

<b>Subdivision Process Guide</b>	Community Management Series	
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## Why Subdivisions are Required

When one wishes to divide or consolidate land the subdivision process is used. This process results in land title documents being issued as evidence of legal ownership of the land. The process has to meet various legal requirements, so the individuals land rights and ownership are protected.

Typical situations requiring the subdivision process include:

- dividing land for family members to inherit their portion
- leasing or purchasing a parcel of land, whether Crown lands or private
- development of a large parcel into several lots, which may be sold, leased and occupied by others
- development of a residential or commercial subdivision by a community or a private developer
- land condominium development
- making a lot larger by adding land to it

## What Factors are Considered in Approving a Subdivision

A major portion of the review of any proposed subdivision is done by the Community and Regional Planning (CRP) Branch regional offices. CRP circulates the application to various Manitoba government departments and agencies.

After an application has been circulated each agency or interested party identifies any concerns related to the application. All the responses are gathered and reviewed by CRP in preparation of the planning report.

The first factor considered is the proposed land use and whether or not the proposed use fits in with other users of adjacent land, ex. Should a cement factory be placed right beside a residence? Additional factors include the size of the lot or parcel, before and after subdivision and access to the proposed new lot(s).

Basic health factors such as water sources and waste disposal are considered. The community's ability to provide municipal services such as roads, fire protection and policing are also considered. Utility companies have to consider how services such as hydro or phone will be provided.

The general type and topography of the land is considered to ensure safety, ex. no one should build their house in a location where a sudden spring flood might wash away the foundation. Any other considerations raised in the planning review are included in the report.

## Subdivision of Crown Lands

The majority of land in northern Manitoba is Crown lands owned by the Manitoba government. Legislation requires that this land be administered by Manitoba Sustainable

Development (SD), Crown Lands Branch. Legislation also requires that any disposition of Crown lands within Manitoba Indigenous and Northern Relations (INR) jurisdiction receives the prior approval of the minister of INR. Because land uses have such a broad effect, it is necessary for Crown Lands Branch staff to review all applications to ensure appropriate use of Crown lands.

When the Crown lands approval process is complete, an applicant will receive a letter from Crown Lands Branch providing the approval to proceed with the next steps. Often there is a requirement to complete a subdivision application. This is part of the linkage between the land use process and the subdivision process. Crown lands staff will provide information from the land use approval process to the community planner. With the completion of the subdivision process, the final steps of the Crown lands approval process may take place.

Both the Crown lands approval process and the subdivision approval process deals with complex situations. Some examples of typical situations are:

- If there is a waterway or body of water next to the land being subdivided, legislation requires a land reserve of 99 feet from the water's edge be kept by the Crown. This is in addition to any survey limitations as a result of a water power area severance line. Sometimes the two items may be combined, but generally not as to reduce the 99 feet. Some persons may have a title, which indicates ownership to the water's edge, however the title rights may be over ridden by The Crown Lands Act and the 99 feet requirement.
- Another situation with Crown lands is that much of it has not been surveyed. The old provincial land system required that land dispositions be recorded in a land register at Crown Lands Branch. Later the land register system was replaced by a new system described under The Real Property Act recorded as titles in a Land Titles Office or The Property Registry Office. Where the land is still under the old land register system, Crown Lands Branch must arrange for issuing a real property application as required by the Land Titles Office before a subdivision can be registered.
- Sometimes a proposed subdivision covers a portion of an undeveloped road allowance. In this situation, the road allowance has to be closed before it can be sold. The developer must acquire the portion of Crown lands used for the road allowance in order to proceed with the subdivision.

The subdivision approval process identifies these various concerns and potential problems, so that developers, owners, community councils and government agencies know what has to be done to enable approval to take place.

## **Subdivision Process Terms**

**approving authority** – the approving authority for subdivisions in Manitoba is the minister of Municipal Relations (MR) or designate in the CRP office.

**caveat** – a notice claiming interest in land which is registered against a certificate of title.

**certificate of approval** – the document required by Land Titles Office staff indicating an applicant has complied with all conditions and requirements to permit a plan of subdivision or parcel plan of survey to be registered.

**certificate of title** – a legal instrument issued by the Land Titles Office showing the registered owners, legal description of the land and any encumbrances registered on the land in question.

