

Auckland Unitary Plan

# Standard Conditions Manual

## Subdivision Conditions – Urban and Regulatory Engineering

(external version)

### Disclaimer

*The information in this Standard Conditions Manual is, according to Auckland Council's best efforts, accurate at the time of publication. Auckland Council makes every reasonable effort to keep it current and accurate. However, users of the Conditions Manual are advised that:*

- *Although the conditions are “standardised”, in the sense that they should be applied consistently where they are required, this does not mean that they should all be applied in every instance. Applicants need to consider the nature of the activity, and the characteristics of the site and its surroundings in considering whether to apply each and every condition.*
- *The standard conditions should be used with caution as a starting point from which appropriate conditions for the individual consent should be drafted to align with the requirements of ss108, 108AA and 220 of the Resource Management Act 1991.*
- *Further guidance as to whether to apply the conditions are included in the guidance notes that accompanies each condition.*
- *Users should take specific advice from qualified professional people before undertaking any action as a result of information obtained in this Standard Conditions Manual.*
- *Auckland Council does not accept any responsibility for, or liability whatsoever whether in contract, tort, equity or otherwise (including negligence) arising from the use of, or reliance on, this Standard Conditions Manual. This includes, without limitation, any liability arising from any error, or inadequacy, deficiency, flaw in or omission from the information provided.*

## **About these subdivision conditions**

*The following conditions are specific subdivision consent (section 11 of the RMA) conditions.*

*Any district and regional land use conditions (i.e. sections 9(1), 9(2) & 9(3), 15 of the RMA) can only be imposed if these types of consent are triggered by the application for subdivision. For example, where regional earthworks are required in order to create stable lots suitable for subdivision, the regional earthworks consent can be assessed as part of the subdivision consent application. These conditions are listed in the relevant sections of the Standard Conditions Manual.*

*All subdivision consent conditions (section 11) will be subject to the section 224(c) certificate. Please note that there cannot be any conditions of consent that require implementation after the s224c has been issued unless there is a bond, or any conditions that require ongoing compliance unless a condition requiring a consent notice to this effect is imposed.*

*Consent conditions imposed as part of a subdivision (including district and regional) may require monitoring, in particular where planting plans or management plans are required to be certified by Council and subsequently are implemented and 'checked' prior to an application for the section 224(c) certificate being made. Please refer to 'Council' instead of a job title in monitoring conditions (e.g. Team Leader Monitoring and Compliance), as these conditions will be monitored and/ or certified by a variety of teams (e.g. arborists, Regulatory Engineers, biodiversity team).*

## Preamble

All conditions contained in this decision must be complied with at time of s224(c). The conditions have been separated into 'General', 'section 223' and 'section 224(c)' conditions in order to assist the consent holder in identifying the conditions that must be completed at the respective stages of implementing the resource consent for subdivision.

### *Guidance Note:*

*Please include this preamble above the first condition in your subdivision decision.*

## General Conditions

### Activity in accordance with plans

X. The [insert details – be specific e.g. 31 residential lot subdivision] activity [and associated works, e.g. if s9 reasons triggered by s11] must be as described in the application form and assessment of environmental effects prepared by [name] dated [date] [and any other information relating to the description of the activity], and must be carried out in accordance with the plans and information detailed below, and all referenced by the council as consent number [insert consent reference number SUB.../ SUB... of BUN....].

| Report title and reference | Author | Rev | Dated |
|----------------------------|--------|-----|-------|
|                            |        |     |       |
|                            |        |     |       |

| Plan title and reference | Author | Rev | Dated |
|--------------------------|--------|-----|-------|
|                          |        |     |       |
|                          |        |     |       |

| Other additional information | Author | Rev | Dated |
|------------------------------|--------|-----|-------|
|                              |        |     |       |

### Advice Note:

- *This consent has been granted on the basis of all the documents and information provided by the consent holder, demonstrating that the new lot(s) can be appropriately serviced (infrastructure and access).*
- *Details and specifications for the provision of infrastructure (e.g. public/ private drainage, location, and types of connections) and access (including drainage of*

accessways, construction standards etc) are subject to a separate EPA and/or Building Consent approval process.

- *Should it become apparent during the EPA and/or Building Consent process that a component of the granted resource consent cannot be implemented (e.g. detailed tests for soakage fail to achieve sufficient soakage rates, or sufficient gradients for drainage cannot be achieved in accordance with engineering standards/ bylaws etc), changes to the proposal will be required. This may require either a variation to this subdivision consent or a new consent.*
- *Similarly, should the detailed design stage demonstrate that additional reasons for consent under the AUP are triggered (e.g. after detailed survey the access gradient increases to now infringe or increase an approved infringement to a standard in the plan), a new or varied resource consent is required.*
- *It is the responsibility of the consent holder to ensure that all information submitted and assessed as part of the subdivision consent is correct and can be implemented as per the subdivision consent (without requiring additional reasons for consent). Any subsequent approval processes (such as the EPA) do not override the necessity to comply with the conditions of this resource consent.*

#### *Guidance Note:*

*This condition is to be included on all subdivision consent decisions. Full reference should be given to all relevant plans and documents (including any section 92 information). Only include correspondence and emails that change the AEE and that you rely on in your assessment. Please refer to final versions of plans and documents.*

*For land use and subdivision consents processed together (BUN's) as well as applications involving regional consents that have separate decisions (e.g. land use decision, subdivision decision, stormwater permit decision etc), the subdivision condition should only include references to the documents relevant to the subdivision consent. The decisions associated with the other consents/ permits will contain documents/ plans associated with those consents only.*

*Please be mindful of the different requirements of subdivisions consents and EPA – the subdivision consent is more of a 'concept' approval whilst the EPA contains all the engineering details. The applicant may have to revise some of their plans to remove unnecessary details that cannot be assessed at subdivision consent stage, to ensure there is no confusion as to what has been approved as part of the subdivision.*

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### **Staging of Subdivision**

X. The staging of the subdivision must be carried out in the following order:

**Stage 1:** Creation of Lot(s) X - X

**Stage 2:** Creation of Lot(s) X – X

The consent holder must provide a letter setting out how each relevant condition has been met at the time an application for a section 223 and a section 224(c) certificate for each stage is made.

*Guidance Note:*

*For staged subdivisions, all relevant conditions (other than the 'general conditions') should be listed separately for each stage (even if that appears as duplication of conditions).*

*If the applicant requests to stage the subdivision, the lot(s) to be created by each stage must be specifically identified. i.e. each stage must be independent of any subsequent stage.*

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### When the consent lapses

X. Under section 125 of the RMA, this consent lapses five years after the date it is granted unless:

- a. A survey plan is submitted to Council for approval under section 223 of the RMA before the consent lapses, and that plan is deposited within three years of the approval date in accordance with section 224 of the RMA; or
- b. An application under section 125 of the RMA is made to the council before the consent lapses to extend the period after which the consent lapses and the council grants an extension.

*Guidance Note:*

*This condition is to be included in all subdivision consent applications. This condition helps the consent holder to understand their rights and ensure that they are informed appropriately so that they can apply for an extension of lapse date should that be necessary in the future.*

*Please note an extension under section 125 can only be applied for the period of the subdivision consent NOT the timeframe for applying for section 224(c) after section 223 deposit. BUT: multiple section 223 applications can be made while the subdivision consent is 'live', with the timeframe for section 224(c) being taken from the last section 223 certificate approval.*

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### Monitoring charges

*Guidance Note:*

*There is usually no need to impose a monitoring condition on a 'pure' subdivision consent in the urban area. However, monitoring may be required to confirm some conditions have been complied with prior to section 224(c), such as planting, earthworks etc, especially relevant for rural and large-scale developments where there are other consents involved. Use the standard monitoring condition in those instances, clearly identifying what monitoring relates to. Please note that the Team Leader Subdivision does not have a monitoring function and should not be referred to in any conditions.*

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## Section 223 conditions

### Survey plan approval

X. The consent holder must submit a survey plan in accordance with the approved resource consent subdivision scheme plan(s) titled 'TITLE OF PLAN, prepared by AUTHOR, dated DATE. The survey plan must show all lots to vest or dedicate to Council (including roads, parks and reserves), all easements, any amalgamation conditions, and any areas subject to covenant [delete / amend as necessary e.g. delete covenant areas where there are none] required by this subdivision consent.

