

# Chapter 15

## Subdivision



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## 15. SUBDIVISION

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### 15.1 RESOURCE MANAGEMENT ISSUES

1. Subdivision may compromise the **amenity values** and character of the surrounding environment.
2. Demands for services for development may not be financially and environmentally sustainable for the community in the long term.
3. If the land is subject to natural hazards, subdivision may increase exposure of people and assets to the hazard.
4. The subdivision of land for lifestyle **lots** can compromise the surrounding working rural environment and lead to **reverse sensitivity** effects.
5. Coastal and riparian areas, aquatic **ecosystems**, **indigenous vegetation**, and dunelands and **wetlands** need to be protected where appropriate to maintain landscape values, **amenity values**, and ecological and **biodiversity** values including important flora and fauna **habitats**.
6. The subdivision of land provides an opportunity to protect **sites** of cultural, ecological, scientific, or historical value.
7. Further subdivision can adversely affect the safe and efficient functioning of **regionally significant infrastructure** and the **National Grid**.
8. The **versatile land** in the District may be degraded and fragmented as a result of inappropriate subdivision.
9. Ad hoc provision for public **access** to the coast, rivers, and streams to provide for a wide range of recreational and leisure opportunities does not benefit the community or environmental values.
10. Public **access** and increasing demand for public facilities along rivers and the coastline can result in a loss of aquatic and terrestrial **habitats** and conservation values if not managed effectively.
11. Subdivision of sites identified as HAIL sites can result in unacceptable risks to human health or the environment.
12. Subdivision can result in cumulative losses of **ecosystem** extent and representativeness (including rare and threatened **habitats**) through vegetation clearance for **building** sites and increased plant and animal pests.
13. Increased stormwater runoff from land developed following subdivision can decrease surface water quality (including **wetlands**) and **habitat** quality for aquatic fauna.

14. Sites created by subdivision need to be the right size for the intended use, have safe access and have connections appropriate services, according to the location and infrastructure available.

## 15.2 OBJECTIVES AND POLICIES

### OBJECTIVE

- 15.2.1 **Subdivision within the district maintains the quality of the environment, and enables the sustainable management of the natural and physical resources of the district.**

### POLICIES

- 15.2.1.1 To ensure that **lots** are of a size, design and density that is consistent with the characteristics and purpose of the zone and suitable for the intended use.
- 15.2.1.2 To avoid, remedy, or mitigate the adverse effects of subdivision and other land uses on ecological, landscape, heritage and cultural values.
- 15.2.1.3 To avoid the fragmentation and loss of the productive rural land, and in particular **versatile land**.
- 15.2.1.4 To ensure that subdivision does not compromise **rural production activities**.
- 15.2.1.5 To manage the effects of new small **lot** subdivision for rural residential purposes in sensitive rural and coastal environments.
- 15.2.1.6 To avoid subdivision of land that would result in the modification, degradation or destruction of significant natural and cultural heritage features, or reduction of threatened, under-represented and originally rare **ecosystem** or vegetation types, and to encourage legal protection where practicable.

### 15.2.2 OBJECTIVE

**Subdivision of land does not adversely affect the safe and efficient functioning of regionally significant infrastructure and the National Grid and the capacity of roads and infrastructure to service new development**

### POLICIES

- 15.2.2.1 To manage the effects of development so that services and **roads** associated with the subdivision are provided or **upgraded** to an appropriate standard.

15.2.2.2 To ensure safe **access** to and from the transport network by requiring **accesses** to be constructed in a location and to a design standard that is appropriate for their intended use.

15.2.2.3 To ensure new sites have services appropriate to their intended use.

15.2.2.4 To manage subdivision within the **National grid corridor** and within 20m of the boundary of a designated **National Grid** substation to avoid sensitive land use or inappropriate activities from compromising the operation, maintenance, upgrading and development (including **access**) of the **National Grid**.

**15.2.3 OBJECTIVE**

**An integrated network of esplanade reserves or strips is provided for public access to rivers, streams and the coast, where this is consistent with conservation values.**

**POLICIES**

15.2.3.1 Esplanade reserves or esplanade strips will be required to maintain or enhance public **access** to the coast and the main rivers, and for conservation purposes, public recreational use, and enhancement of water quality and riparian **habitats**.

15.2.3.2 Esplanade reserves or esplanade strips will be required for subdivision of land resulting in **lots** four hectares or greater only where the coast or river is of high value to achieve an integrated network for public **access** or for public recreation and this is compatible with conservation values.

