

Hamilton City Development Manual	
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PART 1 : PLANNING

1.1 INFORMATION TO USERS

This volume is intended to guide prospective subdividers, developers and their agents in understanding the subdivision planning process and the requirements of Council for the management of physical works.

It sets out the responsibilities of the two parties, recognising that land subdivision and development is in essence an agreement between the Council and the Developer.

1.2 THE RESOURCE CONSENT PROCESS

1.2.1 General

All subdivision developments require a Resource Consent as provided for in the Resource Management Act 1991. The consent application will generally be approved provided all requirements set out in the District Plan are met.

Some development works will also require consents from Environment Waikato.

For a subdivision consent to be issued, the application must demonstrate the following:-

- The land is suitable for the proposed subdivision
- Adequate provision is made for
 - roading and vehicular access
 - stormwater
 - wastewater
 - water supply
 - electricity
 - gas (except Industrial Zones)
 - telecommunications
 - pedestrians
 - cyclists



The Planning Guidance Unit of Council has responsibility for all aspects of the subdivision consent application and approval process.

All contacts with Council for information and application forms shall be made to the Planning Guidance Unit. No responsibility will be accepted by Council in respect of information sought and received from any other unit or section of Council.

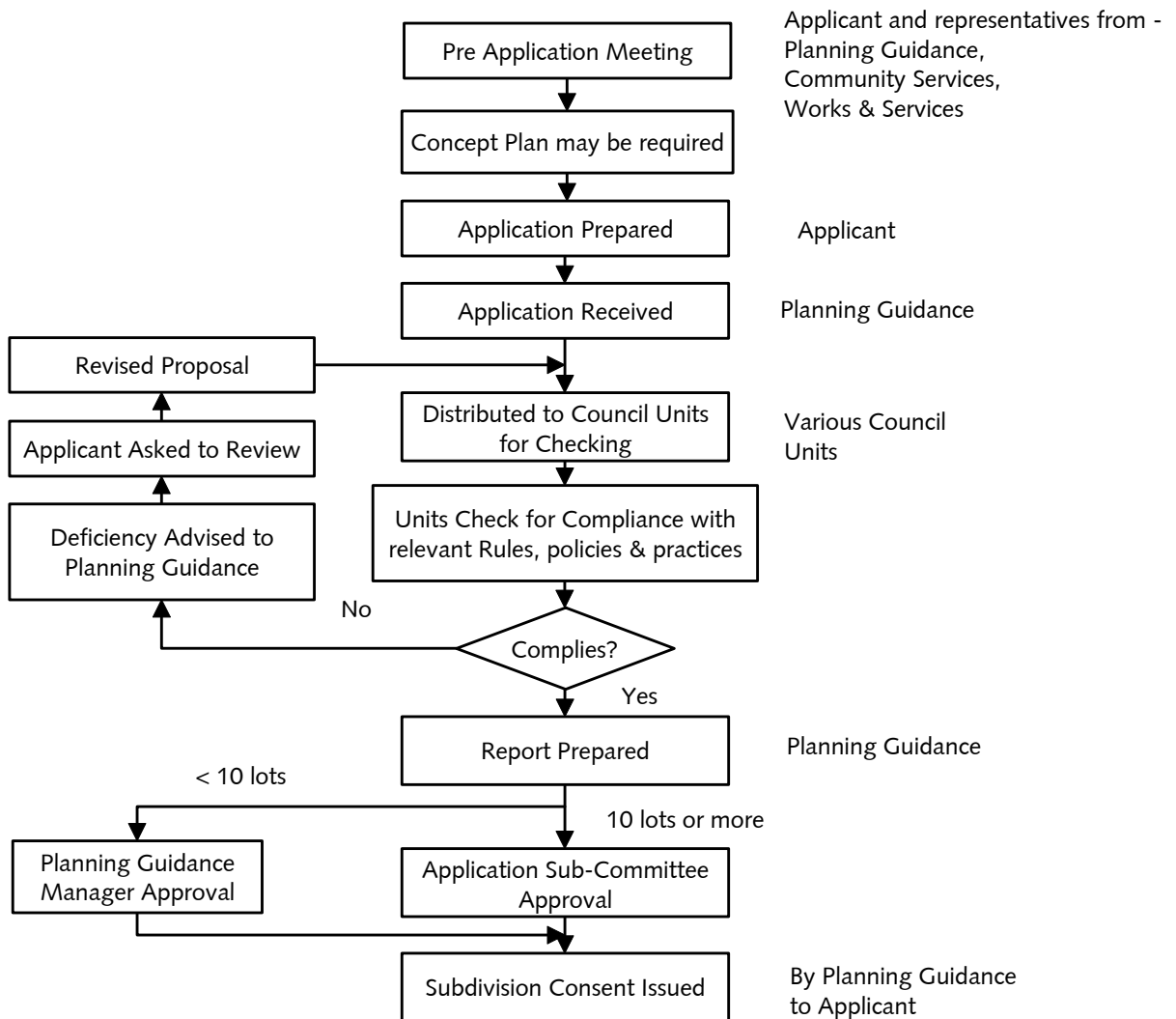
1.2.2 Resource Consent Application

Information required for a subdivision consent application is as follows:

- Scheme Plan showing all existing site information and services, and subdivision layout, and identifying roads, reserves and lots.
- Legal description of land being developed and identification of notes on titles, easements, etc.
- Copy of current Certificate of Title

- Geotechnical report from a geotechnical engineer
- Environmental impact report (where required)
- Assessment of serviceability of each lot with wastewater and stormwater disposal, water supply (domestic and fire), power, telephone, vehicle and pedestrian access
