning an existing property line Creating several lots from one or more existing properties Creating several strata lots from one or more existing properties

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Types of Subdivisions

- conventional subdivision
- strata (consisting of bare land, building and phased strata lots)
- cooperative corporation/shared interest
- aboriginal reserves
- leases

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Time Required

The time it takes to process and make a decision on your rural subdivision proposal can vary, depending on the number of applications in the system, the scale and complexity of your project, and how thoroughly you prepare your application. Components include time for review of the application, investigation and development.

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Fees and Costs

The Ministry charges two fees, one at the time of your application and another for the review of final plans. Other agencies may also charge fees related to your application.

You may incur the cost of site investigations if required by the Approving Officer. Common assessments are:

- geotechnical
- archaeological
- environmental
- hydrological
- soils

Finally, you are responsible for all costs related to the subdivision and development of the property. For example:

- road and drainage works
- utilities
- survey
- covenants and other legal documents

more>>

NEXT >>

1.01 Roles and Authorities

In British Columbia, a person may divide his or her property into one or more parcels and register them in the Land Title & Survey Authority. Before such a subdivision plan can be registered, however, the Land Title Act, Strata Property Act, Real Estate Development Marketing Act and Local Government Act of British Columbia require an official known as an Approving Officer to approve the plan.

Collection of Information Authority

The Freedom of Information and Protection of Privacy Act was proclaimed on October 4, 1993. All personal and business information collected by the Ministry is subject to the provisions of the Act. The personal information on the subdivision application form is collected under the authority of the Land Title Act. The information collected will be used to process the preliminary subdivision application, and it may be necessary for the Ministry to provide this information to other agencies. The Development Officer will answer any questions the applicant may have about the collection, use, and disclosure of this information.

1.01.01 Ministry of Transportation and Infrastructure

The Ministry is responsible for subdivision development approvals in all areas of the province outside the jurisdiction of municipalities and Indian Reserves. Provincial Approving Officers are statutory decision makers appointed to the Ministry of Transportation and Infrastructure by Order-In-Council to assess rural subdivision applications.

1.01.01.01 Role of the Approving Officer

Role of the Approving Officer

Approving Officers are appointed under the Land Title Act. There are four separate jurisdictions:

- Municipal Approving Officers, whom municipal councils appoint to rule on subdivision proposals within municipal boundaries **(Section 77)**.
- Regional District and Islands Trust Approving Officers, who are appointed by the Regional District Board or the Islands Trust council to rule on subdivision proposals within the boundaries of those local governments that have assumed the rural subdivision approving authority **(Section 77.1.)** Currently none of these has approving authority.
- Ministry of Transportation and Infrastructure Provincial Approving Officers, whom Cabinet appoints to rule on subdivision proposals outside municipal boundaries and within those regional districts and the Islands Trust boundaries that have not assumed the rural subdivision approving authority **(Section 77.2.)**.
- Nisga'a Approving Officers, who are appointed by the Nisga'a Lisms Government to rule on subdivision proposals within Nisga'a Lands, including Nisga'a Village Lands **(Section 77.3.)**.

Generally, these Approving Officers have separate jurisdictions of authority for approving subdivision plans. Municipal Approving Officers cannot approve subdivisions in rural areas, and Ministry of Transportation and Infrastructure Provincial Approving Officers do not have the subdivision approval authority within municipalities or in rural areas where a regional district has assumed subdivision authority. Neither the Provincial nor the Regional District Approving Officers have authority within Nisga'a Lands.

Provincial Approving Officers act independently to ensure that the subdivision complies with Provincial Acts and Regulations as well as bylaws, and to protect the best interests of the public.

1.01.01.02 Ministry of Transportation and Infrastructure Involvement

Ministry of Transportation and Infrastructure Involvement

In rural areas the Ministry of Transportation and Infrastructure is responsible for maintaining and upgrading public highways. This includes highways created by rural subdivisions. Therefore, the Ministry has a regulatory role in determining the highway component for all rural subdivisions.

There are, however, three instances where the Ministry of Transportation and Infrastructure must approve subdivision plans in municipal, Regional District or Islands Trust jurisdictions in order for them to be accepted by the **Land Title & Survey Authority**. They are:

for subdivisions adjacent to a **controlled access highway** in municipal or rural areas, pursuant to

Section 80 of the Land Title Act

to grant consent to the highway component of Regional District or Islands Trust approved subdivisions to grant relief from access to water pursuant to **Section 75(1)(c)** of the Land Title Act in all areas, rural or incorporated

In exercising this role the Ministry will establish highway construction standards, advise the PAO of the highway requirements for the subdivision, and inspect highway construction. The statutory authority for this highway role is contained in the **Transportation Act**, **Land Title Act**, and **Local Government Act**. This role is in recognition of the Ministry's engineering expertise, responsibility for maintaining these highways and ensuring the safety of highway users.

The Ministry's subdivision highway standards are contained in the Subdivision Road Construction Specifications in the current edition of the **B.C. Supplement to TAC Geometric Design Guide for Canadian Roads Chapter 1400**.

Section 90 of the Transportation Act authorizes the Minister to establish highway standards. A Regional District that establishes highway standards in a Subdivision Servicing Bylaw pursuant to **Section 506** of the Local Government Act must refer this bylaw to the Ministry before adopting the standards. Furthermore, the Ministry must approve such a bylaw before the Regional District that has assumed the rural subdivision approving authority adopts it.

1.01.02 Local Government

1.01.02.01 Regional Districts

Regional Districts

The Local Government Act gives Regional Districts the authority to enact subdivision servicing and zoning bylaws. **Section 87** of the Land Title Act authorizes the Approving Officer to refuse a subdivision if it does not conform to these bylaws. A local government may regulate the provision of works and services in subdivisions by bylaw, including standards for highways pursuant to **Section 506** of the Local Government Act.

1.01.02.02 Improvement Districts

Improvement Districts

Improvement districts are autonomous local government bodies responsible for providing one or more local services for the benefit of the residents in a community. They vary considerably in size from small subdivisions to urban communities but are usually located in rural areas of the province where there has been no alternative form of local governance either available, suitable, or desirable for the community. In structure they are similar to a municipality but are more informal and only provide direct services such as waterworks, fire protection or street lighting rather than general governance.

There are approximately 260 improvement districts currently operating in the province. Your property tax notice will indicate if your property is within an improvement district.

Improvement District bylaws are created under **Part 17** of the Local Government Act in the same manner that regional district bylaws are created.

1.01.02.03 Municipalities

Municipalities

When a subdivision is proposed for land outside but adjacent to a municipality, the Provincial Approving Officer may refer the application to the relevant municipality for comment, in order to consider cross-border aspects, such as road networks.

1.01.02.04 Islands Trust

Islands Trust

The Islands Trust operates within the Ministry's South Coast Region (Lower Mainland and Vancouver Island Districts). The Trust Area is shown on the **Trust Area Map**. It includes:

- All land, except Indian reserves, on all the islands that are darkened in the map
- The water between these islands, within the boundaries shown on the map

The region is approximately 5178 square kilometers, or 2000 square miles, in size.

Mandate and Responsibilities

In 1974, the Government of British Columbia enacted special protective legislation entitled the **Islands Trust Act**. The Act states that the object of the Islands Trust is to "preserve and protect the trust area and its unique amenities and environment for the benefit of the residents of the trust area and of the Province generally."

On April 1, 1990, the Act was amended to establish the Trust as an autonomous local government, with land use planning and regulatory authority similar to those of a Regional District. Broad authority for coordinating work with other agencies, organizations, and groups ensures that the objective of the Act is carried out.

Approving Officer: The Islands Trust may assume the rural subdivision approving authority under **Section 77.1** of the Land Title Act and appoint an Approving Officer to rule on subdivisions within the islands under its jurisdiction. To date, no Approving Officer has been hired.

For more information about the Islands Trust, see their website at **www.islandstrust.bc.ca**.

1.01.02.05 Local Government Assuming Approving Authority

Local Government Assuming Approving Authority

Regional districts and the Islands Trust may request the subdivision approving authority, by council resolution of the local government. The authority and process for the appointment of regional district and islands Trust approving officers is set out in **Section 77.1** of the Land Title Act. To date, there is no Regional District with approving authority.

1.01.02.06 Land-Use Contracts

Land-Use Contracts

Land-Use Contracts are similar to current Development Permits but are no longer created under the **Local Government Act**. Existing contracts govern some subdivisions, however. The conditions in those contracts must be satisfied.

An order-in-council gives the Ministry or the local government jurisdiction over applications for removal or amendment of a Land-Use Contract.

1.01.03 Referral Agencies

<< PREV NEXT >>

1.01.03.01 Health Authorities

Health Authorities

Ministry staff draw on the expertise of the regional Health Authorities when evaluating the property's capacity for providing safe drinking water and adequate sewerage.

The Health Authority has approving authority for water systems and for sewer systems; in the case of on-site sewage disposal, it may make recommendations, but the Approving Officer makes the decision to accept or reject the proposal.

To find which Health Authority your property falls under, go to

Health Authorities - Ministry of Health

1.01.03.02 Crown Land Management

Crown Land Management

The Ministry of Forests and the Ministry of Land, Water and Resource Stewardship manage the allocation of Crown land resources on behalf of the Government of British Columbia and its constituents.

In the context of subdivision approvals, the Ministry of Forests is responsible for issuing tenure to cross Crown land, if required for access, under the Land Act and the Ministry of Lands, Parks and Housing Act.

FrontCounter BC is a single window service for clients of provincial natural resource ministries and agencies. At FrontCounter BC offices across the province, natural resource clients obtain all the information and authorizations they need to start or expand a business.

Visit **https://portal.nrs.gov.bc.ca/web/client/home** to find out more about how FrontCounter BC can help you with your authorization applications.

1.01.03.03 Fisheries and Oceans Canada

Fisheries and Oceans Canada

In reference to land subdivision, the federal **Ministry of Fisheries and Oceans Canada** is primarily concerned with protection of fish habitat under the federal Fisheries Act. Fisheries and Oceans Canada works with the Ministry of Environment in this regard. Either or both may be asked to review a subdivision proposal.

1.01.03.04 Ministry of Environment

Ministry of Environment & Climate Change Strategy

The **Ministry of Environment & Climate Change Strategy** is the resource for:

- **Environmental protection**. The **Land Remediation** Section administers the provisions for the investigation and remediation of contaminated sites in British Columbia under the Environmental Management Act and Contaminated Sites Regulation.
- **Ecosystems**. The Ministry's publication, **Develop with Care** provides information on related legislation.
- **Water stewardship.** All water in British Columbia is owned by the Crown on behalf of the residents of the province. Authority to divert and use surface water is obtained by a licence or approval in accordance with the statutory requirements of the Water Sustainability Act and the **Water Protection Act**. A water licence application is submitted by the applicant to FrontCounterBC.

1.01.04 Special Circumstances

These do not apply in the majority of cases. Where applicable, they may add to the time to review the proposal, and the Approving Officer may require additional approvals prior making a final decision on the application.

1.01.04.01 Indian Reserves

Indian Reserves

Development within Indian Reserves is entirely outside the Ministry's authority. Roads within Indian Reserves are not public roads as defined by the Transportation Act and the Ministry's only input would concern their connection to the public road system. Before approving their connection to the public road system, the Development Officer or District Manager, Transportation must make sure that they meet the same requirements as other types of access.

If a subdivision application is made for land beyond an Indian Reserve and proposed access is through the reserve, that access must be dedicated as a highway right of way. Access by easement through the Indian Reserve does not satisfy Section 9 of BC Regulation 334/79.

1.01.04.02 United States Border

United States Border

When a subdivision adjoins the United States border, the Approving Officer may request the developer to return to the Crown an 18-metre strip of land along the border. Alternatively, the Approving Officer may consider a covenant restricting building on the 18-metre strip. There is no legal requirement to obtain this strip of land; however, it is useful if a right of way is granted along the Canadian side of the border. The covenant restricting building would facilitate the right of way.

Section 5 of the International Boundary Commission Act (Revised Statutes of Canada 1985, Chapter 1-16) provides that, except with the permission of the International Boundary Commission, no person shall construct, enlarge or place any work within three metres (ten feet) of the United States border.

- The following constitutes an infraction under the Act:
- erection of billboards or other structures within ten feet of the international boundary reconstruction of a line building or other structure which has suffered destruction additions to structures erected on the international boundary
- interference with boundary monuments

1.01.04.03 Pipelines

Pipelines

A proposed road in a subdivision plan may cross a gas or oil pipeline.

The BC Energy Regulator (BCER) has regulatory authority where proposed subdivisions cross a pipeline, pursuant to the **Provincial Energy Resource Activities Act** and Regulations. This applies to all pipelines operated wholly within the Province of British Columbia.

The BCER has divided its authority between the Compliance and Enforcement Division for pipelines containing a pressure of 700 kPa or greater and Technical Safety BC for pipeline pressures of less than 700 kPa. The BCER does not exercise regulatory authority over public road crossings of pipelines under provincial jurisdiction.

Oil or natural gas pipelines that cross interprovincial or international boundaries are regulated by the Canadian Energy Regulator (CER) pursuant to the **Canadian Energy Regulator Act**.

The Agency does not regulate the dedication of roads over pipelines. The Agency regulates the construction of roads that cross pipelines to ensure compliance with construction standards. These pipelines can carry oil, natural gas and other hydrocarbons at pressures of several thousand psi, which require certain construction standards to ensure safety. Accordingly, the Agency has Canadian Energy Regulator Pipeline Damage Prevention Regulations – Authorizations and the Canadian Energy Regulator Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies. These are contained in the **CER Pipeline Damage Prevention Reulations**.

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1.01.04.04 Railway Crossings

Railway Crossings

Railway Crossings relative to subdivisions are governed by **Technical Safety BC**, **Transport Canada** and the **Canadian Transportation Agency**. The Approving Officer does not approve the final subdivision plans until the Ministry receives the agreement from the railway company, or a decision authorizing the level grade crossing and no objections have been filed in response to a Public Notice in accordance with the Railway Safety Act.