15.2.3.3 To give priority to acquiring esplanade reserves or strips which protect **sites** or features of cultural, botanical, ecological, historical, or scenic significance, consulting with Iwi and Hapū where appropriate.

15.2.3.4 Public **access** to and along esplanade reserves/strips will be restricted where necessary to protect important conservation values and to protect the management of stock on adjoining properties.

## 15.3 SUBDIVISION STATUS

15.3.1 Resource consent is required for all subdivision as a Controlled, Restricted Discretionary, Discretionary and Non-complying Activity. Additional controls may apply in the following Chapters:

- Landscapes and Vegetation – refer Chapter 13
- Heritage – refer Chapter 14
- Natural Hazards – refer Chapter 18

15.3.2 Compliance with the Specific Requirements in 15.4 and the General Standards in 15.5 shall be required for Controlled Activity Subdivision unless otherwise stated.

15.3.3 Subdivision consent may not be granted where Section 106 of the RMA applies. Refer to Section 15.5.3.

15.3.4 The status of subdivision shall be as set out in the table below:

	Zone	Town Centre	Residential	Mixed Activity	Marine Services	Industrial Zone	Harbour Industrial	Rural	Coastal	Coastal Settlement	Ōhiwa Harbour
	Rule										
<b>1</b>	Except as otherwise required in this table, <b>lots</b> meeting requirements of Rule 15.4 and which comply with general subdivision standards in 15.5.	C	C	C	C	C	C	C	RD	RD	RD
<b>2</b>	Except as otherwise required in this table, <b>lots</b> which do not meet the requirements of Rule 15.4 or general subdivision standards in 15.5.	D	D	D	D	D	D	D	D	D	D
<b>3</b>	Boundary adjustment in accordance with Rule 15.4.7.	C	C	C	C	C	C	C	C	C	C
<b>4</b>	<b>Lots</b> for public utilities, public works, reserves within the meaning of the Reserves <b>Act</b> 1977, in accordance	C	C	C	C	C	C	C	C	C	C

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	Zone	Town Centre	Residential	Mixed Activity	Marine Services	Industrial Zone	Harbour Industrial	Rural	Coastal	Coastal Settlement	Ōhiwa Harbour
	Rule										
	with Rule 15.4.5.										
5	<b>Lots</b> where Land Use Consent has been approved	D	D	D	D	D	D	D	D	D	D
6	<b>Lots</b> created under Rules 15.4.1.2, 15.4.1.3 and 15.4.1.4.	-	-	-	-	-	-	D	D	-	D
7	<b>Lots</b> created under Rules 15.4.1.2, 15.4.1.3 and 15.4.1.4 that do not comply with all the requirements	-	-	-	-	-	-	NC	NC	-	NC
8	<b>Protection lots</b> in accordance with Rule 15.4.3	-	-	-	-	-	-	C	C	-	C
9	<b>Protection/ incentive lots</b> that do not comply with Rule 15.4.3	-	-	-	-	-	-	NC	NC	-	NC
10	Subdivision of <b>sites</b> identified in Rule 13.9.1 or 13.9.2	D	D	D	D	D	D	D	D	D	D
11	Subdivision of land where all or part of the <b>site</b> is within the <b>National Grid Corridor</b> , in accordance with Rule 15.4.6.	-	-	-	-	-	-	RD	RD	RD	RD
12	Subdivision of land where all or part of the <b>site</b> is within 20m of the boundary of a designated <b>National Grid</b> substation.	-	-	-	-	-	-	RD	-	RD	-
13	Subdivision of land where all or part of the <b>site</b> is within the <b>National grid corridor</b> , which does not comply with Rule 15.4.6.	-	-	-	-	-	-	NC	NC	NC	NC

## 15.4 SUBDIVISION STANDARDS

### 15.4.1 MINIMUM LOT DIMENSIONS

#### 15.4.1.1 General Lot Dimensions

The minimum **lot** dimensions in each zone shall be as follows:

