
10. SUBDIVISION

10.1 SECTION INTRODUCTION

10.1.1 Subdivision is a means of creating areas of land or parts of buildings which are separately identifiable and which may then be sold, leased or otherwise passed to a different ownership. Control of subdivision of land is one of the functions of Council, under Section 31 of the Act.

10.1.2 There is a general expectation that a house may be built on a parcel of land, particularly following subdivision. This attitude has been encouraged by District Plan controls that have allowed one house per lot as permitted activities. This has strengthened the perceived link between subdivision and the automatic right to build a house. However this assumption is not necessarily correct in every case. Subdivision occurs throughout the district, where each of the zones has subdivision standards. These standards assist in ensuring that the quality of the zone environment is maintained.

10.1.3 The focus of the Act is on sustainable management and the effects of activities on the environment. Subdivision may not have direct effects but often allows a more intensive form of development to take place. It is important to ensure that subdivision will be sustainable, in terms of the effects on natural and physical resources, the demand for services such as water supply, sewage disposal, traffic generation, effects on the amenity values of the area, effects on the life-supporting capacity of versatile soils, and on the quality of the environment

10.1.4 Subdivisions are designed to the minimum standards set. It is the intention of this Plan to establish an approach to subdivision that will facilitate sustainable land uses, while retaining flexibility in controls.

10.1.5 Section 11 of the Resource Management Act 1991 exempts from that Act any subdivision of Maori land apart from where Te Ture Whenua Maori Act/Maori Land Act 1993 so provides. Section 301(2) provides for partitions to be treated as subdivisions as per the Resource Management Act only where a partition of land into parcels occurs by persons who are not members of the same hapu. Therefore, a partition into parcels to be held by Members of the same hapu is exempt from the subdivision requirements of the Resource Management Act 1991. The process for allocation and 'subdivision' of Maori land is administered by the Maori Land Court, and not by Council.

10.2 RESOURCE MANAGEMENT STRATEGY

10.2.1. *Resource management issues*

1. Subdivision may lead to a pattern or intensity of development that is unsustainable in the long term, such as:
 - i. Development may have adverse visual effects upon the visual character of the environment.
 - ii. Demands for services by the community or developer that may financially and environmentally be unsustainable by the community in the long term; any servicing of subdivisions will need to be undertaken in a logical strategic manner at the beginning of the development.
 - iii. Levels of effluent or stormwater may be above the capacity of the soils to absorb without impact on adjoining properties and waterways or wetlands.
 - iv. The volume of traffic on roads may increase beyond levels of safety or acceptable noise and dust levels.
 - v. If the land is subject to natural hazards, subdivision may lead to increased exposure of people and assets to the hazard.
2. Subdivision may compromise the amenity values and the quality of the environment in which the subdivision takes place.
3. The subdivision of land for lifestyle lots can have the potential to adversely affect the character of the surrounding environment.
4. Coastal and riparian areas need to be protected where appropriate to maintain landscape values, amenity values, and important flora and fauna habitats.
5. The subdivision of land is an opportune time to protect sites of cultural, ecological, scientific, or historical value.
6. Subdivision in some instances, can compromise the working rural environment as more sensitive land uses locate adjacent to, or near, non-residential activities.
7. New subdivisions may result in an increase in the number of cats and dogs, these can adversely impact on rare and threatened species, and on areas of high wildlife values.
8. The subdivision of land can have an adverse cumulative effect on the clearance of indigenous vegetation.
9. The adverse effects of subdivision on the function and capacity of roads.
10. The demand for property access, both existing and future, can adversely affect the safe and efficient operation of State Highways.
11. The versatility of the district's soils has the potential to be degraded and fragmented as a result of unnecessary and inappropriate subdivision.

