Guide to Subdivision and Land Development

Fraser Thomas

ENGINEERS • RESOURCE MANAGERS • SURVEYORS
Fraser Thomas Ltd...

...is an engineering and surveying consulting firm based in Highbrook which has provided Surveying, Engineering, Planning and Resource Management services in the greater Auckland area for over 45 years. Fraser Thomas Ltd has additional offices in Central Auckland and Christchurch, which ensures that we can offer services throughout both the wider Auckland and Canterbury Regions.

Subdividing or developing land normally involves inputs from many different professionals such as Surveyors, Civil and Geotechnical Engineers as well as other disciplines who may need to address specific issues. Fraser Thomas Ltd provides a full range of these services and has built relationships with other consultants, local Councils, utility providers and contractors to ensure a cost effective and efficient service is provided to our clients.

This guide on subdivision and land development aims to provide you with information on important steps in the process, from initial feasibility investigations, the resource consent process, right through to obtaining new titles for your subdivision to allow new sites to be created and sold.

We have a reputation for innovation and excellence and will work with you every step of the way to ensure a seamless process.
Subdividing involves dividing land or buildings into separate parts, to enable them to be sold or split into separate ownership. There are various reasons why you might want to subdivide your property. It may be that your section is too big for your needs, or that your section may have been re-zoned so that you are now permitted to subdivide, in a manner that was prohibited before.

A particular type of resource consent, called a “subdivision consent”, is required from the local Council to do this. A subdivision consent is also required to alter a boundary between two properties. A number of legislative provisions govern the subdivision of land, the most prominent being the Resource Management Act 1991. This Act enables Councils, through District Plans and resource consents, to control all subdivisions, therefore controlling any adverse effects on the community and environment that the subdivision may have.

Before deciding to subdivide property, whether it be in a rural or urban area, it is important to appreciate the length of time involved in the process. The length of time will differ depending on the size and complexity of your project.
2. Can I Subdivide?

To enable you to subdivide your property you must meet the requirements of the Council’s Unitary or District Plan.

These include various planning controls and development standards such as provision of suitable building platforms, minimum lot sizes, building height in relation to boundary, minimum yard sizes, private open space, vehicle access, parking and manoeuvring. These requirements vary according to the zoning of your property.

You must also show that adequate provision can be provided for utility servicing to all the lots created. This includes provision for disposal of waste water, stormwater and supply of power, telephone and water.

If your property is located on an overland flowpath or in an area affected by flooding, you must be able to demonstrate that your project will adequately provide for overland flow and not worsen the flood risk on neighbouring properties.
Auckland Unitary Plan

The Auckland Unitary Plan has opened up considerable infill land development opportunities. The Unitary Plan has simplified the residential zones throughout Auckland with six zones created to allow for different levels of housing intensity.

The residential zones which allow for infill development opportunities include the following:
- Single house zone
- Mixed housing suburban zone
- Mixed housing urban zone
- Terrace housing and apartment building zones

If your property falls within one of the above residential zones then there may be an opportunity to complete an infill development. This may only be limited to one additional dwelling depending on the zoning, area of our property and the ability to service the property.

Fraser Thomas can complete a desktop assessment of your property to provide you with a summary of any potential infill opportunities. Should a more detailed assessment be required to assess the opportunities we can provide you with a comprehensive services offer covering the provision of planning, surveying and engineering services.
3. Types of Subdivision

The three most common types of subdivisions are: Fee simple, Unit title, and Cross-Lease

<table>
<thead>
<tr>
<th>Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Fee simple</td>
<td>A fee simple subdivision creates one or more additional sections from an existing parcel of land. New certificates of titles are created for each parcel. A fee simple subdivision is the most common type of subdivision.</td>
</tr>
<tr>
<td>2. Unit title</td>
<td>A unit title subdivision creates individual titles to units, apartments or semi-detached dwellings over an existing fee simple parcel of land. The unit title plan identifies each dwelling as a “principal unit”. In some instances, the unit plan may also show accessory units associated with each principal unit. The units usually have a share in the common property such as vehicle access, manoeuvring areas, lifts, stairs and gardens. A body corporate must be formed to manage the common facilities, insurance and maintenance.</td>
</tr>
<tr>
<td>3. Cross-lease</td>
<td>A cross-lease (or flat plan) subdivision is generally less desirable in today’s market. In this instance, a lease is created over the household unit and is identified as a “flat”. The remainder of the section, e.g. gardens, or vehicle access is usually held in covenant area and common ownership.</td>
</tr>
</tbody>
</table>
4. What is a Consent?

