

PRACTICE NOTE 16 / 2017

QLDC PRACTICE WITH REGARD TO  
PUBLIC NOTIFICATION OF DISCRETIONARY  
SUBDIVISION APPLICATIONS

IN THE RURAL GENERAL ZONE UNDER THE OPERATIVE DISTRICT PLAN

RESOURCE  
MANAGEMENT ACT  
1991

The Resource Legislation Amendment Act 2017 introduced changes to the notification sections in the Resource Management Act 1991.

These changes came into force on 18 October 2017 and have implications for Council's practice with regard to the processing of discretionary subdivision applications in the Rural General Zone under the Operative District Plan.

SECTION 95A

The new section 95A relates to public notification of consent applications and provides that certain applications are precluded from being publicly notified:

Step 2: if not required by step 1, public notification precluded in certain circumstances

(4) Determine whether the application meets either of the criteria set out in subsection (5) and,—

- (a) if the answer is yes, go to step 4 (step 3 does not apply); and
- (b) if the answer is no, go to step 3.

(5) The criteria for step 2 are as follows:

- (a) ...:
- (b) the application is for a resource consent for 1 or more of the following, but no other, activities:
  - (i) a controlled activity:
  - (ii) a restricted discretionary or discretionary activity, but only if the activity is a subdivision of land or a residential activity:
  - (iii) a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity:
  - (iv) a prescribed activity (see section 360H(1)(a)(i)).

(emphasis added)

## CONSIDERATION

The Council has considered whether the identification of a residential building platform is:

- (a) a requirement of a discretionary subdivision consent application under rule 15.2.3.3(vi); or
- (b) a separate land use consent activity for which a land use consent is required by Rule 15.2.3.3(vi) (as well as the subdivision consent).

## PRACTICE

Council's advice is that the reference to location of a building platform in rule 15.2.3.3(vi) is a reference to a standard on a subdivision consent, rather than a separate land use activity. This is consistent with how Council interpreted and applied rule 15.2.3.3(vi) before the new section 95A came into force.

Council's practice is therefore that discretionary subdivision applications in the Rural General Zone are precluded from being publicly notified, unless volunteered by the applicant or if special circumstances apply.

Note the applications may still be limited notified to affected persons under section 95B.

Council's practice will therefore be to grant or decline discretionary subdivision applications in the Rural General Zone on a non-notified basis unless public notification is volunteered by the applicant, limited notification is necessary or special circumstances apply.

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