#### *Guidance Note:*

*Include this condition for all subdivision consent applications. The information to be shown on the survey plan may vary from subdivision to subdivision – amend the condition accordingly.*

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### Memorandum of Easements

X. The right(s)-of-way and any services easements and/or easements in gross over parts of Lot(s) x, y & z must be included in a memorandum of easements endorsed on the survey plan and must be created, granted or reserved as necessary. The consent holder must meet the costs for the preparation, review, and registration of the easement instruments on the relevant computer registers (records of title).

#### *Guidance Note:*

*Include this condition if conditional easements are necessary for rights of way, services, drainage, pedestrian access, etc.*

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### Easements in gross

X. Easements in gross in favour of the Auckland Council for the purpose of providing [public access / access for maintenance of services / overland flow of stormwater / other], must be created over parts of lots x, y & z and must be included in a memorandum of easements endorsed on the survey plan and be granted or reserved. The consent holder must meet the costs for the preparation, review, and registration of the easement instruments on the relevant computer registers (Records of Title).

*Guidance Note:*

*Include this condition if easements in favour of council are required. In some cases, an easement in gross may be required in favour of a utility provider, e.g. for underground telecommunication cables.*

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### Amalgamation condition (COAL)

X. Pursuant to section 220(1)(b)(iv), the COAL must be shown on the survey plan as to be held by Lots x, y & z as to undivided shares by the owners of lots x,y & z as tenants in common in the said shares and individual computer registers (records of title) must be issued.

*Guidance Note:*

*Include this condition where commonly owned access lots are proposed in the subdivision. No LINZ approval is required for COALs during the processing of the resource consent, unless the application seeks to extend an existing COAL or add additional Lots to that COAL.*

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### Other Amalgamation conditions

X. Pursuant to section 220(1)(b)(i) Lots X, Y and Z must be transferred to the owner of lots [a, b & c DP xxxxx (CR yyy)], and one computer register (record of title) must be issued to include both/ all parcels.

*Guidance Note:*

*Under this condition the specified lots are to be transferred to the owner of any other adjoining land and amalgamated.*

*LINZ approval of the amalgamation condition during processing of the subdivision consent may be required.*

X. Pursuant to section 220(1)(b)(ii), [Lot X](#) and [Lot Y](#) must be endorsed on the survey plan to be held together, and one record of title must be issued to include [all/ both](#) parcels.

*Guidance Note:*

*Under this condition, any specified lots are amalgamated where they are adjoining.*

*LINZ approval of the amalgamation condition during processing of the subdivision consent may be required.*

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### **Amalgamation covenant**

X. For the purpose of section 220(1)(b) and pursuant to section 220(2)(a), a covenant must be entered into between the land owner and Council that [Lot X](#) must not, without the consent of Council, be transferred, leased, or otherwise disposed of except in conjunction with [Lot Y](#).

*Guidance Note:*

*Include one of these conditions where a lot/s is/are proposed to be held together with another lot/s located within the subdivision utilising a covenant. Please ask your Subdivision Advisor for advice.*

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### **Cancellation of easements**

X. The existing easement(s) for the purpose of [xxxx](#) created by the easement instrument [zzz](#) over Lot [xx](#) DP [yyyy](#) must be cancelled under section 243(e) of the RMA.

**Advice Note:**

Certification will occur when it is demonstrated to Council's satisfaction that the easement is no longer necessary. This requires a separate application under section 243(e) to Council.

*Guidance Note:*

*Include this condition if there are existing easement(s) affecting the subdivision site that should be cancelled. Please note that the s243 process is only for easements that have previously been required as a result of a condition on a subdivision consent, not for private easements.*



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## Vesting

### Guidance Note:

Please note that pursuant to s239 lots cannot vest if there are existing easements or covenants on the underlying title that affect the Lots to vest UNLESS Council (i.e. the future asset owner) has certified, on the survey plan, that the existing easements or covenants have been accepted to remain with the land.

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## Roads to vest

X. All of the proposed roads shown as lots X, Y & Z on the approved plan(s) SCHEME PLAN REFERENCE must vest in the council as public roads. The consent holder must meet all costs associated with the vesting of the roads.

### Guidance Note:

Include this condition if there are public roads proposed in the subdivision.

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## Access ways to vest

X. Proposed lots X, Y & Z must vest in the council as access ways.

### Guidance Note:

Include this condition if there are public pedestrian access ways proposed in the subdivision.

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## Reserves and/or Park to vest

X. Proposed lots X, Y & Z must vest in the council as local purpose (esplanade /recreation/ scenic/ drainage, as appropriate) reserve.

### Guidance Note:

Include this condition if there are assets to be vested with Parks

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## Section 224(c) conditions

Advice Note:

A certificate pursuant to section 224(c) of the Resource Management Act will not be issued until all conditions in the decision have been met to the satisfaction of the Council and at the consent holder's expense.

*Guidance Note:*

*All subdivision conditions must be complied with when s224(c) is issued (either completion, consent notice or bond) noting that by default all s223 conditions must have been complied with when s224(c) is issued as s223 precedes s224(c). This includes condition 1 (in accordance with plans) – be careful what is included in that condition as there should not be any reference to LUC plans if (components of) the LUC is not required to be completed prior to s224(c) being issued.*

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### Section 224(c) certificate

X. The application for a certificate under section 224(c) of the RMA must be accompanied by certification from a professionally qualified surveyor or engineer that all the conditions of subdivision consent [Reference SUB](#) have been complied with, and identify all those conditions that have not been complied with and are subject to the following [\[delete those that are not relevant\]](#):

- a. [a consent notice to be issued in relation to any conditions of this consent to which section 221 applies;](#)

*Guidance note: Where the council has agreed to issue a consent notice in relation to condition/s of subdivision consent that is/are to be complied with on a continuing basis by the subdividing owner and subsequent owners (and as stated in the decision as a condition/s of subdivision consent).*

- b. [a bond, as required by conditions of this consent, to be entered into by the subdividing owner in compliance with the relevant conditions of this subdivision consent.](#)

*Guidance note: Use where a bond (section 108) will need to be entered into by the subdividing owner for the performance of condition/s such as the maintenance of a stormwater treatment facility, planting, remedial works etc.*

- c. [a completion certificate has been issued in relation to any conditions to which section 222 applies.](#)

*Guidance note: Where, subsequent to the granting of subdivision consent, the council has agreed to a bond (section 222) being entered into by the subdividing owner for the completion of work required by a condition/s of subdivision consent.*

*Guidance note:*

*Please note that the section 224(c) is not an opportunity for a consent holder to choose how to comply with conditions of consent, i.e. which conditions they would like to be subject to a consent notice or a bond. In most instances, that should be considered at the resource consent stage.*

*There are instances where the council may agree at section 224(c) stage to defer compliance with a condition of subdivision consent and to issue a consent notice instead or agree to a bonding arrangement.*

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## **Engineering Conditions**

*Guidance Note:*

*The section 224(c) conditions indicate general conditions that the consent holder must undertake. In Engineering terms, the condition is a simple instruction to do something. The condition is not a detailed list of all requirements that may arise as part of the project (such as EPA or building consent) or a prescriptive description of the requirements. The details are to be picked up under Engineering Plan Approval and/or Building Consent. Remember, obtaining a resource consent is only one of several consents permits/ dispensations associated with a project, and only matters identified in the AUP OP (as well as section 106 considerations) can be included in resource consent engineering conditions.*

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## **Geotechnical & Earthworks**

*Guidance Note:*

*General Earthworks conditions are covered under Land Use Consents; however, there may be cause for some specific earthworks elements to be incorporated into the subdivision consent i.e. earthworks for creation of an overland flow path, Lot landscaping works (especially rural lots) & building platform works (including palisade walls), infrastructure such as drainage pipes or roads involving earthworks to be constructed at the time of subdivision.*

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## General Geotechnical

x. The consent holder must construct [retaining walls/ palisade wall/ soldier pile walls/ underfill drainage/ counterfort drainage \[select relevant only\]](#) in accordance with the recommendations of the geotechnical report [XX \[insert reference\]](#) to ensure the site is stable and suitable for development. The consent holder must provide a Geotechnical Completion Report from a suitably qualified engineering professional to confirm the lot(s) is/are stable and suitable for development when applying for a certificate under section 224(c) of the RMA.

