

26. Subdivision

26.1 Introduction

26.1.1 Section 218 of the Resource Management Act defines the term "subdivision of land" as meaning

"(a) *The division of an allotment --*

(i) *By an application to a District Land Registrar for the issue of a separate certificate of title for any part of the allotment; or*

(ii) *By the disposition by way of sale or offer of sale of the fee simple to part of the allotment; or*

(iii) *By a lease of part of the allotment which, including renewals, is or could be for 20 years or longer; unless that part of the allotment is in the coastal marine area, and that lease is allowed for a term of 20 years or longer by a coastal permit or by a rule in a regional coastal plan; or*

(iv) *By the grant of a company lease or cross lease in respect of any part of the allotment; or*

(v) *By [the deposit of a unit plan, or] an application to a District Land Registrar for the issue of a separate certificate of title for any part of a unit on a unit plan; or*

(b) *An application to a District Land Registrar for the issue of a separate certificate of title in circumstances where the issue of that certificate of title is prohibited by section 226,-- and the term "subdivide land" has a corresponding meaning."*

26.1.2 Subdivision is often the first step in a process of land development. The size, shape and pattern of allotments are factors that determine the subsequent nature of development of the land. Subdivision can lead to land being fragmented into parcels that are too small or irregular and thus inhibit or prevent development occurring. Accordingly, it is essential that the creation or alteration of lots be conducted in a manner which permits the activity proposed for those lots to occur in a way that avoids, remedies or mitigates adverse effects. The Plan recognises this and accordingly administers subdivision in a manner which ensures that new lots can accommodate their proposed use, and promotes integration of subdivision with land development.

26.2 Resource Management Issues

26.2.1 In urban areas the creation of small lots, and more intensive development, may lead to fewer opportunities for creating a spacious character that is an important aspect of the amenity values of the District. However in fully serviced areas there is demand for smaller sites.

26.2.2 Access to sunlight and leisure areas is essential for the health and wellbeing of people. All lots need to be an adequate size and shape for peoples' needs in these areas to be met.

26.2.3 Fragmentation of land parcels into small sizes may lead to a loss of flexibility of their use in the future, but alternatively may promote diverse future land use.

26.2.4 Creation of small unserviced allotments may create difficulties in relation to disposal of effluent or provision of an adequate potable water supply. These may have adverse environmental effects and adversely effect public health.

26.2.5 The additional traffic and property accesses generated as a result of subdivisions may adversely affect the safe and efficient operation of the district's roads and the State Highway network.

26.2.6 Some areas of the district are prone to periodic flooding or coastal erosion. Intensive development and subdivision of this land may be inappropriate.

26.2.7 Some areas on the fringe of Te Kuiti which could otherwise be attractive for residential subdivision have significant limitations in terms of slope stability. Intensive development and subdivision of this land may be inappropriate.

26.2.8 Inappropriately designed subdivisions may adversely affect rural character and valued landscape features, and in coastal areas may adversely affect the amenity values of the coastal environment.

26.2.9 Inappropriately sited subdivisions may have adverse effects on significant flora, fauna and ecosystems. Habitats may become fragmented and an influx of pets and pest species to the area as a result of development after subdivision may have adverse affects on indigenous species.

Note: Although this is identified as a potential issue, it is intended for the purposes of information and education. There is insufficient evidence at present to justify a rule controlling subdivisions.

26.2.10 The potential damage or destruction of heritage resources including archaeological sites and sites of importance to Maori.

26.3 Objectives

- 26.3.1 To avoid, remedy or mitigate adverse effects on the district's natural and physical resources arising from the subdivision of land, and land use changes that follow subdivision, particularly to ensure:
- ♦ That access to allotments does not conflict with the safe and convenient functions of highways and roads;
 - ♦ Significant areas of indigenous vegetation and significant habitats of indigenous fauna are protected.
 - ♦ Rural character and amenity in the Rural Zone is maintained.
 - ♦ The preservation of the natural character and amenity values of the coastal environment; and
 - ♦ The preservation of coastal open space for enjoyment by all.
- 26.3.2 To ensure that all residential lot sizes and designs are capable of providing sufficient areas for leisure, daylight and sunlight for those people occupying dwellings on them.
- 26.3.3 To ensure that subdivisions in flood prone, eroding or unstable areas adopt mechanisms to avoid, remedy or mitigate problems associated with site inundation or slope stability.
- 26.3.4 To ensure that subdivision safeguards the life supporting capacity of soils.
- 26.3.5 To ensure that allotments created through subdivision do not unnecessarily limit options for flexible future use of the land.
- 26.3.6 To avoid adverse health and environmental effects associated with inadequate effluent disposal or water supplies for subdivisions.
- 26.3.7 To ensure that subdivision does not result in adverse effects on significant indigenous vegetation and significant habitats of indigenous fauna.