ZONE	SEWERED	NON-SEWERED	FRONTAGE	DEPTH	SHAPE FACTOR
Residential Zone	400m <sup>2</sup>	1200m <sup>2</sup> Refer to Rule 15.4.1.2	4m	-	17.5m diameter circle
Town Centre Zone	300m <sup>2</sup>		10m	18m	
Mixed Activity Zone	400m <sup>2</sup>	1200m <sup>2</sup> Refer to Rule 15.4.1.2	4m		17.5m diameter circle
Marine Services Zone	300m <sup>2</sup>	-	10m	18m	-
Industrial Zone	500m <sup>2</sup>	1200m <sup>2</sup> Refer to Rule 15.4.1.2	20m	25m	-
Harbour Industrial Zone	500m <sup>2</sup>	1200m <sup>2</sup> Refer to Rule 15.4.1.2	20m	25m	
Rural Zone Refer to <b>Rule 15.4.2</b>	-	-	-	-	-
Coastal Zone Refer to <b>Rule 15.4.2</b>	-	-	-	-	-
Coastal Settlement Zone	400m <sup>2</sup>	1200m <sup>2</sup> Refer to Rule 15.4.1.2	4m	-	17.5m diameter circle
Ōhiwa Harbour Zone Refer to <b>Rule 15.4.2.</b>	-	-	-	-	-

#### 15.4.1.2 Non-Sewered Lots in the Residential, Mixed Activity, Industrial, Harbour Industrial and Coastal Settlement Zones

The minimum **lot** size shall be 1200m<sup>2</sup> except where compliance with the following standards can be demonstrated:

1. The Zone Standards for **site coverage**, setbacks from adjacent **sites** and the **road** frontage, and vehicle **access** to on-site effluent treatment systems can be met; and
2. A report from a Chartered Professional Engineer is provided that identifies that the **lot** and proposed use of the **lot** complies with the requirements of the Bay of Plenty Regional Council for on-site effluent treatment.

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**15.4.2 SUBDIVISION OF LAND IN THE RURAL, COASTAL AND OHIWA HARBOUR ZONES**

**15.4.2.1 Subdivision of Land in the Rural, Coastal and Ōhiwa Harbour Zones that is not identified as Versatile Land on Planning Maps**

Subdivision of a parent **lot** with an area of more than four hectares shall result in a minimum **lot** size of four hectares and the general requirements in Rule 15.4.2.4 shall be met.

**15.4.2.2 Subdivision of Land in the Rural, Coastal and Ōhiwa Harbour Zones that is identified as Versatile Land on Planning Maps**

Subdivision of a parent **lot** with an area of more than eight hectares where the land is identified as **Versatile Land** on the Planning Maps shall meet the following requirements:

1. The average minimum density over the whole subdivision shall be eight hectares; and
2. The general requirements of Rule 15.4.2.4 shall be met; and
3. A report from a suitably qualified person shall be lodged with the resource consent application how the subdivision will avoid adverse effects on:
  - (a) The accessibility, **versatility** and life-supporting capacity of the land (particularly **versatile land**) and soil resources of the property;
  - (b) The biophysical qualities of the soil resource; and
  - (c) The accessibility or **versatility** of the land and soil resources (particularly **versatile land**) of any adjoining property.
4. **Council** shall consider the extent to which any proposed rural residential **lots, buildings, structures, or developments** preclude or compromise the use or availability of this land for **rural production activities** that directly rely on them. Depending on the scale and nature of the effects in any particular case, the **Council** will consider the range of alternate locations available within the **site**, and the practicalities of other locations for part or all of what is proposed. **Council** may decline consent to the application or may impose conditions requiring alternative locations within the **site** for all or some of the proposed **buildings, structures or developments** where necessary to avoid or mitigate any adverse effect.

**15.4.2.3 Subdivision of Land in the Rural, Coastal and Ōhiwa Harbour Zones where no more than 40% is Classified as Versatile Land**

1. Where a report is provided by a suitably qualified and experienced person using the same formula as that applied in the NZLRI that at least 60% of the land held in certificate of title is Class IV to Class VIII or Class III, with a severe limitation such as a shallow soil profile, stoniness, rock outcrops, low soil moisture holding capacity, low fertility (where this is difficult to correct), salinity or toxicity, then the **lots** created by subdivision of a parent **lot** with an area of more than four hectares shall have a minimum **lot** size of four hectares and the general requirements in Rule 15.4.2.4 shall be met.



2. **Council** shall consider the extent to which any proposed rural residential **lots, buildings, structures, or developments** preclude or compromise the use or availability of versatile land for **rural production activities** that directly rely on them.

15.4.2.4 **Requirements for building sites in the Rural, Coastal and Ōhiwa Harbour Zones**

Each **lot** shall be a residential **building site** that ensures visual separation, by means of topographical features, distances over flat land, protected areas of vegetation, or similar devices, and that will not compromise the continuation of Permitted Activities, including **rural production activities**, on adjacent **lots** through **reverse sensitivity** effects.