### *Guidance Note:*

*The above condition may need to be accompanied by an additional condition requiring a consent notice:*

x. The consent holder must have registered against the Record of Title of Lot(s) [X, Y, Z](#) a Consent Notice pursuant to section 221 of the RMA to provide and maintain geotechnical stability controls in perpetuity [\[examples below\]](#).

- a. The lot owner must ensure that any future development on [the lot \[or include specific type of development this may be limited to, i.e all new buildings\]](#) is undertaken in accordance with the recommendations of the [Geotechnical Investigation Report/ Geotechnical Completion Report \[select relevant\] XX \[insert reference\]](#) to ensure that geotechnical stability of the lot is maintained in perpetuity;

*The lot owner must retain and maintain the retaining walls/ palisade wall/ soldier pile walls/ underfill drainage/ counterfort drainage [select relevant only] in perpetuity as shown in the Geotechnical Investigation Report/ Geotechnical Completion Report [select relevant] XX [insert reference] to ensure that geotechnical stability of the lot is maintained in perpetuity.*

### *Advice Note:*

*A building consent will be required for the construction or installation of retaining walls, palisade walls, soldier pile walls, counterfort drains, under fill drainage, and footings.*

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## Geotechnical for Soft Soils

X. The site is subject to soft soil ground conditions. The consent holder must construct [soil consolidation/ groundwater recharge and stabilisation works \[select relevant only\]](#) in accordance with the recommendations of the geotechnical investigation report [XX \[insert reference\]](#) to ensure the site is stable and suitable for development.

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X. A Geotechnical Completion Report from a suitably qualified and experienced geo-professional to confirm the lot(s) [is/are](#) stable and suitable for development must be provided when applying for a certificate under section 224(c) of the RMA.

Advice Note:

- A building consent will be required for the construction or installation of counterfort drains, under fill drainage, and ground recharge systems.

*Guidance Note:*

*The above condition may need to be accompanied by an additional condition requiring a consent notice:*

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X. The consent holder must have registered against the Record of Title of Lot(s) [X, Y, Z](#) a Consent Notice pursuant to s221 of the Resource Management Act 1991 detailing the obligations of any lot owner regarding the consideration of site constraints when undertaking future works on the lot(s). Compliance with these requirements must be on a continuing basis. [\[example below\]](#)

- a. The lot owner must ensure that any future development on the lot, including [construction of dwellings, increase in impervious surfaces and soil recharge systems \[select relevant only\]](#), are undertaken in accordance with the recommendations of the [Geotechnical Investigation/ Completion Report \[select relevant\]](#) [XX \[insert reference\]](#)
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## **Wastewater Reticulation Networks**

### **Connection to Public Network**

*Guidance Note:*

*The condition for public wastewater works under subdivision consents is applicable to the provision of connections to the public network only. Assessment of the application should give due consideration to the feasibility of getting connection to a public network whether a direct one or by extension; however, the technical detail is left until Engineering Plan Approval. This means a condition requiring a public network extension cannot be imposed as part of the resource consent.*

X. The consent holder must design and construct connections to the public wastewater reticulation network to serve Lot(s) [X, Y, Z](#) in accordance with the requirements of the wastewater utility provider. Certification from the utility

provider that works have been satisfactorily undertaken must be provided when applying for a certificate under section 224(c) of the RMA.

**Advice Note:** *[choose relevant only]*

- *Acceptable forms of Evidence from the Utility Providers include a Certificate of Acceptance.*
- *Alterations to the public wastewater reticulation network require Engineering Plan Approval. Additional approval is required from Watercare/Veolia as part of the Engineering Plan Approval Process.*
- *Public connections are to be constructed in accordance with the Water and Wastewater Code of Practice.*
- *Plans approved under Resource Consent do not constitute an Engineering Plan Approval and **should not be used** for the purposes of constructing public reticulation works in the absence of that approval.*
- *The site is located within an area serviced via a pressurized wastewater Collection system. Consultation with the utility provider as to the specific design requirements will be required prior to the consent holder undertaking design or Engineering Plan Approval application.*

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## Connection to the Combined Sewer Reticulation

*Guidance Note:*

*The condition is applicable to the provision of connections to public combined network only. Assessment of the application should give due consideration to the feasibility of getting connection to a public combined network whether a direct one or by extension, however the technical detail is left until Engineering Plan Approval. This means a condition requiring a public network extension cannot be imposed as part of the resource consent. As a requirement of connecting to the combined line, reduction of stormwater flows will be required; however, this will be addressed as part of the EPA.*

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X. The consent holder must design and construct connections to the public combined sewer reticulation network to serve Lot(s) X, Y, Z in accordance with the requirements of the wastewater utility provider. Certification from the utility provider that works have been satisfactorily undertaken must be provided when applying for a certificate under the section 224(c) of the RMA.

**Advice Note:** *[choose relevant only]*

- *Acceptable forms of Evidence from the Utility Providers include a Certificate of Acceptance.*
  - *The wastewater utility provider is Watercare.*
  - *Public connections are to be constructed in accordance with the Water and Wastewater Code of Practice and Stormwater Code of Practice.*
  - *Alterations to the public combined sewer reticulation network require Engineering Plan Approval.*
  - *Plans approved under Resource Consent do not constitute an Engineering Plan Approval and **should not be used** for the purposes of constructing public reticulation works in the absence of that approval.*
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## **Water Reticulation Networks**

### **Connections to Public Network**

#### *Guidance Note:*

*The condition is applicable to the provision of connections to the public network only. Assessment of the application should give due consideration to the feasibility of getting connection to a public network whether a direct one or by extension; however, the technical detail is left until Engineering Plan Approval. That means a condition requiring the extension of the public network cannot be imposed as part of the subdivision consent.*

X. The consent holder must design and construct connections to the public water reticulation network to serve Lot(s) X, Y, Z in accordance with the requirements of the water utility provider. Certification from the utility provider that works have been satisfactorily undertaken must be provided when applying for a certificate under the section 224(c) of the RMA.

#### **Advice Note:** *[choose relevant only]*

- *Acceptable forms of evidence from the Utility Providers include a Certificate of Acceptance.*
- *Alterations to the public water reticulation network require Engineering Plan Approval. Additional approval is required from Watercare/ Veolia as part of the Engineering Plan Approval Process.*
- *Public water supply is required to ensure an acceptable water supply for each lot, including for fire-fighting purposes.*
- *Public connections are to be constructed in accordance with the Water and Wastewater Code of Practice.*

- *Plans approved under Resource Consent do not constitute an Engineering Plan Approval and **should not be used** for the purposes of constructing public reticulation works in the absence of that approval.*
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## **On-site Water Supply**

### *Guidance Note:*

*The condition for private water works under subdivision is applicable to the provision of on-site water reticulation (tanks) systems only [predominantly rural subdivisions]. The installation of a water tank will be rarely required at time of subdivision, as it is related to occupied spaces, such as dwellings that may be built at a later stage. A condition requiring a consent notice will be required in most instances.*

X. The consent holder must design and construct an onsite potable water supply system to serve Lot(s) X, Y, Z. Where applicable, a water supply for firefighting in accordance with NZ Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008 must be provided [remove sentence if not applicable]. Certification that works have been satisfactorily undertaken must be provided when applying for a certificate under section 224(c) of the RMA.

### **Advice Note:**

- *Acceptable forms of evidence include Code of Compliance Certificates.*
- *Construction of private water systems requires Building Consent.*

### *Guidance Note:*

*A condition requiring a consent notice may be required instead of the above condition if a tank is only required once a building is constructed.*

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X. The consent holder must have registered against the Record of Title of Lot(s) X, Y, Z a Consent Notice pursuant to section 221 of the Resource Management Act 1991 detailing the obligations of any lot owner regarding the provision of onsite water supply in perpetuity.