10.2.2 Objectives and policies

- | | | |
|------------------|------------|--|
| Objective | 1. | Subdivision activity within the district that assists in maintaining the quality of the district's environment, and the district's natural and physical resources. |
| Policies | 1.1 | To manage the effects of development in new locations so that services and roads associated with the subdivision are provided or upgraded to an appropriate standard for use, where this standard is consistent across the district (see also the financial contributions requirements of Section 11). |
| | 1.2 | To ensure unimpeded and safe access to sites by controlling the width and location of site access and manoeuvring distances for traffic movement. |
| | 1.3 | To acquire esplanade strips or esplanade reserves, where appropriate, at the time of the subdivision of land. |
| | 1.4 | To avoid, remedy, or mitigate the adverse effects of subdivision and other land uses on ecological, landscape, heritage and cultural values. |
| | 1.5 | To ensure that the fragmentation and degradation of the district's soils, particularly versatile soils, is avoided. |
| Objective | 2. | To facilitate the establishment of lots appropriate to the qualities and characteristics of the district's zones. |
| Policies | 2.1 | Ensure lots have an appropriate intensity and character that is consistent with the surrounding environment. |
| | 2.2 | To impose conditions of consent under Sections 108, 220 and 221 of the Act to ensure the objectives, policies and rules of the District Plan are complied with. |
| | 2.3 | To avoid subdivision of land that could result in the modification or destruction of significant natural and cultural heritage features. |
| Objective | 3. | Subdivision of land in a manner that does not adversely affect the function or capacity of roads within the hierarchy. |
| Policy | 3.1 | Subdivisions should be designed so as to be able to be compatible with the access requirements and traffic function of the roads from which access is to be obtained. |
| Objective | 4. | Safe and efficient State Highways that are not adversely affected by property access. |
| Policies | 4.1 | To ensure safe access to and from State Highways by requiring accesses to be constructed to a design standard that is appropriate for their intended use. |
| | 4.2 | To maintain and enhance the efficiency of State Highways by ensuring property accesses are spaced, constructed and used in a manner which does not significantly disrupt traffic flows. |

10.2.3 *Methods of implementation*

The objectives and policies of this section will be implemented by the following method.

1. Rules

10.3 **RULES**

The Zones of the District Plan contain rules relating to subdivision within each Zone. The rules classify subdivision as either a controlled activity or discretionary activity.

10.3.1 *Permitted activities*

There are no permitted activities with respect to subdivision in the District Plan.

10.3.2 *Controlled activities*

The subdivision activities that are controlled activities are stated in the following sections of the District Plan:

Section 12 Town Centre Zone 12.5.1

Section 13 Residential Zone 13.5.1

Section 14 Mixed Activity Zone 14.5.1

Section 15 Industrial Zone 15.5.1

Section 16 Rural Zone 16.5 .1

Section 17 Coastal Zone 17.5.1

Section 18 Coastal Residential Zone 18.5.1

Section 19 Ohiwa Harbour Zone 19.5.1

Council has reserved control over the following matters:

10.3.2.1 *Protection of cultural, historical, ecological or archaeological sites and values*

- i. The need for protection of cultural, historical, ecological, or archaeological sites.
- ii. The use of legal mechanisms to protect cultural, historical, ecological, or archaeological sites.
- iii. The protection of notable trees, and the attachment of legal mechanisms to protect trees.

-
- 10.3.2.2 Protection of water bodies, their margins, and landscape features
- i. Mechanisms used to protect water bodies and their margins by the use of esplanade reserve, esplanade strip, and riparian management mechanisms.
 - ii. Mechanisms used to protect outstanding natural features and landscapes.
- 10.3.2.3 Provision of services onto subdivided sites
- i. The provision of services; water, telephone, and electricity, onto lots created by subdivisions.
 - ii. Connection of on-site services to Council supplied services.
 - iii. Management of stormwater effects that may be associated with the subdivision.
 - iv. Potential for co-location of services within the subdivision.
 - v. Potential for undergrounding of water, telephone, and electricity within a subdivision.
 - vi. Ability of any subdivided lot to adequately manage effluent disposal.
 - vii. Installation of water meters, where these are needed.
 - viii. Provision of access to the site, and access within the site.
 - ix. Requirements for the formation of access, and specifications for access points to State Highways.
- 10.3.2.4 Stability of the site and susceptibility of the site to natural hazards
- i. The requirements for an engineers report or a geotechnical report of the site.
 - ii. The location of sites for dwellings and buildings away from areas of instability.
 - iii. The requirement for a natural hazard report indicating susceptibility of the site to natural hazard events.
- 10.3.2.5 Financial contributions
- i. The requirement of a financial contribution for reserve purposes.
 - ii. The requirement of a financial contribution for additional loadings placed on Council services.
 - iii. The requirement of a financial contribution to offset the adverse effects of activities on the environment.
- 10.3.2.6 Management of effects of exotic plant and animal species, so that:
- i. Stock, deer or goats will not threaten the maintenance or restoration of the indigenous vegetation resource.
 - ii. There will be no increase in predation or disturbance of flighted birds or ground nesting birds from predatory cats, dogs or mustelids.
 - iii. Threats to maintaining the resource from existing plant pests will be managed, and the introduction of additional pest plants avoided.
 - iv. Provision is made to maintain or restore the habitat value of the open watercourse, for indigenous species, including native plants, invertebrates, eels and fish.

Council may impose conditions on a subdivision consent for a controlled activity only in relation to the matters stated above.

