

New Subdivision (Procedures) Regulations 2011

This advisory note provides information about the new Subdivision (Procedures) Regulations 2011 made by the Governor in Council under the Subdivision Act 1988 on 4 October 2011.

The new Regulations commence on 8 October 2011 and revoke the Subdivision (Procedures) Regulations 2000.

What new Regulations have been made?

Two new sets of Regulations have been made to replace the current Subdivision (Procedures) Regulations 2000. They are:

1. The new **Subdivision (Procedures) Regulations 2011**, to regulate the plan certification process and associated matters. These Regulations were prepared by the Department of Planning and Community Development and approved by the Minister for Planning.
2. The **Subdivision (Registrar's Requirements) Regulations 2011**, to regulate the matters relating to the registration of plans by the Registrar of Titles. These Regulations were prepared by Department of

Sustainability and Environment (DSE) and approved by the Minister for Environment and Climate Change.

Queries about these Regulations can be emailed to DSE at:

subdivision.branch@dse.vic.gov.au

What do the new Regulations do?

In summary, the new Regulations:

- **prescribe time limits for things done under the *Subdivision Act 1988*** (the Act) – for example, the referral and certification of plans, consideration of engineering plans and concurrent processing of planning and subdivision applications
- **prescribe forms authorised by the Act** – for example, forms for making an application, certifying a plan and issuing a statement of compliance
- **provide for procedures relating to the certification of plans**
- **require councils to maintain a register of applications made under the Act**
- **provide for other matters authorised by the Act** – for example, the period of time within which an application can be made to the Victorian Civil and Administrative Tribunal (VCAT) for review of a decision or refusal by a council or referral authority.



How are the new Regulations different to the revoked Regulations?

The content of the new Regulations is similar to the revoked Regulations. The role of councils, referral authorities and applicants in the certification process, and the time limits and procedures for doing things required by the Act do not change.

However, there is a change to the timing and provision of street address and lot location information by councils. More information about this change is provided below.

The drafting and order of the regulations and forms have been updated in line with current drafting practice.

Other key changes include:

- A public open space requirement statement has been included on the relevant certification forms. The public open space options are the same as the options available in SPEAR (Streamlined Planning through Electronic Applications and Referrals). The corresponding regulation 53 in the revoked Regulations has been deleted.
- Applicants will be required to advise on the application form whether the plan does anything that requires the unanimous resolution of the members of the owners corporation under Division 3 of Part 5 of the Act or an order of VCAT under section 34D of the Act. A copy of the unanimous resolution or VCAT order must also be attached to the application.
- An updated form for a licensed surveyor to give advice in accordance with section 20A of the Act.

What change has been made to the provision of street address and lot location information?

Councils will be required to give street address and lot location information to the applicant when the plan is certified (see new regulations 11 and 29).

The Registrar of Titles will specify the manner in which the information is to be given.

Do the new Regulations include a transition period?

Yes. The new Regulations include a 12 month transition period.

For a period of 12 months after the new Regulations commence, an application, certification, statement of compliance or notification made under the Act that complies with the revoked Regulations will be taken to comply with the new Regulations.

Also, an application that is made before the new Regulations commence and that is in the form prescribed by the revoked Regulations will be taken to have been made in the form prescribed by the new Regulations.

Will SPEAR be updated to reflect the new Regulations?

Yes. SPEAR will be updated in Release 3.1 in early 2012.

Where can I view the new Regulations?

The new Regulations can be viewed online at: www.legislation.vic.gov.au

A copy of the new Regulations is available from Information Victoria, 505 Little Collins Street, Melbourne or call on the freecall number 1300 366 356.

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