



## SECTION B - GUIDELINES

# APPLICATION KIT FOR SUBDIVISION RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991

PLEASE READ AND COMPLETE

### CONTENTS:

1. [Making an Application for a Subdivision Consent under the Resource Management Act 1991](#) *Page 2*
2. [Time Frames for Processing Applications](#) *Page 7*
3. [Fourth Schedule Resource Management Act](#) *Page 8*

# 1. MAKING AN APPLICATION FOR A SUBDIVISION CONSENT UNDER THE RESOURCE MANAGEMENT ACT 1991

## Why is the Council involved in subdivision?

On 1 October 1991 the Resource Management Act became law. The Act and its subsequent amendments have made many changes to the procedures that Council and applicants must follow in order for consents to be granted to subdivide land. One of these changes was that District Councils would be responsible for subdivisions. Another was that every district must have a District Plan. It is in this Plan that the policies, rules and standards imposed for subdivision consents are set out.

## The District Plan

The Kapiti Coast District Plan became operative in July 1999 and takes precedence over any previous plans. Copies of the District Plan may be viewed at the Council offices or any Kapiti public library.

## Do all subdivisions require a resource consent?

Unlike land use consents, there are no permitted subdivision activities, therefore all subdivisions require a resource consent.

The RMA and the District Plan divide subdivision applications into four different categories:

1. controlled activities
2. discretionary activities
3. non-complying activities
4. prohibited activities

The Rules and Standards in the District Plan will determine the category of your application and how it will be assessed.

## Controlled Activities

If the subdivision you are proposing is a controlled activity, then you will usually be able to subdivide your property, unless the land is at risk from a natural hazard. Council cannot normally notify your application or require neighbours consent. Conditions may be imposed on your resource consent to restrict your activity if necessary. An AEE for a controlled activity need only address the matters that Council has reserve control over, as listed in the District Plan. Other consents such as earthworks (land use) or discharge consents, may be required before any development can proceed.

## Discretionary Activities

If the subdivision you are proposing is a discretionary activity, then affected parties will have to be consulted and the application may be notified. The proposal will have to be assessed against the objectives and policies of the District Plan and the provisions of the Act. Council will then have to decide whether to grant or refuse consent. Conditions will normally be imposed on a discretionary activity consent. Other consents may, again, be required before any development can proceed.

## Non-Complying Activities

A non-complying activity is one that is not stated in the District Plan and therefore does not have any rules and standards. It is the responsibility of the applicant to demonstrate either that any potential negative effects of the proposed activity are minor, or that the proposal is not contrary to objectives and policies in the District Plan, otherwise the Council cannot grant consent. The proposal will be assessed against the objectives and policies of the District Plan. Other consents may be required before any development can proceed.

## **Prohibited Activities**

No application can be made for a prohibited activity.

## **How do I apply for a subdivision consent?**

This kit contains an indication of what is needed to make an application for a subdivision consent, but because of the specialist nature of subdivision consents and the information Council requires it is recommended that you contract a professional surveyor or planning consultant. (Some Surveyors, Environmental Consultants and Resource Management practitioners are listed in *Yellow Pages*).

Section 88 and 219 of the Resource Management Act and the District Plan set out the information that must be included with any application to subdivide. A checklist is attached which states the information required by Councils District Plan, but not all of this list may be relevant to your application. The most important part of your application is the Scheme Plan and the Assessment of Environmental Effects.

## **Assessment of Environmental Effects.**

For all resource consent applications it is necessary to provide an assessment of any actual or potential effects that may result from the activity for which the consent is sought. An Assessment of Environmental Effects needs to be prepared in accordance with the Fourth Schedule to the Resource Management Act, a copy of which may be found on page 10 of this kit. Council also has a series of fact sheets which cover Assessments of Environmental Effects reports and the application process.

An Assessment of Environmental Effects may include such issues as increased traffic (vehicular and pedestrian), effects upon vegetation and the landscape, and effects of additional buildings on amenity values. The amount of detail of an assessment of environmental effects should be proportional to the scale of the potential or actual effects of the activity.

The Fourth Schedule to the Resource Management Act requires details of who is affected, any consultation undertaken with these parties (including tangata whenua), the results of this consultation and the views of those consulted. It is best to consult early on in the preparation of your application. Effective consultation can resolve any misunderstandings and concerns that affected parties may have. This in turn can result in the application being simpler and quicker to process, with less cost to the applicant. If adequate consultation is not undertaken by the applicant, this will be done by the Council, at the applicants cost.