**community council** – an approved local authority for an area designated as a community under The Northern Affairs Act.

**community planner** – a person, generally employed by the CRP branch of Manitoba MR, to carry out professional community planning activities.

**Community and Regional Planning (CRP)** – a branch of MR and the authority for the approval of all subdivisions.

**conditional approval** – approval of a subdivision with conditions that must be met before a certificate of approval will be issued.

**Crown reserve** – land which is vested in the Crown which is not dedicated to the public.

**developer** – is the term used to identify the party developing the land. A developer may be the owner, the occupier or a third party.

**development agreement** – a legal document signed by the developer and a representative of the Crown or other owner of land in which specific conditions on the development have been agreed to.

**easement** – the legal right of access across a parcel of land guaranteed by an easement agreement, which is registered in the Land Titles Office by a caveat against the parcel of land.

**examiner of surveys** – the person responsible for examining a surveyor's subdivision or parcel plans to ensure compliance with requirements of The Real Property Act and the Land Titles Office.

**incorporated community council** – means the community council of a community incorporated under The Northern Affairs Act.

**Land Titles Office** (The Property Registry Office) – the provincial office responsible for registering plans of subdivision, parcel plans of survey, caveats and issuing titles of land ownership.

**land title abstract** – a document produced by a Land Titles Office providing current information on the status of a parcel of land.

**legal description** – a description of land according to specific Land Titles Office rules, which enables identification of a parcel of land.

**mining or mineral claims** – a claim by a mining company or prospector which permits the prospector or mining company specific access rights to land that may be owned by someone else.

**mylars** – plans drawn or reproduced on plastic mylar material. The term mylars often replaces the word plans as in mylars need to be signed.

**The Northern Affairs Act** – the provincial legislation governing community councils, incorporated communities, settlements and areas (unorganized territory) in northern Manitoba.

**occupier** – a person, other than the owner, occupying a parcel of land.

**owner** – the person with legal title to the land.

**parcel plan of survey** – is a survey instrument used mostly for descriptive purposes by the Crown. A plan of survey cannot create a public road.

**plan of subdivision** – a term used by Land Titles Offices for a surveyor's drawing showing individual lots and roads. This includes the location of survey pins, angles and measurements and other relevant information required by a Land Titles Office before a plan may be registered.

**The Planning Act** – the provincial legislation specifying the subdivision process and its requirements.

**planning report** – a report prepared by CRP which includes all of the comments and concerns raised by government agencies or interested parties to whom an application for subdivision has been circulated.

**public notice** – the informational content required by legislation for a community council to advise the public of a proposed subdivision being considered by council.

**public reserve** – means land that is vested in a community and which is dedicated to the public.

**The Real Property Act** – the provincial legislation specifying the rules to be followed by the Land Titles Office staff in registering plans of subdivision or parcel plans of survey.

**surface rights** – the legal rights of the owner, or occupier, for the use of the land as outlined in a land title or other land occupation document.

**water power reserve** – a designation applied to the shore-lands of a body of water to control, restrict or prohibit development from the water’s edge to a specified elevation.

## **Subdivision Process**

### **Application Form**

The subdivision application is used by government to obtain basic information about the proposed land development. The application helps collect the information needed for review of the proposal.

CRP branch has eight regional offices, four of which serve Northern Affairs communities who can assist with completing applications and the application process. CRP requires an application fee at the time of submitting the application for review. There are other fees that may apply, ex. fees for each new lot created.

There is also a plan registration fee, required by Land Titles Office at the time of submitting the plan and documents for registration. The person making the application for the development or the owner is responsible for payment of these fees. There may also be a cost involved in having the parcel surveyed by a Manitoba land surveyor.

The subdivision application is located on the Manitoba government website at [https://www.gov.mb.ca/mr/land\\_use\\_dev/pubs/subd\\_appl\\_sep2017.pdf](https://www.gov.mb.ca/mr/land_use_dev/pubs/subd_appl_sep2017.pdf). For detailed information on the subdivision process see the *Planning Resource Guide Subdivision in Manitoba* at [https://www.gov.mb.ca/mr/land\\_use\\_dev/pubs/subdivision\\_guide.pdf](https://www.gov.mb.ca/mr/land_use_dev/pubs/subdivision_guide.pdf).