Railway Crossings

1) The developer submits plans for the Approving Officer and the Ministry of Transportation's Rail, Navigable Waters Specialist that concur with the following:
    - B.C. Supplement to TAC Geometric Design Guide for Canadian Roads Chapter 1100 or updates.
    - Government of Canada's Grade Crossings - Handbook.
2) If the Approving Officer provides a Preliminary Layout Review letter (PLR Letter) which sets out what the approving officer will "likely" require to grant approval to the subdivision, the Rail, Navigable Waters Specialist then seeks an agreement with the railway company or an Order or Decision from the Canadian Transportation Agency. The Rail, Navigable Waters Specialist then makes public notice in accordance with the Railway Safety Act.
3) The Approving Officer does not approve the final subdivision plans until the Ministry receives an Agreement from the railway company or an Order or Decision authorising the level grade crossing and no Objections have been filed in response to the Public Notice. The Ministry makes copies of the Agreement, Order or Decision available to the developer for construction purposes.
4) The full cost of surveys, plan, construction and maintenance of all level grade crossings contained within a subdivision are the developer's responsibility until the crossing is accepted as a public road by the Ministry. These costs will include invoices from the railway company for work including, but not limited to, crossing surface installation, clearing of sightlines, installing drainage and crossing signs. Construction may include signals where necessary in accordance with B.C. Supplement to TAC Geometric Design Guide for Canadian Roads Chapter 1100 or Government of Canada's Grade Crossings – Handbook.

Proposed railway crossings must meet all applicable requirements of the **Safety Standards**, **Safety Authority**, **Canada Transportation** and the **Railway Safety** Acts and supporting standards, regulations and guidelines before work can commence.

1.01.04.05 Covenants

Covenants

The Approving Officer may require a covenant as a condition of approval, or there may already be one or more covenants on the title which must be complied with. The following are some of the most common cases, but there are others as well:

- A parcel cannot satisfy sewage disposal regulations (with respect to on-site primary and secondary sewage disposal areas)
- Part of the lands to be subdivided is subject to natural hazards, including erosion, flooding, landslip or rock fall
- Approval is based either on specific land uses only or on denying specific land uses

A covenant may be of a negative or positive nature and may include one or more conditions as noted under **Section 219** of the Land Title Act. Various agencies and line ministries can recommend covenants as conditions of approval under different Acts such as:

Community Charter (Regional District, municipalities)
Drinking Water Protection Act
Health Act
Heritage Conservation Act
Agricultural Land Commission Act
Local Government Act (Regional District, municipalities)

1.01.04.06 Utility Right of Way in Subdivisions

Utility Right of Way in Subdivisions

If road dedication takes place over a utility right of way, the utility as holder of the right must sign the final plan. The applicant is responsible for obtaining the signature and paying all costs associated with obtaining it.

1.01.04.07 Authority for Controlled Access Highways

Authority for Controlled Access Highway

Section 48 of the **Transportation Act** designates some highways as **"Controlled Access Highways"**. These highways may be located anywhere in the Province. The Ministry has zoning, access and subdivision regulatory roles over the land adjacent to these highways.

The Minister regulates subdivisions adjacent to controlled access highways to minimize the impact of development on safety and traffic flow on these highways. This requirement applies whether the lots proposed abut the controlled access highway or only the remainder is adjacent to the highway. The Ministry requires all access to be via a local street or frontage road if at all possible.

Under **Section 80** of the Land Title Act, the Provincial Approving Officer is limited to considering the impact of the development on the controlled access highway where the local government is the subdivision approving authority. Regulation of these subdivisions by the Provincial Approving Officer ensures that alternative road access is provided to the subdivision as required by **B. C. Regulation 8/89** of the Land Title Act. This process ensures that the controlled access highway will not be compromised by land locking new parcels to the corridor.

1.01.04.07.01 Arterial Highways

Arterial Highways

Arterial highways are provincial roads within a municipality. According to **Section 45 of the Transportation Act** the Ministry may:

a. designate the following as arterial highways -
    i. any municipal land that the government acquires,
    ii. a municipal highway that has been resumed under **Section 35 of the Community Charter**, or
    iii. any municipal land or improvements referred to in Section 35 (2) (a) to (f) and (j) of the Community Charter, and
b. remove the designation of "arterial highway" from any highway.

Section 47 of the Transportation Act states that the Ministry has the right to improve or otherwise alter an arterial highway. Where the ministry requires right-of-way for an arterial highway for a subdivision under **Section 80 of the Land title Act**, the dedication of the land as “arterial highway” is created on deposit of the subdivision plan and gazette publication notice of the plan under **Section 44.1 of the Transportation Act**.

1.01.04.08 Authority for Road Closures

Authority for Road Closures

Road closures refer to the cancelling of highway rights of way, or parts thereof, creating titled land. For highways under provincial jurisdiction, the Ministry administers road closure permits pursuant to **Section 60** of the Transportation Act. Often a subdivision plan or reference plan of consolidation will result in a disposal of land.

If a subdivision proposal includes the closure of an existing highway right of way, that closure is made through a separate process. For information about road closure applications, ask your Development Officer.

1.01.04.09 Agricultural Land Commission

Agricultural Land Commission

Subdivision proposals that include land within the Agricultural Land Reserve must meet the approval of the Agricultural Land Commission in order to receive Preliminary Layout Review.

The Agricultural Land Commission's authority and responsibilities for managing the ALR are found in the **Agricultural Land Commission Act** and regulations passed by the provincial legislature and cabinet. The Commission encourages local governments to adopt plan and bylaw provisions that are supportive of farm activities and compatible uses in the ALR, and that recognize the wide range of agricultural values and the economic, social and environmental contributions of a healthy agricultural sector to communities and regions.

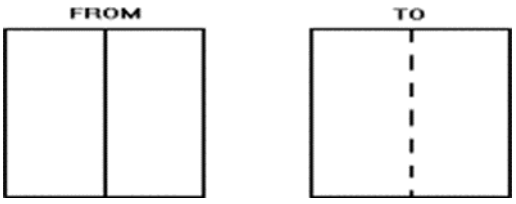
Application is made through the relevant regional district. The Agricultural Land Commission has an **Application Portal** for this purpose. There is a fee charged for application.

For more information about the **Agricultural Land Commission** and **developing properties**, see the ALC publications on **Land Use Planning**.

1.02 What is a Subdivision?

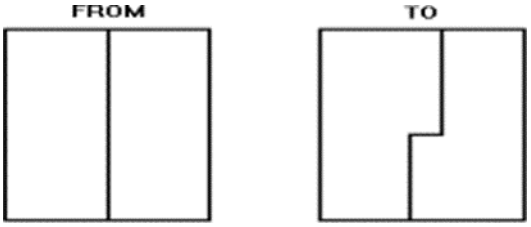
Any of the following constitutes a subdivision and must therefore be approved by the appropriate Approving Officer:

Consolidating two or more properties into one lot

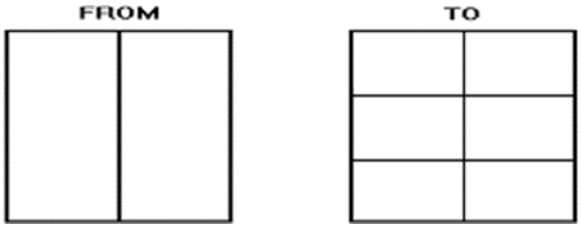


Part 8 of the Land Title Act provides for the cancellation of interior lot lines. This does not require the Approving Officer's approval but is approved by the Registrar of the **Land Title & Survey Authority**. The above diagram shows an example of a consolidation that may require review or approval.

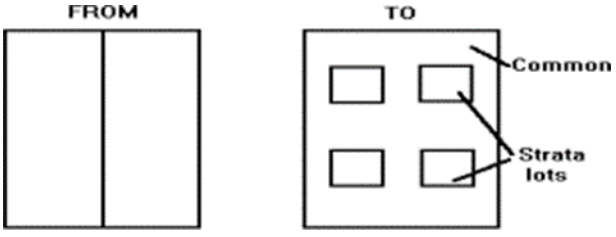
Adjusting or realigning an existing property line



Creating several lots from one or more existing properties

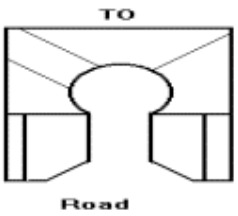


Creating several strata lots from one or more existing properties



Creating several lots from an existing property, with creation of a road

FROM
Road


TO
Road

1.03 Types of Subdivision

There are five basic types of subdivisions:

Fee Simple Subdivision

A land estate in which the owner is entitled to the entire property with unconditional power of disposition except as limited by the original grant or contained in any other grant or disposition from the Crown. A fee-simple subdivision results in a separate indefeasible title for each lot created under the **Land Title Act**.

Strata

A development where fee simple land is divided into multiple units, with all unit owners having a right to use common elements. Under the category of strata properties, there are three subtypes, as follows:

> #### Bare land Strata
>
> This is a strata subdivision where no buildings currently exist. Some parcels of it will be held individually, while others will be considered common area.
>
> #### Building strata
>
> The strata plan for a building not previously occupied does not need the approval of the Approving Officer or other approving authority. See **Section 241(1)** of the Strata Property Act.
>
> The strata plan for a building that has been previously occupied requires the approval of the approving authority (the regional board, for land not located in a municipality).
>
> #### Phased strata
>
> A phased strata plan involves the development of strata lots on one or more separate parcels of land in two or more phases. A strata plan is deposited for each separate phase. Upon deposit in the local Land Title Office, the land in the relevant phase is subdivided from the remainder of the lands yet to be developed. Successively developed phases are automatically consolidated upon deposit of the phase strata plan, and the strata corporation for each new phase is automatically consolidated with the strata corporation governing previous phases.
>
> The system provides the owner developer with a degree of flexibility by enabling them to decide whether or not to proceed with each successive phase. It also aims to ensure that adequate provisions are made for any common
>
> facilities to be provided in the development.
>
> In certain types of development, such as major base development on ski hills, there must be an acceptable standard for the public approach road and adequate parking within the development. It is also important to ensure that legal access is provided to

each phase being created and maintained to the remainder of the lands yet to be developed. Alternative access for emergency vehicles should also be a consideration.

Cooperative Association / Shared Interest

Under the **Real Estate Development Marketing Act**, developers can sell shares in a land-owning company. The company share method of land ownership is called a cooperative association.

If a developer offers shared interest in land for sale or lease, **Section 8** of the Real Estate Development Marketing Act takes effect and the Approving Officer's approval is required. The plan should meet the requirements of the ***Bare Land Strata Regulations*** BC Reg. 75/78 and policies governing strata subdivision.

Indian Reserves

On Indian Reserves, the subdivision of land lies under federal jurisdiction unless it conforms to **Part 24** of the Land Title Act.

A federal order-in-council is required before the roads come under provincial jurisdiction.

In recent years, Indian and Northern Affairs Canada have undertaken subdivision on Indian reserves, thereby formally recording tribal subdivision. These subdivisions may show some roads, but they are not public roads. The Provincial Approving Officer does not generally approve these plans. For more information, see **Indian Reserves**.

Leases

Under **Section 73(1)** of the Land Title Act leases exceeding three years or with an option to extend past three years are considered subdivisions under the Land Title Act and must be approved by an Approving Officer.

The Agricultural Land Commission or local government, if delegated the authority, may require a lifetime lease covenant. This type of lease is a charge upon the property and expires when the leaseholder or owner dies. The charge is not released automatically upon the death of the leaseholder, but must be released by the Agricultural Land Commission. See also **Covenants**.

A lease registered at the Land Title Office is subject to the same Land Title Act requirements as a fee simple lot. However, access via alternative methods (described under “Alternatives to Public Roads) may be more applicable than with fee simple lots.

Other types of subdivision occasionally encountered include the following:

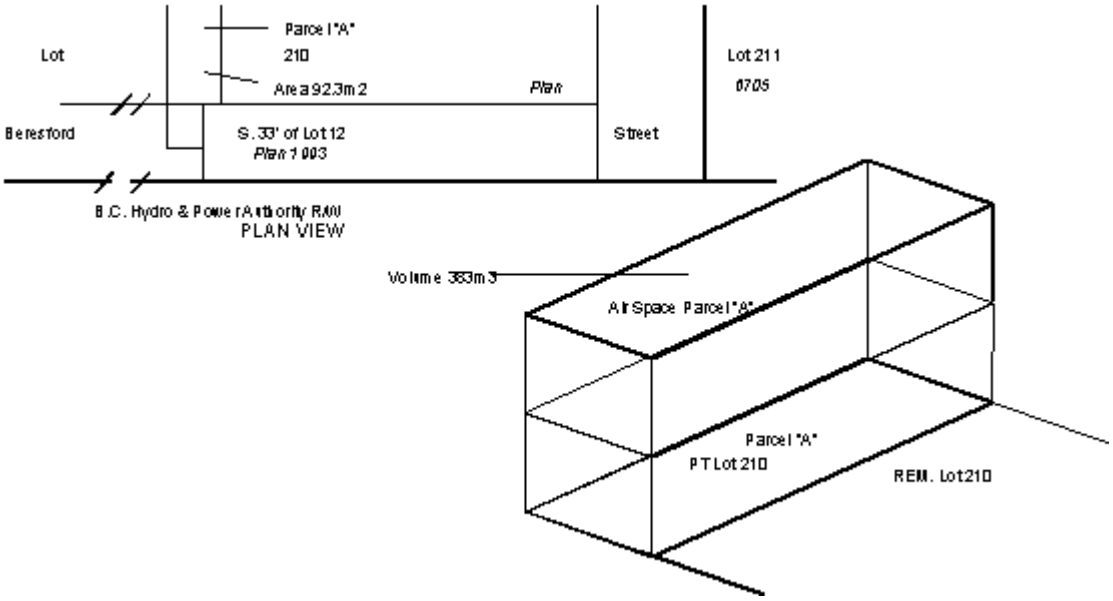
Air Space Parcels

An owner of land not only owns the surface but also the space above and below. Although upper and lower limits for a standard parcel of land are not clearly defined or delineated on a plan, the courts have generally accepted that these ownership rights extend above and below the surface as necessary for the ordinary use and enjoyment of the land.

