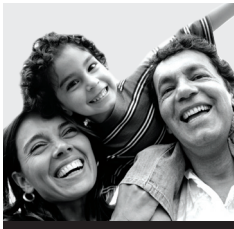


The subdivision process



■ What is subdivision?

Each parcel of land in New Zealand has an individual title granted and guaranteed to the owner by the Crown.

Subdivision is the process of dividing a parcel of land into separate titles so that it can be sold separately from the rest of the parcel. All subdivisions require Council approval. The Council has to control subdivisions to ensure that each separate parcel of land is provided with all the necessary services and access. This can only be done through conditions of consent.

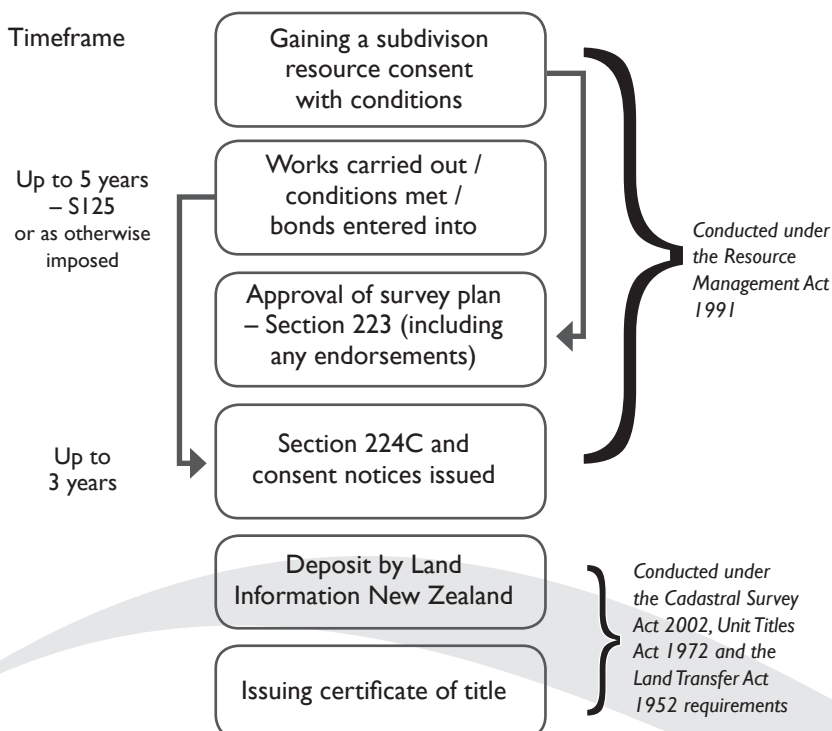
■ Subdivision under the Resource Management Act

Under the Resource Management Act no person may subdivide land unless the subdivision is expressly allowed by a rule in a plan or resource consent and a survey plan has been processed under Part 10 of the Act. Land subdivision under the RMA includes:

- The creation of separate fee-simple allotments with new certificates of title (freehold)
- The lease of land or buildings or both for 35 years or longer (leasehold)
- The creation of a unit title, company lease or cross-lease.

■ The subdivision process

The process of subdivision involves several stages as indicated below.



The process of gaining a Subdivision Consent under the first stage is no different to obtaining a land use consent, Council is required to assess the application for sufficient information make a decision on public notification, and a final decision.

An application for a Subdivision Consent needs to be accompanied by a scheme plan of the subdivision, together with an explanatory report, which must include any information required by the district plan. As with any resource consent application, an Assessment of Effects on the Environment (AEE) is required which could form part of the explanatory report. The Council's District Plans list the information required:

- Section 56 of the Operative Waikato District Plan
- Chapter 19 of the Proposed Waikato District Plan

The subdivision process



- Part 52 of the Operative Franklin District Plan.

An Assessment of Environmental Effects (AEE) must accompany a subdivision application. The information contained in the AEE will depend upon the type of subdivision being undertaken. The AEE should be commensurate with the scale of the proposed subdivision. See the Council's brochure "**What is an AEE?**" The AEE needs to identify the potential effects on the environment. For complex subdivisions detailed reports and information will be required, and these could include; geotechnical, stormwater, ecology, archaeology. If there are any adverse effects or potential adverse effects then the AEE needs to consider how best these effects are avoided, remedied or mitigated (in that order).

Consultation with affected parties is also a matter that needs to be outlined and this is covered in the Council's "**Written Approval**" brochure. Also for any subdivision that is located within the catchment of the Waikato River, pre-lodgement consultation with Waikato – Tainui is likely to be required. Further contact details can be obtained from Council.