15.4.3 **PROTECTION OR INCENTIVE LOTS IN THE RURAL, COASTAL AND ŌHIWA HARBOUR ZONES**

15.4.3.1 **Protection** or Incentive **lots** with an area of 2000m<sup>2</sup> shall be allowed as a Controlled Activity to protect a feature described in 15.4.3.2, where the requirements of 15.4.3.3 are met, as follows:

1. One **protection** or incentive **lot** with an area of 2000m<sup>2</sup> for legal protection of 2000m<sup>2</sup> of the feature.
2. Subject to a maximum of two **protection lots** where the parent **lot** has an area of less than four hectares, one additional **protection** or incentive **lot** shall be allowed for the legal protection of an additional 2000m<sup>2</sup> of the feature.
3. Subject to a maximum of four **protection** or incentive **lots** where the parent **lot** has an area of four hectares or more, one additional **protection** or Incentive **lot** with an area of 2000m<sup>2</sup> shall be allowed for the legal protection of each additional 2000m<sup>2</sup> of the feature.

15.4.3.2 The parent **lot** shall contain a natural feature which is identified in Rule 13.9.3 of this Plan or a Regional Plan, or has been assessed by **Council** against the following criteria in 13.9.2 and 13.9.3 and is found to be of significant value.

15.4.3.3 The following requirements shall be met:

1. Legal protection of the feature shall be secured by a way of legal protection mechanism to **Council's** satisfaction and at the applicant's cost.
2. The remaining area of any protected feature shall be secured in the maximum incentive **lot** in the subdivision, where this will either be two or four 2000m<sup>2</sup> **lots**. The whole feature identified shall be fully protected where consent is sought for the maximum number of **protection lots** provided for in 15.4.3.1.
3. The feature identified for protection may remain in the parent **lot**.

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**15.4.4 ACCESS REQUIREMENTS IN THE RESIDENTIAL, MIXED ACTIVITY, RURAL, OHIWA HARBOUR, COASTAL, AND COASTAL SETTLEMENT ZONES**

15.4.4.1 All **lots** shall have frontage to a **road** which is formed to a suitable standard. Where work is required to upgrade the **road** a financial contribution may be required under Chapter 16.

15.4.4.2 The maximum number of **lots** that may be serviced by an **access** strip shall be six. A legal **road** shall be required where more than six **lots** are served.

15.4.4.3 The minimum **access** width required for up to six **lots** shall be as follows:

1 <b>lot</b>	3m
2 <b>lots</b>	4m
3-6 <b>lots</b>	6m

**15.4.5 LOTS FOR PUBLIC UTILITIES, PUBLIC WORKS, AND FOR RESERVES AS STATED IN THE RESERVES ACT 1977**

15.4.5.1 The minimum standards for the zone shall not apply where **lots** are created for the following purposes:

1. Where land is required by a **network utility** operator.
2. Where land is required for a public work.
3. Where land is to be set aside or vested as a reserve.
4. Where land is to become a reserve vested in the **Council**.

**15.4.6 SUBDIVISION OF LAND WHERE PART OR ALL OF THE SITE IS LOCATED WITHIN THE NATIONAL GRID CORRIDOR**

15.4.6.1 A **building** platform for each new **lot** shall be identified that complies with minimum standards for the zone and that is fully located outside the **National Grid Yard**.

**15.4.7 BOUNDARY ADJUSTMENT**

15.4.7.1 The subdivision standards for the zone shall not apply to a subdivision for the adjustment or relocation of boundaries provided no new additional new allotments are created, and the subdivision provides for:

1. The adjustment or relocation of boundaries which will leave the allotments with similar areas to that existing prior to subdivision; or
2. The adjustment or relocation of boundaries is more suitable for activities provided by the zone, where it does not increase the degree of non-conformity of any existing **lot** or **lots**.

## **15.5 GENERAL STANDARDS FOR SUBDIVISION**

### **15.5.1 ENGINEERING STANDARDS**

15.5.1.1 All subdivisions shall be designed to comply with **Council's** Code of Practice – Subdivision and Development, which is available from the Ōpōtiki District **Council**.

### **15.5.2 EXISTING BUILDINGS**

15.5.2.1 Where there are existing **buildings**, boundaries shall be located so that the relevant setbacks from boundaries for the particular zone are met.