The definition of an air space parcel in **Section 138** of the Land Title Act is " a volumetric parcel, whether or not occupied in whole or in part by a building or other structure, shown as such in an air space plan". This would include clearly defined upper and lower limits and side boundaries that are marked on the air space plan as shown in Figure 1. The purpose of creating air space parcels is for the occupation of the volumetric space by a permanent structure, such as a building or overpass, or to preclude anyone else from using the volume of space, such as a flight path for an airport runway. The aerial walkways linking department stores to their parking lots across the street in downtown Vancouver are examples of very simple air space parcels.

An air space parcel may consist wholly of air space, or air space and land, or possibly air space, land and water. Subject to practical constraints and certain rules and regulations, an air space parcel may take any shape and become very complex. If an air space parcel were used to legally separate two or more components of a multi- use development, the boundaries would follow the configuration of that component of the development.

Figure 1 EXAMPLE OF AN AIR SPACE PLAN



Source: Butler, Grant B.C.L.S. Proposed B.C. Hydro Burnaby Office Complex Southpoint air space parcels, 1991.

Accreted Land

Accretion is the growth in size of a land area, usually by the gradual and imperceptible accumulation of land by natural causes, such as out of the sea or a river. Under common law, the property owner owns the accreted land but has to gain title to it.

Sections 94 to 96 of the Land Title Act allow property owners to gain title to accretions by subdivision plan if the Surveyor General consents. This is a simpler procedure than that prescribed by the Land Titles Inquiry Act, which is used if the Surveyor General opposes.

Adding the accretion to one existing lot by consolidation does not require the approval of the Ministry. If a subdivision to create two or more lots is proposed at the same time, however, it is treated as an ordinary subdivision. Note that such properties may be subject to a risk of flooding or other associated hazards.

The Surveyor General certifies the accretion after the plan has gone to the Registrar of the Land Title Office.

Subdivision by Description

Section 99(a) of the Land Title Act provides for the Registrar to accept subdivisions by description only. A parcel can be subdivided only once using a description or explanatory plan. Only one new lot and a remainder can be created. There cannot be any road dedication.

The following also apply:

- The applicant must complete Ministry **Form H0236** Subdivision by Metes and Bounds Description.
- If a covenant is required, a Section 219 notation must be added to the Form H236
- The applicant should be encouraged to check wording and acceptability of description with the Registrar before final submission to the Approving Officer.

Subdivision of Land for Relatives

Under **Section 514** of the Local Government Act, a person may subdivide to produce a lot on which a separate residence will be constructed for a relative. The minimum size of the lot is one hectare unless the Medical Health Officer approves a smaller lot, which can be no less than 2500 m2. If the property is assessed as farmland, the remainder may not be reduced below two hectares.

Other bylaw provisions apply to subdivisions both in and outside the Agricultural Land Reserve (ALR). Land in the ALR is treated differently from land outside it. (See also **Farmland.**)

<< PREV NEXT >>

Top

1.04 Subdivision Fees

The Ministry charges an application fee and a final plan examination fee. You can find details about these on the **Fee Schedule** page. Local governments and referral agencies may also charge a fee for examining or processing a development proposal; these include the regional district, the regional Health Authority, and the Agricultural Land Commission, if applicable. As well, you can expect to pay:

- current taxes and professional fees
- fee for a review of a contaminated site identification Site Disclosure Statement
- fee for registration at the Land Title and Survey Authority Agricultural Land Reserve fee, if applicable

You will be responsible for retaining any professional expertise if required:

- servicing costs
- development
- costs of engineering reports costs of public consultation
- costs of site inspection, if exceptional

1.04.1 Examination Fee and Tax Certificates for Controlled Access Highways

Local governments that have the subdivision approving authority may charge and collect a plan examination fee for subdivisions within their boundaries. They also ensure that taxes have been paid. The Ministry does not charge an examination fee for review of subdivision related issues referred from a local government (e.g. subdivision next to a Controlled Access Highway, or relief from access to water requirements 71(i)(c) of the Land Title Act).

1.04.2 Final Plan Examination Fee

The plan examination fee is paid to the Minister of Finance for the final checking, approval, and signing of the subdivision plans.

The Ministry does not collect fees required by other agencies. However, the Provincial Approving Officer will reject the final plan for non-payment of fees. If re-approval is required, the exam fee is charged.

The fee for final subdivision plans for fee simple subdivisions in unorganized territories is set by **Section 3 of B.C. Regulation 8/89**. For bare land strata and phased strata proposals, the fees are set by **B.C. Regulations 75/78** and **43/2000** respectively under the Strata Property Act. **Section 47(1)** of the Financial Administration Act sets fees charged for preliminary subdivision application.

1.04.3 Strata Title Subdivision Application Fees

In addition to the fees for preliminary application and final approval, there is a fee for the approval of a Phased Strata Plan Declaration in Form P and for issuing a certificate of approval in Form Q for phased strata plan developments. The fee to examine a Phased Strata Plan Declaration in Form P by the Provincial Approving Officer is $100 pursuant to **Section 13.1 of the Strata Property Regulations B.C. Reg. 43/2000**. The fee to issue a certificate of approval in Form Q for each phase of the development by the Provincial Approving Officer is $100 pursuant to **Section 13.1 of the Strata Property Regulations B.C. Reg. 43/2000.**

For further information, please see **Strata Legislation** information site.

1.05 Subdivision Costs

Typical costs of subdivision development include:

- servicing costs
- development
- costs of engineering reports costs of public consultation
- costs of site inspection, if exceptional costs of drawing up covenants

1.05.1 Cost of Inspection

All subdivision applications require on-site assessments by Ministry staff and representatives of various agencies. If the cost of inspecting a subdivision is excessive (because of its remoteness or lack of access by public road), the applicant may be charged for any additional costs.

Other agencies may charge processing or inspection fees.

1.06 Time Required

How much time does this take?

Development Approvals are processed on a first-come, first-served basis, and both the number of applications in the system, and the complexity of each one can affect the timing. Typically, a proposal which comes in with a complete application and all the supporting documents may take 180 days to reach Preliminary Layout Review stage, depending on the nature of the proposal. Approval times vary around the province due to seasonal conditions, staffing levels within and outside the Ministry and process times at the local government level. Ministry staff can give you a time estimate when you apply.

After you have received Preliminary Layout Review, you have a year to complete servicing of your development and submit plans for the Final Approval. Final Approval takes up to 60 days maximum. Plans must be registered at the Land Title Office within 60 days of Final Approval.

What could cause the application to take longer?

Expect delays if you hand in incomplete information, if referring agencies delay making recommendations to the Ministry, or if your application requires numerous site visits.

If your application is incomplete, it cannot be processed. Applications are dealt with in the order that they arrived, and your proposal can spend time in the queue, only to be handed back with a request for more information. Please make sure you have included all the information listed on our **checklists** as you prepare your preliminary application.

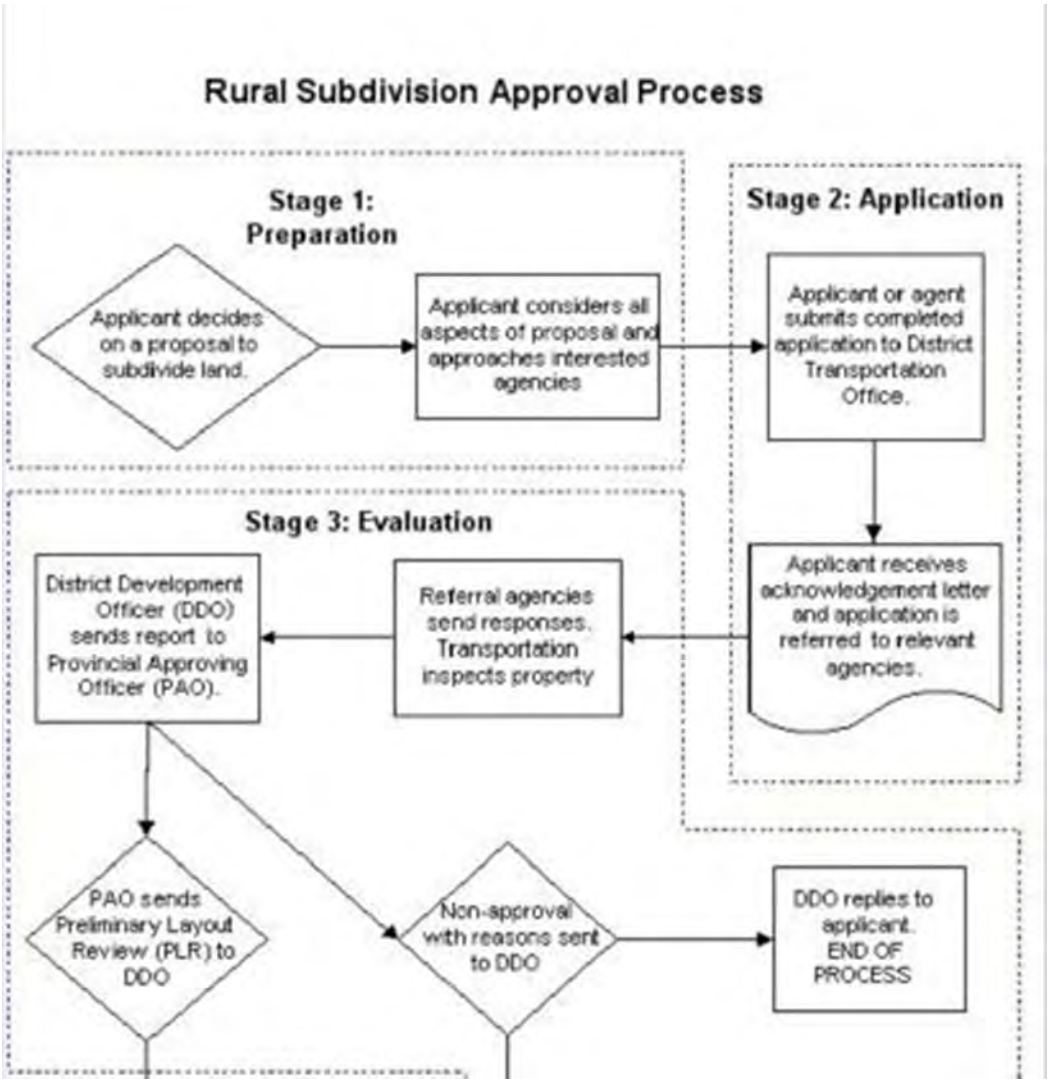
Review by other agencies can take longer in some cases, especially if there are applications and authorizations involved or if your application is forwarded to additional agencies for review. While the Ministry makes every effort to expedite the process, you may wish to contact the referral agency directly to try to resolve issues which have reached an impasse or are delayed due to lack of information. For instance the Health Authorities may not understand your intent with respect to drinking water or sewage disposal. A Regional District may have a land use or zoning concern.

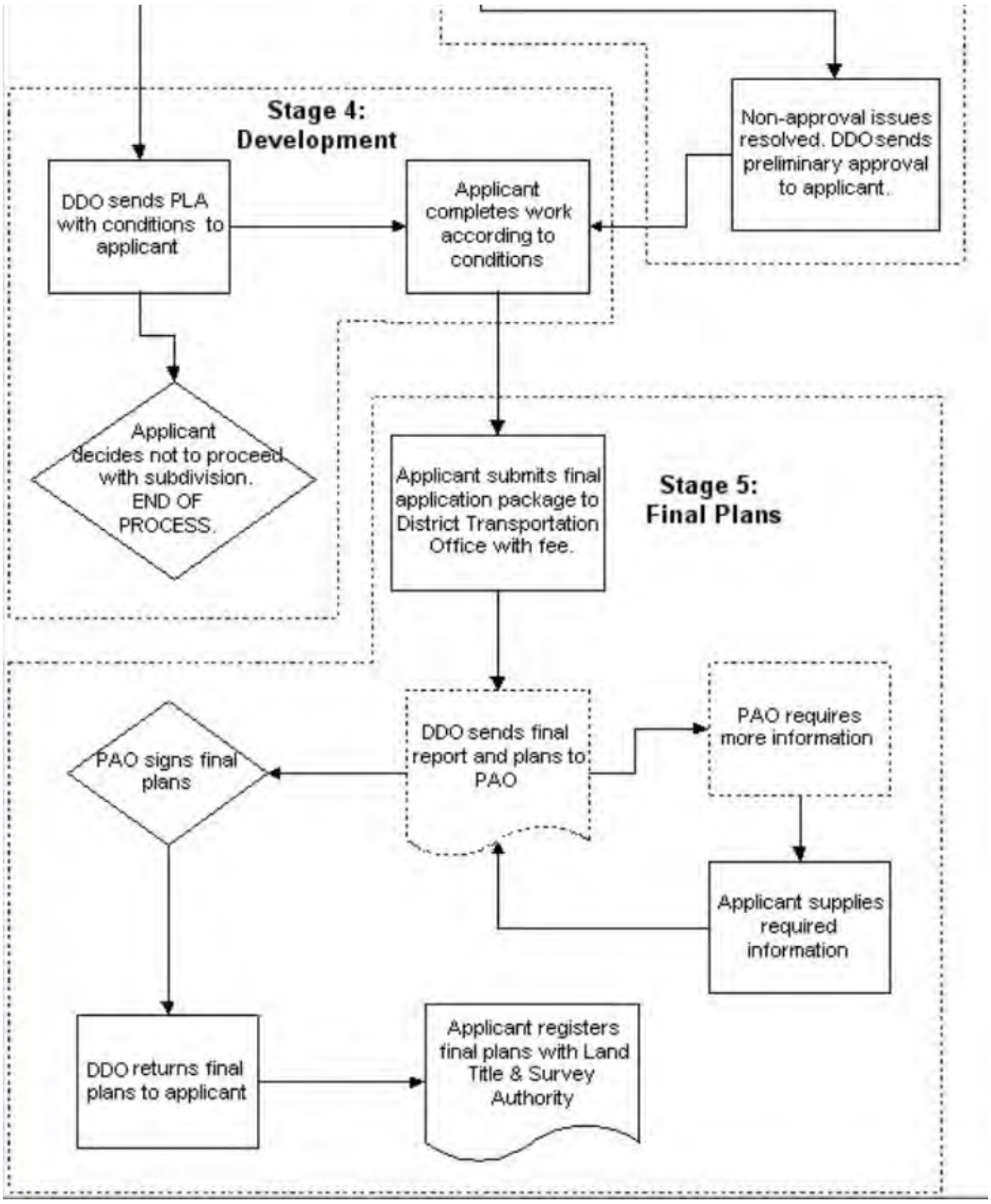
These issues can often be resolved by your direct contact rather than the Ministry acting as an intermediary for you.