### **Steps in the Process**

- 1. Application for Subdivision** (Part 8 of The Planning Act and section 2 of the Subdivision Regulation 137/2006).
  - (1) Subdivision Application
    - A subdivision application is to be completed by the owner or a person authorized by the owner and submitted to the appropriate CRP regional office.
    - An application to subdivide Crown lands, must be signed by the director of Crown Lands before being accepted by a CRP regional office.
    - Where applicable, a date-stamped photocopy of the current title or land title abstract is to be supplied.
  - (2) CRP reviews the application to ensure the following information is complete.
    - Who is the applicant - the owner, the occupier or an authorized agent?
    - Who is the owner of the land? Is a copy of the current title attached? Have all the owners signed the application?

- What is the location and description of the land? Is there a map or air photo to show the location?
- What is the land currently used for? Are there buildings on the land? Is there a map or drawing showing the location of the buildings? Is there a surveyor's certificate?
- What is the current physical nature of the land? Is the topography known? Are the soils types known? Are there any waterways or lakes adjacent to the land or on the land?
- What are the specific land uses within one mile of the proposed subdivision?
- Has the land ever been flooded?
- What current municipal services are provided to the proposed location?
- Is there a sketch map or drawing of what is intended to be developed, ex. number of lots, dimensions, access to them, etc.?

Note: The applicant may be requested to provide additional information at any time.

- (3) CRP regional office
  - a) opens a file by assigning a file number to the application and creating a summary sheet
  - b) issues a receipt for the application fee
  - c) checks for any planning bylaws affecting the proposed subdivision and ensures compliance with those planning bylaws
- (4) Application accepted as complete
  - a) When the application is accepted as being complete, CRP sends the applicant an acceptance letter.
  - b) If the application is not complete, CRP requests additional information. When all requested information has been supplied and the application is complete, then CRP follows step 3a.

**2. Approving Authority Review/Issuing Conditional Approval** (subsection 124(2) of The Planning Act and section 8 of the Subdivision Regulation 137/2006)

- (1) Application is circulated
  - a) CRP prepares a circulation list for the application.
  - b) The application is copied and circulated to government agencies and other interested parties on the circulation list, including Manitoba INR.
  - c) The circulation list includes the community council, where applicable, for information only. The community council is not required to make a decision on the application at this time. The community council is requested to identify any concerns the council may have with the application respecting provision of municipal services.
- (2) Agencies reply to the circulation note
  - Each agency receiving a copy of the application is to review the application and identify any concerns that the agency may have about the proposed

subdivision. These concerns are to be forwarded to the CRP regional office responsible for the file within 30 days. An agency may request additional time for a specific application because of the complexity of the proposed development or location of the proposed subdivision.

- (3) CRP prepares a planning report
  - a) For a community council under the authority of INR:
    - When all the replies have been received from the government agencies, CRP prepares the planning report.
    - The planning report and responses to the circulated application are copied and forwarded to:
      - the applicant
      - the community council
      - INR for approval
      - all government agencies with a continuing concern
  - b) For an incorporated community council:
    - When all the replies have been received from the government agencies, CRP prepares the planning report.
    - The planning report and responses to the circulated application are copied and forwarded to:
      - the applicant
      - INR for information
      - the community council for approval
      - all government agencies with a continuing concern
- (4) CRP, working in conjunction with the concerned parties (INR, Crown Lands, the community council, concerned agencies), will coordinate resolution of concerns identified in the planning report.

Note: Occasionally it may appear there are conflicting agency concerns. CRP coordinates efforts to resolve these concerns, so clear recommendations may be made to the community council or INR.

- (5) Community council recommendation
  - a) If a planning bylaw is in effect in the community, community council reviews the planning report and information for compliance.
  - b) If a new road is being proposed as part of the subdivision, community council must hold a public hearing to allow anyone to comment on the proposed subdivision. Your community and resource development consultant (CRDC) can assist in preparing for and holding this hearing (subsection 125(2) of The Planning Act).
  - c) The community council makes its recommendation and forwards a copy of the council resolution to INR. Community councils can recommend either of the following:

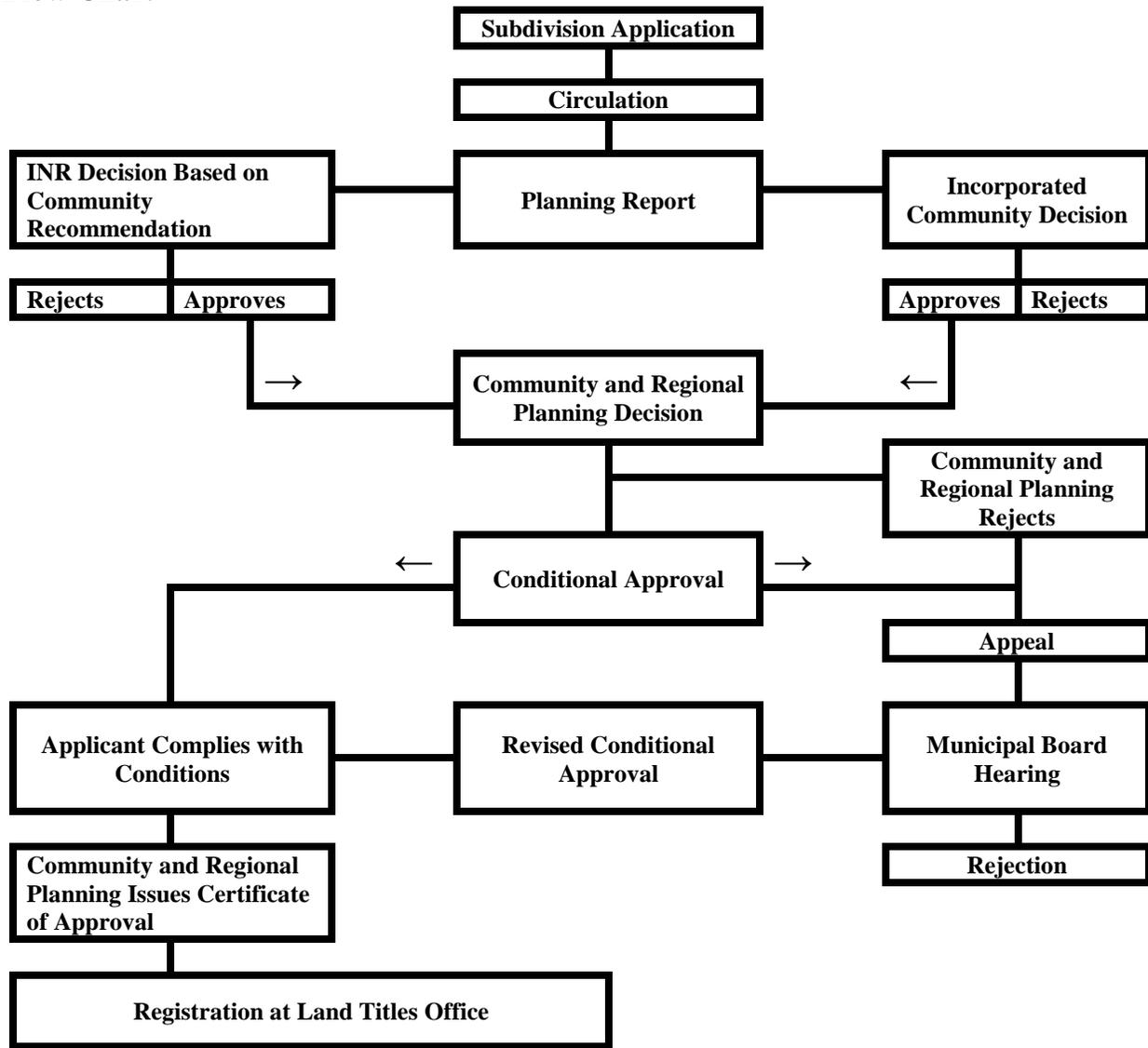
- approval with no conditions
    - approval with conditions and specify those conditions
    - rejection of the proposal
  - d) INR, based on the community council's recommendation, then makes its decision and sends it to CRP.
- (6) Incorporated community decision
- a) If a planning bylaw is in effect in the community, community council reviews the planning report and information for compliance.
  - b) If an incorporated community does not have a development plan bylaw and a zoning bylaw it must hold a public hearing to receive representations from any person on the proposed subdivision (subsection 210(2) of The Planning Act).
  - c) If a new road is being proposed as part of the subdivision, community council must hold a public hearing to allow anyone to comment on the proposed subdivision. Your CRDC can assist you in preparing for and holding this hearing (subsection 125(2) of The Planning Act).
  - d) Community council makes its decision and forwards a copy of the council resolution to CRP. Community council can do either of the following:
    - approve with no conditions
    - approve with conditions and specify those conditions
    - reject the proposal
- (7) CRP makes a decision based on the decision received from INR, and the recommendation of the community council or on the decision of the incorporated community council and on good planning principles (section 126 of The Planning Act).
- a) If INR or the incorporated community council's decision is to reject the application, then CRP must reject the application.
  - b) If INR or incorporated community council decision is to approve, then CRP may issue a conditional letter of approval noting any conditions recommended by the planning report, community council or deemed necessary by CRP. The conditional letter of approval is copied to the applicant, community council and all parties who expressed a concern related to the application.
  - c) CRP may also reject the application if it feels that the subdivision should not proceed.
- (8) Where appeal of a decision is permitted (section 129 of The Planning Act)
- a) If INR or an incorporated community council has rejected the proposal, there is no appeal.
  - b) If CRP issues the conditional letter of approval, the applicant may appeal the conditions attached to the conditional approval by writing to the municipal board.