*Provided that:*

The **Council** may impose a condition to a consent for a Discretionary Activity that the **buildings** are removed or modified so that they comply with the Rules of this Plan.

### **15.5.3 LAND STABILITY**

15.5.3.1 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. The **lot** or **building platform** shall enable compliance with the minimum floor levels specified in the Zone Chapters.

### **15.5.4 SUBDIVISION ADJOINING STATE HIGHWAYS**

15.5.4.1 The subdivision of land requiring access from a state highway shall require approval from New Zealand Transport Agency and may be subject to conditions relating to **access** to state highways. The subdivision will not be processed until the approval from New Zealand Transport Agency or the **road** controlling authority have been received.

### **15.5.5 WATER, STORMWATER AND SEWAGE DISPOSAL**

#### **15.5.5.1 General**

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

1. Protect and preserve existing natural drainage channels and wetlands, where practicable.

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2. Provide a system where stormwater 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 an adequate supply of reticulated potable water to each **lot**. Where reticulation is not practicable, a means of adequate storage and continuous supply of potable water shall be provided to each **lot**.
7. Where there is no reticulated water supply, provision shall be made for an adequate supply of water and **access** to water supplies for firefighting purposes in accordance with NZ Fire

### 15.5.6 WASTEWATER CONNECTIONS

15.5.6.1 All new lots within any of **Council's** wastewater scheme boundaries shall connect to the **Council's** wastewater system.

15.5.6.2 All new wastewater management systems shall be designed and constructed to:

1. Adequately service each **lot**.
2. Be compatible with the existing utility network.
3. Be compatible with other utility systems.
4. Ensure no ground water or surface water intrusion occurs.
5. Include the following design features:
  - (a) Gully traps/ventilation risers shall be designed to prevent inflow of stormwater in a rainfall event with 10% probability of occurring annually.
  - (b) Inspection ports shall be installed immediately adjacent to all gully traps/ventilation risers and at the property boundary and at any wyes.
  - (c) Bends shall not be greater than 60%.

15.5.6.3 Where a public waste water drain or structure is laid within private property, it shall be protected by an easement in favour of Council.

- 15.5.6.4 Where any new wastewater connection will connect to an existing private line, the line shall be:
1. In good working order, both upstream and downstream from the connection point.
  2. Capable of conveying the additional flows from the new connection.
  3. Fitted with an inspection port at the connection point.

15.5.6.5 Where an existing line is available but cannot comply with 15.5.6.4, a new connection to the public sewer shall be required.

#### **15.5.7 STORMWATER MANAGEMENT**

- 15.5.7.1 A stormwater disposal system shall be provided to any **lot** to be used for one or more of these activities. This disposal system shall include primary and secondary control systems that:
1. Shall be capable of disposing of and/or detaining surface water resulting from a 10% AEP 24 hour rainfall event.
  2. Shall provide a secondary flow system capable of conveying surface water resulting from a 2% AEP 24 hour rainfall event, to ensure that surface water shall not enter **buildings** (detached garages excluded).

- 15.5.7.2 All new stormwater management systems shall be designed and constructed to:
1. Adequately service each **lot**.
  2. Be compatible with the existing utility network.
  3. Be compatible with other utility systems.

#### **15.5.8 POTABLE WATER**

15.5.8.1 Domestic connections shall be 20mm in diameter and non-domestic connections shall be of a suitable size to serve the predicted demand of that **lot**. All connectors other than urban residential connections which are used solely for normal domestic supply shall be provided with an approved back flow prevention device in relation to its backflow hazard classification.

- 15.5.8.2 All water supply systems shall be designed and constructed to:
1. Adequately service each **lot**.
  2. Be compatible with other utility systems.
  3. Avoid the likelihood of contamination or leakage.
  4. Ensure principal water mains are not less than 100mm in diameter.

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**15.5.9 UNDERGROUND SERVICES**

15.5.9.1 Where appropriate, in relation to any subdivision of land involving the construction of a new street or the extension of an existing street, 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.

15.5.9.2 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.

**15.5.10 STOCK CROSSINGS**

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

1. 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'.
2. 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".