“The lot owner must ensure that any future development on the lot, including construction of dwellings, is served by an appropriate onsite potable water system. The water supply must provide for water for firefighting in accordance with NZ Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008 must be provided [remove sentence if not applicable].”



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## Stormwater Reticulation Networks

### Connection to Public Networks

#### *Guidance Note:*

*The condition is applicable to the provision of connections to the public network operated by Healthy Waters only (not the combined public network operated by Watercare). Assessment of the application should give due consideration to the feasibility of getting connection to a public network whether a direct one or by extension; however, the technical detail is left until Engineering Plan Approval. That means a condition requiring the extension of the public network cannot be imposed as part of the resource consent.*

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X. The consent holder must design and construct connections to the public stormwater reticulation network to serve Lot(s) X, Y, Z in accordance with the requirements of the stormwater utility service provider. Certification from the utility provider that works have been satisfactorily undertaken must be provided when applying for a certificate under section 224(c) of the RMA.

#### **Advice Note:** *[choose relevant only]*

- *Acceptable forms of evidence include Engineering Approval Completion Certificates.*
  - *Stormwater utility provider is Auckland Council Healthy Waters.*
  - *Public connections are to be constructed in accordance with the Stormwater Code of Practice.*
  - *Alterations to the public stormwater reticulation network require Engineering Plan Approval.*
  - *Plans approved under Resource Consent do not constitute an Engineering Plan Approval and **should not be used** for the purposes of constructing public reticulation works in the absence of that approval.*
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### Connection to the Combined Sewer Network

#### *Guidance Note:*

*See conditions under wastewater provisions – replace reference to ‘wastewater’ with reference to ‘stormwater’.*

## Public Outfalls

### Guidance Note:

*The condition for public outfalls, such as to the coast or a stream, under subdivision consents can be imposed only where there is a reason for consent. Assessment of the application should give due consideration to the feasibility of extending a reticulation network from the outfall to allow connections to serve lots; however, the technical detail of extending public lines is left until Engineering Plan Approval.*

*Care should be taken identifying roles and responsibilities. In most cases a regional consent (e.g. coastal and/or stormwater discharge) will be required and conditions will be recommended by specialists and not DEs*

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X. The consent holder must design and construct a stormwater outfall structure in accordance with the requirements of the utility service provider. Certification from the utility provider that works have been satisfactorily undertaken must be provided when applying for a certificate under section 224(c) of the RMA.

### Advice Note: *[choose relevant only]*

- *Acceptable forms of evidence include Engineering Approval Completion Certificates.*
  - *Utility service provider is Auckland Council Healthy Waters Department*
  - *Construction of public outfall structures require Engineering Plan Approval.*
  - *Engineering Plans approved under Resource Consent do not constitute an Engineering Plan Approval and **should not be used** for the purposes of constructing public reticulation works in the absence of that approval.*
  - *Please be aware of any other conditions and requirements pertaining to this outfall, including regional consenting conditions and requirements.*
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## On-site Stormwater Disposal

### Guidance Note:

*The condition for private stormwater works under subdivision is applicable to the provision of on-site disposal systems such as infiltration and soakage systems only. Installation of the device may not be required at time of subdivision if no impervious surface triggering the requirement is proposed (e.g. ROWs). In this case, only the consent notice condition below is required.*

X. The lot(s) is/are reliant on infiltration/ soakage as means of stormwater disposal. The consent holder must design and construct an on-site stormwater management system as a disposal point for stormwater runoff from the lot(s) in accordance with [guideline/ report contained in application or similar \[select relevant\] XX \[insert reference\]](#). Certification that works have been satisfactorily undertaken must be provided when applying for a certificate under section 224(c) of the RMA.

**Advice Note:**

- *Acceptable forms of evidence include Code of Compliance Certificates.*
- *A building consent for these works will be required.*

*Guidance Note:*

*This condition must be accompanied by a condition requiring a consent notice:*

x. The consent holder must have registered against the Record of Title of Lot(s) [X, Y, Z](#) a Consent Notice pursuant to section 221 of the Resource Management Act 1991 detailing the obligations of the lot owner to provide and maintain the stormwater disposal system in perpetuity:

“The site is reliant on infiltration/ soakage as means of stormwater disposal. The owner must provide and maintain a means of stormwater infiltration within the lot to dispose of stormwater runoff from impermeable areas, in accordance with [guideline/ report contained in application or similar \[select relevant\] XX \[insert reference\]](#)”

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**Private Outfall**

*Guidance Note:*

*Private outfalls are considered to be within the site and are ones that Healthy Waters will not vest or maintain. The condition for private stormwater works under subdivision is applicable to the provision of the outlet only. Other private drainage works are the responsibility of the owner under the requirements of the Building Act.*

X. The lot discharges stormwater via a private outfall. The consent holder must design and construct a stormwater outfall structure as a disposal point for stormwater runoff from the lot in accordance with [XX \[insert reference of report\]](#). Certification that works have been satisfactorily undertaken must be provided when applying for a certificate under section 224(c) of the RMA.

**Advice Note:**

- *Acceptable forms of evidence include Code of Compliance Certificates.*
- *A building consent for these works will be required.*
- *Please be aware of any additional conditions and requirements pertaining to this private outfall, such as regional consenting conditions and requirements.*

*Guidance Note:*

*This condition must be accompanied by a condition requiring a consent notice:*

X. The consent holder must have registered against the Record of Title of Lot(s) X, Y, Z a Consent Notice pursuant to section 221 of the Resource Management Act 1991 detailing the obligations of any owner to provide and maintain stormwater disposal by means of an outlet & hydrological mitigation control in perpetuity:

“The lot discharges stormwater via a private outfall. In order to ensure continued hydrological control, the lot owner must mitigate stormwater runoff from the site for a 1% AEP storm event to the equivalent pre-development runoff rate of X litres per second to manage discharge of stormwater to a watercourse. The lot owner must regularly maintain the outfall structure.”

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## **Kerb Discharge**

*Guidance Note:*

*As part of a subdivision consent, Council has to be satisfied that the new lot(s) can be appropriately serviced, including in terms of stormwater management.*

*Kerb discharge approval from Auckland Transport is required in order to construct a kerb discharge outlet. If this approval is obtained prior or during the resource consenting process, the below condition without a further advice note in that regard can be imposed. If no AT approval is obtained prior to issuing the resource consent, then the customer must be advised in an advice note that this approval is required, and if that approval cannot be obtained, they must provide a different method for discharging of stormwater (with a s127 being required), or they cannot otherwise implement their resource consent.*

*Please note that if kerb discharge is the only option, e.g. due to gradient of lot(s) or soil type preventing soakage, but AT approval cannot be obtained (either prior, during or after the resource consent), the lot(s) cannot be serviced and the subdivision may not be able to be granted/ implemented. As such, it is in the interest of the customer to ascertain whether AT would grant their approval for a kerb discharge as early as possible. Any risks regarding a non-approval should be clearly communicated via email and documented on the application record.*

*It is recommended that the applicant provides as part of the resource consent applications design calculations to justify why alternative options cannot be implemented (as per the Auckland Transport Kerb discharge policy).*

*The condition for private stormwater works under subdivision is applicable to the provision of the outlet only. Other private drainage works are the responsibility of the owner under the requirements of the Building Act.*

X. The lot is reliant on stormwater disposal to the roadside kerb and channel. The consent holder must design and construct a disposal point for stormwater runoff from the lot(s) in accordance with XYZ [insert report reference]. Certification that works have been satisfactorily undertaken must be provided when applying for a certificate under section 224(c) of the RMA .