If an Assessment of Environmental Effects is not completed or does not have sufficient information for Consent staff to make a decision, a request will be made for further information and your application will be placed on hold until it is received. You have the right to formally object to a request for further information, advice on this is available from Council.

It is advisable to consult or employ a professional to submit your application as they are experienced in the procedures and requirements of the Resource Management Act and Council. (Some Environmental Consultants and Resource Management practitioners are listed in *Yellow Pages*).

## **Advice and Further Information**

If you are considering subdividing your property and need information or advice on the District Plan and the controls on subdivision then you can:

- visit your local Kapiti Coast District Council library and make yourself familiar with the District Plan(s)
- some information held by Council including Resource Consents information may be assessed via the Internet at <http://www.kapiticoast.govt.nz>. The Resource Consents Department may be contacted by e-mail on [resource.consents@kapiticoast.govt.nz](mailto:resource.consents@kapiticoast.govt.nz).
- telephone or visit the Resource Consents Department at Council offices, Paraparaumu. Be prepared to make an appointment to see consent staff, and note that the first 30 minutes of your consultation is free, but after this time a charge will be imposed.
- consult a professional Surveyor or Planning Consultant (Some practitioners are listed under Environmental Consultants and Resource Management in *Yellow Pages*).

While Council Resource Consent staff can give you initial advice on which provisions in the plan apply to your proposal, they cannot design your subdivision. That is a matter for you and your professional advisor.

**NB: It is not possible for consent staff or consultants to guarantee that a proposed subdivision will be granted consent simply from reading the provisions in the Plan.**

## **Non-notified and Publicly Notified Applications**

Once you have submitted your application Council will decide whether to publicly notify it or not.

Under the Act it is possible to gain consent for discretionary and non-complying activities without public notifications and hearings. However, Resource Consents Staff must consider each application, and be satisfied that this is only possible if:

- Approval of all affected parties has been obtained; and
- That the effects will be minor.

The RMA allows any application to be notified under special circumstances, even if a relevant plan expressly provides that it need not be notified.

## **Non-notified Applications**

If your application is non-notified then resource consent staff will make the decision to grant or refuse consent under delegated authority. Applicants can object to Council if consent is refused, or if they are not happy with the conditions. Further information can be obtained from Council regarding non-notified applications and objections.

## **Public Notification and Limited Notification, Pre-hearing Meetings and Hearings**

If your application is publicly notified, affected parties are notified in writing and the application is advertised in an appropriate local paper. Members of the public and affected parties are invited to make submissions either opposing or supporting your application. Once the closing date for submissions has passed Council may arrange a pre-hearing meeting. The applicant and all submitters are invited to discuss the application in an informal way. The aim is to first clarify the concerns and goals of all parties, and to agree on the facts as far as possible. Secondly, the pre-hearing meeting can go on to resolve as many differences as possible.

If all differences are resolved a hearing may not be necessary. If some concerns remain unresolved, then the application will go to a Hearing. A Hearing Committee of at least three elected Councillors, or an independent commissioner, will hear the case and make a decision to grant or refuse consent.

If you are unhappy with the decision made by the hearing committee you may appeal to the Environment Court. Further information on hearings is available from Council.

### **How long before a decision is made?**

If your application is non-notified and is considered to have sufficient information, a written decision can be expected within 20 working days of applying. If sufficient information is not received at the outset, then the application is put on hold until sufficient information is received. Once Council is satisfied that there is sufficient information to make a decision, the written decision can be expected within 20 working days.

If your application is notified it can take up to 70 working days, in addition to delays if further information is requested. The flow diagram on page 9 shows the time frames given under the Resource Management Act for the processing of applications.

A 'working day' is defined in the Resource Management Act as 'any day except Saturday, Sunday, Good Friday, Easter Monday, ANZAC Day, Labour Day, the Queen's Birthday, Waitangi Day and any day in the period commencing with the 20<sup>th</sup> day of December in any year and ending with the 10<sup>th</sup> day of January in the following year'

### **How much does it cost?**

Council has adopted a policy of recovering the full cost of processing applications from applicants. A Schedule of the set fees and charges for different types of applications is shown on pages 12-17. More information about charges may be found in Resource Consent Fact Sheet No 17 which is available from Council.

These fees are only for processing the application. Other Council charges may include financial contributions for reserves, upgrading of infrastructure and legal costs and fees, conservation covenant costs, bond processing fees. Non-Council costs will include, surveyors' fees and lodgment fees with the Department of Survey and Land Information and the District Land Registrar.