**15.5.11 SUBDIVISION IN RELATION TO INFRASTRUCTURE OTHER THAN THE NATIONAL GRID YARD**

15.5.11.1 All subdivisions shall be planned, designed, and constructed to demonstrate:

1. The ability to undertake **maintenance** and inspection of the infrastructure to avoid risk of injury and/or property damage; and
2. The extent to which potential adverse visual impact is mitigated through the location of the **building platforms**; and
3. The outcomes of consultation with the affected utility operator.
4. Consider the relevant New Zealand Standards.
5. Compliance with the New Zealand Electrical Code of Practice of Electrical Safety Distances (NZECP:34 1993).

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**15.5.12 PROTECTION AND FENCING OF INDIGENOUS VEGETATION**

15.5.12.1 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.

15.5.12.2 The following criteria in 13.9.3 and 13.9.4 when assessing the significance of **sites** or areas of **indigenous vegetation** and **habitat** for protection.

**15.5.13 MANAGEMENT OF NOXIOUS PLANTS**

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

**15.6 ASSESSMENT CRITERIA FOR CONTROLLED ACTIVITIES**

**15.6.1** The **Council** has reserved control over the following matters for all Controlled subdivision and may impose conditions in relation to these matters.

15.6.1.1 *Enabling use consistent with the purpose of the Zone*

1. The **lot** size and the location of **building** platforms to comply with the requirements of each zone and not compromise the continuation of permitted **lot** on adjacent sites, including **rural production activities** in the Rural Zone.

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

1. The need for protection of cultural, historical, ecological, or archaeological **sites**.
2. The use of legal mechanisms to protect cultural, historical, ecological, or archaeological **sites**.
3. The protection of notable trees, and the attachment of legal mechanisms to protect trees.

15.6.1.3 *Protection of water bodies, their margins, and landscape features*

1. Effects on **natural character**.
2. Mechanisms used to protect **waterbodies** and their margins by the use of esplanade reserve, esplanade strip, and **riparian management** mechanisms.
3. Mechanisms used to protect outstanding **natural features and landscapes**.

15.6.1.4 *Provision of services within a subdivision*

1. Compliance with the Standards in 15.4.
2. The provision of services (water, including water for firefighting purposes, telephone, and electricity) to **lots** created by subdivisions.
3. Connections to **Council** infrastructure (water, sewer, stormwater).
4. Management of stormwater effects arising from the subdivision.
5. Potential for co-location of services.
6. Potential for undergrounding of telephone and electricity.
7. Provision for effluent disposal where sewer connection is not available.
8. Installation of water meters, where required by **Council**.
9. Provision of **access** to and **access** within the **site**.
10. The formation of **access**, and specifications for **access** points to State Highways.

15.6.1.5 Stability of the site and susceptibility of the site to natural hazards

1. The requirement for an engineer's report or a geotechnical report of the **site**.
2. The location of **sites** for **dwelling**s and **building**s away from areas of instability.
3. The requirement for a natural hazard report indicating susceptibility of the **site** to natural hazard events.

15.6.1.6 Financial contributions

1. The requirement for a financial contribution for reserve purposes.
2. The requirement for a financial contribution for additional loadings placed on **Council** services.
3. The requirement for a financial contribution to offset the adverse effects of activities on the environment.

15.6.1.7 Management of effects of exotic plant and animal species, so that:

1. Stock, deer or goats will not threaten the **maintenance** or restoration of the **indigenous vegetation** resource.
2. There will be no increase in predation or **disturbance** of flighted birds or ground nesting birds from predatory cats, dogs or mustelids.
3. Threats to maintaining the resource from existing plant pests will be managed, and the introduction of additional pest plants avoided.
4. Provision is made to maintain or restore the **habitat** value of the open watercourse, for indigenous species, including native plants, invertebrates, eels and fish.

## 15.7 ASSESSMENT CRITERIA FOR RESTRICTED DISCRETIONARY ACTIVITIES



**15.7.1** The **Council** has restricted discretionary control over the following matters for the identified Restricted Discretionary Activities. Consent may be granted or refused in relation to these matters and, if consent is granted, **Council** may impose conditions on these matters.

**15.7.1.1** *Subdivision of land that is within or adjacent to the National Grid*

1. The extent to which the design, construction and layout of the subdivision demonstrates that a suitable **building** platform(s) can be located outside of the **National Grid Yard** for each new **lot** to ensure adverse effects on and from the **National Grid** and on public health and safety are appropriately avoided, remedied or mitigated;
2. The provision for the on-going operation, maintenance (including **access**) and upgrade and development of the **National Grid**;
3. The risk to the structural integrity of the **National Grid**;
4. The extent to which the subdivision design and consequential development will minimise the risk of injury and/or property damage from the **National Grid** asset;
5. The extent to which the subdivision design and consequential development will minimise the potential **reverse sensitivity** on and amenity and nuisance effects of the **National Grid** asset; and
6. The extent to which **landscaping** will impact on the operation, maintenance, upgrade and development (including **access**) of the **National Grid**.
7. For Rules 15.2.1.3.13 and 14 public notification of applications for resource consent will not be required but the written approval of the **National Grid** Operator will be required or a Limited Notification process will be followed.