- Assessment of overland flows from upstream catchment (where required)
- Secondary flow paths for 50 year storm events
- Previous relevant consents
- Records of discussion with other units of Council
- Records of consultation with other affected parties
- Proposed road names (if required)
- Completed application form
- Application fee.

The planning process for non notified subdivision applications is shown in the following flowchart:



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1.3 RELATIONSHIPS BETWEEN DEVELOPER, DEVELOPER'S REPRESENTATIVE AND COUNCIL

The Developer shall ensure that all Council requirements set out in the following documents are understood and complied with:

- Hamilton City Council's District Plan
- This Hamilton City Development Manual
- The conditions attached to the Subdivision Resource Consent
- The approved engineering design plans.

The Developer shall also be responsible for any compliance required by any other relevant act, code of practice, New Zealand Standard, or any document related to the process of land subdivision and development.

The Developer may appoint a Developer's Representative to oversee the required compliances. The Developer may delegate any responsibilities to the Developer's Representative. Any delegation must be advised in writing to the Developer's Representative and to Council. The engagement of a Developer's Representative and delegation of any responsibilities does not absolve the Developer from their responsibilities to Council that are established by the issue of the Subdivision Resource Consent.

Within Council certain responsibilities in respect of subdivision processes are as follows:-

Planning Guidance Unit

- manage the Resource Consent Application process
- co-ordinate the engineering design clearance process
- manage the 223 Certification process
- manage the 224(c) Certification process
- manage the Post-Consent processes if required.

Works & Services Group and Community Services Group

- advise Planning Guidance Unit on appropriate engineering and reserve requirements as part of the Consent Application process
- audit the engineering and landscape plans
- audit the physical work
- advise the Planning Guidance Unit of the Practical Completion Certificate as part of the 224(c) certification process.