26.4 Policies

- 26.4.1 That all subdivisions create allotments suitable for their intended use and allow sufficient room for activities to be carried out on them.
- 26.4.2 That the design of subdivisions takes access, topographical, cultural, heritage, utility, coastal characteristics (including open space, amenity values, and the coastal environment), and visual features into account and implements mechanisms to avoid, remedy or mitigate significant adverse effects on these features.
- 26.4.3 To restrict subdivision where natural hazards such as flooding, erosion or slope instability are known to exist.
- 26.4.4 To ensure that all lots be designed so as to accommodate the effluent disposal areas specified by either the Waikato or Manawatu-Wanganui Regional Councils where reticulated sewerage services are not available.

- 26.4.5 To ensure that all subdivisions take into account the need for adequate services to be established, to make use of existing infrastructure and to protect public health and the environment. Within the Te Maika Conservation Zone the standard of services may be lower than elsewhere because of its unique wilderness characteristics, but the adequate protection of public health and the environment shall remain paramount. *Objectives 26.3.5, 26.3.6*
- 26.4.6 To, where necessary, impose appropriate conditions supported by assessment criteria to avoid, remedy or mitigate the adverse effects resulting from subdivision on natural and physical resources. *Objective 26.3.1*
- 26.4.7 To increase people's awareness of the potential adverse effects of residential subdivision adjacent to significant habitats of indigenous fauna. *Objective 26.3.1*

26.5 Rules

26.5.1 General

- (a) Any lot being created shall be physically suitable for the activity for which it is proposed. Suitability will be assessed by reference to the provisions of this section. Present or potential rural land uses and their productivity are not relevant to any such assessment. *Policy 26.4.1*
- (b) Any lot being created shall contain a stable building platform at least 500mm above known design flood levels, or an adequate size to accommodate proposed buildings, and not subject to other known natural hazards. *Policy 26.4.3*
- (c) Any subdivision in the coastal environment shall be designed in a manner that will not detract from the quality, amenity value or natural character of the coastal environment. Specific attention should be paid to: *Policy 26.4.2*
- ♦ the location of building sites
 - ♦ the location and formation standard of vehicle accesses
 - ♦ the potential for planting and maintenance programmes to contribute to the coastal environment.

Note: The Regional Plan includes specific rules relating to earthworks, especially where there may be adverse effects on bodies of water.

Note: The National Environmental Standard (NES) for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 includes additional provisions that apply to subdivision, change of land use, soil disturbance, soil sampling, and removing fuel storage systems (Refer to Section 17 Hazardous Substances and Contaminated Land).

Table 26.1: Subdivisional status

| Zones | "Green Field" | "Infill" | Boundary Relocations | Network Utility Subdivisions | Conservation Lots | Activities which do not comply with development standards | Lots to Accommodate activity for which resource consent has been granted | Subdivision of land within 20m of a transmission line designed to operate at 110 Kv or above |
|-------------|-------------------|----------|----------------------|------------------------------|-------------------|---|--|--|
| Residential | C | D | P | P | C | D | D | D |
| Business | C | C | P | P | N/A | D | D | D |
| Industrial | C | C | P | P | N/A | D | D | D |
| Rural | C | N/A | P | P | C | D | D | D |
| KEY: | P = Permitted | | NC = Non-complying | | | | | |
| | C = Controlled | | N/A = Not applicable | | | | | |
| | D = Discretionary | | | | | | | |

- Notes:
- (a) For the purposes of this rule "Green Field" means subdivision of bare land that has not previously been subdivided and developed. "Infill" means the further more intensive subdivision of urban land that has previously been subdivided and developed and contains existing buildings.
 - (b) See Rule 14.5 for subdivision rules in the Conservation Zone.

26.5.3 Conditions for Permitted Activities

(a) Minimum lot sizes:

Policy 26.4.1 & 26.4.4

| | | |
|-------------------|------------|-------------------------------|
| Rural zone: | sewered: | 700m ² |
| | unsewered: | 2,500m ² |
| Residential zone: | sewered: | 600m ² green field |
| | sewered: | 300m ² infill |
| | unsewered: | 2,500m ² |

Other zones: No minimum lot size but areas must be adequate to accommodate the proposed activity and to meet all relevant Conditions for Permitted Activities.

Note: For the purposes of this rule "sewered" means land where new lots are to be connected to a fully reticulated community sewage disposal system approved or operated by Council.

(b) Access

- ♦ All lots shall be provided with legal access in terms of Section 321 of the Local Government Act unless amalgamated in title with existing parcels having legal access or otherwise excluded in terms of that Section. *Policy 26.4.5*
- ♦ Except within the Te Maika Conservation Zone every lot (other than allotments created through road closure or severance) shall be provided with a safe physical and practical access in accordance with Rule 16.5.6 to a formed legal road which is maintained to the standards of the road controlling authority or where such access is not available, shall be amalgamated with adjoining lands. *Policy 26.4.5*

Note 1: Subdivisions seeking access directly onto a State Highway will have to meet Transit New Zealand's standards for that access.

Note 2: Council may require pedestrian access to be provided where practical between urban cul-de-sac heads, and pursuant to s237B of the Act through any new Rural Zone lot lying between a road and a body of water, or a reserve, or other public lands, where:

- there is a demonstrable need (known public demand, alternatives not readily available); and
- the route is convenient in terms of access, topography and existing land use.

