



UNIT TITLE PROCESS

If you are considering going through a Unit Title Survey the following information outlines the general process and Hampson & Associates' role as the surveyors.

If you are entering into a new development and the structures are yet to be built we recommend you lodge a Draft Unit Plan with Council for approval under Section 104 of the RMA. This will give you the conditions of subdivision consent and hence most of the matters that must be addressed prior to the issue of a Section 224(c) certificate of compliance. The Section 224(c) certificate is issued in accordance with Section 224(c) of the Resource Management Act. This certificate will only issue once all the conditions of subdivision consent imposed as a result of the Section 104 application have been complied with to the satisfaction of the Territorial Authority. This certificate must be issued prior to an application for the issue of the new titles. This will also speed up the process when the finalised plans are lodged. It is important that the Draft Unit Plan is drawn from finalised construction drawings so that they mirror the Final Unit Plan that will be lodged with Council once the buildings are up to full height. It is important to note that the 104 consent can only be obtained for the Draft Unit Plan if a prior Resource Consent or Building Consent has already been obtained for the proposed development. Please note that there are two types of Resource Consent

- 1) Land Use consent which is for the use of land and construction of buildings.
- 2) Subdivision consent.

We are qualified to make application for both Land Use and Subdivision consents.

One of the conditions of consent will be for the payment of a Development Levy and/or a Reserve Contribution which may or may not have been determined at the Land Use (Resource) Consent stage. These levies should always be established at an early stage of the development.

The dataset that is submitted to Council will also have the following items:

- A letter of submission from the surveyor outlining the development.
- Duplicate copies of the plans.
- Council's checklist.

- Council's application form.
- Copies of the underlying certificates of title.
- Council application fees, which vary between different local authorities.

Note:

- 1) If there is basement car parking, i.e. car parking within a building, a fire waiver will be required, for which a qualified fire engineer will need to be consulted. This will most likely have been a condition of the building consent and may have already been done. Council will also require the fire waiver to be registered on the new titles, to which the car parking spaces (accessory units) have been allocated.
- 2) Everything in the dataset to Council will be provided by the surveyor except for the Council fees & fire waiver, which the client will supply.

Common 224(c) conditions that we encounter are:-

- New vehicle crossings have to be formed
- Footpaths have to be repaired
- Car parks have to be marked on site in accordance with our approved plan.
- Consents/encumbrances need to be registered on the title (your solicitor will provide draft copies to Council for approval).

Please be aware that these conditions are an example only and vary depending on the development and the Local Authority involved.

The Local Authority processing time for a 104 approval is 20 working days. However depending on the Council workload and requests for additional information, this can vary.

Once the units are up to full height and the units are capable of physical measurement the surveyor is then able to lodge the Final Unit Plan with Council for approval under sections:

- 223 (Resource Management Act).
- 224(f) (Resource Management Act stating that every building can and will comply with Section 116A of the Building Act 2004). This is a formality for a new building as 116 requires a building to comply as near as reasonably practical as if it were a new building.
- 5(i)(g) of the Unit Titles Act. (Note the Section 5(1)(g) certificate can only issue once the units are capable of physical measurement.

If a Draft Unit Plan has been previously approved by Council and the finalised plans are in accordance with the approved Draft Unit Plan then the signing of the 223, 224(f) and 5(1)(g) certificates is a formality unless the Local Authority tags the subdivision conditions to the 223 rather than the 224(c). This is unlikely but each Local Authority has different systems.

At this stage it is also important that:

- Survey fixes have been done to locate the new buildings if they are within 1 metre of the boundary.
- That copies of the unit plan have been sent to the valuer for unit entitlements.

Once the plans come back from Council with the 223, 224(f) & 5(1)(g) sign off, the survey dataset will be prepared for lodgement with LINZ which take 10 working days to approve the dataset as to survey once lodged. Note under the new systems many Local Authorities are able to present the certificates digitally which automatically go into the digital lodgement to LINZ. Hampson & Associates Ltd employs independent checkers and all our datasets are sent to them prior to lodgement with LINZ as part of our quality control process. All digital lodgements are also pre-validated by Landonline prior to submission.

Once all subdivision conditions have been met the 224(c) application can be made and if Council is satisfied they will issue the 224(c) certificate (or now in most cases they give a digital sign off) that will now allow the solicitors to lodge their documents for title to issue. Most Local Authorities have a standard application form and fee. We also supply them with any relevant information to allow them to process the application (confirmation of asbuilts, copies of solicitors' encumbrances etc).

Staged Unit Development

Another way to go about the Unit Title process is by way of a Staged Unit Development which is necessary when the development is to be carried out in stages. This is more time consuming as there is a lot more work involved. It requires a Proposed Unit Plan which shows the entire development as it will be once all stages are complete and Staged Plans (beginning with the First Stage Plan) which will be prepared in conjunction with the development as it progresses until finished at which time the Final Unit Plan is prepared. Units not shown as part of the First Stage Plan are referred to as FDU's (Future Development Units). Both the Proposed Unit Plan and the First Stage Unit Plans are submitted first to Council & then to LINZ. All subsequent stage plans and the Final Plan require approval by Council and LINZ. If the development changes from that shown on the Proposed Unit Plan a Substitute Proposed Unit Plan is required. A Substitute Proposed Unit Plan can only be undertaken if a unanimous decision of the body corporate has been obtained and all the owners of the units which already have title have agreed to it. It is common for the developer to retain the right to make appropriate changes until the Final Unit Plan has been approved but this should be discussed and confirmed with a solicitor as to what you can and cannot do. It is also important to note that in order to get titles issued for the First Stage Plan that the 224(c) certification will need to have been obtained from Council. This will require all subdivision conditions to have been met and some may relate to works that are part of the latter stages of the development. This can result in large bonds to be entered into with Council to ensure that these works will be completed, or in some cases Council may agree to the undertaking from the client that Council can withhold the 5(1)(g) certification for the remaining stages until the works for those stages are completed. This outcome needs to be given serious thought before embarking on a staged development as it can greatly impact on the timing and success of the development and there may be an alternative way to achieve the desired result.

Please note that this document provides a brief overview of the Unit Title process & can be subject to change depending on the specifics of each development. It is also subject to any Local Body or government regulation changes. Hampson & Associates Ltd are not responsible for Council or LINZ processing times as these change between various Councils depending on their workload.

We do however put considerable effort into ensuring that information we supply to both Council and LINZ is to the highest standard to cut down on processing times as much as possible.

We hope that this has been beneficial to your understanding of the Unit Title process. If you have any more questions please call and talk to myself or one of our other surveyors.

Rogan Hampson MNZIS
Consulting Surveyor & Director