**NOTE:**

*Compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001) is mandatory under the Electricity Act 1992. All activities regulated by NZECP34, including buildings, structures, earthworks and the operation of mobile plant, must comply with that regulation even if they are permitted by the District Plan.*

## **15.8 ASSESSMENT CRITERIA FOR DISCRETIONARY ACTIVITIES**

### **15.8.1 GENERAL CRITERIA**

**15.8.1.1** The matters that **Council** may have particular regard to when assessing an application for a subdivision as a Discretionary Activity will include, but not be limited to, the following:

1. Provision for **riparian management** and **habitat** restoration.

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2. Mechanisms used to avoid, remedy, or mitigate adverse effects on **habitats** of ground nesting birds.
3. Effects of earthworks and vegetation clearance on at risk, threatened or regionally distinctive species of **indigenous vegetation** and fauna and their **habitats**, including an assessment by an appropriately qualified ecologist and mechanisms to protect areas of ecological value.
4. Provision for exclusion of stock from areas, this may include fencing.
5. Effects on public **access** and recreation opportunities.
6. Need for esplanade reserves, or strips, or other protection for **waterbody** margins.
7. Effects of **building** platforms and **access** on the visual values and significant landscapes and features in the area, including an assessment by an appropriately qualified landscape architect.
8. Potential effects on the landscape values of the **site**.
9. The impacts on archaeological integrity or values of the **site**.
10. Extent to which the proposal has regard to Māori values, particularly any traditional, cultural or spiritual aspect relating to the land.
11. The ability to locate **building** platforms to comply with the requirements of each zone and not compromise the continuation of permitted Activities on adjacent sites, including **rural production activities** in the Rural Zone.
12. The pattern of subdivision and how it relates to the environmental outcomes for the zone, including **reverse sensitivity** effects.
13. Management of existing plant and animal pests, including methods used to avoid, remedy, or mitigate the adverse effects of noxious weed species.

### 15.8.2 SUBDIVISION IN THE OHIWA HARBOUR ZONE

15.8.2.1 The matters that **Council** may have particular regard to when assessing an application for a subdivision as a Discretionary Activity in the Ōhiwa Harbour Zone will include, but not be limited to, the following:

1. Provision of services: Undergrounding services and location of **buildings** and structures away from power lines.
2. Waste disposal: potential adverse effects on water quality, mitigation of visual effects of treatment systems; use of **wetlands** to polish and finish treated effluent.
3. Residential **building** sites and **building** platforms: avoiding prominent skylines, **ridgelines** and promontories; reflectivity; mitigation such as appropriate planting, management of earthworks to minimise potential effects on water quality and visual effects.

4. Roading and accessways: location including avoiding the need to develop on prominent skylines, **ridgelines**, and promontories, management of earthworks to minimise potential effects on water quality and visual effects.
5. **Indigenous vegetation** disturbance :
  - (a) Specifying that location and disturbance of any **indigenous vegetation**, including limiting the area of vegetation clearance.
  - (b) Specifying the methods by which the **disturbance** or clearance can be undertaken.
  - (c) Require fencing off of the remaining areas of **indigenous vegetation** from the grazing of animals.
  - (d) Specify legal instruments to be used to protect and manage **indigenous vegetation** on an ongoing basis.
  - (e) requiring a **site** rehabilitation programme to include landscape and vegetation restoration.
  - (f) Require development of a monitoring programme to gauge the effects of the activity on the **indigenous vegetation**.
6. Water courses and **riparian management**:
  - (a) Require the planting of vegetation to enhance the riparian areas of the subdivision.
  - (b) Specify the location of **dwellings** and structures to any **waterbody** or to the Harbour edge.
  - (c) Require the maintenance and enhancement of existing natural drainage areas or **wetlands**.

## 15.9 FINANCIAL CONTRIBUTIONS

- 15.9.1 The financial contributions payable by the subdivider or developer are stated in **Chapter 16** of this Plan.