**Advice Note:** *[select relevant only]:*

- *Acceptable forms of evidence include Code of Compliance Certificates and/or final sign-off by AT.*
- *A building consent for these works will be required.*
- *This resource consent has been granted on the provision that stormwater will be discharged to the kerb. A separate kerb discharge approval from Auckland Transport is required prior to construction of the kerb discharge outlet. If this approval cannot be obtained, a different stormwater management method is required and requires a s127 approval from Council. If there is no alternative method for discharging of stormwater (or the s127 is not granted), this resource consent cannot be implemented.*

*Guidance Note:*

*The condition above must be accompanied by a condition requiring a consent notice:*

X. The consent holder must have registered against the Record of Title of Lot(s) X, Y, Z a Consent Notice pursuant to Section 221 of the Resource Management Act 1991 detailing the following obligations in perpetuity:

“The lot is reliant on stormwater disposal to the roadside kerb and channel. The lot owner must provide and maintain a kerb outlet to dispose of stormwater runoff for a 10% AEP storm event to a rate of 1 litre per second.”

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## **Stormwater Hydrological Mitigation (includes SMAF)**

*Guidance Note:*

*SMAF is not a reference to a type of mitigation, i.e. hydrological mitigation is to be provided to address the requirements of the SMAF. These are land use consideration and therefore do not require any conditions in a subdivision decision. However, where works are required as part of the subdivision (e.g. a common accessway) that trigger land use reasons for consent for SMAF, then a (land use) condition needs to be included, and will be required to be complied with prior to a s224(c) being issued. Please refer to land use conditions for stormwater hydrological mitigation in SMAF.*

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## Utilities

X. The consent holder must make provision for telecommunications and electricity to [lot X and X](#) in accordance with the requirements of the respective utility operators. These utilities must be underground. Certification from the utility providers that works have been satisfactorily undertaken must be provided when applying for a certificate under section 224(c) of the RMA.

### Advice Note:

- *The consent holder may also provide gas servicing to the lot(s), but this is not a requirement of the AUP(OP) and no proof is required at time of section 224(c). Any gas lines are required to be installed underground.*

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## Natural Hazards (Flooding & Overland Flow)

### Guidance Note:

*There are two scenarios to consider with respect to Natural Hazard flooding and overland flow – the first is where the applicant is required to address this as a reason for consent but not build or construct and the second is where it is addressed and will be constructed prior to section 224(c).*

*Finished floor levels under subdivision are not enforceable and cannot be conditioned or be subject of a consent notice. However, the requirement to allow for unobstructed flow can be subject of a consent notice.*

*With a 'bundled' consent, the OLFP would be addressed as part of the LUC component as development design and location factor in the inundation and OLFP matters, so any subdivision consent requiring the prior implementation of the LUC (and respective OLFP conditions) would not require a condition for any works affecting the OLFP.*

*However, under section 106 a condition requiring a consent notice advising of the hazard for future developments (such as additions and/ or new structures and buildings) may still be required. This also applies where the subdivision consent is for a vacant lot, or where the LUC has not been implemented (but may on a consent notice for implementation in accordance with the LUC instead).*

*Please note, easements in gross may or may not be required to ensure the future function of the OLFP. Please discuss with your DE and/or Principal Planner.*

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## Overland Flow

*Where there is a reason for consent but no reason for requiring construction of overland flow path at time of 224(c) OR demonstrated to be required pursuant to section 106*

X. The site is subject to **1 in 100-year** overland flow. The consent holder must have registered against the Record of Title of Lot(s) **X, Y, Z** a Consent Notice pursuant to section 221 of the Resource Management Act 1991 detailing the following obligations in perpetuity:

“The lot owner must provide and maintain a means of conveying unobstructed overland flow through the lot in accordance with **X [report reference]** and must not obstruct the overland flow through the property with any fencing, object, impermeable landscaping, building, or structure.”

*Where there is a reason for consent and a reason for requiring construction of overland flow path at time of section 224(c)*

X. The consent holder must construct the overland flow path in accordance with the recommendation of **XX [insert reference]** to ensure continuity of overland flow is maintained and contained through designed channels, and that the stability of the site and neighbouring properties is protected. The following evidence must be provided when applying for a certificate under section 224(c) of the RMA:

- a. The consent holder must provide an as-built plan, long section, and cross-sections, prepared by a **Licensed Cadastral Surveyor and/ or suitably qualified engineer** to demonstrate that the completed overland flow path meets the design requirements.
- b. The consent holder must provide a Geotechnical Completion Report from a suitably qualified and experienced engineer to confirm the lot(s) is/are stable and suitable for development.

*Guidance Note:*

*The above condition must be accompanied by a condition requiring a consent notice:*

X. The site is subject to **1 in 100-year** overland flow. The consent holder must have registered against the Record of Title of Lot(s) **X, Y, Z** a Consent Notice pursuant to section 221 of the Resource Management Act 1991 detailing the following obligations in perpetuity:

“The lot owner must not obstruct the overland flow through the lot with any fencing, object, impermeable landscaping, building, or structure in accordance with **X [report reference]**.”

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## Flooding

*Where there is a reason for consent but no reason for requiring construction of the flood plain at time of section 224(c)*

X. The site is subject to flooding. The consent holder must have registered against the Record of Title of Lot(s) X, Y and Z a Consent Notice pursuant to section 221 of the Resource Management Act 1991 detailing the following obligations in perpetuity:

“The owner must maintain (provide) the function of the 1 in 100-year floodplain on the site in accordance with the recommendation of X [report reference].”

*Where there is a reason for consent and a reason for requiring construction of flood plain at time of section 224(c)*

X. The consent holder must construct the flood plain in accordance with the recommendation of X [insert report reference] to ensure continuity of the flood plain is maintained and that the stability of the site and neighbouring properties is protected. An as-built plan, prepared by a Licensed Cadastral Surveyor demonstrating the extent of the flood plain after construction and that the completed earthworks in the flood plain meet the design requirements of the above report, must be provided when applying for a certificate under section 224(c) of the RMA.

*Guidance Note:*

*The above condition must be accompanied by a condition requiring a consent notice:*

X. The site is subject to flooding. The consent holder must have registered against the Record of Title of Lot(s) X, Y, Z a Consent Notice pursuant to section 221 of the Resource Management Act 1991 detailing the following obligations in perpetuity:

“The owner must maintain (provide) the function of the 1 in 100-year floodplain on the site as per the recommendation of X [report reference].”

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## Roading and Transportation (Accessways and Vehicle Crossings)

### Vehicle Access

X. The consent holder must design and construct a vehicle accessway to serve Lot(s) X, Y, Z in accordance with the approved plans noted in Condition 1 [include specific plan reference where possible] and with the requirements of Auckland Council. Certification from a suitably qualified and experienced engineer that works have been satisfactorily undertaken must be provided when applying for a certificate under section 224(c) of the RMA.



**Advice Note:**

- *Right of ways, Commonly Owned Access Lots and common access ways require a Common Access Way Plan Approval prior to construction.*
  - *Please contact Auckland Council to obtain the current engineering requirements for the construction of the type of vehicle accessway proposed.*
- 

**Vehicle Crossing**

X. The consent holder must provide a new vehicle crossing to serve Lot(s) [X, Y, Z](#). The crossing(s) must be designed and formed in accordance with the requirements of Auckland Transport [\[insert most recent version and date of Auckland Transport Code of Practice\]](#). The new crossing(s) must maintain an at-grade (level) pedestrian footpath across the length of the crossing, using the same materials, kerbing, pavings, patterns and finish as the footpath on each side of the crossing. Certification that works have been satisfactorily undertaken must be provided when applying for a certificate under section 224(c) of the RMA.

**Advice Note:** [\[choose relevant only\]](#)

- *An approval letter and completion certificate from Auckland Transport is required to be submitted to Auckland Council as a verification that Auckland Transport has completed approval and a final vehicle crossing inspection before this condition is considered fulfilled.*
  - *Works within the road reserve require prior approval from Auckland Transport. The consent holder should contact Auckland Transport as soon as possible to ensure any required approvals are issued prior to construction.*
  - *A vehicle crossing approval permit is required to be obtained from Auckland Transport for these works.*
  - *Please note that any redundant vehicle crossings are required to be reinstated.*
- 

**Other E27 conditions**

Other E27 conditions may be relevant if application for subdivision consent triggers E27. Refer to [RC 5.2.15 Traffic and Parking conditions](#).

