



Ministry of  
Transportation  
and Infrastructure

# Rural Subdivisions

Jeffrey Moore, ASCT  
Provincial Approving Officer  
Lower Mainland District



# Rural Subdivisions

## Agenda

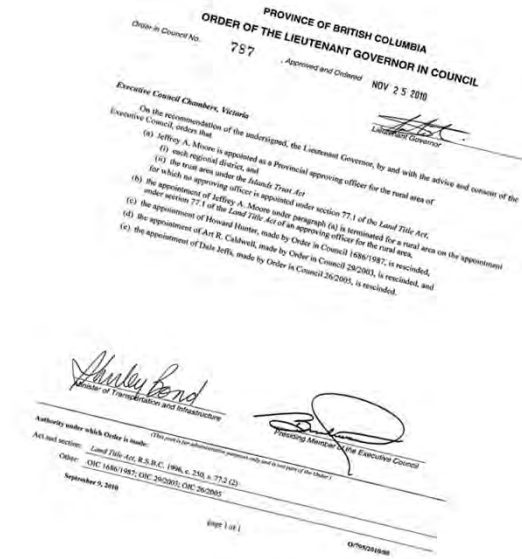
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  - b. Jurisdiction & Authority
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3. Subdivision Requirements
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# Provincial Approving Officers



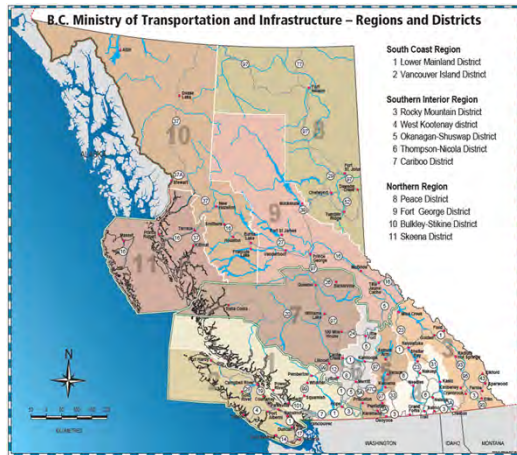
## Who We Are

- Independent statutory decision makers appointed under s.77.2 of the *Land Title Act* by the Lieutenant Governor in Council.
- The deputy minister to the minister charged with the administration of the *Transportation Act*.
- Decisions are separate from MOTI.



- PAOs act independently to ensure a subdivision complies with Provincial Acts and Regulations, applicable bylaws, and that a subdivision is not against the public interest.
- PAOs sit in MOTI district offices; however, PAOs exercise their authority separately from MOTI.
- PAOs consider transportation concerns from MOTI like comments from any other agency.
- \*\*MOTI does not approve subdivisions, PAOs do.\*\*
- Rejection of a subdivision may be appealed by the subdivider to the Supreme Court of BC under s.89 of the *Land Title Act* and all decisions are subject to the *Judicial Review Procedure Act*.

# Around the Province












South Coast Region	
1. Lower Mainland District	Jeffrey Moore
2. Vancouver Island District	Nikki Schneider
Southern Interior Region	
3. Rocky Mountain District	Cliff Razzo
4. West Kootenay District	Michele Ihas
5. Okanagan Shuswap District	Bill Sparkes
6. Thompson-Nicola District	Joan Brickwood
7. Cariboo District	Wendy Holtom
Northern Region	
8. Peace District	Nicole Hansen
9. Fort George District	Katie Ireland
10. Bulkley-Stikine District	Katie Ireland
11. Skeena District	Katie Ireland



- MOTI is split into three regions as shown on the map at the right – Northern Region, Southern Interior Region, and South Coast Region.
- These regions are further split into 11 districts as shown in the larger map and shaded in different colours.
- The table lists the local PAO for each district. There is a bit of overlap but in general these are the areas each PAO covers.
- While PAOs typically work within their respective Districts, the appointment OICs are not District specific.