## 15.10 ESPLANADE RESERVES AND ESPLANADE STRIPS

- 15.10.1 Esplanade reserves or strips will be required on subdivision or in relation to Land Use Consents in accordance with the following Rules:

- 15.10.1.1 An esplanade reserve with a minimum width of 20m shall be set aside adjacent to the coast and rivers with an average bed width of 3m or more where an allotment of less than four hectares is created on subdivision, or where required as a financial contribution by a condition of Land Use Consent.

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- 15.10.1.2 An esplanade strip with a minimum width of 20m may be required instead of an esplanade reserve required under 15.10.1 above in the following circumstances:
1. Where the requirement for an esplanade reserve would result in an isolated pocket of reserve land without any prospect of **access** for public enjoyment or **maintenance**.
  2. Where the requirement for an esplanade strip would adequately achieve the conservation and public **access** objectives without alienating land from private ownership.
  3. Where due to natural processes (including the movement of rivers and erosion of banks and coastal foreshore), an esplanade strip would be more appropriate.
- 15.10.1.3 An esplanade reserve with a minimum width of 20m may be required through resource consent process where an allotment greater than four hectares formed on subdivision, or as part of Land Use Consent, where the **Council** has identified the area as having high priority for acquisition, in the following circumstances:
1. Where land can be used for public **access** to and along the coast and rivers.
  2. Where the land has conservation values.
  3. Where a number of esplanade reserves exist in the locality and additional land is required for continuity.
- 15.10.1.4 An esplanade reserve or esplanade strip with a width in excess of 20m will be required where the **Council** has identified the area as having high priority for acquisition in the following circumstances:
1. To adequately protect significant natural features.
  2. To enable public **access** along the banks of rivers and the coastal foreshore.
  3. To enable greater recreational use by the public.
  4. To adequately avoid or mitigate against natural hazards.
- 15.10.1.5 A reduction in the width required for an esplanade reserve or esplanade strip will be considered where the reduction in width of the esplanade reserve or strip would not adversely affect:
1. Conservation values including, ecological characteristics of the land, water quality, and **habitats** of flora and fauna.
  2. The **natural character** of the area.
  3. The ability to obtain **access** to and along the river bank or coastal foreshore.
  4. The public's recreational use of the land.
  5. The ability to avoid or mitigate natural hazards.
- 15.10.1.6 The requirement for an esplanade reserve or esplanade strip may not be required in the following circumstances:
1. Where the subdivision involves a boundary adjustment.
  2. Where the security of private property may be compromised.

3. Where the safety of people may be compromised.
4. Where no environmental or public benefit is to be gained.

## 15.11 OTHER METHODS

**15.11.1** The objectives and policies of this section are implemented by the Rules of this section and of the zones.

1. Where public **access** is sought over private land, **Council** may negotiate with Iwi or the individual landowners to allow for public **access** to the coast. Compensation in part or in full will be available to landowners in circumstances where public **access** is granted over private land.
2. **Council** may, in specific circumstances, consider compensation to the landowner where rivers and streams and their margins are of outstanding significance and the land is required as reserve to ensure its protection.
3. Make use of the provisions of **Biodiversity Management Plans** or **Riparian Management Plans** administered by Bay of Plenty Regional Council, to retire suitable areas of riparian land for protection purposes. Recognition and continued support for the ongoing management responsibilities associated with the retired areas.
4. To make use of the Nga Whenua Rahui mechanism to protect areas of importance to Iwi.
5. To investigate the use of incentives for landowners to ensure the protection of areas of cultural, botanical, ecological, historical, or scenic worth.
6. Identification of land that is suitable for reserves, visitor facilities, eg toilets, boat ramps, and **visitor accommodation**, and implement the development of these through the Annual Plan, Strategic Planning Process, and Reserves Management Plans as appropriate.

## 15.12 EXPECTED ENVIRONMENTAL RESULTS

Environmental outcomes anticipated from the implementation of the objectives and policies of this section are:

- A.** Planned, integrated subdivision and consequential development within the District.
- B.** Subdivision activity that enhances the environment of the zone in which it takes place.
- C.** Subdivision that does not degrade the quality and characteristics of any zone within the District

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- D. **Sites** of special value are protected where appropriate.
  
- E. **Maintenance** and enhancement of conservation values of the coast and riparian margins in the District.
  
- F. Increased public **access** to the coast and rivers of the District for recreation.