- c) If CRP rejects an application, that rejection may be appealed to the municipal board.

### **3. Fulfilling Conditions/Issuing Certificate of Approval**

- (1) Once the conditional letter of approval (valid for 24 months) is issued the applicant may instruct the surveyor and the applicant's lawyer, where applicable, to carry out the necessary work to comply with the conditional letter of approval.
  - a) INR and CRP will work with the applicant, the surveyor and lawyer to ensure compliance necessary for plans and legal documents to be prepared and completed.
  - b) An applicant may require additional time (up to 12 months) beyond the original 24 months stated in the conditional letter of approval. A request for an extension must be accompanied with the appropriate fee.
- (2) The applicant, applicant's surveyor or lawyer, confirms compliance, forwards the mylars to CRP for signature and requests the certificate of approval (section 132 of The Planning Act).
  - a) When all the conditions noted in the conditional letter of approval have been complied with, CRP will issue a certificate of approval.
  - b) Where applicable, the applicant's lawyer forwards associated legal documents, ex. caveats, etc., for signature by INR or the incorporated community.
- (3) CRP signs the mylars and issues a certificate of approval and forwards the signed documents/plans to the surveyor and/or lawyer for their action in registering the plan and documents.
- (4) Applicant's surveyor or solicitor registers the plan.
  - a) Documentation:
    - documents are filed with the Land Titles Office
    - mylars are completed with all required signatures and filed with Land Titles Office
    - land title fees are paid
  - b) The Land Titles Office staff advises applicant of completion of filing and where appropriate will issue new title(s).

**Flow Chart**



## **Community and Regional Planning (CRP) Branch Regional Offices**

Dauphin  
27-2<sup>nd</sup> Avenue S.W.  
Dauphin, MB R7N 3E5  
Phone: 204-622-2115

Beausejour  
Box 50, L01-20, First Street  
Beausejour, MB R0E 0C0  
Phone: 204-268-6058

Selkirk (Interlake)  
103-235 Eaton Avenue  
Selkirk, MB R1A 0W7  
Phone: 204-785-5090

Thompson  
604-800 Portage Avenue  
Winnipeg, MB R3G 0N4  
Phone: 204-945-4988

### **Subdivision Circulation List**

- Community council or similar authority in the area where the land is located
- Manitoba Indigenous and Northern Relations
  - Northern Affairs Branch
  - Consultation and Reconciliation Branch
- Manitoba Agriculture
- Manitoba Sustainable Development
  - Crown Lands Branch
  - Environmental Operations Branch
  - Regional Land Managers
  - Water Resources Branch
- Manitoba Justice
  - Land Titles Offices (or The Property Registry administered by Teranet)
  - Director of Surveys office
- Manitoba Sport, Culture and Heritage
  - Heritage Resources Branch
- Manitoba Growth, Enterprise and Trade
- Manitoba Municipal Relations
  - Community and Regional Planning Branch
- Manitoba Infrastructure
- Other Agencies
  - Manitoba Hydro
  - Bell MTS



# Maps