### **Conditions of Approval**

Conditions are imposed on consents to ensure that developments are sound in relation to both engineering and environmental aspects, and to protect other landowners and future residents. Conditions may include financial contributions to pay for the additional demands the subdivision and development will place on Council services and reserves. A proportion of land may be given to Council for reserves or an equivalent payment made. Resource Consent staff and the Subdivisions Engineer will obtain guidance from the District Plan, the 'Code for Subdivision and Development' and other planning documentation in setting conditions.

You may appeal or object to any conditions set on your consent. Please see Council for further information regarding this.

### **Final Approvals**

Once your resource consent has been granted, you would normally have two years to lodge a land transfer plan for Council's approval. This is the detailed plan prepared by a registered surveyor and must be in accordance with the original plan and any conditions of approval. If the land transfer plan satisfies Council's requirements approval is granted. The land transfer plan is then lodged with Land Information New Zealand.

A longer period for the survey plan to be lodged may be agreed by Council at the time consent is granted, and an extension can be granted later by Council if certain criteria are met.

You then have three years to gain a certificate stating that all the conditions of consent have been satisfied. This certificate and other documents are then lodged with the District Land Registrar to allow the new certificates of title to be issued. Failure to gain this certificate within the time limit may result in your approval lapsing.

**NB: Many of the issues relating to subdivisions are very complex and professional assistance will be required, this is why it is recommended that you contract the services of a professional from the outset.**

### **Important notes to Applicants**

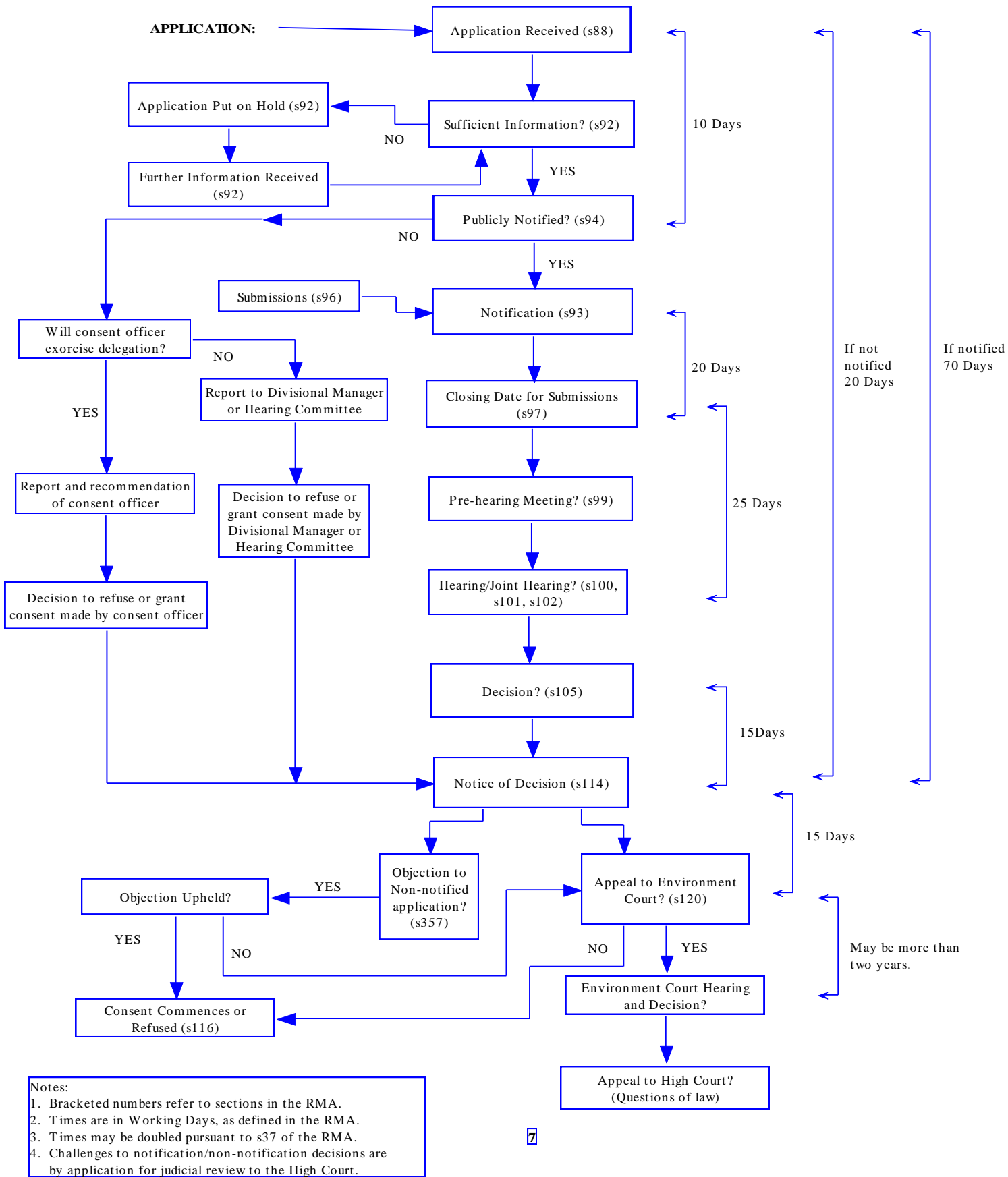
1. Please read fully the notes below and the Fact Sheets available from the Council to assist applicants, before preparing your application and the necessary supporting information.
2. If you are unsure as to what information to include with your application, please contact the Council before submitting the application.
3. Your application **must** be accompanied by the appropriate application fee as determined by the Council. A Schedule of the set fees and charges for different types of applications is shown on pages 12-17.

