

12 November 2019

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Attn: Rebecca Strang & Matt Ryder

Kia ora Rebecca and Matt

Response to concerns expressed in relation to the process Auckland Council is using to determine the necessity to create Esplanade Reserves and Esplanade Strips along rivers

Thank you for your letter of 24 October 2019 in which you raised concern with respect to council's process to determine when esplanade reserves and esplanade strips are necessary to be set aside under section 230 of the Resource Management Act 1991 as part of the consideration of a subdivision consent application and the determination of the boundaries of those allotments.

Firstly, I would like to clarify that council agrees that it is the role of a Licenced Cadastral Surveyor (LCS) to determine the location of the boundaries of an allotment, including the boundaries of esplanade reserves and esplanade strips.

Council also accepts that the LCS must utilise all necessary information to determine the location of an esplanade reserve/strip boundary. It is anticipated that in the majority of cases the submittal of survey information that identifies the location of the riverbanks and clearly enables determination of the width of the bed of the river at its annual fullest flow without over topping those banks will be sufficient for this purpose. This is the process supported by both the Court of Appeal and High Court decisions relating to the Dewhirst Land Company proceedings and also the Environment Court decision relating to the case Whitby Coastal Estates Ltd v Porirua City Council.

In addition to this it must be acknowledged that, occasionally, as addressed within the Whitby Estates Ltd decision, where the banks of the river are not clearly defined, the LCS will need to utilise hydrological analysis to determine the parameters of the annual fullest flow of the river and whether there is a requirement for creation of an esplanade reserve or an esplanade strip at the location of interest.

Council acknowledges that the impression may have been obtained as a result of some recent subdivision consent applications that the submittal of this level of information was a common requirement of council. However, that has not been the case, especially when the number of subdivision consent applications processed by council where esplanade reserves or esplanade strips are created is taken into account. Nevertheless, I acknowledge there have been sufficient cases to generate concern amongst your members.

To assist in alleviating that concern I would like to outline the process the council's Resource Consents Department is implementing with respect to the processing of subdivision consent applications where the determination of whether an esplanade reserve or esplanade strip is required.

In those cases where the planner processing the subdivision consent application receives survey information confirming the location of esplanade reserve or esplanade strip boundaries, or that a river does not qualify for the creation of an esplanade reserve or esplanade strip, the planner will enlist the council's Subdivision Team to review that information and to confirm the methodology used was appropriate for that particular site. The council's Parks Planning Team will no longer be involved in this aspect of the subdivision consent process.

Where the information submitted is considered to be insufficient the processing planner will request further information as necessary. On rare occasions this may follow a site visit by the planner and identification of a river that may look to qualify for the requirement for an esplanade reserve or esplanade strip to be created.

In those cases where the profile of the riverbanks necessitates it, hydrological analysis submitted or that has been requested to demonstrate the annual fullest flow of the river, will be sent to a suitably qualified and experience expert to review to confirm the methodology and conclusions are sound. The processing planner, in consultation with the Subdivisions Team, will convey the outcome of this review and will ensure that the information submitted is sufficient to enable completion of the processing of the application.

The Parks Planning Team will continue to assess the nature of the esplanade reserve or esplanade strip proposed with respect to any waiver in width requested, the appropriateness of creating an esplanade strip rather than a reserve and to recommend the imposition of any applicable consent conditions.

I have confidence that this process will address the concerns raised and will result in an appropriate methodology to review the information submitted by an LCS to identify whether the provision of esplanade reserves or esplanade strips is necessary or not. Such review of technical information submitted by any expert in relation to a resource consent application is a necessary aspect of council's role in processing an application.

I appreciate that you have suggested a meeting may be worthwhile to clarify each other's roles in this process. After assessing the council's response, if you still consider this is necessary please let me know and I will arrange for the appropriate people from council to arrange and attend a meeting with you.

I hope this information assists.

Yours faithfully



Ian Smallburn
General Manager | Resource Consents