## Around the Province

<p>Michele Ihas West Kootenay</p> 	<p>Joan Brickwood Thompson-Nicola</p> 	<p>Wendy Holtom Cariboo</p> 
<p>Cliff Razzo Rocky Mountain</p> 	<p>Jeffrey Moore Lower Mainland</p> 	<p>Katie Ireland Fort George, Bulkley-Stikine Skeena</p> 
<p>Bill Sparkes Okanagan-Shuswap</p> 	<p>Nikki Schneider Vancouver Island</p> 	<p>Nicole Hansen Peace</p> 

## Jurisdiction & Authority

Provincial Approving Officers are responsible for rural areas outside of municipalities where a regional district or Islands Trust approving officer has not been appointed under s.77.1 of the *Land Title Act*.

- Approving officers have expansive authorities under a broad range of enactments including:
  - *Land Title Act*,
  - *Strata Property Act*,
  - *Local Government Act*,
  - *Real Estate Development Marketing Act*, and
  - Bare Land Strata Regulations
- Approving officers must:
  - Act in good faith,
  - Have an open mind,
  - Act without bias or the perception of bias,
  - Make decisions on a factual basis, and
  - Work within their jurisdiction and authority.

- While a few RDs have explored the option of appointing their own approving officer, currently none have undertaken that step.
- Within the LTA, the term “approving officer” is defined to include the municipal AO, RD AO, IT AO, PAO, Nisga’a AO and Treaty FN AO.
- They all have the same authorities within their respective jurisdictions.

## “Functus Officio”

A person who has discharged their duty and whose office or authority is at an end.

- The authorities granted to approving officers only apply while a subdivision proposal is being reviewed and do not continue once a decision has been rendered.
- Covenants required to support a subdivision must be in favour of a Ministry or agency with enduring authority and jurisdiction.



Covenants are typically in favour of MOTI, other Provincial ministries, health authorities or regional districts.

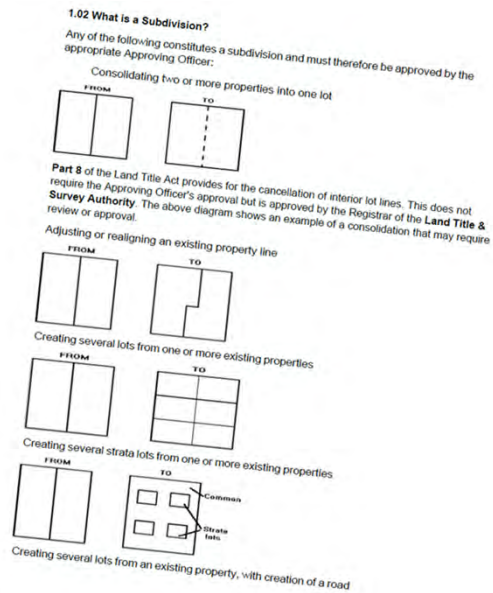


# Subdivision Approval Process



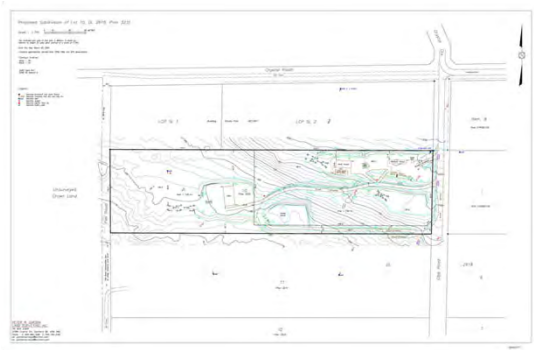
# Process Overview

- A subdivision goes through five stages:
  - Preparation
  - Application
  - Evaluation
  - Preliminary Layout Review & Development
  - Subdivision Plan Approval



- Consolidation under LTA s.100 does not require approval from an approving officer.
- The MOTI preliminary subdivision process is administrative only and is not included in the applicable legislation, This process allows MOTI and the applicant time to work on the elements necessary to obtain subdivision approval such as natural hazard investigations, road construction, input from provincial agencies and local governments, archaeological investigations, site servicing and First Nation consultation.
- There is only one approval under the applicable legislation, the signature of the approving officer on the Application to Deposit Plan at Land Title Office.