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**Public Roads**

X. The consent holder must design and construct a new public road [\[insert Road number/ reference\]](#) in accordance with the requirements of Auckland Transport. Certification from a suitably qualified and experienced engineer that works have been

satisfactorily undertaken must be provided when applying for a certificate under section 224(c) of the RMA.

**Advice Note:** *[choose relevant only]*

- *Acceptable forms of evidence include Engineering Approval Completion Certificates.*
- *Construction of public roading requires an Engineering Plan Approval.*
- *Design of public roads must include (but is not limited to), road pavement, pedestrian footpaths, cycle ways, street lighting, street furniture, road marking, traffic calming devices, road stormwater drainage, raingardens, etc. where required.*
- *Plans approved under Resource Consent do not constitute an Engineering Plan Approval and **should not be used** for the purposes of constructing public works in the absence of that approval.*
- *The consent holder is advised that the national Addressing Standard (AS/NZS 4819:2011) requires that all new public roads and extensions to existing roads and any private road (rights of way or common access lots) that serve more than five allotments and created through a subdivision consent will require a **road name**. All road names must be approved by Council. In order to minimise disruption to construction and survey works, the consent holder is advised to obtain any road name prior to applying for a section 223 certificate. For more details refer to <https://www.aucklandcouncil.govt.nz/building-and-consents/types-resource-consents/subdivision-of-property/Pages/road-naming.aspx>*

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## Common infrastructure/ assets

### Guidance Note:

*Where privately-owned common infrastructure is proposed as part of a subdivision application Council must ensure that appropriate consent conditions are in place to ensure the continued operation and maintenance of the privately-owned common infrastructure over its lifetime. As the infrastructure is providing a direct benefit to the beneficiaries it is appropriate that this ongoing responsibility is assumed by the beneficiaries, with checks in place to avoid Council, as far as is practicable, having to step in and remediate at a later date and/or to take responsibility for the infrastructure.*

*There are a range of legal mechanisms available to establish an arrangement for the ownership, operation, and maintenance of privately-owned common infrastructure. Such arrangements may involve either direct or indirect ownership of the infrastructure by the beneficiaries. The nature of the infrastructure, the risk to the environment of non-performance of the*

*infrastructure, and the overall scale and complexity of the infrastructure will dictate which ownership arrangement is best suited to the particular development.*

*The nature of the arrangement will vary depending on the particular circumstances and infrastructure involved, but in every case consideration should be given to ensuring that the arrangement will be enduring, be adequately resourced, have appropriate powers, have the correct functions, and appropriately prescribed duties and obligations.*

*The type of privately-owned common infrastructure that can be subject to such an arrangement includes (but is not limited to):*

- Access ways and private roads
- Street lighting
- Water supply
- Stormwater
- Wastewater
- Open space
- Retaining walls
- Fire hydrants
- Sub soil drainage

*Three options are available that provide for different legal mechanisms associated with the privately-owned common infrastructure:*

- Common ownership
- Single ownership
- Incorporated society (at least 15 lot owners or members)

*Usually such a condition is accompanied by a condition requiring a consent notice to be registered on the title(s) as there will be a continuous requirement for owners to remain part of the entity and the ownership entity will have ongoing responsibilities associated with this, e.g. maintenance requirements.*

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## **Common Ownership of Asset(s)**

*Guidance Note:*

*This arrangement is generally suitable for infrastructure with minimal on-going operation and maintenance such as commonly owned access ways (COALs), stormwater and wastewater systems, soakage devices etc. It is relatively low cost to establish and there is no risk of a separate ownership entity ceasing to exist. Financial liabilities and other responsibilities need to be agreed between the owners, and there needs to be a degree of council oversight of the details*

*involved in this to ensure that respective functions, powers, duties, and liabilities are clearly and coherently described.*

X. The lots share a common [stormwater/ wastewater device](#) which connects to the respective public networks; other common property/ asset [select relevant], located within Lot X. To ensure that each lot remains adequately serviced and connected, the owners of Lots X to Z must form a common entity/ Residents Association that is jointly responsible and liable for the ongoing operation, maintenance and repair of the shared drainage systems located within Lot(s) Z.

The structure, functions and all documentation associated with the establishment of the XYZ must be to the satisfaction of the Council, with all costs associated with the set up and ongoing operation of the entity borne by the consent holder/ future members of the entity.

*Guidance Note:*

*The above condition must be accompanied by a consent condition requiring a consent notice to be registered on the titles, such as (example only):*

X. The lots X-Z are subject to a common [stormwater/ wastewater device or other common property](#) [select relevant] located within lot X. The consent holder must have registered against the Record of Titles for Lots X to Z; a Consent Notice pursuant to section 221 of the Resource Management Act 1991, recording the following condition, which must be complied with on a continuing basis:

*“Lots X-Z are serviced by soakage located in Lot Z. For so long as they are a registered proprietor of that Lot, the owners of Lots X to Z must be members of a common entity/ Residents Association that is jointly responsible and liable for the ongoing operation, maintenance and repair of the shared common asset [specify] located within Lot Z “*

*Guidance Note:*

*If common infrastructure is not located within a shared lot, then easements are required to allow access into the private lot for the other parties. Please ensure these are shown on the scheme plan.*

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## **Single Ownership of Asset(s)**

*Guidance Note:*

*This arrangement can be suitable for infrastructure with minimal on-going operation and maintenance where it is logical for the particular element of infrastructure to be located within an individually owned lot. This may include retaining / revetment walls, sub soil drains, esplanade strips etc.*

X. The lots X-Z are subject to individual [soakage devices \[or other infrastructure – insert relevant\]](#). The consent holder must have registered against the Record of Titles for [Lots X to Z](#) a Consent Notice pursuant to section 221 of the Resource Management Act 1991, recording the following condition, which shall be complied with on a continuing basis:

*“This lot is serviced by [individual soakage \[or other infrastructure – insert relevant\]](#).  
The [maintenance/ repair etc \[select relevant\]](#) is the responsibility of the lot owner.”*

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### **Asset(s) owned by Incorporated Society**

#### *Guidance Note:*

*This is a separate legal entity created for the purposes of continuity and ease of dealings with third parties. Lot owners as members ultimately control and fund the Incorporated Society. This arrangement will be suitable for more complex and critical infrastructure where there will be at least 15 lot owners or members.*

*This needs conditions requiring the establishing and maintaining of an Incorporated Society, as well as a condition requiring a consent notice to be recorded on title (stating the individual lot’s membership of and including the Society’s Responsibilities).*

X. The lots share (a) common [asset\(s\) \[e.g. private road, stormwater collection, treatment and detention system, all lighting infrastructure located within the private road, the water main and associated fittings, communal open space etc\]](#) located within [Lot\(s\) X](#). To ensure that each lot remains adequately [serviced and connected](#), the owners of [Lots X to Z](#) must become and remain members of an Incorporated Society to jointly own, be responsible and liable for the ongoing operation, maintenance, and repair of the [shared asset\(s\)](#).

- a) The [shared asset\(s\) \[specify\]](#) must be transferred to the Incorporated Society before any of the Lots are transferred to new owners. The assets are required to remain in the ownership of the Incorporated Society, except with the prior approval of the Council.
- b) The Incorporated Society must not be disestablished without the prior written consent of the Team Leader [\[specify area\]](#) Compliance Monitoring.
- c) The structure, functions and rules of the Incorporated Society must be to the satisfaction of Council and include provision for the following items [\[include relevant only\]](#):

- Requirements for all lot owners to automatically be and remain a member of the Incorporated Society for so long as they are a registered proprietor of a Lot;
- Requirements for all lot owners to fulfil the obligations of a member, as set out in the Rules of the Incorporated Society;
- Details of how the common asset (e.g. access way and private stormwater infrastructure) will be managed and maintained, including reference to any operation manuals or management plans;
- Ongoing compliance with the relevant resource consent, bylaw, or other requirements of the Auckland Council;
- An acceptable method of management of the Incorporated Society's future affairs, and for the raising of funds from members from time to time to adequately finance any future maintenance and renewal obligations. The Rules should identify a process for setting, collecting and enforcing the payment of levies;
- Other [specify]

d) All costs associated with the establishment and maintenance of the Incorporated Society, must be borne by the consent holder.