Council's planner and engineers will assess the application once it has been screened to ensure that sufficient information has been provided. If not the application runs the risk of being rejected. When an application is accepted, the Council's planner and roading and engineering staff will carry out a site inspection, and assess the application against the rules of the applicable District Plan to determine if the effects on the environment are not more than minor.

Most subdivisions can be processed on a non-notified basis, within 20 working days from acceptance. Conditions of consent in the decision are to be expected for subdivisions. These conditions of consent will cover for example; works to be completed such as installation of power and telephone to the boundary of the new lots, construction of entranceways or footpaths, connections to reticulated water or wastewater (if available), the granting of ROW, disposal of stormwater, imposition of any covenants on the new titles, roads or reserves to be vested in Council.

Most subdivisions will also generate a condition or conditions that require a financial contribution towards public infrastructure such as roads, sewerage, water supply and reserves.

These conditions must be completed or complied with prior to the Council being able to complete the paperwork to be filed for the creation of the new titles.

■ Works carried out / conditions of approval met

The second phase of the subdivision process involves the consent holder complying with the conditions of subdivision consent. This is done in two stages. The first stage (Section 223) typically includes; the payment of any financial or development contributions, design and approval of the engineering details by the Council's engineers. The second stage (Section 224) usually involves completing the physical works such as the provision of roading, water supply, earthworks and drainage.

■ Approval and deposit by Land Information New Zealand

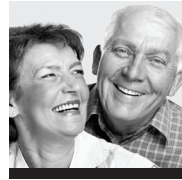
The final phase of subdivision involves the approval and deposit of the survey plan by Land Information New Zealand and this procedure cannot be fully executed unless the plan is accompanied by the required sections 223 and 224(c) certificates from the Council and all necessary documents for registration as required by section 224.

■ Cost of Subdivision Consents

The process of subdividing attracted a number of costs that are not always apparent. These costs generally include:

- Council fees for the subdivision consent application
- Council fees for each section 223 and 224 certificates
- Council fees for engineering approval and works supervision
- Council fees for any associated land use consent
- Connection to the public infrastructure network (serviced site)
- Extending services for upstream catchments (serviced site)
- Extensions or improvements of the public infrastructure network necessary to serve the subdivision where it is a serviced site
- Constructing and maintaining on-site disposal systems where it is an un-serviced site
- Obtaining a valuation for assessing the reserve contribution

The subdivision process



- Financial or development contributions (e.g. road and reserve contributions and public services upgrading contributions)
- Consultant fees (surveyors, engineers, planning consultants, landscape architects)
- Solicitor (Council's and applicant's) fees for consent notices, drainage easements, and bond documents
- Construction of engineering works, such as driveways, roads, services, etc.
- Costs associated with resource consent conditions, such as protecting areas of native vegetation
- Fees charged by Land Information New Zealand for plan approval and deposit and issue of new certificates of titles.

■ Subdivision and hazard-prone land

Section 106 of the RMA provides the ability the Council to refuse subdivision applications and the discretion to grant a subdivision consent, subject to conditions, in certain circumstances. These circumstances are where:

- The land, or any structure on the land, is or is likely to be subject to material damage by hazards
- Any subsequent use of the land is likely to accelerate, worsen or result in material damage to the land, other land or structures through hazards
- The subdivision has not been designed to give legal and physical access to each newly created allotment.

■ Subdivision and esplanade reserves

The RMA contains specific provisions relating to esplanade reserves and esplanade strips. The purpose of esplanade reserves and esplanade strips is to help:

- Preserve the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins
- Maintain or enhance water quality or aquatic habitats
- Protect against inappropriate subdivision, use and development.

Where a subdivision will create lots that are less than four hectares and the property abuts a lake, river or stream an esplanade reserve is required to be created unless the District Plan contains a rule to the contrary. This esplanade reserve must be 20 metres wide and they are vested in the Council as local purpose reserves for esplanade purposes. Esplanade strips are created voluntarily and are created in favour of the Council. The strips run with, and bind with the land and are owned by the landowner.

■ Duration of a Subdivision Consent

The duration of a resource consent is five years. This is the time period within which effect is given to the consent, in other words it is completed. In the case of subdivisions "effect" has been given to the subdivision once it has been submitted to the Council for its section 223 certificate, and will then lapse three years after that date if a section 224 certificate has not also been obtained.



Please contact us if you would like any further information

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