The Approving Officer may require examination and report(s) on the proposed subdivision prior to preliminary decision. Any investigation by professionals and subsequent review will take additional time.

2.0 Ministry of Transportation and Infrastructure Subdivision Approval Process

The Ministry's application process has five stages, each with a number of separate steps.





The process described here is for conventional fee simple subdivision and covers the majority of subdivision applications brought to the Ministry. For strata properties and other variations from the conventional subdivision process, go to **Variations in the Approval Process**.

The steps in the application process fall into five stages:

1. **Preparation:**

The applicant decides on a proposal to subdivide land

more >>

2. **Application:**

The applicant prepares and submits an application for Preliminary Layout Approval.

more >>

3. Evaluation:

The Ministry receives the application and evaluates it according to the criteria.

more >>

4. Preliminary Review and Development:

The Provincial Approving Officer gives the application preliminary review (PLR) with conditions or non-approval (PLRS) with reasons. Should the applicant wish to continue, they are required to complete all works identified in the PLA. **Note:** Preliminary Layout Review does **not** guarantee the subdivision will be approved at the final approval stage.

more >>

5. Final Approval:

The Applicant submits final plans and the Approving Officer makes a final approval decision. If they are approved, the applicant registers the plans in the Land Title Office.

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6. Variations in the Approval Process

Most of the information posted here pertains to conventional subdivision. However, there are other types of subdivisions, such as strata subdivisions or subdividing for relatives. There are also special situations which add to the process in other subdivisions. If you are subdividing in any of the exceptional circumstances listed in this category, please contact your Development Officer for advice pertaining to your application.

more >>

<< PREV NEXT >>

2.1 Preparation

Read this information carefully, and either download a **Preliminary Subdivision Application** or pick one up at your **district office**. Depending on the nature of the project and your experience with the process, you may need the services of a consultant to prepare the initial proposal.

Consider the following:

- Is an adequate **supply of potable water** available? Are there water licences attached to the property? If so, you will need to amend the licenses before you subdivide. Please contact your regional **FrontCounterBC** Office for further information on **amending water licences**. Is your land subject to **natural hazards** such as flooding, snow avalanche, rock fall, erosion, land slide, tidal action, and so on? You may need to retain professional expertise to investigate.
- Has the land been used for commercial or industrial purposes? If so, the **Contaminated Sites** Regulation may apply.
- How do you plan to dispose of **sewage**? If you plan on-site disposal, is the soil on site suitable to receive waste?
- Will your proposal have a significant **environmental effect**? You should consider minimizing impacts by consulting **Ministry of Environment guidelines.**
- Are there sensitive or exceptional environmental values, especially **riparian areas** that may be affected? Check the **Environment Guide**
- Is there potential of **archaeological or other heritage values** on site that may be affected? You may be required to retain professional expertise to investigate.
- Are there **utility rights of way** or easements on the site? Approvals may be required. Does your proposal conform to existing **covenants** on the title?
- Is your proposal in keeping with the **land use bylaws** of the local government body? If not, ask yourself whether you wish to redesign the proposal or apply to rezone the property before submitting your subdivision application. It is recommended that you discuss your intent with the local government prior to submitting an application.
- Is your proposal affected by the Agricultural Land Reserve? If so, has the **Agricultural Land Commission** or local government, if delegated the authority, agreed to your subdivision?
- Does the local government body have an established policy on the provision of **parkland and open space?**
- Does the local government body have development concept plans to guide the format of subdivisions in your area?
- Is the road serving as access to your property a **public road**? The district office can advise you.
- Is the **road** leading to your property of sufficient standard to support your development ideas?

- Again, your district office can advise you if it is sufficient or if it needs improving before it can support further subdivision activity.

<< PREV NEXT >>

2.2 Application

The applicant submits the following to the District Office. Be as thorough as possible, since Ministry staff cannot process applications with required items missing.

Required items include:

- ☐ **Subdivision Application** form or apply online
- ☐ The Preliminary Subdivision Application fee. When applying online payment may be made online upon notification, or follow the application by payment in person or by mail **Permission to Act as an Agent** statement from the owner if someone else, such as an agent, is applying on the owner's behalf
- ☐ A copy of BC Assessment Authority Property Assessment Notice showing property tax classification
- ☐ All new lots MAY require a sewage report—please contact your local district office for clarification
- ☐ One copy of the current State of Title Certificate so that property encumbrances can be checked
- ☐ Copies of any covenants, easements, rights-of-way or other charges registered against the title. These are available through the **Land Title & Survey Authority**
- ☐ A copy of Contaminated site identification **Sites Disclosure Statement** form or **Contaminated Sites declaration** statement, duly completed and signed
- ☐ Original copy and a .PDF file of a scaleable sketch plan of proposed layout with metric dimensions

Properly engineered drawings will be required for final approval. The sketch should contain:

- The date it was drawn
- The scale North arrow
- Legal description of the property being subdivided, and its adjacent properties Outline of the subdivision in red or heavy black line
- All proposed lots, remainders, parks, rights of way, easements and roads showing dimensions and areas
- Any existing property lines or roads proposed to be removed, closed or relocated
- All steep banks or slopes exceeding 2 m high and all slopes of 25% or greater, within or adjacent to the proposal area
- Location of existing buildings and structures, wells and sewage disposal fields on the property, as well as adjacent properties
- Location of any onsite water sources to be developed Approximate location of all existing and proposed utility services
- Existing access roads and other roads and trails on the property (state names of roads)
- Location of all water courses (seasonal or otherwise) and water bodies

Include these items as well, where applicable

- ☐ A copy of the Agricultural Land Commission application or approval (if located within ALR).
- ☐ While a developer can apply for subdivision approval before he or she receives permission to proceed from the Agricultural Land Commission or the local government if it has been delegated the authority, the Provincial Approving Officer can only grant approval if the proposal has been approved by the ALC
- ☐ One copy of any the results of any test required by the Regional Health Authority A municipal development permit and plan where applicable

Protection and Privacy

Personal information is collected by the Ministry of Transportation and Transit under section 26(c) of the Freedom of Information and Privacy Act and will be used for the purpose of processing applications through the Permits Approvals Subdivision Portal (PASport). The information entered into this system will be provided to referral agencies. It is your responsibility to ensure the information is accurate and up to date. If you have any questions about the collection, use and disclosure of this information, please contact:

Ministry Privacy Officer, Ministry of Transportation and Transit,
TTInformationSecurity@gov.bc.ca

2.3 Evaluation

The Ministry receives the application and evaluates it according to various criteria.

Factors that they consider include, but are not limited to:

- Natural hazards, such as flooding, erosion, landslides, or avalanches Adequacy of sewer, water, and other services
- Size and shape of lots
- Public interest issues, pursuant to **Section 85(3)** of the Land Title Act. Adequacy of open spaces and walkways
- Preservation of natural features
- Compatibility of overall subdivision pattern with the neighborhood Opportunity for future subdivisions
- Adequacy of buildable area
- Adherence to Ministry construction standards
- Adequacy of roads, lanes, and emergency vehicle access
- Legal and reasonable access to all lots being created, lands beyond and access to water, as per requirements of **Section 75** of the Land Title Act
- Drainage

Ministry Reviews Application and Sends to Referral Agencies

The Development Officer will review your application and refer it to other agencies, such as the Regional Health Authority or the Regional District, for their recommendations or approval. The Development Officer will review your application with respect to the remaining items.

- You will receive a letter that gives you the following information:
- Acknowledgment that your application has been received
- A statement about which agencies have been asked to review your proposal
- An estimate of the time it will take to get to the notice of preliminary layout review

The letter will contain the file number assigned to your proposed development. Keep this number handy for reference whenever you contact the Ministry about the application.

Design and Review by Professional Engineer

Any works subject to Ministry review that fall within the scope of “engineering” under the **Engineers and Geoscientists Act** will be performed by a Professional Engineer, and shall comply with the Ministry’s “**Professional Assurance Guidelines**” .

Application Goes to Approving Officer

After receiving all referral agency responses and conducting his or her own review, the Development Officer may send your application to the Approving Officer for preliminary consideration (see 2.4.1).

2.3.1 Health and Safety

Evaluating for health and safety happens both within the Ministry and Infrastructure and through referral agencies, particularly the regional Health Authority. Assessing potential risks and obstacles such as water supply, sewage disposal or natural hazards protects the applicant, the public and the regulatory authorities from costly mistakes.

2.3.1.01 Water Supply

Water Supply

Regardless of parcel size, assurance of an adequate supply of potable water suitable for the proposed land use is required.

- Water may be supplied from:
- individual surface sources
- individual wells on site
- new water system
- extension of an existing water system

If there is no subdivision bylaw regulating proof of water supply, the Approving Officer may require proof of 2500 litres per day per dwelling unit, as well as a statement from a laboratory regarding the water's quality.

If there is a subdivision bylaw regulating proof of water supply, the proposed subdivision must comply with it. In general, the local government determines whether the proof of water supply requirements has been met. (See "Water Systems") The local government may also specify that ‘fire flows’ be provided in water supply systems.

For further information on Water Supply requirements, see the **Drinking Water Protection Act** and Regulation BC Reg, 200/2003 [effective November 1, 2005]and the Guidelines for Canadian Drinking Water Quality. You may also wish to contact local government and the local Health Authority for their guidelines on potable water

2.3.1.02 Water Systems

Water Systems

The Approving Officer may require the provision of water in proposed subdivisions regardless of parcel sizes.

Water systems serving two or more residences are water supply systems as defined by the Drinking Water Protection Act. They require a Construction Permit issued by a Public Health Engineer of the Regional Health Authority. They also require an Operating Permit issued by the Regional Health Authority's Drinking Water Officer.

Water systems serving five lots or more are water utilities as defined by the Water Utility Act.

Where such systems are involved, the applicant must submit the following to the District Office before final approval of the subdivision plan:

- A letter from the Ministry of Water, Lands and Resource Management, stating that the water system has been installed to acceptable standards and confirmation that ‘as built’ drawings have been approved by the Comptroller of Water
- An amendment to the Certificate of Public Convenience and Necessity (CPCN) is required if an extension to an existing water system is proposed to be constructed. Sometimes the CPCN covers a larger area than is presently served so an amendment is not required. For new community water systems, a new Certificate of Public Convenience and Necessity is required

Usually proof of an adequate supply of potable water is a requirement in the local government's Subdivision Servicing Bylaw.

2.3.1.03 On-Site Sewage Disposal

On-Site Sewage Disposal

The Regional Health Authority must be referred to for recommendations regarding all subdivisions in which the minimum lot size is less than two hectares. When considering subdivision proposals with on-site sewage disposal, such as septic tanks, the Medical Health Officer requires that percolation and ground water table tests be performed. The Medical Health Officer or his/her designate must be invited to these tests.

A review by the local Environmental Health Officer or Public Health Inspector may still be required for lots exceeding two hectares if the Approving Officer deems it necessary.

The Approving Officer may not require on-site sewage disposal systems to be constructed prior to plan approval. However, a Discharge Permit from the Environmental Management Section of the Ministry of Environment is required if either of the following is true:

- The anticipated sewage discharge exceeds 25,000 litres per day
- The intended land use is not “domestic”

2.3.1.04Ground Water Table Elevation and Percolation Tests

Ground Water Table Elevation and Percolation Tests

Sewage Disposal may be served with individual on-site systems, a new sewage system or extension of an existing system. A soil assessment ensures that on-site disposal is feasible. The Environmental Health Officer of the applicable local office of the Regional Health Authority applies the requirements of the **Local Services Act** Sewage Disposal Regulations when determining if a proposed parcel can accommodate on-site sewage disposal.

The "ground water table elevation test" is an important part of these Regulations. If the tile field is in water, aerobic bacteria cannot function, and the efficiency of the septic tank system is reduced. If the water is flowing, it may carry the effluent to a highway ditch or to some other property's source of domestic water.

Section 1 of the Sewage Disposal Regulations Site Investigation Schedule states that subsurface ground conditions in the area of the absorption field should be determined by doing the following:

- Digging or boring a representative number of holes to a minimum depth as required by Environmental Health Officer
- Reporting the conditions found
- Leaving the excavated material for inspection
- Covering the test holes

In areas without sewage systems, water should soak into the soil at a certain rate. The "percolation (perc) test" indicates how fast this occurs.

You may have to delay completion of these tests depending on the season.

Applicants should submit the test results to the District Office with the subdivision application. The Development Officer will then forward the test results with a copy of the plan to the local office of the Regional Health Authority for comments and recommendation. If the test results are not submitted with the application, the evaluation will continue but preliminary review may not be given before the soil tests are complete.

2.3.1.05 Community Sewer Systems

Community Sewer Systems

If a community sewer system operated by an Improvement District or Regional District will serve the proposed subdivision, the referring officer will refer the application to the Improvement or Regional District, stating that suitable arrangements for the installation of the sewer system have been completed.

The applicant must submit a letter to the District Office before final approval of the subdivision plan.

A private company may operate a community sewer system. In this case, a permit from the Environmental Management Section of the Ministry of Environment is required. Before final approval of the subdivision plan, the developer must install the sewer system and provide a certificate from a Professional Engineer stating that the system is designed and constructed to an acceptable standard pursuant to B.C. **Regulation 87/2012, Environmental Management Act Municipal Wastewater Regulation**.