For complex applications, the Council may require an additional deposit pursuant to Section 36(3) of the Resource Management Act 1991, based on the actual and reasonable cost for processing such complex applications, and may require progressive monthly payments during consent processing.

The final charge is based on actual and reasonable costs and is subject to objection and appeal.

4. If the application does not contain the necessary basic information and the appropriate application fee the Council may return the application to you and not commence processing it until it is completed.
5. Applications require notification (public advertising calling for submissions) unless the Council is satisfied that the adverse effect on the environment of the activity for which consent is sought will be minor, and written approval has been obtained from every person who the Council is satisfied may be adversely affected by the granting of the consent (see Fact Sheet No. 4).
6. The information you provide is official information. It will be used to process the application and, together with other official information, to assist in the management of the district's natural and physical resources. By submitting the application, the applicant acknowledges that the application is official information and authorizes the Council to make publicly available on the Council's website the details of the application, whether or not the application is publicly notified. Access to information held by the Kapiti Coast District Council is admitted in accordance with the Local Government Official Information and Meetings Act 1987 and the Privacy Act 1993.

**2. RESOURCE CONSENT PROCEDURE & TIME FRAMES**



**3. RESOURCE MANAGEMENT ACT 1991**  
**FOURTH SCHEDULE**  
**Section 88 (6) (b)**

**ASSESSMENT OF EFFECTS ON THE ENVIRONMENT**

1. **Matters that should be included in an assessment of effects on the environment** - Subject to the provisions of any policy statement or plan, an assessment of effects on the environment for the purposes of Section 88 (6) should include:
  - (a) A description of the proposal.
  - (b) Where it is likely that an activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity.
  - (c) Repealed by Section 225 Resource Management Act Amendment 1993.
  - (d) An assessment of the actual or potential effects on the environment of the proposed activity.
  - (e) Where the activity includes the use of hazardous substances and installations, an assessment of any risks to the environment which are likely to arise from such use.
  - (f) Where the activity includes the discharge of any contaminant, a description of -
    - (i) The nature of the discharge and the sensitivity of the proposed receiving environment to adverse effects;  
and
    - (ii) Any possible alternative methods of discharge, including discharge into any other environment.
  - (g) A description of the mitigation measures (safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect.
  - (h) An identification of those persons interested in or affected to the views of those consulted.
  - (i) Where the scale or significance of the activity's effect are such that monitoring is required, a description of how, once the proposal is approved, effects will be monitored and by whom.
  
2. **Matters that should be considered when preparing an assessment of effects on the environment** - Subject to the provisions of any policy statement or plan, any person preparing an assessment of the effects on the environment should consider the following matters:
  - (a) Any effects on those in the neighbourhood and, where relevant, the wider community including any socio-economic and cultural effects.
  - (b) Any physical effect on the locality, including any landscape and visual effects.
  - (c) Any effects on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity.
  - (d) Any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural or other special value for present or future generations.
  - (e) Any discharge of contaminants into the environment, including any unreasonable emission of noise and options for the treatment and disposal of contaminants.
  - (f) Any risk to the neighbourhood, the wider community, or the environment through natural hazards or the use of hazardous substances or hazardous installations.