*Guidance Note:*

*The above conditions must be accompanied by a consent condition requiring a consent notice to be registered on the relevant titles:*

X. The consent holder must have registered against the Record of Titles for **Lots X to Z**; a Consent Notice pursuant to section 221 of the Resource Management Act 1991, recording the following condition, which must be complied with on a continuing basis:

*“The lots X-Z share a **common asset** [identify the type of asset] located in **Lot X**. To ensure that each lot remains adequately **serviced and connected**, the lot owner must be and remain a member of the Incorporated Society that jointly owns and is responsible and liable for the ongoing operation, maintenance and repair of the shared **asset** [identify type of asset].”*

## Bond conditions

*Guidance Note:*

*A bond under section 222 may be given for the performance of one or more subdivision conditions requiring work to be completed after the issue of the section 224(c) certificate.*

## Requirement for Bond – section 222

X. Under section 222 of the RMA, and before the issue of the section 224(c) certificate, the consent holder must provide a bond of \$[specify amount] (incl. GST) (bond sum) to the council.

The bond is to ensure the performance of condition(s) [insert condition numbers].

- a. The bond required must be paid to the council as a cash deposit or a bank guaranteed bond (and being a NZ registered bank).
- b. The council's solicitor will prepare and execute the bond document. All costs incurred by the council in the preparation execution, variation, administration or release of the bond must be paid by the consent holder.
- c. [use only if bond more than \$X – check bond policy for limits and discuss with the Subdivision Specialists team] The bond must be registered against the computer register (certificate of title) [insert legal description/ identify new Lot to be created] by the consent holder and at their expense, and a copy of the registration documents must be provided to Council within five working days of registration.
- d. The bond sum will be released once the conditions it safeguards the performance of have been satisfied to the satisfaction of the Council and the consent holder has paid all the council's costs in relation to the bond's administration.

### Advice note:

The council may use the bond during (and following) the implementation of the works for the following purposes:

*[Examples only – tailor to your specifics:]*

- *Any remedial works (by a qualified arborist engaged by the council) to trees as a result of damage during works.*
- *Any identified tree requiring replacement, for the replanting of an equivalent specimen and associated maintenance for twelve months.*
  - *Any landscaping (calculated at \$x per m<sup>2</sup>), whether from failure to provide or replacement upon failure of provided during the maintenance period. This covers the cost of replacement and associated maintenance for x months / years.*

### Guidance Note:

*The quantum of bond is calculated at 1.5 times the actual estimated cost at the time of imposition. A higher multiplier may be appropriate depending on the risk of con-compliance or if a longer term is appropriate.*

*Bonds should be there to manage risk and ensure necessary and significant mitigation / remediation works are done if the consent holder is not in the frame – such as where the other works enabled by the consent may have been*

*completed (e.g. maintenance of landscaping). Bonds are not imposed to punish non-compliance.*

*These conditions set out the substance of the bond requirements. You should always use them in conjunction with the 'process for administering bond condition' that sets out the procedural obligations for administration of the bond condition.*

*As it is linked to performance of another condition, that other condition should be explicit regarding scope of works – and the advice note links into the particular trigger points detailed in the condition it safeguards. As needed, reflect in the detail of the purposes and the structure for any partial releases.*

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## **Consent notices**

*Guidance Note:*

*Consent notices create an interest in land that may be registered on the record of title. The conditions that are the subject of consent notices bind the consent holder and subsequent owners of the land and should be used for conditions that are to be complied with on a continuing basis.*

*Conditions that are to be the subject of consent notices should clearly identify what is required, how it is to be undertaken and when and with what frequency.*

*It is preferable to group a 'consent notice condition' in the decision with (a) condition(s) addressing the same/ similar matter, rather than grouping all 'consent notice conditions' at the end of the decision.*

*The wording of the consent notice needs to be included in the consent condition. The planner/ decision maker will require a consent notice to ensure a specific outcome under the RMA; it must not be left up to the subdivision team or legal team to identify what the requirement in detail should be!*

*Be careful to identify whether consent for certain matters was actually required, or could be addressed by matters of discretion/ control as part of the application for subdivision; e.g. consent notices should not refer to future investigations for flooding levels to ascertain whether a lot can be safely developed - this was actually required to be assessed as part of the subdivision application in order to determine whether it triggers a reason for consent or would be a ground for refusal under section 106.*

*Matters that may be suitable for a condition requiring a consent notice also include s106 matters, as well as matters considered relevant under section 220.*



*Examples of matters where conditions that may be appropriate for consent notices include:*

- ✓ *Geotechnical requirements for design and construction of future buildings where the site may be subject to soil instability and certain design is required in order to safely develop the lot (also a section 106 matter)*
- ✓ *On-going maintenance of drains, stormwater devices, retaining walls to ensure the new lot remains adequately serviced (also a section 106 matter)*
- ✓ *Protection of native bush, including control of weeds*

*The standard wording of a condition requiring a consent notice is as follows:*

X. Pursuant to section 221 of the RMA, the consent holder must have registered on the Record(s) of Title to be issued for Lot(s) X to Z a consent notice, recording the following condition(s) which must be complied with on a continuing basis for the purpose of [identify purpose]:

*“..... condition wording.”*

*Guidance Note:*

*Examples of ‘consent notice conditions’ are shown below:*

**Activity in Accordance with Plans/ LUC [reference]**

X. The building(s) on Lot(s) X, Y and Z must be constructed to roof framing stage in accordance with the approved documents set out in condition 1 of the land use consent referenced as *BUN REFERENCE AND/ OR LUC REFERENCE*, prior to issuing of section 224(c) of the RMA.

*Guidance Note:*

*Requiring the development (or parts of it, such as driveway/ access) to be implemented prior to section 224(c) (instead of relying on a consent notice) may be important for (severely) undersized lots and/ or attached housing where development individually (as a vacant lot) would be difficult (party walls etc). Requiring the development being implemented also prevents applicants circumventing the vacant lot requirements by proposing a development at the same time. Please discuss which approach to take with your Team Leader and/ or Principal Planner.*

*The following condition may accompany the above condition in order to give more flexibility to the developer, if this is considered appropriate (again, discuss with your TL/ Principal Planner whether it is appropriate):*

X. If the section 224(c) RMA Certificate is applied for prior to the roof framing stage of the dwelling(s) on Lot (s) X, Y and Z then the consent holder must have registered against the Computer Freehold Register for Lot (s) X, Y and a

Consent Notice pursuant to section 221 of the Resource Management Act 1991, recording the following condition:

*“The Lot has been created based on development approved in [BUN REFERENCE AND/ OR LUC REFERENCE](#). The development on this lot must be in accordance with the dwelling and associated works, including (but not limited to) [X](#) [you may like to specify aspects of the development that are crucially important to be completed, such as the landscaping, location of windows etc] shown in the approved documents set out in condition 1 of the land use consent referenced as [BUN REFERENCE AND/ OR LUC REFERENCE](#). Should the relevant land use resource consent lapse, then a new land use resource consent will be required prior to commencement of any construction, unless the replacement is otherwise able to be undertaken as a permitted activity.”*

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### Windfall development rights

Lot X is created as part of a subdivision of parent site X ([insert legal reference here](#)). In order to ensure that the adverse [[amenity/ stormwater generation etc – select/ insert relevant](#)] effects related to [impervious coverage/ building coverage/ landscaped coverage](#) [[select relevant](#)] across the parent site are no greater than assessed and consented as part of [BUN/ SUB](#) [[insert consent number/s](#)], the [impervious coverage/ building coverage/ landscaped coverage](#) [[select relevant](#)] on Lot X must be restricted to below (for [impervious and building coverage](#))/ remain above (for [landscaped coverage](#)) [[select relevant](#)] the maximum permitted/ minimum required AUP OP percentage of [XY](#)%.