2.3.1.06 Natural Hazards Identification

Natural Hazards Identification

It is most important that natural hazards be identified on land that is about to be subdivided. Such hazards include:

- Avalanche
- Flooding
- Erosion
- Landslip
- Wildfire
- Rockfall
- Debris torrent

If these are confirmed by a review, the subdivision may be refused unless the potential hazard can be mitigated.

District Development Officers may identify natural hazard potential. When a potential risk is identified, you may be required to retain a certified professional to provide a report to the Approving Officer.

Pursuant to **Section 86** of the Land Title Act, the Approving Officer may refuse to approve the subdivision plan if he or she considers that the land in question may be subject to a natural hazard. Similar provisions apply under the **Strata Property Act** and the **Bare Land Strata Regulations BC Reg. 75/78**.

You can learn more about natural hazard identification through the Ministry publication **Natural Hazards in BC**.

2.3.1.07 Geotechnical Study

Geotechnical Study

If an Initial Study Is Needed...

if there is no existing study of the area but one is required, the Development Officer, at the direction of the Approving Officer, sends the applicant a letter asking for an initial geotechnical study.

If a Site-Specific Study Is Needed...

If a blanket study of the area has been done and shows evidence of natural hazards, the Development Officer, at the direction of the Approving Officer, sends the applicant a preliminary layout review status letter suggesting that a qualified Professional Engineer be hired to do a site-specific study. If the blanket study is a public document, it should be referred to in the letter.

Outcome of the Study

After receiving the letter from the Development Officer, the applicant may engage a qualified Professional Engineer to do a geotechnical study of the site. Its goals would be to:

- Determine if there is a hazard
- Determine extent of any hazard
- Identify building sites free from hazard, or where risk could be rendered acceptable

2.3.1.08 Flooding

Flooding

Local governments have flood-related bylaws and flood-plain mapping. You may contact the local government directly, or talk to your Development Officer if you plan to subdivide near a body of water.

Pursuant to **Section 86** of the Land Title Act, the Approving Officer may refuse to approve the subdivision plan if he or she considers that the land in question may be subject to a hazard of flooding. Similar provisions are available under the **Strata Property Act** and the Bare Land Strata **Regulations BC Reg. 75/78**.

In order to properly assess the potential for flooding, the Approving Officer may require the applicant to provide an engineering report certifying that the land may be used safely for the intended purposes and/or to identify possible remedial works.

If it is deemed necessary to mitigate the hazard through the construction of a dike(s), the applicant will be required to comply with the provisions of the Dike Maintenance Act and the following:

- Hire a suitably qualified consulting professional engineer to design the works to meet provincial standards and to prepare an Operations and Maintenance Manual.
- Obtain agreement from the local government to become the Diking Authority and assume ownership and maintenance responsibilities for the dike.
- Provide adequate land, or statutory rights of way, to the local government to allow legal access for personel and equipment to inspect and maintain the dike
- Prior to construction, obtain written authorization to proceed with the construction from the Inspector of Dikes, Ministry of Natural Resource Operations

For more information on the administration of the Dike Maintenance Act contact your local **Deputy Inspector of Dikes**.

2.3.1.09 Threat of Wildfire

Threat of Wildfire

We recommend that the owner/applicant consult the following websites **http://bcwildfire.ca/** or **https://www.firesmartcanada.ca/** and in particular, the free downloadable interactive manual **FireSmart: Protecting Your Community** for information relating to wildfire.

Talk to your Development Officer if you live in an area prone to wildfires.

2.3.1.10 Contaminated Sites

Contaminated Sites

On April 1, 1997 the **Contaminated Sites Regulation** of the Environmental Management Act (B.C. Reg. 375/96) took effect. If the subdivision involves land that has been used or is used for industrial or commercial purposes or activities, you may have to provide a **site disclosure statement**, a form which describes the potential hazards on the land.

Schedule 2 of the regulation sets out some examples of the types of industrial or commercial land uses to which site disclosure statement requirements apply. More information is available from Ministry of Environment Regional and Victoria offices. If the land has not been used for industrial or commercial purposes you may provide a letter to that effect, rather than a site disclosure statement. A letter template is available. See Apply

Applications involving contaminated sites may not be issued a preliminary layout review letter unless Ministry of Environment consents to the proposal.

2.3.2 Land Use

In this section, land use refers to more than the human activities that take place on the land. It looks at environmental protection, parcel layout, aesthetics and archaeological interest as well, all of which could affect the design or even the feasibility of the subdivision application. Pursuant to **Section 86 of the Land Title Act,** approving officers need to balance a wide variety of factors to make sure the proposed subdivision does not unreasonably affect the land and its adjacent properties.

2.3.2.01 Local Government Bylaws

Local Government Bylaws

The **Local Government Act** gives Regional Districts the authority to enact subdivision servicing and zoning bylaws. **Section 87** of the Land Title Act authorizes the Approving Officer to refuse a subdivision if it does not conform to these bylaws. A local government may regulate the development of subdivisions in subdivisions by bylaw, including the provision of works and services pursuant to **Section 506** of the Local Government Act. The application will be referred to the Regional District to confirm compliance with their by-laws.

2.3.2.02 Improvement District Bylaws

Improvement District Bylaws

You must comply with Improvement District bylaws. If the land in question is within an improvement district it will be reflected on the Certificate of Title or on the tax assessment form. Contact the improvement district to discuss your proposal and see what roles or bylaws they have.

Not all Improvement Districts have subdivision servicing bylaws; ask your Development Officer if an Improvement District has any jurisdiction in your area.

2.3.2.03 Suitability for Intended Use

Suitability for Intended Use

Section 86(1)(c)(ix) of the Land Title Act allows the Approving Officer to refuse to approve a subdivision plan if the subdivision is unsuited to the configuration of the land or for the use intended.

Parcels without any of the following are may not be suitable for residential land use:

- Building site
- Available source of potable water
- Sewage disposal capability
- Vehicular Accessibility

2.3.2.04 Lot Identification

Lot Identification

The Development Officer may request the applicant to flag proposed property corners. This may be necessary in large or multi-lot subdivisions, particularly if there are potential natural hazards affecting the property. The Environmental Health Officer or Public Health Inspector may require lot corners or proposed sewage disposal areas to be identified as well.

2.3.2.05 Parcel Size

Parcel Size

Parcel size in subdivisions is tied to health concerns such as water supply and sewage disposal capability, and to local government zoning bylaws. In areas that are not governed by any subdivision or zoning bylaws **Section 6 of the Subdivision Regulations (B.C. Regulation 262/70)** of the Local Services Act governs parcel size.

Subdivision plans that do not meet parcel size or zoning requirements may not be approved, except in the following cases:

- One new lot is being created for a separate residence for a relative, pursuant to **Section 514** of the Local Government Act. (See “Subdivision of Land for Relatives”)
- A proposal met parcel size requirements when Preliminary Layout Review was issued, and then rezoning rendered the proposal non-conforming under **Section 511** of the Local Government Act. In such a case, the proposal can be given final approval within one year of the adoption of the bylaw.

2.3.2.06 Parcel Split by a Road

Parcel Split by a Road

If the subdivision produces a new parcel split in two by a road (with a hook across showing one title on the plan), and creates a severance that is small enough to cause concern with respect to sufficient area for the building envelope and sewage disposal areas, use of that severance may be curtailed with the placement of a restrictive covenant. Bylaws may prohibit split parcels or establish minimum and maximum parcel sizes for a road severance.

2.3.2.07 Frontage of Lots

Frontage of Lots

If a parcel being created by a subdivision fronts on a highway, **Section 512** of the Local Government Act requires that the minimum frontage on the highway be the greater of the following:

- 10% of the perimeter of the lot, or
- The minimum frontage required by a bylaw

In general, the 10% rule is a good rule of thumb for avoiding parcel shapes that would be too small for a building envelope (building site, access, and so on) and for any further development of the parcel.

Before granting relief from the frontage requirement, the Approving Officer may consider the following:

- Is the frontage offered adequate to provide the access required now? If not, more parcel frontage would have to be provided or the lot modified
- Is the terrain suitable for access where that frontage is provided? If not, frontage has to be provided elsewhere
- Does the lot contain an adequate building envelope? If not, a building cannot be constructed, and the lot would have to be modified
- Does the proposed parcel have further subdivision potential that will not be realized because the limited frontage will make it impossible to access that potential lot? If so, the subdivision may be rejected

2.3.2.08 Panhandles

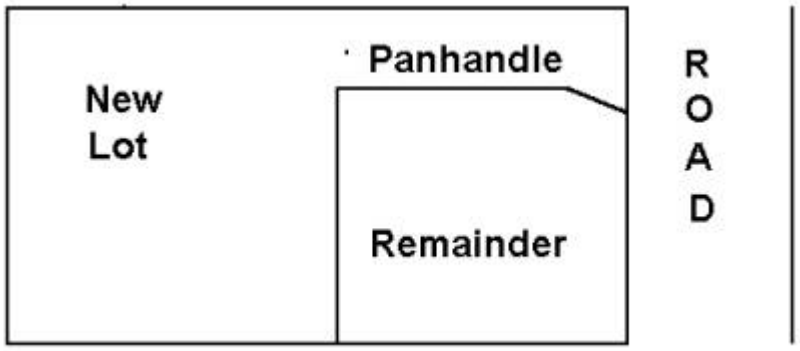
Panhandles

A panhandle is a long, narrow portion of a lot whose principal function is to provide access to the lot. It generally touches a road. Panhandles should be of sufficient width to serve the intended use. If the lot can be further subdivided, the panhandle should be wide enough to contain a public road.

Local bylaws may apply.

Panhandle lots must also meet the following requirements:

- There must be a waiver from the frontage requirements
- Panhandles for lots that can be further subdivided must be suitable for construction of a future road. They must meet intersection and grade requirements If it is anticipated that a 20-metre panhandle will become a future road, provision should be made to allow for future corner cut-offs



- The area of the panhandle cannot be included in the area of the lot for the purpose of meeting minimum parcel size

2.3.2.08 Remainders

Remainders

Remainders are always considered as another lot in the subdivision. Even though they are outside the bold outline, they are reviewed according to all subdivision requirements. They must be considered for road requirements, including but not limited to access to lands beyond and access to a body of water.

2.3.2.10 Sketch of Further Subdivision

Sketch of Further Subdivision

Under **Section 83(2)(d)** of the Land Title Act, the Approving Officer may require the subdivider to submit a sketch showing how the proposed lots or remainder could be further subdivided.

2.3.2.11 Esthetics

Esthetics

As this is a land use question, the local government may provide comments. Local bylaws may speak to this and can be considered (e.g.: Development Permit Area Requirements). The Approving Officer may also hear from affected interests (**Land Title Act, Section 86**).

2.3.2.12 Parks

Parks

Section 510 of the Local Government Act allows Regional Districts to acquire for park purposes up to 5% of the land being developed. Land designated for park under this Section should be shown as “park” on the subdivision plan.

This power to acquire parkland does not apply when:

- The subdivision will create fewer than three additional lots
- The smallest lot being created by the subdivision will be larger than two hectares
- The subdivision consolidates existing parcels

Payment in Lieu of Dedication: If the Regional District has Letters Patent for the park function, the landowner has the option of paying money in lieu of the 5% dedication.

However, if an official community plan or a rural land use bylaw contains policies and designations regarding the location and type of future parks, the Regional District may decide whether the applicant should provide land or money.

The Regional District is responsible for identifying the need for park dedication and determining where it should be located. It does this in response to the Ministry's subdivision referral. The applicant and the Regional District work out the details of cash in lieu as well as any disagreement about the location of the park.

Dedication of Linear Parkland It may be in the public's best interest to establish a strip adjacent to a stream or river as Crown Land pursuant to **Section 85** of the Land Title Act and **Section 510** of the Local Government Act.

For example, if a river has high recreational value, a seven-metre-wide strip adjacent to a river may be recommended to allow access for people wishing to fish.

A park does not qualify as a road.

2.3.2.13 Environmental Considerations

Environmental Considerations

Approving officers, pursuant to **Section 86 of the Land Title Act**, have the authority to consider environmental input in subdivision proposals. The subdivision should be designed so that it protects the natural environment as much as reasonably possible. This would include issues such as buffer zones, creekside protection, groundwater contamination, noxious weeds, wildlife, fisheries and wildfire concerns. Developers should prepare a plan that minimizes changes to the existing terrain. See the Ministry of Environment **Develop with Care**: Environmental Guidelines for Urban and Rural Land Development in British Columbia.

2.3.2.14 Creek Considerations

Creek Considerations

The stated goal of the **Riparian Areas Protection Act** (the “RAPA”) is to protect and preserve fish habitat in waters under provincial jurisdictions. The Environmental Stewardship Division of the Ministry of Environment often recommends protection of a creek's banks to maintain fisheries equilibrium. The RAPA authorizes the Regional Manager, Water Stewardship, Ministry of Environment to take into account the impact on fish and fish habitat when deciding to grant a license of approval under the Water Sustainability Act. When this happens, the Approving Officer should ask the subdivider to return to the Crown a seven-meter strip plus the creek bed if he or she owns it.

Riparian Areas Protection Regulation

The Riparian Areas Protection Regulation B.C. calls on local governments to protect Riparian Areas during residential, commercial, and industrial development. They will do so by ensuring that proposed activities are subject to a science-based assessment conducted by a qualified environmental professional.

The Riparian Areas Protection Regulation model uses qualified environmental professionals, hired by land developers, to assess habitat and the potential impacts, develop mitigation measures and avoid impacts of development to fish and fish habitat, particularly riparian habitat.

The assessment methods attached as a schedule to the regulation are a key component of a regulatory regime for riparian protection that is clear and measurable, but does not rely exclusively on default setbacks. The assessment is based on the best available science with respect to riparian habitats.