A “consent” gives you, as the developer, the right to carry out specific work in accordance with various legislation and associated regulations. You will need to obtain the required resource consents from Council before any subdivision work starts on the property you own.

For subdivision/land development projects, the following consents are usually required:
- Land use consent
- Subdivision consent
- Building consent

Land Use Consent
A land use consent is a written approval from Council to use or modify your land in a manner that contravenes a rule in the Unitary or District Plan. All activities, except those permitted, require a land use consent before you can carry out the activity.

Subdivision Consent
A subdivision consent allows you to create new (adjoining) titles on a piece of land. All subdivisions require consent from Council to ensure that the land is suitable for the proposed development and is capable of being fully serviced and to address any land stability or flooding issues. A subdivision allows you to be able to sell part of your land provided you meet the relevant standards.

Building Consent
A building consent is a written approval from Council for you to carry out specific building works. A building consent ensures compliance with the Building Act 2004 and with the New Zealand Building Code. Before Council issues a building consent, they need to be satisfied on “reasonable grounds” that the proposed works will be structurally sound, that there is adequate sanitary plumbing and drainage, and that the minimum fire and other safety standards are met. Some basic work does not require building consent; however most building work will require a building consent in order to comply with current regulations.
5. Preliminary Investigations

There are a number of specific investigations that may be undertaken either at the feasibility stage, or as part of preliminary design. These include flood reports, contaminated land assessments and infrastructure assessments.

**Flood Reports**
Council will require you to undertake a flood assessment if you wish to develop your property and if your property is located within a flood hazard area, or an overland flowpath. As part of this process, we will establish the required finished floor level for any new buildings, assess any associated resource consenting requirements, and investigate mitigation measures that may be taken to facilitate your development.

**Contaminated Land Assessment**
When subdividing land, changing land use or undertaking soil disturbance, you are required to demonstrate whether or not HAIL activities (Hazardous Activities or Industries List) have “more likely than not” taken place in the past or present on the land (or part of the land) subject to development.

Fraser Thomas cover all facets of contaminated land work including: Preliminary site investigations (PSI): desktop study, site walkover and reporting; and Detailed site investigations (DSI): PSI + soil/water sampling, analysis and interpretation.

Our team is led by a Certified Environmental Practitioner in Contaminated Land (CEngP–CL) and we can produce reports for: “Due Dilligane”, pre-purchase investigations, proposed developments – subdivisions, changes in land use, soil disturbance, and existing residential, commercial, industrial and rural sites.
Asbestos
If your development project involves the demolition or refurbishment of existing buildings, structures or plant on-site, you are required to undertake an asbestos survey, prior to undertaking these works, under the Health and Safety at Work (Asbestos) Regulations 2016. This typically involves a desktop study of historical building records, site buildings inspection, collection and testing of potential Asbestos Containing Material (ACM) and preparation of an Asbestos Management Plan, which will list all suspect and confirmed ACM sources and set out appropriate management measures.

Fraser Thomas has accredited Asbestos Buildings Inspectors and is also familiar with testing soil for potential ACM associated with uncontrolled demolition.

Infrastructure Assessments
A critical question in the development process is can your site be serviced for water supply and particularly stormwater and wastewater?

With stormwater, if your development will result in an increase in impervious area, then there may be additional requirements you need to address to ensure that stormwater can be discharged from your site without causing downstream pipe capacity issues. You may need to install a stormwater detention tank or soakage pit for this purpose. Fraser Thomas has considerable expertise in stormwater and is familiar with the sometimes complex Unitary Plan requirements in this area, including those sites located in Stormwater Management Area – Flow 1 and 2 areas.