## Preparation

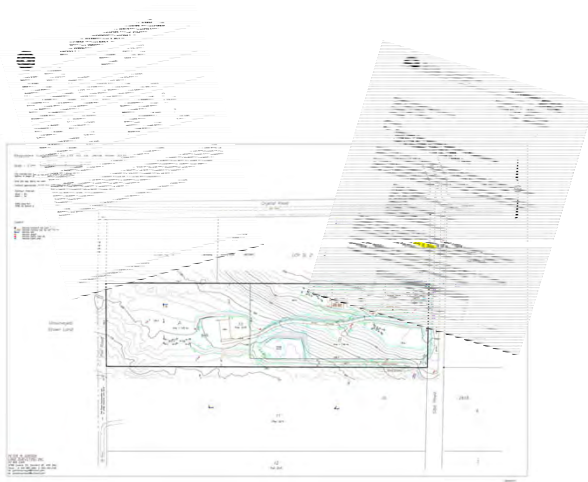


- The applicant decides on a proposal to subdivide land.
- Things to consider:
  - Is potable water available?
  - How will sewage disposal be handled?
  - Are there natural hazards which affect the property?
  - How will the lots be accessed?
  - Are there charges on title?
  - Does the proposal meet zoning bylaw requirements?

A subdivision must be suitable for the intended use. (LTA s.86(1)(c)(ix))



## Evaluation

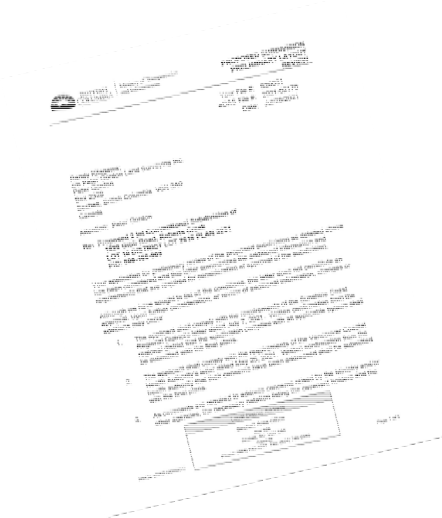


- MOTI Development Services (DS) staff will:
  - Review the application,
  - Send referrals to affected agencies such as the regional district and the health authority,
  - Conduct First Nation consultation,
  - Review access, roads, natural hazards and known archaeological sites,
  - Compile findings and referral responses into a report, and
  - Forward the application and report with a recommendation to the Provincial Approving Officer for review.

- The approving officer can hear from all persons who, in the approving officer's opinion, are affected by the subdivision (LTA s.86(1)(b) and BLSR s.3(1)(b)).
- First Nation consultation regarding subdivision of privately held lands is evolving and updated policies for MOTI are expected to be introduced soon.

# Preliminary Layout Review & Development

- The Provincial Approving Officer endorses the DS staff recommendation or returns the application for additional investigation.
- Once the recommendation is endorsed, a Preliminary Layout Review (PLR) letter is provided to the applicant.
- The applicant completes work necessary to address items identified in the PLR prior to submitting the subdivision plan for approval.



- The PLR is intended to work as a checklist for the applicant.
- The PLR is based upon the information available at the time it is issued and a revised PLR will be issued should additional information become available.

## Subdivision Plan Approval



- The applicant submits the plan image and supporting documentation.
- DS staff confirm that the documentation is complete and that PLR items have been addressed.
- The subdivision is sent to the Provincial Approving Officer for a decision.
- The subdivision is approved or rejected.