As such, and pursuant to section 221 of the RMA, the consent holder must have registered on the Record(s) of Title to be issued for [Lot\(s\) X to Z](#) a consent notice, recording the following condition(s) which must be complied with on a continuing basis:

*“The [impervious coverage/ building coverage](#) [[select relevant](#)] on this lot must not exceed [X](#)% or [X](#) sqm.”*

**AND/ OR**

*“The [landscaped coverage](#) on this lot must be maintained at a minimum of [X](#)% or [X](#) sqm.”*

**Guidance Note:**

*‘Windfall’ development rights are those extra development rights that are created by a subdivision, where a lot (or lots) will contain existing/approved development that is above and beyond what would otherwise be enabled by AUP standards as permitted, as well as a lot (or lots) that are substantially below what would be permitted by standards.*

*These rights may relate to impervious area, building coverage or landscaped area, and will typically be created where one or more proposed lots are 'maxed-out' in terms of development leaving either a vacant or substantially under-developed lot to balance out the overall percentages.*

*The underdeveloped lot(s) would be considered to have 'windfall development rights' that, if additional development was to occur on such lot(s), would result in the parent lot exceeding AUP standards and may generate adverse effects.*

*Where a windfall is created imposing a consent condition requiring a consent notice under s221 to control the extent of future development is one possible approach to avoiding a windfall. This however may not always be necessary or appropriate, particularly if the windfall is very small or if the windfall can be suitably mitigated by other measures. Please speak to your TL and/ or Principal Planner.*

*Please note that the consent notice will need to be applied to the lot that will be 'under-developed', in order to ensure overall development on the parent lot does remains 'balanced'.*

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## **Other conditions**

### *Guidance Note:*

*Additional conditions may be required if subdivision triggers (i.e. are a direct result of the subdivision, e.g. earthworks to install services, roads, stabilisation etc) sections 9 /14/15 reasons for consent (incl. NES!) without requiring a separate consent/ permit (and separate decision). Please see SCM for standard land use conditions. Please ensure that these conditions are worded in a way that requires compliance with the condition when applying for a section 224(c), i.e. no 'on-going' conditions (unless included as a consent notice, no conditions requiring review of management plans at section 224(c) (this should have occurred BEFORE applying for the section 224(c)) and the like. If in doubt, please discuss with the subdivision specialist team.*

### **Advice Notes: [select relevant only]**

- 1. If you as the applicant disagree with any of the above conditions or disagree with the additional charges relating to the processing of the application, you have a right of objection pursuant to sections 357A or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working days of your receipt of this decision (for section 357A) or receipt of the council invoice (for section 357B).*
- 2. The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage*

*New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety at Work Act 2015), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004. This consent does not constitute EPA approval. Please check with Council whether an EPA is required for the works.*

3. *The consent holder must, pursuant to section 36 of the RMA, pay all administrative charges, being the Council's actual and reasonable costs incurred in processing this application, to be charged as follows:*
  - a) *The consent holder must pay to the Council an administrative charge for the carrying out by the Council of its functions in relation to receiving, processing, and granting this subdivision consent.*
  - b) *The consent holder must pay to the Council administrative charges for the carryout out by the Council of its functions in relation to the administration, monitoring and supervision of this consent.*
  - c) *The charges payable under (a) and (b) of this condition must be paid upon receipt of invoice or interim invoice or before any request for a certificate under section 224(c) of the Resource Management Act.*
  - d) *The consent holder is advised that under section 134 of the Resource Management Act 1991 that where the land changes ownership the consent holder will continue to be responsible for processing costs until such time as written notice of authority is given to the Council.*
4. *In accordance with Auckland Council's adopted Development Contributions Policy you have been assessed for development contributions. An assessment summary and invoice will be forwarded to you shortly.*
5. *If, at any time during [site](#) works, sensitive materials (koiwi/human remains, an archaeology site, a maori cultural artefact, a protected NZ object), contamination or a lava cave greater than 1m in diameter) are discovered, then the protocol set out in standards E11.6.1 and E12.6.1 of the Auckland Unitary Plan (Operative in Part) shall be followed. In summary these are:*
  - a. *All earthworks will cease in the immediate vicinity (at least 20m from the site of the discovery) and the area including a buffer secured to ensure all sensitive material remains undisturbed.*
  - b. *The consent holder must immediately advise Council, Heritage New Zealand Pouhere Taonga and Police (if human remains are found) and arrange a site inspection with these parties.*
  - c. *If the discovery contains koiwi, archaeology or artefacts of Maori origin, representatives from those Iwi groups with mana whenua interest in the area are to be provided information on the nature and location of the discovery.*

- d. *The consent holder must not recommence works until the steps set out in the above-mentioned standards have been followed and commencement of works approved by Council.*

*Guidance Note:*

*If there are known “sensitive material” as per rules E11.6.1 & E12.6.1 of the Auckland Unitary Plan (Operative in part) on the site or if there is a high chance that sensitive material may be found, then use the Discovery Protocol condition. If any sensitive material is to be protected, then conditions requiring the protection of the feature will need to be written. This may include, for example, the area to be fenced with controls on activities within this protected area.*

*For all other low risk sites, the advice note alone will suffice. The advice note will draw attention to the applicant’s obligations, and can be applied where there is low risk, for example, no sensitive material within the immediate vicinity, but the wider location is known for the potential for some archaeological features. For guidance and advice on managing the discovery of archaeological features, contact the Team Leader Cultural Heritage Implementation on 09 301 0101.*

6. *The consent holder is advised that the national Addressing Standard (AS/NZS 4819:2011) requires that all new public roads and extensions to existing roads and any private roads (rights of way or common access lots) that serve more than five allotments and are created through a subdivision consent will require a **road name**. All road names must be approved by Council. In order to minimise disruption to construction and survey works, the consent holder is advised to obtain any road name prior to applying for a section 223 certificate. For more details refer to <https://www.aucklandcouncil.govt.nz/building-and-consents/types-resource-consents/subdivision-of-property/Pages/road-naming.aspx>*
7. *This subdivision consent has not included any assessment with regards to section 224(f) of the Resource Management Act 1991 (as it relates to s116A of the Building Act) as this is outside of the matters of control under the AUP. A section 224(f) assessment will be initiated by the relevant Subdivision Advisor when application is made for section 223/s224(c) certificates. This may trigger fire rating requirements for any buildings shown on the survey plan, and this in turn may require you obtain a confirming report from a Fire Engineer. For more information, please contact your Licensed Cadastral Surveyor.*
8. *The FFL of any future dwellings on the lot/s are required to comply with 1.2 m head requirement of Watercare standards for wastewater connection. If this is not complying, a private wastewater pump may be required at building consent stage.*
9. *Development may involve building over or adjacent to a Council Public wastewater drain. A building consent will be required for this work. A CCTV is required to be submitted to Auckland Council as a part of building consent application. Diversion / replacement / bridging of the old public wastewater drain may be required at the building consent stage. Works on public drains require an engineering plan approval.*

10. *All retaining walls higher than 1m will require a building consent.*
11. *The consent holder is required to take all necessary measures to control silt contaminated stormwater at all times during the earthworks and during building development in accordance with Auckland Council's requirements.*
12. *Any proposed earthworks are required to be undertaken in a manner which ensures that the land within the site, and on adjoining properties, remain stable at all times in order to meet the land disturbance Permitted Standard E12.6.2(2).*
13. *An Engineering Common Accessway application for construction of a ROW is required to be submitted and approved by Council prior to the works commencing.*
14. *Works within the road reserve require prior approval from Auckland Transport. The consent holder should contact Auckland Transport as soon as possible to ensure any required approvals are issued prior to construction.*
15. *The consent holder is responsible for obtaining Right of Entry or Landowner Approval for drainage works through neighbouring properties, including publicly owned land.*
16. *Tree Asset Owner Approval may be required from Auckland Council where construction works are within the dripline or affect the roots of trees within public spaces.*
17. *The consent holder is advised that a deposit fee is payable upon lodgement of an application for the issue of a certificate pursuant to section 224(c) of the Resource Management Act 1991 relating to this application. Please contact Auckland Council for the current fee.*