

7. STREAMLINING OF GREENFIELD SUBDIVISION CONSENTING

General Manager responsible:	General Manager Regulation and Democracy Services, DDI 941-8462
Officer responsible:	Resource Consents and Building Policy Manager
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PURPOSE OF REPORT

1. This report has been prepared in response to a resolution made at the 16 February 2012 Council meeting:
 3. *That staff prepare a report detailing the Council's approach to subdivision consents for zoned land that will have full infrastructure available within the next two years and report back to Council.*
2. The resolution related to a report titled *Earthquake Recovery Land and Housing Supply Report* and was one of four resolutions made as a result of that report. The other three items are to be reported back to the Council separately to this report by the Strategy and Planning Group.

EXECUTIVE SUMMARY

3. The Council has requested that staff prepare a report detailing the Council's approach to subdivision consents for zoned land that will have full infrastructure available within the next two years.
4. To understand the intricacy of greenfield development the *Earthquake Recovery Land and Housing Supply Report* identified the current subdivision process which can be categorised as having the following distinct phases:
 - pre-application discussions and agreeing to conceptual design
 - lodging of application and the issue of subdivision consent
 - engineering design acceptance
 - construction of physical works and audits of same
 - acceptance of works and issue of compliance certificates (section 224 RMA).
5. Further to the above a further phase is needed in most greenfield developments, that of bulk earthworks. This phase can occur either with its own consent prior to the issue of the subdivision consent or be undertaken with works as part of the engineering design acceptance phase.
6. In the current process, each phase follows the other in a natural progression from concept to completion. Each phase also has its own set of circumstances that may affect the progress through to final completion as each phase has to be completed before the next phase can be implemented.
7. The issue of the subdivision consent is critical to the whole programme as it provides the "green light" to allow the successive phases to occur.
8. The issue of the section 224 compliance certificate is also an important milestone as this is when certificates of titles can be issued and the sale of sections can be completed to subsequent owners. Normally this is also when construction work on new dwellings commences.
9. The City Plan sets out certain provisions in the subdivision chapter for the Council to consider when granting a subdivision consent. They relate to (not an exhaustive list):
 - allotment sizes
 - natural hazards
 - water supply
 - stormwater disposal

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- sanitary sewage disposal
 - telecommunications
 - roading
 - land for open space and recreation.
10. In considering whether or not to grant consent in respect to the provision of services identified above, the Council needs to give due regard to the availability and accessibility of a Council reticulation network which can serve the subdivision.
11. In the normal course of events, if an application was lodged and no approved infrastructure connection was available to the Council's network, the application would have to be declined. This is because the application would be at odds with the provisions which require approved infrastructure connection.
12. However to overcome this situation, the Council officer approach previously has been that provided the applicant "volunteers" a condition that they will not seek the compliance certificate (section 224 RMA) to be issued until the connection to the Council's infrastructure becomes available, a consent can be issued with the knowledge that this condition cannot be challenged (this in case law is known as the Augier Principle).
13. Greenfield applications (where zoning has already occurred) are either controlled or restricted discretionary activities and in terms of the City Plan provisions, do not require the written consent of other persons and do not need to be notified. This will also be the case if the application is made in terms of the "volunteered" condition as all the provisions (rules) of the subdivision part of the City Plan would need to be met before the section 224 certificate is issued.
14. To avoid any potential issues arising, the acceptance of such a "volunteered" condition would only occur where:
- the land is already zoned for the intended use
 - the Council have a high level of certainty and specific timeline for upgrading the infrastructure that will ultimately serve the subdivision
 - the land is contained within a Stormwater Management Plan catchment or has been issued or is in the process of being issued with a Discharge Consent for stormwater disposal from Environment Canterbury (ECan)
 - a Construction Discharge Consent from ECan has been issued or is in the process of being issued.
 - written agreement from ECan is provided in the case of a discharge consent still in process.
15. The issue of a consent under the above scenario would provide the following benefits to the subdivider and potentially produce "building sites" at an earlier stage than otherwise:
- give a "head start" towards the completion date
 - will enable the construction of the "internal" infrastructure to commence in parallel to the work being undertaken in the upgrading or extension of the Council's network
 - will provide a "visible" indication to prospective buyers that progress is being made in the creation of the sections
 - will able certain survey steps to be undertaken ie pegging of sections and preparation of title plans
 - depending on progress within the subdivision, dwelling construction could commence in parallel with engineering works, thereby fast tracking the land and building packages options. Note: Building consents can be issued once sections are pegged and filled to design levels, the issue of individual title is not a prerequisite to issuing the building consent.
16. A possible downside to the subdivision in using the "volunteered" condition scenario is that there would be a risk to the applicant, that the timing of the upgrade/extension of the Council's infrastructure may not coincide with the completion of the internal development work within the

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subdivision. This would delay the issue of the section 224 certificate, and consequently the issue of titles for settlement to occur and the occupation of dwellings that have been constructed. If timing delays are a fault of the Council, there will remain a potential reputational and litigation risk to the Council.

STAFF RECOMMENDATION

That the Council receive this report for information.