10.3.3 *Discretionary activities*

The subdivision activities that are discretionary activities are stated in the following sections of the District Plan:

Section 12 Town Centre Zone 12.5.2

Section 13 Residential Zone 13.5.2

Section 14 Mixed Activity Zone 14.5.2

Section 15 Industrial Zone 15.5.2

Section 16 Rural Zone 16.5.2

Section 17 Coastal Zone 17.5.2

Section 18 Coastal Residential Zone 18.5.2

Section 19 Ohiwa Harbour Zone 19.5.2

Specific subdivision standards for each Zone of the district are stated in Section 12 to Section 19 of the District Plan.

10.3.3.1 The matters that Council shall have particular regard to when assessing an application shall include, but not be limited to, the following:

- i. Provision for riparian management and habitat restoration.
- ii. Mechanisms used to avoid, remedy, or mitigate adverse effects on habitats of ground nesting birds.
- iii. Protection of areas of ecological value.
- iv. Provision for exclusion of stock from areas, this may include fencing.
- v. Effects on public access and recreation opportunities.
- vi. Need for establishment of esplanade reserves, or strips, or other protection for water-body margins.
- vii. Effects on the ecological and visual values of the area.
- viii. Potential effects on the landscape values of the site.
- ix. The impacts on archaeological integrity or values of the site.
- x. Extent to which the proposal has regard to Maori values, particularly any traditional, cultural or spiritual aspect relating to the land.
- xi. The pattern of subdivision and how it relates to the environmental outcomes for the Zone.
- xii. Management of existing plant and animal pests, including methods used to avoid, remedy, or mitigate the adverse effects of noxious weed species.

10.3.4 Non-complying subdivisions

Subdivisions shall be deemed to be a non-complying activity where the person carrying out the activity knows or should reasonably have known that the land to be subdivided contains or is adjacent to habitats of indigenous ground nesting birds. Indigenous ground nesting birds include kiwi, weka, bittern, fernbird, dotterel and indigenous crakes, rails and waterfowl.

Agencies that may be able to assist in determining whether areas contain indigenous ground nesting birds include the Department of Conservation and the Ornithological Society.

10.4 STANDARDS

The following are standards that are applicable to all subdivision applications.

10.4.1 *General subdivision rule*

The rules in this section of the plan are standards and terms which apply to every subdivision whether it is a controlled activity or a discretionary activity.

10.4.2 *Form of land subdivision*

Subdivisions shall be planned, designed, and constructed to minimise the effects of subdivisional development on the natural environment, and to preserve features of high environmental quality and amenity value for the enjoyment of the community.

Where part of the land being subdivided is required for street widening or for other street purposes or for public reserves, the subdivision shall be designed as though such land had been dedicated prior to the time of subdivision.

10.4.3 *Engineering standards*

All subdivisions shall be designed to comply with Council's standards for subdivision. These standards are contained in the Code of Practice – Subdivision and Development, which is available from the Opotiki District Council.

10.4.4 *Existing buildings*

Any plan of subdivision on which there are existing buildings shall be so arranged that the buildings will conform to the standards for the particular Zone.

Provided that

The Council may grant a consent as a discretionary activity for a subdivision subject to a condition that the buildings are removed or modified so that they comply with the rules of the Plan.

10.4.5 *Land stability*

Every lot or building platform within a subdivision shall be capable of supporting a foundation suitable for any approved activity free from inundation, erosion, subsidence, and slippage. Reports from persons qualified in geotechnical matters may be requested to satisfy Council that compliance can be achieved. In accordance with Section 106 of the Act Council can decline a subdivision consent application where it considers the land to be unsuitable for subdivision.

10.4.6 *Subdivision adjoining State Highways*

The subdivision of land adjoining a State highway requires the comments of Transit New Zealand and may be subject to conditions relating to access to State Highways. The subdivision will not be processed until Transit New Zealand comments are received. Vehicle crossings and intersections onto State Highways are stated in **Appendix 6**.

10.4.7 *Water, Stormwater and Sewage Disposal*

All subdivisions shall be planned, designed, and constructed so as to:

1. Protect and to preserve existing natural drainage channels, where practicable.
2. Provide a system where water within the subdivision will be managed, where potential adverse effects on natural water courses, and adjoining properties are avoided, remedied, or mitigated.
3. Ensure that water drained from the subdivision is substantially free of contaminants, including sedimentary materials, of any greater quantity than would occur in the absence of subdivision or development.
4. Ensure that waters are drained from the subdivision in a manner that will not cause erosion or flooding outside the subdivision to any greater extent than would occur in the absence of subdivision or development, or provide mitigation measures appropriate to the circumstances.
5. Provide a system for sewage treatment and disposal to comply with the requirements of the Bay of Plenty Regional Council On-site Effluent Treatment Regional Plan, or connect to a reticulated sewerage system.

6. Provide where possible and practicable a supply of adequately reticulated potable water to each allotment.
7. Ensure that natural wetland areas are protected within the subdivision.