The Riparian Areas Protection Regulation currently applies only to local governments located on the east side of Vancouver Island, the Lower Mainland and the Southern Interior, as these are the parts of the province that are experiencing the most rapid urban growth. This includes the following regional districts and all municipalities within them: Capital (except the City of Victoria and Township of Esquimalt), Central Okanagan, Columbia-Shuswap, Comox Valley, Strathcona, Cowichan Valley, Fraser Valley, Greater Vancouver (except the City of Vancouver), Nanaimo, North Okanagan, Okanagan-Similkameen, Powell River, qathet, Squamish-Lillooet, Sunshine Coast, Thompson-Nicola and the trust area under the **Islands Trust Act** .

2.3.2.15 Wildlife Considerations

Wildlife Considerations

Impact on wildlife ecosystems will be considered. Many species and ecosystems at risk in British Columbia have been identified, through the cooperation of scientists and experts throughout the province. Each has been assigned a global and provincial rank by the **B.C. Conservation Data Centre** according to an objective set of criteria established by the Nature Conservancy. The ranks assigned and listed in the tracking lists maintained by the CDC provide the basis for the Red and Blue lists of the Ministry of Environment (MoE). These lists include plants and animals that have population characteristics, population trends, or distributions which indicate that they require special attention so that they may be maintained as part of the wildlife of British Columbia. These lists are only one indicator of potential impact. A report by a certified professional may be required. To date, the MoE Red and Blue lists have included only vertebrates. Red and Blue lists are also available for butterflies and moths, dragonflies and damselflies, marine invertebrate animals, other invertebrate animals, vascular plants, and mosses.

Placing plants and animals on these lists flags them as being at risk and requiring investigation. The Red and Blue lists provide a list of species for consideration for more formal designation as Endangered or Threatened, either provincially under the British Columbia **Wildlife Act**, or nationally by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and provide a method of assigning conservation priorities for species considered at risk in British Columbia. **Recovery planning** is a process undertaken to ensure the survival and recovery of these species and ecosystems at risk.

The Ministry of Environment also lists animals and plants considered to be secure in British Columbia on the Yellow List - these are managed at the habitat level by managing for a diversity of habitats in the province.

See the brochure on **Species Ranking in B.C.** (PDF) for more details and an explanation of ranks and list status.

See **Develop with Care**: Environmental Guidelines for Urban and Rural Land Development in British Columbia document for links to information.

2.3.2.16 Archaeological Interests

Archaeological Interests

It is important to identify areas with proven or potential heritage significance early on in the subdivision process. This will allow for the least restrictive on-site development and the most cost- effective management of archaeological sites. If there are known values on site, or an indication of high archaeological values present, a report from a certified archaeologist may be required. If there are no known values but an item or feature of archaeological interest becomes evident, it is vital to stop all work and hire an archeological professional to assess the site further. All applicants must comply with the **Heritage Conservation Act.**

2.3.2.17 Aboriginal Interests

Aboriginal Interests

In the **Updated Procedures For Meeting Legal Obligations When Consulting First Nations**, Interim (07 May 2010), the term “Aboriginal Interests“ refers to claimed or proven aboriginal rights (including title) and treaty rights that require consultation.

Please consult your Development Officer.

2.3.2.18 Farmland Considerations

Farmland Impact

Land within the Agricultural Land Reserve: Applications to subdivide land within the Agricultural Land Reserve must be submitted through the local government. Use the **Application Portal** supplied by the **Agricultural Land Commission.** A **BCeID** is required in order to log into the ALC Application Portal.

If the Agricultural Land Commission allows the subdivision, the applicant should provide a copy of the approval letter to the Development Officer. If a covenant is required as a condition of the Commission's approval, it should be in favour of the Agricultural Land Commission. If the final subdivision plan differs significantly from the sketch approved by the Commission, the Approving Officer cannot give final approval.

Impacts on farming operations will be considered. Buffers and access conditions may be required. If the land is adjacent to the Agricultural Land Reserve, the application may be submitted directly to the Agricultural Land Commission for confirmation of the Land Reserve Boundaries.

Land Partially Within the ALR: Subdivision of land located partially or totally within the Agricultural Land Reserve cannot be approved without the permission of the Agricultural Land Commission unless conditions specified in the Agricultural Land Reserve General Regulation, **B.C. Reg. 57/2020** are met.

On behalf of the Provincial Approving Officer, the Development Officer may check with the Ministry of Agriculture, Food and Fisheries District Agriculturist and the appropriate ALC Regional Research Officer for an opinion on whether the subdivision proposal complies with BC Regulation 57/2020.

Subdividing Land for Farm Purposes: If the subdivision is for farm purposes or to provide a separate residence and is non-developmental, the Approving Officer should consider whether it is necessary and reasonable to protect road widening and access to lands beyond at this time.

Road dedications cannot exceed those allowed by **BC Regulation 57/2020**. Access by easement does not satisfy the requirements of the Land Title Act for access.

Further information, including the Agricultural Land Reserve Regulation, **B.C. Reg. 57/2020**, can be found on the **Agricultural Land Commission** website.

2.3.2.19 Transit Friendly Subdivision Guidelines

Transit Friendly Subdivision Guidelines

Developers and regulators need to take into account the increasing use of transit as a means of transportation when designing and approving subdivisions. Incorporating transit design into new subdivisions should be considered even if there is no transit service in the area at this time.

Expansion of transit service in the future may incorporate developments, which are now not serviced. Creating a transit friendly subdivision requires greater thought at the planning stage but creates a more transit efficient and desirable subdivision. **Section 960 of the B.C. Supplement to TAC Geometric Design Guide for Canadian Roads** provides information for transit facilities on roads under the jurisdiction of the British Columbia Ministry of Transportation and Infrastructure.

2.3.2.20 Servicing Needs

Servicing Needs

The Development Officer may inform the appropriate service and utility providers about the proposed subdivision, allowing them to consider whether existing services are able to handle the needs of the proposed subdivision. Such services may include schools, ambulance, school buses, fire, water, police, sewer, electricity, storm drainage, telephone, mail, hospital and natural gas. The applicant is encouraged to contact these servicers early in the process to determine costs.

2.3.2.20a Postal Service Arrangements

Postal Service Arrangements

The applicant should contact Canada Post to initiate arrangements for postal service:

Canada Post charges a one-time fee of $200 per address to set up Community Mailboxes and addresses in new residential and commercial developments.

Canada Post bears the responsibility and cost for ongoing maintenance of the Community Mailboxes, as well as equipment repair and replacement as required.

2.3.2.21 Range land Impact

Range Land Impact

An approving officer may consider if a subdivision would injuriously affect established amenities of adjacent properties, or unreasonably interfere with farming operations on adjacent properties (**Section 86 (1) (C) (i) or (x) of the Land Title Act**). Subdivision of land that abuts crown land grazing tenures may be considered in that light. Installation of fencing or retention of existing fencing may be required.

If a subdivision introduces a significant change in land use adjacent to crown land grazing tenures, problems may arise as new lots are developed. A common problem is that of cattle venturing onto residential property. This possibility may not be realized until the resident has suffered loss.

2.3.3 Access and Roads

Highway access through a rural subdivision is an essential component to the development. If you are subdividing, you will need to service your subdivision with roads.

The **Land Title Act** authorizes the Provincial Approving Officer to determine the adequacy of roads in a subdivision.

Except in special circumstances, access to a subdivision should be via at least a two-lane, minimum-standard, all-weather road. *In all cases, however, the road must be sufficient to serve the intended land use.* For typical subdivision road standards, see the Subdivision Road Construction Specifications of the current British Columbia Supplement to the Transportation Association of Canada Geometric Design Guide for Canadian Roads (**TAC Guide Chapter 1400)**

Access requirements must conform to **Section 75** of the Land Title Act. These requirements include:

- necessary and reasonable access to all new parcels and lands beyond the subdivision no unnecessary jogs in the alignment
- clearing, drainage, construction and surfacing to the Approving Officer's satisfaction
- access to water

In addition, the Minister must approve subdivisions adjacent to a **Controlled Access Highway** before it is approved by a local government approving officer pursuant to **Section 80 (b)** of the Land Title Act. This is to ensure the lots in the subdivision plan have access other than to a Controlled Access Highway.

2.3.3.01 Property with Inadequate Access

Property with Inadequate Access

Property without adequate access may not be subdivided, although a subdivision that creates a timber block only may be approved by prior arrangement with the Registrar of the **Land Title & Survey Authority**. The subdivider may acquire and construct a public road to give access.

If the road approaching a subdivision is **not** a two-lane road with a maintainable and/or all-weather surface, the subdivision application should not be approved. The applicant may choose to upgrade the road to a maintainable all-weather standard (specified by the approving office) at their expense. The subdivision may then be approved, if everything else is in order.

2.3.3.03 Road Design and Construction

Road Design and Construction

The Engineering Branch of the Highways Department develops all road construction **guidelines**. Guidelines for subdivision roads can be found in Chapter 1400 of the Ministries **B.C. Supplement to TAC Geometric Design Guide for Canadian Roads**. Requirements for geotechnical design can be found in the ministries **Geotechnical Design Specifications for Subdivisions** publication.

Construction standards are compiled and published by Construction and Maintenance Branch of the Highways Department. They are contained in the **Design Build Standard Specifications for Highway Construction** book. Engineering Branch, among others, contributes to the development of these standards.

Section 90 of the **Transportation Act** authorizes the Minister to establish highway standards for rural highways. This includes highways dedicated on a rural subdivision plan. In addition, Section **506 of the Local Government Act** permits local governments to establish minimum highway standards in their Subdivision Servicing Bylaw.

Where there are existing agreements between the Ministry and other parties, those agreements shall prevail.

2.3.3.03 Dedication of Road over Crown Land

Dedication of Road over Crown Land

If a parcel of private land being subdivided requires a road across Crown land for access, the Minister may authorize the Surveyor General to establish a public road allowance through Crown land under **Section 80** of the Land Act to obtain rights to the Crown land proposed for access road development. The subdivider must apply to the **FrontCounterBC office** nearest you.

2.3.3.04 Traffic

Traffic

By their existence, nature, layout, or design, subdivisions should not contribute to undue traffic congestion, which would jeopardize the integrity of the highway and street system and reduce the level of service to the public. Evaluating a subdivision's impact on traffic involves three things:

- Estimating projected traffic volumes
- Relating projected traffic volumes to the characteristics and features of the street system
- Ensuring that the characteristics of the subdivision layout do not promote congestion but promote safe operation and the accommodation of bicycles, pedestrians, and transit or commercial vehicle needs as required

The Development Officer can advise if a traffic impact study may be required. For more information on traffic impact studies, consult the **Planning and Designing Access to Developments Manual** provided in .PDF form on this website.

2.3.3.05 Offsite Road Improvements

Offsite Road Improvements

Sometimes a developer will want to subdivide land accessed by a road with inadequate drainage, poor horizontal or vertical alignment, running surface or top width. It could also be a road with inadequate bridges or structures. These problems could be overcome by the developer upgrading the road at his or her own expense, under Ministry direction. The extent and nature of any road inadequacy should be detailed and reviewed with the Approving Officer. The developer should then be advised to contact the Development Officer for a detailed discussion of requirements.

2.3.3.06 Alternatives to Public Roads

Alternatives to Public Roads

The Land Title Act requires all new parcels to be provided with necessary and reasonable highway access. The Minister may consider various factors specified in the Act and may in exceptional circumstances grant relief from the provision of highway access to the new parcels as well. The Provincial Approving Officer administers this authority.

Ask your Development Officer for details.

2.3.3.07 Access to a Body of Water

Access to a Body of Water

When a property that is proposed for subdivision is contiguous with a body of water, highway access to the water is required under **Section 75(1)(c) and (d)** of the Land Title Act. This is to allow upland property owners and/or the general public access to bodies of water at regular intervals.

If the bed is owned by a person other than the Crown, access is *not* required in the following cases:

- *Lakes or ponds* where the surface area at mean annual high water is less than 1.5 hectares and the mean depth at mean annual high water is less than 0.6 metres
- *Rivers, creeks, or watercourses* where the average width at mean annual high water is less than 6 metres and the average depth at mean annual high water is less than 0.6 metres
- *Reservoirs or ponds* where the bed is owned by a public body other than the Crown and used to supply water for domestic or industrial purposes

Historically these accesses were used to provide livestock access to water and to transport logs from the water to the mill. Their main use today is for recreational access. Other uses for these accesses may include:

- Access to coastline oil spills
- Access for public inspectors to test for water quality, red tides, and pollution
- Facilitation of search-and-rescue operations on bodies of water
- Water access for firefighting, irrigation from lakes and to install utilities such as telecommunication cables, sewer lines, storm drains, and domestic water pipes

The Approving Officer must ensure that subdivisions comply with Section 75 of the Land Title Act. **Section 75(1)(c)** applies where the bed of the body of water belongs to the Crown. **Section 75(1)(d)** applies where the bed is owned by a person other than the Crown.

The Ministry has two regulatory roles regarding accesses to water. The first role is in granting relief from providing highway access to water bodies pursuant to **Section 76(3)** of the Land Title Act. The second role is granting relief from providing these water accesses for shore land subdivisions where a municipality is the subdivision approving authority. The Minister or the Provincial Approving Officer may grant relief from providing access to these water bodies pursuant to **Section 76(4)** of the Land Title Act. However, in these local government areas, the request for granting relief from access to water requirement must be supported by the local government Approving Officer.

2.3.3.08 Criteria for Access to a Body of Water

Criteria for Access to a Body of Water

Access layout for a body of water can be complicated. Ask your practitioner or the Development Officer for assistance in placing access points.

Access spacing is 200 metres except in rural areas when the lots are equal to or greater than 0.5 hectares in size. In such cases, the spacing is 400 metres. This difference is reflected in the following criteria where access is said to be either 200 or (400) metres.

If one or more waterfront lots is less than 0.5 hectares in size, the 200-metre rule applies to the whole waterfront in the subdivision.

If the layout of the proposed lots follows the contour of the waterfront, the length of waterfront for determining number and location of accesses is measured as a series of 15-metre traverse legs along the waterfront.

If the layout does not follow the contour of the waterfront, the length is measured along the general trend of the waterfront as a series of 200-metre traverse legs.