With wastewater, if you are adding living space, your wastewater generation will increase and may cause capacity problems in the downstream wastewater system. Council may require the capacity of this system to be assessed as part of your application. If you are located in a “red area” with confirmed wastewater system capacity constraints, then you will either need to delay your development, or install temporary wastewater storage and pump at night into the wastewater network. Fraser Thomas is familiar with this process, having designed a number of private wastewater pump stations, and obtaining the necessary Watercare approvals.
6. Typical Subdivision Process

- Feasibility Assessment/ Budget Costings
- Topographical Survey/ Scheme Plan of Development
- Resource Consent Application and Issue of Consent
- Site Construction (typically)
  - Accessways
  - Drainage
  - Utilities
  - House build, if integrated
- Preparation of New Title Plans
- Section 223/224(c) Approval from Council
- Land Transfer Survey and Lodge for Survey Approval with Land Information NZ
- Solicitor Applies for and Obtains New Titles
7. Some Definitions...

Feasibility Assessment/ Budget Costings

Prior to commencing any subdivision it is essential to assess whether a proposed subdivision is possible in terms of the Unitary or District Plan requirements and feasible in terms of return on investment. Fraser Thomas Ltd can provide a feasibility assessment detailing the budget costs to complete a subdivision.

Some typical budget costs include:
- Resource consent application (including engineering/subdivision design)
- Construction costs of stormwater/wastewater drainage, accessways, utilities, earthworks etc.
- Council financial development contributions and application fees
- Professional consultant fees
- Land Transfer (LT) Survey

The Council’s Unitary or District Plan can be complex and we include advice in our feasibility assessment on the requirements and restrictions that would apply to your property.

Topographical Survey/ Scheme Plan

This is a survey of the ground levels and significant features on a site. From this field information, we produce a plan showing such things as ground levels, contours, buildings, services, legal boundaries, trees and any other features relevant to the future development of the site. This information is used for any engineering design required and the plan forms the basis of the scheme plan showing the proposed subdivision. The scheme plan is submitted to Council as part of the resource consent application. If the project includes proposed new dwellings, the topographical survey is used by the architectural designer to prepare plans.
What’s Included in a Resource Consent Application?
The amount of information that needs to be in a consent application varies according to the scale and complexity of the proposed development. Generally, an application will detail what you are proposing to do and the effects on the environment. For subdivisions, typical information required to be submitted with an application include:

- Scheme plan of subdivision including existing site information and new lots to be created
- Detailed engineering design for access and servicing
- Details of compliance or non-compliance with Council planning requirements
- Assessments of effects and mitigation measures

Sections 223/224(c) Certificates
A section 223 certificate is issued by Council to certify that the new Title Plan conforms to the subdivision consent. A Section 224(c) certificate is issued to certify that all of the conditions of the subdivision consent have been completed to the satisfaction of Council. Both of these certificates need to be issued before a solicitor can obtain new certificates of title.

Land Transfer Survey
This involves investigating old survey plans and information and performing various calculations to define the existing and new boundary positions. These boundary positions are marked (usually with boundary pegs) on site, and a new Title Plan is prepared. The new Title Plan, along with other reports, plans and calculations, form the Cadastral Survey Data-set which is lodged with the government agency, Land Information New Zealand (LINZ). Only Licensed Cadastral Surveyors can undertake this work.
8. Council Application Process

Most resource consents can be processed without being publicly notified, in which case Council is required to complete the processing within 20 working days. Publicly notified applications have longer timeframes, with the processing time varying depending on the complexity of the application.

The length of time to gain consents can be minimised if the consent application is prepared by people with experience in both the consents process and with council requirements.

9. Affected Person’s Approval

If there are persons or property that may be assessed as being adversely affected by the proposal, their written approval will be required before we lodge the application with Council. This involves approaching both the landowners and occupiers with information and plans of the proposal for their consideration. If an affected person does not give approval to the proposal, this may impact on the way that the application is processed by Council.

A right of entry approval is required from adjoining landowners if any work is to be undertaken on their property, such as connections to existing drainage lines.
10. Duration of Consent

Once your subdivision or land-use consent is granted, you have a specific time frame within which to build or establish what has been approved.

