

## Assessment of 7.5.19 Amalgamation Condition on Planning Approvals

No.	Current clause	Impact of Policy Revocation
	<b>Objectives</b>	
1.	To define the criteria in which the City of Vincent will require the amalgamation of land when planning applications are received and approved and where the subject development straddles two or more lots.	No Impact  Can be incorporated into a future information sheet.
	<b>Policy Statement</b>	
1.	<p>The following standard condition will be imposed on any Planning Approvals requiring the amalgamation of land prior to development:</p> <p><i>"prior to the issue of a Building Licence, the subject land shall be amalgamated into one lot on Certificate of Title; OR alternatively, prior to the issue of a Building Licence the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the City, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the City's solicitors or other solicitors agreed upon by the City, undertaking to amalgamate the subject land into one lot within 6 months of the issue of the subject Building Licence. All costs associated with this condition shall be borne by the applicant/owner(s). Amalgamation of the lots is not required if it can be demonstrated that the proposed development complies with the relevant requirements of the National Construction Code Series;"</i></p> <p>This condition is subject to amendment without notice.</p>	<p>No Impact.</p> <p>Revocation of the Policy will not impact the City in applying a condition of development approval that requires amalgamation as long as it meets the "Newbury" test for assessing the validity of a condition.</p> <ul style="list-style-type: none"> <li>• be imposed for a planning purpose – not an ulterior one.</li> <li>• fairly and reasonably relate to the development that is the subject of the development application.</li> <li>• not be so unreasonable that no planning authority would have imposed it.</li> </ul>
2.	<p>The amalgamation condition is to be imposed on a Planning Approval in the following instances:</p> <p style="margin-left: 40px;">i) where any proposed development straddles a lot boundary; or</p> <p style="margin-left: 40px;">ii) where any proposed development does not comply with the relevant requirements of the National Construction Code Series; or</p> <p style="margin-left: 40px;">iii) where car parking bays and car parking manoeuvring areas straddle a lot boundary. Alternatively, the car parking bays and car parking manoeuvring area can be dealt with as a grant of easement in favour of the City registered on the certificate of title.</p>	<p>No Impact</p> <p>These items can be incorporated into a future information sheet.</p> <p>Should the City wish to rationalise a development or particularly land use over a single lot, the Newbury test can be applied when recommending a condition.</p> <p>2(i) and 2(ii) are largely reflected and required by the National Construction Code Series, <i>Building Act 2011</i> and <i>Building Act Regulations 2012</i>. Based on legal advice, Building Services cannot issue a building permit across the allotment boundary <b>unless</b> the subject lots are amalgamated into one lot on Certificate of Title.</p> <p>An information sheet can discuss these measures in greater detail.</p> <p>2(iii) Where car parking manoeuvring areas straddle a boundary, this can be dealt with by a condition of approval requiring that an easement be registered on the certificate of title.</p>
3.	<p>The amalgamation condition is not to be imposed on a Planning Approval in the following instance:</p> <p style="margin-left: 40px;">i) where the existing building or proposed new development does not straddle a lot boundary and is compliant with the relevant requirements of the National Construction Code Series</p>	<p>No Impact</p> <p>Can be covered in an information sheet.</p>