10.4.8 *Underground services*

Where appropriate, in relation to any subdivision of land involving the construction of a new street or the extension of an existing street, financial provision shall be made for the underground reticulation of all electric, telephone and gas services to the land in the subdivision, except where Council can be satisfied that less adverse effects will result.

The location, installation and maintenance of electric power and telephone lines and related facilities shall be carried out with the minimum disturbance of soil and vegetation as possible.

10.4.9 *Financial contributions*

The financial contributions payable by the subdivider or developer are stated in **Section 11** of the District Plan.

10.4.10 *Esplanade reserves*

Esplanade reserves required at the time of subdivision are stated in Section 5.3.1 of the District Plan.

10.4.11 *Stock crossings*

Where a subdivision of a dairy farm is divided by a public road the following works shall be undertaken:

- i. For dairy farms units located on roads with a vehicle count of at least 200 vehicle movements per day, the construction of a stock underpass that complies with Council's engineering standards for 'Road Box Culvert'.
- ii. For dairy farm units located on roads with a vehicle count of less than 200 vehicle movements per day, the construction of a concrete crossing shall be placed over the road crossing used by stock, this shall be constructed in accordance with Council's engineering standards for 'Typical Concrete Crossing.'

10.4.12 *Subdivision in relation to high voltage electricity transmission lines*

All subdivisions shall be planned, designed, and constructed so as to:

- i. The extent to which the subdivision design mitigates the effects of the lines through the location of roads and reserves under the route of the line; and
- ii. The ability to undertake maintenance and inspection of transmission lines to avoid risk of injury and/or property damage; and
- iii. The extent to which potential adverse visual impact is mitigated through the location of the building platforms; and
- iv. The outcomes of consultation with the affected utility operator.
- v. Consider the relevant New Zealand Standards.

Compliance with the New Zealand Electrical Code of Practice of Electrical Safety Distances (NZECP : 34 1993) is required.

10.4.13 *Protection and fencing of indigenous vegetation*

Where a subdivision contains a wetland of significance or area of indigenous vegetation of significance the area shall be protected by way of a legal mechanism and measures taken to ensure that stock does not enter. The following criteria will be considered when assessing the significance of sites or areas of indigenous vegetation and habitat:

- i. Representativeness.
- ii. Diversity and pattern.
- iii. Naturalness/intactness.
- iv. Rarity and distinctiveness.
- v. Long term viability.
- vi. Buffering and connectivity.
- vii. Importance for breeding, feeding, roosting, or loafing areas for indigenous fauna on a regular or annual basis.
- viii. Importance of contribution to the habitat requirements of rare, vulnerable and endangered indigenous flora or fauna.

10.4.14 *Management of noxious plants*

No new noxious plants, as identified in the Operative Bay of Plenty Regional Pest Management Strategy, shall be introduced to any parcel of land. Where noxious plants, as identified in the Operative Bay of Plenty Regional Pest Management Strategy exist in an area to be subdivided, then a management plan for their management or eradication shall be developed.

10.5 SUBDIVISION

The subdivision standards are stated in each of the Zone sections of the Plan.

10.6 OTHER METHODS

There are no other methods. The objectives and policies of this section are implemented by the rules of this section and of the Zones, **Sections 12 to 19**, of the District Plan.

10.7 EXPLANATION

10.7.1 The reasons for the foregoing objectives, policies and methods are stated below.

10.7.2 The primary purpose of subdivision is to create parcels of land to be held in separate titles, thus facilitating more intensive development of land areas concerned. Council has a responsibility to ensure that the lots being created are suitable for their intended purpose. Subdivision should take account of the physical characteristics of the land and the servicing needs of likely future activities.

10.7.3 Subdivision often results in the extension or up-grading of Council owned and operated services such as roads, reserves, sewerage, and water supply. Where these are to be handed over to Council following subdivision they need to be developed to a consistent standard. Other public utilities should be available to new lots to ensure adequate service needs are met.

10.7.4 More intensive development of land which often follows subdivision also has potential to impact on the environment. Where it is appropriate Council will use the consent process to provide protection to natural values or features of significance to the community.

Resource consents from Bay of Plenty Regional Council may also be required before new land uses can be established on subdivided land, such as consents for earthworks, on-site effluent treatment (i.e. septic tanks) and stream crossings. Applicants should refer to the various regional plans for details, and consult Bay of Plenty Regional Council if in doubt.

10.8 **ANTICIPATED ENVIRONMENTAL OUTCOMES**

10.8.1 The environmental outcomes anticipated from the implementation of the objectives and policies of this section are:

- 4 Planned, coherent approaches to subdivision within the district.
- 4 Subdivision activity that enhances the environment of the Zone.
- 4 Subdivision that does not depreciate the quality and characteristics of any Zone within the district.