



Barbara McDermott

Thinking of Subdividing Your Farm?

Why Subdivide?

It's becoming more common for farmers to consider subdivision. There are many motivations to subdivide - farming, family or finance ones. You may be considering subdivision for any of the following good reasons:

- to increase the value of your farm and its saleability in the future;
- to sell part of your farm and use the cash from the sale for repayment of debt or further investment;
- to sell your farm, but retain your home;
- to set aside land for sale to a non-farming family member;
- to change the boundaries of your farm e.g. you may wish to sell part of your farm to your neighbour, or change the number or shape of the titles making up your farm so that they make farming sense;
- to get extra titles through while the District Plan allows it. District Plans often change and the possibility of subdivision then may be lost;
- to make money. Perhaps your farm is on the edge of town and would make good building sections or lifestyle blocks to sell?

Tax and Other Issues

As the law in relation to taxation of land transactions is complex, your first step should be to discuss the subdivision with your lawyer and accountant. It might be desirable for the subdivision to be done by a different entity than the entity which currently owns the land. If you omit this step it could be very costly. For example, your farm sale years later might become subject to punitive tax when it otherwise wouldn't be.

Can You Subdivide?

That depends... Council planners may be able to give you some initial guidance as to what is possible with your land - it is not always possible to subdivide. Your lawyer will need to be involved throughout the process, preferably working as a team with your surveyor and other

professionals. Your professional team can advise you as to what is possible and feasible, particularly in terms of the costs and time involved. Additional costs and delays can result from:

- the costs of hearings which are required in some circumstances
- the nature of physical work required
- consultants' and professional fees
- Council-imposed charges such as contributions you may have to make for "reserves", stormwater, sewerage, roading etc. These may be substantial costs which are additional to the costs of putting those services in
- the weather!

If the subdivision is allowed under the District Plan, the Council will also need to be satisfied that any natural hazards, such as flooding and erosion, are provided for.

The Subdivision Process

The subdivision process involves several steps involving input from different professionals and contractors at each stage. The process takes several months, and is often longer than first anticipated.

1. **Lodge an application with your Council for a resource consent for the subdivision.** It is best to get your surveyor or planner to prepare the application. The simplest applications can be processed by the Council without the need for any hearings or without the requirement to give notice to any affected people. You may wish to design your subdivision so it is fully compliant with Council's rules. This means the Council must give you consent, but may still impose conditions on how the subdivision is done e.g. roading standards. Although the Council must process your application within 20 days, it can request further information and therefore prolong the process.

2. **Arrange for the physical survey work and other work required to satisfy the Council conditions.** The resource consent will require you to satisfy certain conditions before you can get the new titles. For example, you may need to:
 - a. Pay financial contributions to Council
 - b. Provide for water supply, wastewater and storm water disposal and telephone and power services
 - c. Form roads, vehicle entranceways and rights of way
 - d. Set aside and/or protect bush or conservation areas and esplanade reserves.

3. **Apply to the Council for the s 223 and 224 certificates.** These certificates confirm that the Council's conditions have been satisfied and allow the subdivision of the land into separate titles to proceed.

4. **Lodge the documents with LINZ (Land Information NZ).** The survey plan must be approved by LINZ and the section 223 and 224 certificates and other documents lodged with LINZ by your lawyer to enable the plan to deposit and LINZ to issue the new titles.

Once new titles have issued for the lots on the plan, your subdivision is complete. Separate lots are able to be sold or mortgaged individually.

The inexperienced might think that subdivision should be simple. However, it is a complex process and problems and delays may occur. You'll also need to make sure you budget to pay all the various costs and expenses when they are due. With the right professional guidance to maximise value and minimise delays and problems, subdivision can be extremely worthwhile.

Norris Ward McKinnon is experienced in advising clients on subdividing matters. This article is not a substitute for detailed legal advice and if you have a specific query in respect of subdividing, please contact Norris Ward McKinnon (07) 834-6000 or by email to: lawyers@nwm.co.nz.

Contact Details:

Barbara McDermott
Commercial Business and Rural Team
DDI: (07) 834 6159
Fax: (07) 834 6100
Email: barbara.mcdermott@nwm.co.nz