A subdivision or land-use consent typically lapses five years after the date on which it was granted, unless you have given effect to your consent (see explanation below).

For a land use consent, “given effect” means that all works have been completed such that, the activity is established or the buildings built. For a subdivision consent, “given effect” has been defined by the Act as the time when your survey plan has been submitted to Council and they have issued their Section 223 certificate.

Once your survey plan has a Section 223 approval, you have three years from that date to deposit your plan with LINZ to allow your new titles to be issued, thus giving a maximum total development time of up to eight years.
11. Land Development

General Timeline

All jobs have different requirements, but the opposite timeframes are typical for subdivisions creating up to 4 lots. (Based on a non-notified Resource Consent Application)

Total typical timeframe without building an extra dwelling = 6 – 8 months

Including construction of a dwelling – can be same timeframe with concurrent building
<table>
<thead>
<tr>
<th>Step</th>
<th>Timeframes</th>
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<tbody>
<tr>
<td>Feasibility Report</td>
<td>2 weeks</td>
</tr>
<tr>
<td>Topographical site survey</td>
<td>2 weeks</td>
</tr>
<tr>
<td>Resource Consent Preparation / Submission to Council</td>
<td>4 weeks combined</td>
</tr>
<tr>
<td>Subdivision Design</td>
<td>4 weeks combined</td>
</tr>
<tr>
<td>Engineering Design</td>
<td>4 weeks combined</td>
</tr>
<tr>
<td>Council processes / grants the consent. Copy of the consent to solicitor</td>
<td>4 weeks</td>
</tr>
<tr>
<td>Engineers contact contractors and send out tenders for work.</td>
<td>Concurrent with resource consent processing</td>
</tr>
<tr>
<td>Contractor appointed by client</td>
<td>2 weeks lead in 4 weeks construction</td>
</tr>
<tr>
<td>Physical engineering site work completed</td>
<td>2 weeks lead in 4 weeks construction</td>
</tr>
<tr>
<td>Dwelling constructed if part of the development</td>
<td>1 month lead in 5 months to build</td>
</tr>
<tr>
<td>Concurrently Surveyors apply for Section 223 approval and undertake field work and prepare LT plans. Asbuilt drainage survey completed. Copy of Title Plan to solicitor.</td>
<td>3 weeks</td>
</tr>
<tr>
<td>When engineering work is complete, engineers prepare asbuilt drainage plans, final inspections, applications to Council for Section 224(c) approval.</td>
<td>3 weeks</td>
</tr>
<tr>
<td>Council processes and approves Section 224(c) certificate</td>
<td>4 weeks</td>
</tr>
<tr>
<td>Prior to approval of Section 224(c), surveyors have obtained Survey Approval from LINZ</td>
<td></td>
</tr>
<tr>
<td>Solicitor submits document to LINZ to obtain new Titles</td>
<td>2−3 weeks</td>
</tr>
<tr>
<td>LINZ processes application and issues new Titles</td>
<td>2−3 weeks</td>
</tr>
</tbody>
</table>

Subdivision Complete!
If you wish to discuss your proposed project with us, then please contact our Survey Department today and we can arrange a free 30 minute initial consultation with a senior member of our staff to explain what your options are and how we can help you achieve your goals.

Disclaimer

The information contained in this guide is intended to be of a general nature, to provide guidance in the area of subdivision and land development. While we have endeavoured to provide accurate information at the time of publication, due to changing regulatory requirements, Council processes and the peculiarities of particular sites, we cannot guarantee the information contained herein. Timeframes given are indicative and should only be used for information purposes as they will vary depending on the scale and complexity of each project.

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Contact Us

Level 1, 21 El Kobar Drive, East Tamaki, Auckland

PO Box 204 006, Highbrook, Auckland 2161

p. 0508 2 SURVEY | p. 09 278 7078

e. admin@ftl.co.nz

www.fraserthomas.co.nz
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ENGINEERS • RESOURCE MANAGERS • SURVEYORS

21 El Kobar Drive, Highbrook, Auckland
p. 0508 278 7839 | p. 09 278 7078
e. admin@ftl.co.nz
www.fraserthomas.co.nz