1.4 POST-CONSENT PROCEDURES

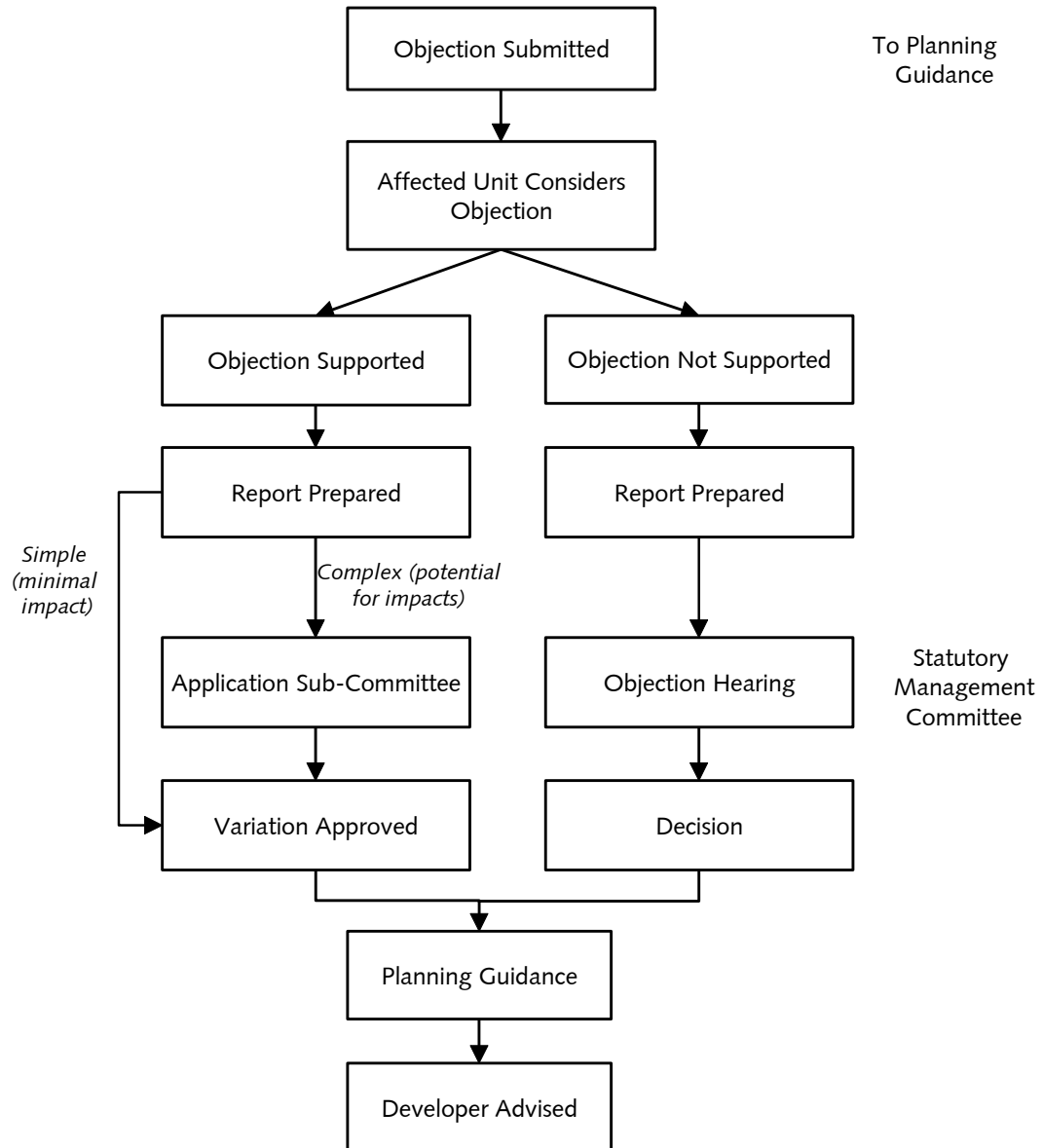
1.4.1 Consent Commencement

Provided the Consent is granted and the conditions are not subject to objection, then the date on the Consent is recognised as the commencement date.

1.4.2 Objections

The Consent holder may object to any or all of the conditions set out in the Consent, provided that notification of such action is given to the Planning Guidance Manager within 15 working days from the date of receipt of the Consent.

The process for dealing with an objection to a condition is as follows:-



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1.4.3 Hearings by Statutory Management Committee

This Committee is comprised of a number of elected Councillors who have delegated powers to resolve planning issues put before them.

Hearings and decisions are held by the Committee if —

- a pre-Hearing meeting has failed to resolve issues
- a submission is made to a notified resource consent application (and the submitter wishes to be heard)
- the applicant does not agree with the conditions recommended by Council's Planner.

Refer to Section 357 of the Resource Management Act for further details.

1.4.4 Environment Court

Under Section 358 of the Resource Management Act, appeals can be made to the Environment Court against certain decisions or objections. It is recommended that advice should be sought from legal counsel before entering into this procedure.

1.4.5 Financial Contributions

As a condition of subdivision, a financial contribution in the form of a levy may be required for :

- Roading
- Stormwater
- Wastewater
- Water supply
- Reserves.

In any such case the levy will be calculated in accordance with the appropriate rule in the District Plan.

All financial contributions must be paid in full to the Council (or otherwise settled) before 224(c) certificate issued.

1.4.6 223 Certification (refer Section 223 of the Resource Management Act 1991)

The Developer shall submit a plan to the Planning Guidance Unit for approval as to survey. The Council will consider this plan and ensure that it is accurate as to survey and complies with the requirements of the District Plan and Resource Consent conditions. This plan must be prepared and signed by a Registered Surveyor.

1.4.7 Road Names

The Developer shall submit proposed road names with the Resource Consent application if possible. Road names must be submitted and approved prior to 223 Certification. All names will be assessed using the road naming policy adopted by Council in 1998. Copies of this policy are available from the Planning Guidance Unit.