### *Land Title Act Subdivisions*

- The approving officer must approve or reject the subdivision within 2 months of when it was tendered for examination (s.85(1)).
- The approving officer approves the subdivision by signing the Application to Deposit Plan and any covenants that are required for the subdivision. The documents are then submitted for registration at the Land Title Office.
- If a subdivision is rejected, the approving officer must notify in writing the applicant, or the solicitor or agent of the applicant, of the rejection, stating briefly the reason and the approving officer's requirements, if any (s.85(2)). The subdivider may make an application in the nature of an appeal to the Supreme Court within one month after receiving the approving officer's rejection (s.89(1)).

### *Strata Property Act Subdivisions*

- The SPA and the BLSR do not prescribe a time limit for the approving officer to render a decision.
- There is no provisions for an appeal to the Supreme Court of a rejection of a strata plan. Challenge of the approving officer's decision falls under the *Judicial Review Procedure Act*.

# Subdivision Requirements







## Highway Construction

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- Highways within the subdivision must be constructed to the approving officer's satisfaction prior to approval of the subdivision plan.
- MOTI is the road authority and has established construction requirements in the BC Supplement to TAC Geometric Design Guide. Subdivision roads are covered in Chapter 1400.
- As part of the preliminary review process, DS staff provide recommendations to the approving officer on the road construction required.

- In circumstances the approving officer considers proper, security may be provided in an amount and in a form acceptable to the approving officer. (LTA s.75(1)(b) or BLSR s.5(1)(e))
- The funds provided must be sufficient to cover the remaining work and must be in the form of a bond or irrevocable letter of credit payable to MOTI (LTA) or RD (BLSR).

## Design Criteria

- Some things that are considered when establishing highway construction requirements are:
  - The permitted land use,
  - The number of lots proposed,
  - The volume and type of traffic generated,
  - The future use of the road,
  - Appropriate design standard and surface treatment, and
  - The relationship between land value and construction costs.

- Land use - residential, commercial, industrial, etc.
- Future use - will it remain a local road or will it become part of a collector or an arterial?
- Requirements are captured in a Design Criteria Sheet.
- For a bare land strata subdivision, common access routes (strata roads) must be sufficient to meet police and fire protection requirements, provide practical and reasonable access to the strata lots, and be designed or capable of being constructed in accordance with standards generally accepted as good engineering practice.

## Access by an Existing Highway



- An existing highway outside the subdivision may not meet minimum design requirements.
- MOTI requires that new subdivisions be accessed by a two-way, all-weather highway.
- A highway that is considered insufficient must be improved to a suitable standard.

An approving officer may reject a subdivision plan where existing roads outside the subdivision plan are not sufficient. (s.86(1)(c)(iii.1))

Considerations for the required upgrades are like those for roads within the subdivision:

- The land use,
- The number of lots proposed,
- The volume and type of traffic generated, and
- Appropriate design standard and surface treatment.

These requirements do not apply to a strata subdivision.

## Upgrading an Existing Highway

- Improvements are only completed on the section of highway necessary to support the subdivision.
- Upgrading to improve access to lands beyond the subdivision is not considered reasonable.
- Where a single lot is proposed to access from a highway that is considered insufficient or from an unconstructed highway dedication, a lower standard of improvement such as a gravel driveway can be considered.
- The subdivision proponent can:
  - Undertake the required improvements,
  - Wait for the road to be upgraded by MOTI, or
  - Partner with MOTI to complete the work.
- MOTI funding for improvements may be limited and the focus will be on areas requiring upgrades due to safety and operational concerns.
- A permit from MOTI is required for all work within an existing highway dedication.



