

PLANNING NEWSLETTER



October 2022

Civix has recently launched a new Cross Lease Conversion Website. We can provide a step-by-step process to convert your Cross Lease Property to Freehold and update your flats plan.

**CHECK OUT OUR NEW
CROSS LEASE
CONVERSION WEBSITE
[HERE](#)**

CROSS LEASE TO FEE SIMPLE TITLE CONVERSION

Cross lease title conversion is a simple process when you work with our experts at Civix. The benefits of completing this process are numerous, including:

- Potential increases in value.
- Greater flexibility to redevelop or modify your home without being blocked by neighbours or ending up with a defective title.
- Avoidance of complex legal disputes related to cross lease terms.

WHAT IS A CROSS LEASE CONVERSION?

Cross leases were a popular form of 'subdivision' created by lawyers dating back to the 1960s, initially intended to circumvent planning requirements and avoid conventional subdivision contributions. However, the test of time has shown significant flaws in cross lease ownership that have generated ongoing issues with this form of land ownership, resulting in the Law Commission describing them as "irremediably flawed" and leading to significant loss in value when compared to freehold titles.

Cross lease ownership involves the underlying land being held in joint fee simple (freehold) ownership, with each owner on the cross lease allowing

other owners to exclusively use specific portions of the land (including their flats, garages, and other structures shown on the flats plan). There may also be common areas that can be used by multiple owners. The lease is valid for an agreed period of time (typically 999 years), and the lease documents specify terms that all owners must comply with. These may include specific restrictions that limit what you can do with your property (e.g. preventing you from using a certain building material).

WHAT IS A DEFECTIVE TITLE AND HOW WE CAN HELP UPDATE YOUR FLATS PLAN

A defective cross lease title can arise where the buildings and areas on a cross lease no longer match those shown on the flat's plans. Further complexities can arise if the changes to the buildings were conducted without obtaining the required consents from Council, or approval from the other owners on the cross lease.

Banks are currently unwilling to lend where a defective title exists. It is critical prior to selling a property that a flats plan is complete and accurate.

PLAN CHANGE UPDATE AND TIMELINE

Our Planning Team have been busy preparing submissions for our clients on Auckland Council's Proposed Plan Change 78 (PC78), which will see large areas of Auckland up-zoned for higher density developments. Some of the key topics raised in these submissions were:

- Supporting up-zoning of sites which enables higher density;
- Opposing down-zoning of sites via the new *Low Density Residential Zone*;
- Opposing exclusion from the Plan Change;
- Opposing the inclusion of some "Qualifying Matters" relating to mapped hazards and infrastructure constraints, that will push out the timeframes for the new Medium Density Residential Standards to take effect; and
- Ensuring clear and practical provisions are applied within residential zones, including refinements to the new 'Deep Soil Area and Canopy Tree' and 'Safety and privacy buffer from private pedestrian and vehicle accessways' standards.

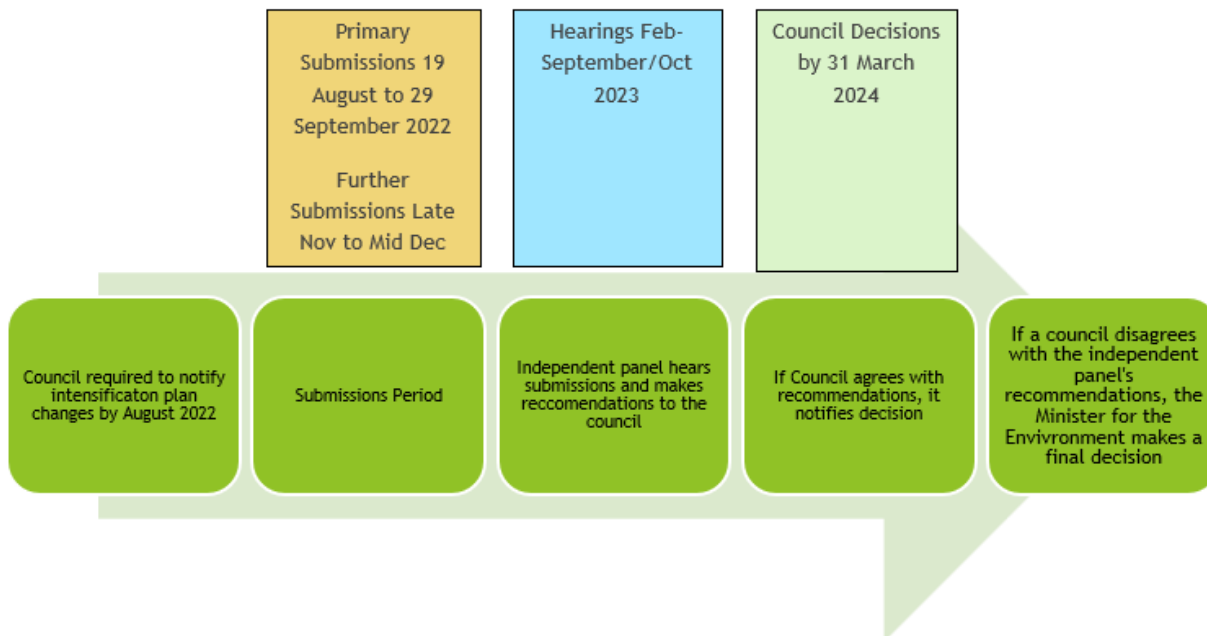
The submission period closed on the 29th September, and Council will be releasing a full summary of submissions shortly. The next step will be for the further submission period to commence, with initial indications from Council that this will be in Late November 2022. The latest Council timeline for the remaining Plan Change processes is shown below.

THE WHEN

- 31st March 2024 (recs - PC 78 and variations

18th August 2024 *decisions - non-IPI changes)

NEXT STEPS IN THE PLAN CHANGE PROCESS



PRESENTATIONS

As we approach the next steps in the Plan Change process, Civix will be available for updated presentations to Agents, Property Owners, Other Industry Professionals, or anyone keen to keep up to date with the latest news in Planning practice.

These presentations also enable discussions in market trends noting the type and volume of consents we are lodging with various Councils.

OTHER UPDATES FROM CIVIX

We have obtained Resource Consents for a number of exciting projects recently, with some moving through to construction phase and others being recently completed, ready to be occupied. We love seeing these projects come to life, and frequently share updates on our social media channels. To see our latest projects and receive other updates, you can find us on the following platforms:

[LinkedIn](#)

[Facebook](#)

[Instagram](#)

GET IN TOUCH WITH US:

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