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1.4.8 224C Certification

The Council will issue the 224(c) Certificate when it is satisfied that all Resource Consent conditions have been met and that all development contributions have been paid.

The 224(c) Certification is provided for under Section 224(c) of the Resource Management Act 1991 and is required by the District Land Registrar before the issue of titles for the newly created lots can proceed.

1.4.9 Requirements for 224(c) Application

The Developer may apply for a 224(c) Certificate when:-

- All works required to be carried out as conditions of the consent, are completed, or when HCC considers a stage of "Practical Completion" (as defined in Section 1.4.10) is acceptable.
- The Developer has proposed and the Council accepts a Bond to the value prescribed in Section 1.4.12 to cover the cost of completing works to the standard set out in the conditions of the consent.
- All of the relevant quality checklists from Volume 4 have been submitted at the appropriate times during the course of the works, complete with all test certificates, all duly completed and signed by the Engineer.
- When applying for a 224(c) Certificate the Developer must submit:
- the as-built plans and data information set out in each of the technical specifications of Volume 3 Parts 3, 4, 5 and 6 (roading, stormwater, wastewater and water supply infrastructure).

1.4.10 Completion & Practical Completion

"Practical Completion" is reached when Council is satisfied that the construction has progressed to a point where all weather access is available to each and every lot created and all essential infrastructure services are available for each and every lot.

Works that may remain to be completed at Practical Completion include:-

- Final road surfacing
- Topsoil and grassing of berms
- Landscaping
- Erection of signs
- Defects liability on all works

"Completion" is when all works are fully complete and all defects that have arisen during the Defects Liability period have been corrected.

The Developer shall not be liable for fair wear and tear.

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1.4.11 Defects Liability Period

Works carried out during the subdivision development may be subject to a Defects Liability period of up to 12 months at the discretion of the Asset Manager. The Defects Liability period shall commence from the date of issue of the 224(c) Certificate.

Any works that are completed after the date of the issue of the 224(c) Certificate (see 1.4.10) shall be subject to an extension of the Defects Liability period for 3 months following the completion of those delayed works.

Special conditions for Defects Liability apply to Landscape Works — refer to Volume 3 Part 7 Clause 11.0 & 11.1.

1.4.12 Bonds for Uncompleted Works

(Refer Local Government Act Clause 304 and Resource Management Act Section 222 and Section 224(c)(iii) (in relation to cash bonds)).

Council will consider accepting bonds to cover works that are uncompleted at the time of application for the 224(c) Certificate.

The value of the bond will be set at one and a quarter times the estimated cost of the works for subdivisions involving 10 or more lots and twice the estimated cost of the works for smaller subdivisions.

The estimated cost of the “works” shall be as agreed between the parties or, in the absence of agreement, as estimated by the General Manager — Works & Services.

All costs associated with the provision of a Bond will be the responsibility of the Developer.

A time for the work to be completed will be specified. If the work is not completed within time, the Developer may apply for an extension. Only one extension for time will be considered and the application must set out grounds for the request.

Once the specified time period has expired, including any extension granted, Council will arrange for the work to be done. Funds for the work, including administration, will be charged against the Bond amount. Any remaining funds after payment of all costs will be refunded to whoever provided the Bond.

It is the Developer’s responsibility to inform Council that the work is completed and to request an audit as a pre-requisite for the bond release. This request must be accompanied by certification stating the outstanding work has been completed to the required standard. There is a charge for this audit at the level set out in Council’s Fees and Charges register.

There will be no Defects Liability Bond. The Developer will be responsible for correcting any defects.

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1.5 STATUTORY REQUIREMENTS

The provisions of this volume shall be read subject to the provisions of the current District Plan and to any applicable statutes, regulation and bylaws including the following and their amendments:

- Resource Management Act 1991
- Local Government Act 1974
- Local Government Act 2002
- Soil Conservation and River Control Act 1941
- Land Transfer Act 1952
- Unit Titles Act 1972
- Property Law Act 1952

1.6 REQUIREMENTS OF AUTHORITIES OTHER THAN COUNCIL

In addition to Council, bodies or persons that may require to be consulted in respect of any proposed subdivision of land, particularly at *the concept plan or scheme plan* stage include, but may not be limited to:

- Transit New Zealand
- The Waikato Regional Council (Environment Waikato)
- The New Zealand Police (Traffic Safety Section)
- The New Zealand Historic Places Trust
- The New Zealand Fire Service
- Network Utility Operators
- Local Iwi.