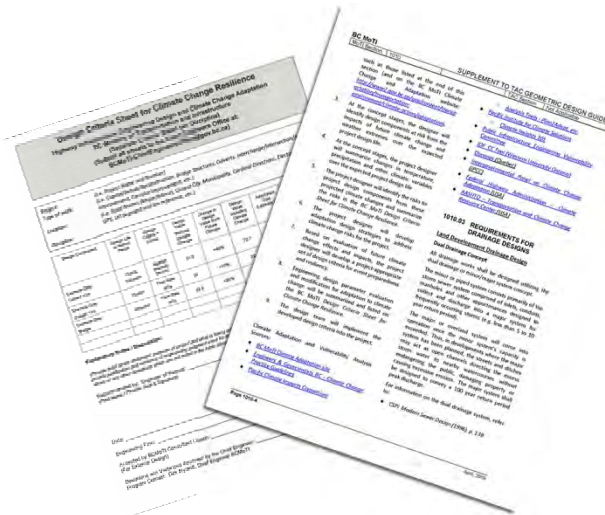
## Drainage

- **OPTION 1** – The on-site drainage facilities are designed to limit flows to pre-development levels (no net increase).
- **OPTION 2** – The downstream system is analyzed and any improvements required between the development site and the natural outfall are completed.



- On-site works may include storm water retention facilities like ponds, control manholes, French drains, etc.
- Downstream improvements may include expanding ditches or upsizing culverts.
- Volume and velocity must be checked at the natural outfall to ensure that erosion is not increased.

# Drainage Reports



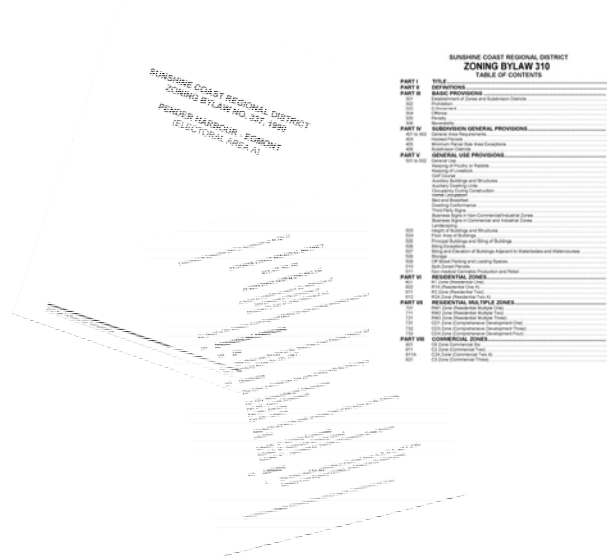
- Section 1010.03 of the BC Supplement to TAC must be followed for all professional reports.
- All drainage reports must include climate change adaptation following MOTI Technical Circular T-04/19.
- A Design Criteria Sheet for Climate Change Resilience must be provided for any infrastructure maintained by MOTI after the subdivision is complete.

- Previous design methods used the past 30 years of rainfall information to establish design flows for the drainage system.
- Climate change adaptation requires the use of predictive models which examine expected future weather patterns.
- \*\*The system designed for the subdivision only accommodates the conditions at the time of subdivision and any anticipated changes to the property by the planned development. Future modification of the property like removal of vegetation, construction of additional buildings, or poorly designed changes made to the drainage facilities can affect performance of the storm water system and impact downstream properties.\*\*



## Compliance with Bylaws

- Subdivisions must comply with all applicable local government bylaws regulating the subdivision of land and zoning.
- Bylaws may establish the following:
  - Type of use (residential, commercial, industrial, etc.),
  - Minimum lot size,
  - Minimum site servicing,
  - Building setbacks, or
  - Parking requirements.



- A subdivision that does not comply with all applicable bylaws must be rejected by the approving officer (s.87).
- An OCP is adopted by passing a bylaw; however, it is not a bylaw. It is the guiding document for a local government and all bylaws enacted or works undertaken by a local government after the adoption of the OCP must be consistent with the OCP (LGA s.478).
- An OCP does not regulate the subdivision of land, however DP areas may be established by an OCP (LGA s.488(1)) and these must be complied with under s.489 of the LGA before subdivision approval could be considered.



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**Thank You**