If there is already an access in the vicinity of the subdivision, the required access points should be located at 200 (400)-metre intervals. If there is no access, the Ministry and the subdivider should choose a suitable location for one in the land being subdivided. Other accesses may then be located at 200 (400)-metre intervals.

The road allowance width for an access is 20 metres. The Approving Officer may reduce this if the waterfront is less than 200 (400) metres long.

A remainder shown on a subdivision or reference plan is considered as a lot. The Approving Officer must require access to water at 200 (400)-metre intervals in the remainder.

Park dedication is unacceptable for access to water. There must be public road dedication.

A ferry landing or bridgehead is not an access to water unless it was originally dedicated by a subdivision or reference plan.

Access to a body of water must be provided and labelled as “road” on the subdivision plan, but it may not be required to be constructed.

Relief

Section 76 of the Land Title Act authorizes the Minister to grant relief from strict compliance to requirements for subdivisions providing access to water. This authority extends to municipal and rural areas of the province whether the Municipality, Regional District, Island Trust or Ministry is the subdivision approving authority. The reason for this is that the water body or water course is considered to be a public resource.

Under certain conditions, the Provincial Approving Officer may consider granting *relief* from the requirements regarding access to a body of water. Partial relief is required in order to:

- Vary spacing of accesses from the strict 200 (400)-metre spacing
- Consolidate up to three accesses into one where desirable

This is done at the Preliminary Layout Review stage.

Varying of Spacing

The normal 200 (400)-metre spacing can be varied freely to take into account topography, beach quality, and so on. However, spacing should generally not exceed 300 (600) metres unless accesses are being consolidated. The location of the access[es] to water should be representative of the entire waterfront (neither all cliff nor all beach).

Consolidation of Accesses

Consolidation of accesses may not be demanded, but District staff may suggest it to the subdivider and recommend it to the Provincial Approving Officer. The following guidelines for consolidation apply:

- Normally no more than three accesses should be consolidated into one. The width of each access to be consolidated is 20 metres before consolidation, regardless of slope grade at the point where the access would be if it were not consolidated.
- To calculate the number of accesses to be consolidated, divide waterfront length by 200 (400) and round the answer to the next higher integer.
- If accesses in adjoining properties are closer than 200 (400) metres to the boundary of the subdivision, reduce the waterfront length accordingly.

Example: A subdivision has a waterfront length of X metres. The adjoining property has an access Y metres from the boundary of the subdivision, where Y is less than 200 (400) metres. The number of accesses required is

(X+Y-200) or (X+Y-400) 200 400

This is known as the *200 or 400 Rule.*

Calculate the consolidation width, multiply the number of accesses by 20 metres. This width should be carried from the waterfront to the next cross street or for 100 metres from the high water mark, whichever is less.

A consolidation must be located where the waterfront's quality is comparable to that of the rest of the accessible waterfront.

Relief Requirements

The Provincial Approving Officer may consider granting absolute relief from the requirements regarding access to a body of water under any of the following conditions:

- A parcel is being conveyed to the Crown Provincial or an agency thereof
- The subdivision's purpose is solely to adjust a boundary, and it will not create additional lots
- The subdivision is within the Agricultural Land Reserve

<< PREV NEXT >>

2.3.3.09 Highway Encroachments

Highway Encroachments

On occasion structures will be found to be encroaching on highway rights of way from adjacent properties. Most often these structures are corners of houses, garages, barns, fences, and signs. However, other structures are such as old underground gasoline storage tanks, tourist information booths, telecommunication kiosks, fire department storage buildings, and motel buildings have been found on highway rights of way. These encroachments are usually discovered when a new property owner commissions a survey of the lot for a mortgage, a property is subdivided, or upon inspection by a Ministry employee.

An encroachment is an illegal intrusion onto the highway right of way constructed without Ministry permission and which would not normally be issued a permit prior to construction. The encroachment will diminish the width or area of the right of way; however, it may or may not cause an obstruction. Usually these encroachments are located on the edge of the right of way, not on the traveled portion of the highway, and encompass only a portion of the structure. Rarely does the entire structure encroach onto the highway right of way.

Existing Buildings

If the new road dedication for a proposed subdivision will cause an existing building to encroach upon the right of way, the subdivision should be redesigned to accommodate the building, or remove the building.

Buildings must be located so that the requirements of **Onsite Sewage System Management** are satisfied. No lot line should be located within 1 metre of a septic tank or 3 metres of a sewage drain field as per the guidelines for minimum horizontal separation distances.

Legalization of Highway Encroachments

The Ministry may issue a permit to legalize the encroachment structure to facilitate the property owner’s situation. An H-0021 form “Permit to Authorize Existing Structures Constructed Within The Right-Of-Way Of A Provincial Public Highway” is used to legalize the encroachment. Utility policies and permits in the Utility Policy Manual will administer all facilities and structures related to utility encroachments on the highway right of way.

Permits will be issued pursuant to **Section 62** of the Transportation Act and also to grant consent for a 4.5 meter setback according to Section 12 of the Provincial Public Undertakings Regulation BC Reg. 513/2004. The legislation and regulations authorize the Minister to permit encroachments. This power was delegated to the Regional Director, Provincial Approving Officer and District Manager, Transportation positions by Orders-in- Council 2434/81 and 47/82.

2.3.3.10 Access to Lands Beyond

Access to Lands Beyond

Subdivisions should provide highway access to land lying beyond or around the subdivided land where it does not already exist. This secures access to other properties, which otherwise would not have access. It provides for expansion of the highway network, especially in rural areas, and for access to Crown land. The requirement is only for the legal dedication of the right-of-way. This highway access would be constructed at the discretion of the Provincial Approving Officer

2.3.3.11 Access to Subdivisions off Section 42 *Transportation Act* Roads

Access to Subdivisions off Section 42 Transportation Act Roads

A highway designated under Section 42 of the **Transportation Act** is defined as a travelled road on which public money has been spent.

If the development will be accessed from an unmaintained Section 42 road, the road must be upgraded and dedicated on the subdivision plan. All roads shown on a subdivision plan must be established by a legal survey. If the status of the road is in question, consult the local District Office.

2.3.3.12 Public Roads and Highways

Public Roads and Highways

The *Highway Functional Classification Study* adopted in June 1992 provides a system for categorizing the provincial roadways according to the function that the road provides. Different types of roads and highways provide for access to subdivisions. Others may be affected by traffic from subdivisions nearby.

Local roads provide access to properties fronting directly on the road as well as to lands beyond, in accordance with **Section 75(1)(a)(ii)** of the Land Title Act. Roads located within the common property of a strata development are not public roads and service only lots in the development.

Major and minor roads carry vehicles between major traffic-generating areas or between such areas and the primary and secondary highways. They are defined in the Ministry's Major Road or Street Network Plan. Local access to individual properties from major and minor roads should be minimized.

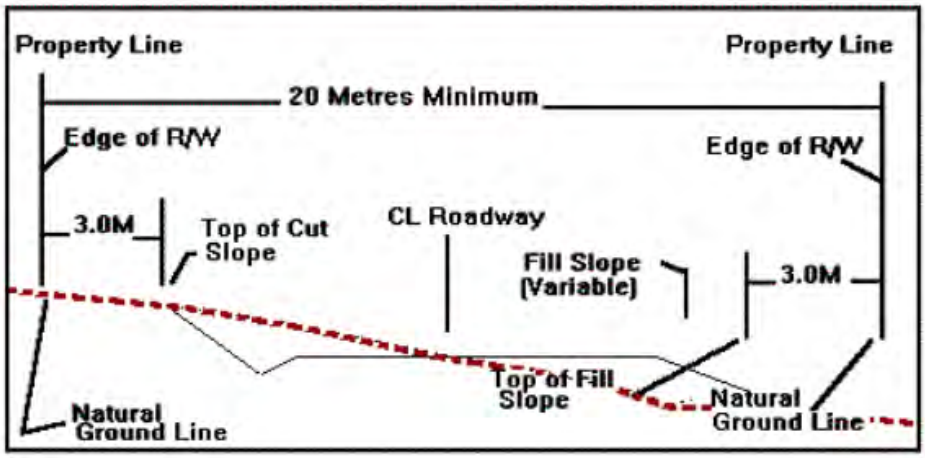
Primary and *secondary highways* allow high-speed movement of inter-and intra-provincial traffic. These are often designated Controlled Access highways. They are expected to provide high overall travel speeds with minimum interference to through movements. Access to individual properties is minimized.

2.3.3.13 Right-of-Way Widths

Right-of-Way Widths

In general, the minimum right-of-way width required for a public road is 20 metres or cross section plus 3 metres on each side, whichever is greater. Cross-section is defined as road prism (travelled road surface, shoulders, containment slopes) plus any slope areas necessary to contain the road prism.

The following diagram shows a typical roadway cross section (not to scale). It shows how the right of way should be established relative to the cross section of the road. Cut and fill slopes will vary depending on specific soil conditions and standards. Applicants should contact the Development Officer for details.



The minimum right-of-way width for roads accessing lands beyond should be 20 metres unless adjacent to an existing 10-metre dedication. There should be no subdividing off of a right of way less than 20 metres across. Special consideration is given to the development of ski village development. See the **B.C. Supplement to TAC Geometric Design Guide for Canadian Roads Chapter 1500.**

2.3.3.14 Frontage Roads

Frontage Roads

The Ministry prefers to use a service road system to access local businesses located on or fronting primary and secondary highways. If local road systems cannot be obtained, a frontage or backage road may be approved as an alternative. The frontage road is not an ideal solution, however, because of intersection problems and the high services-to-lot ratio.

A local road system is a firm requirement along primary highways in rural areas. The normal right-of-way width for a frontage road is 15 metres.

2.3.3.15 Intersections

Intersections

Corner cut-offs (truncations) of six metres along each boundary are required at all road intersections. This is to maintain safe sight distance. The authority for corner cut-offs is found in Section 11 of the **Provincial Public Undertakings Regulation BC Reg. 513/2004**.

2.3.3.16 Turnarounds

Turnarounds

In progressive subdivisions, it may be preferable to establish the additional right-of-way necessary for the creation of a cul-de-sac turnaround by means of a Statutory Right-of-Way in favour of the Province, pursuant to **Section 218 of the Land Title Act**. This would allow those portions of the cul- de-sac rendered surplus by the further extension of the public road to be quit-claimed, avoiding a lengthy road closure process. The turnaround would still have to be constructed for maintenance purposes.

Cul-de-sac turnarounds should be at least 15 metres in radius plus required right-of-way to include ditches. In areas where snowfall is heavy, increase right-of-way accordingly.

2.3.3.17 Subdivisions Adjacent to Controlled Access Highways

Subdivisions Adjacent to Controlled Access Highways

The Minister can designate **Controlled Access Highways** pursuant to **Section 48** of the Transportation Act. These highways may be located in municipalities or rural areas of the Province. The Ministry has zoning, access and subdivision regulatory role over the land in proximity to these highways.

2.3.3.18 Lanes

Very few subdivision applications contain lanes nowadays, although they are allowed and may even be beneficial in some cases. Lanes can provide secondary access to parcels. They are useful if direct access is not desirable, such as in business districts or major streets where entrance conflicts would reduce the level of service to through traffic or pedestrians. In narrower lots, they can be used to access carports or garages.

The minimum width for a lane is six metres. When the lane provides alternative access to lots on a controlled access highway, the lane should have a minimum width of 8 metres.

It must be made clear that lanes do not receive the same level of maintenance as roads.

2.3.3.19 Walkways

Walkways

Local government sometimes promotes walkways, particularly in blocks longer than 200 metres. Pedestrian desire lines to schools, beaches, parks, commercial areas etc. are checked against the street layout, and walkways are required where necessary. Walkways are shown as “road” on the subdivision plan. Where walkways are dedicated as "road" on a plan of subdivision, then the Ministry is responsible for maintenance. However, as it is usually local government who commits to walkways, it’s not unreasonable to ask them to take care of the maintenance, or to create the walkways as parks.

Refer to the **B.C. Supplement to TAC Geometric Design Guide for Canadian Roads** for construction criteria.

2.3.3.20 Storm Drainage (Runoff)

Storm Drainage (Runoff)

Drainage is a critical requirement for every subdivision. Inadequate drainage can lead to flooding, resulting in erosion, loss of stability or in property damage. In addition, subdivisions that are not properly drained can result in damage to highways both in and downstream from the subdivision, resulting in a public safety hazard.

Storm water must be considered both in the subdivision and outside of it. The applicant may be required to have a drainage study or design prepared by a Professional Engineer or hydrologist. Drainage should be carried to a natural outfall or approved storm drain capable of carrying the additional flow.

Storm drainage requirements are developed and maintained by the Construction and Maintenance Branch. The design guidelines are contained in the Hydraulics Manual, which is also in the most recent edition of the **B.C. Supplement to TAC Geometric Design Guide for Canadian Roads**. Storm drainage systems should be certified for construction and location and designed by a registered hydrologist.

Section 86(1)(c)(iv) of the Land Title Act permits the Provincial Approving Officer to refuse subdivisions if the land has inadequate drainage installations. A local government may regulate drainage for subdivisions by a Subdivision Servicing Bylaw. The Ministry specifies drainage requirements for highways.

2.3.3.21 Drainage Easements

Drainage Easements

Easements for road drainage are required if the Development Officer determines that there may be a drainage concern. They are necessary to ensure that runoff of groundwater does not collect in the development but is carried to an approved natural outfall.

Drainage easements should be located where they have a minimal effect on property values, such as along a property line rather than through the middle of the property. They should be a minimum of six metres wide, so that equipment can be brought in to maintain the drainage channel.

Note: Diversions of, or alterations to, watercourses require the approvals the Ministry of Environment, **Water Stewardship Division**.

The subdivider should do the following:

- Arrange for the preparation of any necessary legal survey plans
- Prepare the easement documents in a form acceptable to the Registrar of the **Land Title & Survey Authority**
- Submit the documents to the District Office with the final subdivision plan
- Submit a current State of Title Certificate to the District Office. The Development Officer checks this against the easement document to ensure that all persons with a financial interest in the land have signed the easement document.
- Deposit the easement documents in the **Land Title & Survey Authority** together with any necessary plans.