(c) Easements

Any necessary easements to provide for services that cross private land shall be shown on the preliminary plan of subdivision. Where appropriate such easements shall be in favour of Council or the appropriate network utility operator. *Policy 26.4.5*

(d) Services

All subdivisions shall make provision for adequate water supply for domestic purposes, sewerage, drainage, roading and access, energy and telecommunication services. Where reticulated services are available connections to them shall be provided. Within the Te Maika Conservation Zone services shall be consistent with the wilderness character of the Peninsula and the low density of development, provided that adequate protection of public health and the environment shall remain paramount. Council will not require or provide usual development services (including full standard public roads or electricity) to the Te Maika Conservation Zone. Stored roof water is accepted as an adequate water supply for rural or casual domestic purposes. *Policy 26.4.5*

(e) Network Utility Activities

In all zones minimum lot size shall not apply to subdivision to accommodate network utility activities. Services described in Rule 26.5.3(d) shall only be provided where the network utility operation proposed for the site requires such services. Each lot shall be of sufficient area to accommodate the activity and meet any relevant development standards.

(f) Boundary Relocations

The number of Certificates of Title shall be the same as existed prior to the boundary relocation taking place.

Boundaries may only be relocated where the Certificates of Title are adjoining.

(g) Heritage Resources

All subdivisions shall comply with the requirements of Section 21, Heritage Resources.

Note 1: See Section 25 Financial Contributions and Esplanade Reserves, for requirements to create esplanade reserves and strips.

Note 2: See Rule 11.5.4.5 Assessment Criteria 11.6 and Section 21 Heritage Resources relating to removal of indigenous vegetation and protection of significant habitats of flora and fauna.

26.5.4 Code of Practice

All services shall be provided in accordance with NZS4404:1981 for urban areas and the "Guide to Geometric Standards for Rural Roads" (NRB) in rural areas as relevant.

Note: The construction of any subsequent building must comply with New Zealand Electrical Code of Practice of Electrical Safety Distances (NZECP: 34 1993).

26.5.5 Discretionary Activities

Any subdivision specified as a discretionary activity in Table 26.1 and any other subdivision that does not comply with one or more of the conditions for Permitted Activities.

26.5.6 Assessment Criteria for Controlled and Discretionary Activities

(a) The conditions set out in Section 26.5.3.

(b) On site Sewage disposal

Where on-site sewage disposal is proposed the following standards apply-

- ♦ lots shall not be subject to flooding or slope in stability
- ♦ lots shall have an area of not less than 2,500m² unless a resource consent for an alternative sewage disposal method on a smaller area has been approved by the Regional Council.

(c) Building Platforms

Every lot for residential purposes shall be provided with a building platform of adequate size to accommodate the proposed building. The platform shall not be subject to a known natural hazard.

(d) Covenancing of Trees, Significant Vegetation, Heritage Sites and Outstanding Natural Features

The Council may require individual indigenous or exotic trees, areas of significant indigenous vegetation, wetlands, outstanding natural features, and sites of special heritage value to be the subject of covenants registered on the title, when potential land use activities resulting from subdivision are likely to threaten significant ecological, natural and heritage values. The need for access for farming or pedestrian purposes through covenanted areas shall be assessed, provided that such access shall not prejudice the feature that the covenant is intended to protect.

Note: Significant vegetation, features, or sites for covenancing may be identified by reference to:

- ♦ Rule 11.6.3 of this Plan.
 - ♦ Section 21 of this Plan.
 - ♦ The Regional Policy Statement on Biodiversity.
 - ♦ Recommended Areas for Protection identified by the Department of Conservation.
- (e) The Objectives and Policies of the Subdivision Section and the relevant Objectives and Policies for the Zone in which the subdivision is to occur.
- (f) The suitability of the site for the intended use.
- (g) The availability of network utilities and other infrastructure, and in urban subdivisions and any subdivision for residential purposes of more than one lot, the extent to which it is practicable to place new electrical and telecommunication services underground.
- (h) The topography of the site.
- (i) Whether the design of the subdivision includes areas of reserve to vest that are adequate to meet the reasonably foreseeable recreational needs created by that subdivision.
- (j) The extent to which the subdivision design mitigates the potential adverse electromagnetic effects of any 110kV transmission lines through the location of roads and reserves under the route of the line.
- (k) The extent to which the subdivision design minimises potential adverse effects from the structural failure of 110kV transmission lines.
- (l) The extent to which the subdivision design facilitates access to transmission lines for maintenance and inspection purposes by the relevant network utility operator.
- (m) Whether there is any potential risk to human health from site contamination as a result of past land use activities.

26.6 Anticipated Environmental Outcomes.

- (a) The adverse effects of subdivision are avoided, remedied or mitigated to such an extent that they have minimal impact upon adjacent and adjoining uses.
- (b) New subdivisions utilise natural and physical resources in an efficient manner.
- (c) A variety of life styles can be accommodated through the subdivision process.
- (d) Innovative and sustainable subdivision designs are encouraged.
- (e) Subdivision designs meet the reasonably foreseeable recreational needs of the future generations.