If charges of a financial nature are registered against the title of the parent property, the charge holders must submit postponement or priority agreements. These allow the easement to be registered with priority over the financial charge.

2.3.3.22 Plans Cancellation

Plans Cancellation

If you are cancelling a plan and there is a right of way within it, please consult the Development Officer.

2.4 Preliminary Review and Development

The Provincial Approving Officer gives the application preliminary layout review (PLR) with conditions or a preliminary layout review status (PLRS) with reasons. The applicant completes any work required by the Preliminary Layout Review, prior to submitting final plans for approval in order to obtain final approval of the subdivision plans.

2.4.1 Preliminary Layout Review (PLR)

Once all the information (zoning, health requirements, access, layout and other) on your application has been received and reviewed you will be notified of the decision on your preliminary subdivision application. If the Approving Officer considers that your application will conform to all the legislation, regulations, bylaws and policies concerning subdivision, and would not otherwise unreasonably affect the public interest, you will be issued a Preliminary Layout Review (PLR). If not, you will be issued a PLRS, with the reasons why your subdivision proposal is not be reviewed.

Some examples of the PLR conditions are:

- Layout changes
- Road or park dedication
- Servicing requirements such as access, water, sewer, drainage, etc.
- Referral agency comments such as local government, health authorities, Agricultural Land Commission, etc.
- Obtaining specialists' reports on traffic impacts, geophysical hazards, environmental assessments, etc.
- Local government bylaw requirements

Although Preliminary Layout Review gives you a measure of assurance that the subdivision will receive final approval, it is not a guarantee of final approval.

2.4.2 Reconsideration of Application

If you have questions or concerns about the conditions laid out in the PLA/PLNA, please contact the Development Officer. The Development Officer will engage relevant parties, including referral agencies, to help you work towards a solution. If you still have questions or concerns after speaking with the Development Officer, you may contact the Provincial Approving Officer directly.

It is important to provide, in writing, any new information or changes that you wish to be considered during the reconsideration process.

For additional assistance, you may contact the District Manager, Transportation for your area. The District Manager, Transportation can provide clarification or revisions to the Ministry's recommendations to the PAO, can engage relevant parties to work toward resolution, and can direct you to additional courses of action.

2.4.3 Implementation of Preliminary Layout Review

The applicant completes any work required by the Preliminary Layout Review. This is the stage where you:

- Obtain approval for design of water and sewer systems from the responsible authorities
- Construct roads and services according to inspection requirements contained in the current edition of the **B.C. Supplement to TAC Geometric Design Guide for Canadian Roads**
- Have your BC Land Surveyor prepare the final survey plans for the subdivision
- Arrange for other documentation as required in the PLR, such as restrictive covenants, easements, and statutory rights of way
- Obtain a tax certificate confirming that current taxes are paid. Tax certificates are available from Provincial Collectors located in the Provincial Government Agent's Office
- Complete other requirements in the PLR

As you develop your subdivision, make sure that the responsible agency inspection requirements are met; they may require notice, or authorize a certified professional to inspect and report. For example, roads must be inspected at several steps along the way. The local District office will advise you of the standards and the inspection schedule.

Similarly, other authorities will inspect the construction of other services, such as water and electricity. In some instances, it may be necessary for a Professional Engineer or Geoscientist to certify that the work has been constructed in accordance with established standards.

As a general rule, it is good practice to maintain contact with the agency who will take over the utility or facility after the subdivision is approved. Representatives from those agencies can supply you with information on inspections.

2.4.4 Final Plan Submission

After completing the requirements of the PLA, submit your final package to the District Office:

- ☐ Survey Plan Certifications

The survey plan is the final subdivision plan prepared by a registered BC Land Surveyor. It must contain the signatures of all parties with a registered interest in the land before being deposited in the **Land Title & Survey Authority**. You should submit the survey plan within three months from the date the survey was completed. If the survey plan is older than three months, the Approving Officer may require the BC Land Surveyor to reinspect the plan.

- ☐ Application to Deposit Plan at Land Title Office Current Certificate of Title
- ☐ Current Tax Clearance Certificate
- ☐ Originals of all legal documents requiring approval, such as covenants and statutory rights of way
- ☐ Copies of permits, certificates, licenses, approvals, and orders Plan examination fee

The plan examination fee is paid to the Provincial Government to recover a portion of the costs of the final checking, approval, and signing of the subdivision plans.

2.5 Final Approval

The Provincial Approving Officer makes a final approval decision. If the plans are approved, the applicant/practitioner registers them with the **Land Title & Survey Authority**.

2.5.1 Report on Final Subdivision

The Development Officer checks that all conditions are satisfactory and forwards the application to the Approving Officer.

2.5.2 Final Approval or Rejection

The Approving Officer checks the plans and documentation. Having considered all aspects of the proposal, the Approving Officer makes the approval decision and either signs the plans and returns them to the applicant or returns the rejected plans with reasons for the rejection.

2.5.3 Legal Appeal

If the Approving Officer rejects or does not approve the final submission within 2 months, you may appeal to the Supreme Court of British Columbia pursuant to Section 89 of the Land Title Act, provided you are appealing a rejection of a conventional subdivision. **Section 89** of the Land Title Act does not apply to strata title applications. Legal challenges to decisions on preliminary applications or strata title subdivisions can only proceed under the Judicial Review Procedure Act. You must make this appeal within one month of the date you receive the letter of rejection, or within one month of the expiration of the time limited by **Section 89** of the Land Title Act.

2.5.4 Registration

Register the plans and other required documents in the **Land Title & Survey Authority**. You must do this within two months after final approval is granted.

Subdivision plans that are not deposited in the **Land Title & Survey Authority** within two months of approval must be approved again, or the **Land Title & Survey Authority** may reject them. If there has been no change in legislation, regulation, or bylaw, it is not necessary to go through the full application process again. However, you must produce another Tax Clearance Certificate and pay another plan examination fee.

2.6 Variations in the Approval Process

Most of the information posted here pertains to conventional subdivision. If you are subdividing in any of the exceptional circumstances listed in this category, please contact your Development Officer for advice pertaining to your application.

2.6.1 Strata Title Subdivisions

Because strata properties are governed by the Strata Property Act, some differences arise when approving subdivisions of strata property, compared to conventional subdivision. The following sections describe the approval process for bare land strata, building strata and phased strata.

2.6.1.1 Approval Process for Bare Land Strata Plans

Approval Process for Bare Land Strata Plans

The following guidelines apply.

Parcel Size

The minimum parcel size of the strata lots must meet the minimum parcel size of the zoning bylaw.

If the Regional District does not have a subdivision bylaw, the requirements of the provincial Subdivision Regulations (**B.C. Regulation 262/70**) pursuant to the Local Services Act apply. In this instance averaging of the minimum parcel sizes of the Regional District zoning bylaws is still possible. The minimum lot sizes permitted will be those set out in the provincial Subdivision Regulations or minimum lot dimensions specified by the Regional District. These cannot be reduced or averaged.

Lot density should be calculated based on the total area minus any dedication for the access routes.

Road Dedications

Pursuant to **Sections 5 and 8 of B.C. Regulation 75/78**, bare land strata subdivisions must provide public road dedications to lands beyond and to a body of water, as well as for continuity of existing roads.

The Minister has the authority to require these highway accesses for all rural subdivisions. The Provincial Approving Officer will administer this authority. The Provincial Approving Officer may require widening of existing public roads. These dedications cannot be accomplished by the strata plan. The road dedication must be done on a conventional subdivision or reference plan, before the strata plan is approved. Such roads need not be constructed, just dedicated by plan at the discretion of the Provincial Approving Officer.

Internal Roads

The internal roads of the strata plan are private roads. The strata regulations refer to them as access routes, and they should be shown as such on the strata plan.

Community Water, Sewage and Drainage Systems

Community water and sewage systems and storm drainage systems are treated the same as in any conventional subdivision.

The following apply to systems that are *not* within municipal, Regional District, or Improvement District jurisdiction:

Community water system

- Treated as a utility
- Must meet all the requirements of the Ministry of Ministry of Water, Land and Resource Stewardship.

- Regional Health Authority approval pursuant to the Drinking Water Protection Regulation B.C. Reg. 200/2003

Community sewer system

- Must be certified by a Professional Engineer as having been constructed to accepted engineering standards
- Waste Management Branch approval pursuant to Environmental Management Act **Municipal Wastewater Regulation B.C. Reg. 87/2012**

B.C. Regulation 75/78 requires developers to provide assurance that they will register any easements necessary to protect water or sewer lines where they go through strata lots.

Deposits and Guarantees

The Ministry and the Provincial Approving Officer cannot hold a security deposit to guarantee completion of services. If a public third party — such as a Regional District — or the agencies that have jurisdiction wish to hold the security, the Approving Officer may approve the plan provided the agency or public third party certifies that it has sufficient security.

Easements

For further information on easements and statutory rights-of-way, see sections 182 and 218 of the Land Title Act, as well as, Section 14 and 15 of the Bare Land Strata Regulation.

<< PREV NEXT >>

2.6.1.2 Approval Process for Phased Strata Plans

Phased Strata Plan Declaration

Pursuant to **Section 222** of the Strata Property Act, the applicant must outline on a Phased Strata Plan Declaration in Form P the proposal to phase the subdivision's development. The Phased Strata Plan Declaration should be checked to ensure that it reasonably reflects what is shown on the development plans.

Note the following:

- The “dates of commencement of construction or completion of construction for each phase” are estimated dates. The developer is not strictly bound by them
- The “election to proceed” date is definite and should precede the estimated date of commencement of construction. The Approving Officer may extend it for up to one year
- The Approving Officer's endorsement is required on the Phased Strata Plan Declaration before phased development can proceed
- Each phase of a phased strata plan cannot be approved until it has been determined that any common facilities identified for that phase in the Phased Strata Plan Declaration have been provided or protected by bond. Examples of such facilities are swimming pools, tennis courts, laundry facilities, and so on. This must be addressed in the first phase
- The approval of the Approving Officer expires after one year unless the first phase is deposited before that time
- Each phase must be deposited in the order in which the phases are set out in the Phased Strata Plan Declaration
- If the phased strata subdivision will operate a community water system, that system must be constructed to good engineering standards and must be certified as such by a Professional Engineer

Security Deposits

Section 223 of the Strata Property Act deals with security deposits for completion of common facilities. The Regional District or some other public body should hold the security. Ensuring that the requirements of this section are met is the main reason for requiring the Approving Officer's approval of phased strata plans.

2.6.2 Approval Process for a Controlled Access Highway

Ask your Development Officer for assistance when subdividing adjacent to a **Controlled Access Highway**.

2.6.3 Approval Process When Subdividing for Relatives

Ask your Development Officer for assistance in subdividing your property for relatives pursuant to Section **514 of the Local Government Act.**

2.6.4 Approval Process for Railway Crossings

Ask your Development Officer for assistance when subdividing around railway crossings.

2.6.5 Approval Process for Pipelines Under Provincial Ministry Jurisdiction

Ask your Development Officer for assistance if you plan on subdividing around a pipeline.

2.6.5 Subdividing Around Pipelines Under National Energy Board Jurisdiction

Ask your Development Officer for assistance when subdividing around pipelines.

2.6.7 Approval Process for Air Space Parcels

Ask your Development Officer for assistance if you are planning on including an air space parcel in your subdivision application.

2.6.8 Approval Process in the Islands Trust Area

Ask your Development Officer about subdivision approvals in the Islands Trust area.

2.6.9 Approval Process for ALR Land

Applications to subdivide land within the Agricultural Land Reserve should be submitted through the local government. The **Agricultural Land Commission has an Application Portal** for this purpose. If the land is adjacent to the Agricultural Land Reserve, the proposal may be referred directly to the Agricultural Land Commission for confirmation of the Agricultural Land Reserve boundaries.

If the Land Agricultural Land Commission allows the subdivision, it sends the Development Officer a letter stating any conditions. If a covenant is required as a condition of the Commission's approval, it should be in favour of the Agricultural Land Commission. If the final subdivision plan differs significantly from the sketch approved by the Commission, the Approving Officer cannot give final approval.

Subdivision of land located partially or totally within the Agricultural Land Reserve cannot be approved without the permission of the ALC unless conditions specified in the **Agricultural Land Reserve General Regulation, B.C. Reg. 57/2020** are met. On behalf of the Provincial Approving Officer, the Development Officer may check with the Ministry of Agriculture, Food and Fisheries District Agriculturist and the appropriate Regional Research Officer for an opinion on whether the subdivision proposal complies with **BC Regulation 57/2020**.

If the subdivision is for farm purposes or to provide a separate residence and is non-developmental, the Approving Officer should consider whether it is necessary and reasonable to protect road widening and access to lands beyond at this time. Road dedications cannot exceed those allowed by **BC Regulation 57/2020**.

Access by easement does not satisfy the requirements of the Land Title Act.

Table of Contents

3.0 Apply

Paper Based Applications and Forms >>

Apply Online

Many government services are now available online. A **BCeID** account provides secure electronic access to these services.

How to get a **BCeID**: When you logon you will first be directed to the BCeID Logon screen where you'll find all the information you need to get you up and running quickly.

Apply Online

Paper Based Application and Forms:

- **Preliminary Subdivision Application (H0164)**
- **Permission to Act as an Agent (H1275)**
- **Application for Works (H0020)**
- **Road Closure Permit (H0819)**
- **Site Disclosure Statement** (for proposals where **industry or commercial activity** has taken place on the land)
- **Acknowledgement of Contaminated Site Regulation** (for properties where a site disclosure statement is not required).

Checklists

Be sure that your application is complete the first time you submit it. Use these references to make sure you have covered all the necessary requirements.

- **Preliminary Subdivision Application Checklist**
- **Final Submission Checklist**

Fee Schedule

Calculate the preliminary and final fees payable to the Minister of Finance

Submit

Submit the application to your District Office or at a Front Counter BC in your area. You need to submit cash or a cheque with your application. Please make cheques payable to the Minister of Finance.