

## 70 Introduction to Subdivision Rules

### 70.1 Introduction

The Subdivision rules apply to all proposals for subdivision in the District. This chapter contains general rules relevant to subdivision in all parts of the District, while Chapters 71 to 76 contain specific subdivision rules for each Environment.

Chapters 36 to 46 contain specific rules relating to each of the Environments, Chapters 56 to 64 contain rules relating to Resource Areas and Chapters 47 and 80 contain rules in relation to Road Transport and Financial Contributions, respectively.

A resource consent is required for every subdivision, either as a controlled, restricted discretionary, discretionary or non-complying activity, as specified in the rule table. Principle reasons for rules are stated after the rule table.

### 70.2 Controlled Activities

In most cases, the Council must grant consent for a controlled activity - the exception being where adverse effects from natural hazards on land cannot be avoided, remedied or mitigated - and may impose conditions in respect of those matters stated in the rules as matters over which 'control is reserved'.

In addition to the matters which control is reserved over that are listed in the rule table, control is also reserved over the additional matters listed in Chapter 70.3, below. The additional matters are applicable to every controlled activity. They are stated in Chapter 70.3, rather than repeated in rule tables, in order to save space. However reference to them is included in the rules tables.

The matters over which control has been reserved also limit the scope of the assessment of effects required with applications, under Section 88 of the Resource Management Act 1991.

### 70.3 Additional Matters Over Which Control Has Been Reserved

The additional matters over which control has been reserved for controlled activities, referred to in Chapter 70.2 above, are :

- a) Financial contributions in the form of money or land, or a combination of these (refer to Chapter 80).
- b) Bonds or covenants, or both, to ensure performance or compliance with any conditions imposed.
- c) Works or services to ensure the protection, restoration or enhancement of any natural or physical resource, including (but not limited to) the creation, extension or upgrading of services and systems, planting or replanting, (the protection of Significant Ecological Areas) or any other works or services necessary to ensure the avoidance, remediation or mitigation of adverse environmental effects.
- d) Administrative charges to be paid to the Council, in respect of processing applications, administration, monitoring and supervision of resource

consents, and for the carrying out of the Council's functions under Section 35 of the Resource Management Act 1991.

- e) The duration of a resource consent, under Section 123 of the Resource Management Act 1991.
- f) Lapsing of a resource consent, under Section 125 of the Resource Management Act 1991.
- g) Change and cancellation of a consent, under Sections 126 and 127 of the Resource Management Act 1991.
- h) Notice that some, or all conditions, may be reviewed at some time in the future, under Section 128 of the Resource Management Act 1991.
- i) Whether any subdivision consent should attach to the land to which it relates, and be enjoyed by the owners and occupiers for the time being, under Section 134 of the Resource Management Act 1991.
- j) The matters on which conditions can be imposed under Section 220 of the Resource Management Act 1991. These include: esplanade reserves and strips, amalgamation of land, holding parcels in same ownership, design of structures, protection against natural hazards, filling and compacting of land, and creation or extinguishing of easements.
- k) Consent notices to secure compliance with continuing conditions, under Section 221 of the Resource Management Act 1991.

## 70.4 Restricted Discretionary and Discretionary Activities

A subdivision that does not comply with any of the standards for a controlled activity, may be identified as a restricted discretionary or discretionary activity. Where it is anticipated that there may be adverse effects from the proposal, specific conditions may be required.

Where discretion is restricted, the right hand column of the rule table states matters to which discretion is restricted. These may include matters to which control is reserved.

### Discretionary Activities

Subdivisions within the Air Noise Margin for the Whangarei Airport are discretionary activities where they cannot comply with the minimum lot size. Specific assessment criteria are set out to ensure that the application is considered in terms of reverse sensitivity issues on the airport, and in relation to airport noise effects on new noise-sensitive activities.

## 70.5 Subdivision Applications

Applications for resource consents for subdivisions that are controlled activities are exempted from notification under Section 94(1)(a) of the Resource Management Act 1991, except for under Section 94(5), where the Resource Management Act 1991 provides for the notification of controlled activity subdivision applications in special circumstances.

Control of the subdivision of land is one of the functions of the Whangarei District Council under Section 31 of the Resource Management Act 1991. It is identified as a separate activity to land use, through Section 11 of the Resource Management Act 1991, and unlike land use, the subdivision of land cannot be

undertaken unless allowed by a rule in a plan or by way of resource consent (there are some exceptions in Section 11 of the Resource Management Act 1991).

Generally, land use rather than subdivision, generates "effects", but the subdivision of land for purposes of land tenure can have marked effects on land use expectations.

Thus, in Living Environments, subdivisions generally give rise to the expectation of a future building for residential purposes. Subdivision acts as the framework for subsequent land use activities and more importantly, is often the framework for the provision of services to subsequent land uses. This is a critical factor, because the adequate provision of access, water, sewerage, open space and other requirements, such as adherence to Stormwater Management Plan requirements, and the consideration of the effect of subdivision on the natural character, landscape, amenity values and ecological values of an area, is essential to ensure development, following subdivision does not have adverse impacts on the environment. The Plan is based on the premise that there is a strong interrelationship between subdivision and future land use. Accordingly, the subdivision rules implement all of the policies of the Plan.

## **70.6 Cross Leases, Company Leases and Unit Titles**

Under Section 218 of the Resource Management Act 1991, subdivision of land includes cross leases, company leases and unit titles.

Approval pursuant to Section 224 of the Resource Management Act 1991, relating to each stage of a subdivision, will only be given when Council is satisfied that the relevant conditions have been met and the balance of the area being subdivided is an allotment which complies with the provisions of the Plan.

In all staged cross-lease subdivisions, provision shall be made for servicing the building or buildings, subject to the cross-lease application and all possible future buildings on the site.

## **70.7 Limited Access Road Status**

Approval will be required from either the Council or Transit New Zealand, for a subdivision proposing access to any road, including a state highway declared as a limited access road pursuant to the provisions of the Local Government Act 1974 or the Transit New Zealand Act 1989. An indication in writing, of any restrictions or conditions, from either the Council or Transit New Zealand, as relevant, should be obtained before an application for subdivision consent is lodged with the Council.

## **70.8 Significant Natural Features - Affected Parties**

Where a subdivision application for a restricted discretionary, discretionary or non-complying activity application involves significant natural features set out in Rules 57 and 59, 'affected party' status will be accorded to the Department of Conservation for any Significant Ecological Area.

**Revision and Sign-off Sheet**

<b>Date Approved</b>	<b>Editor</b>	<b>Paragraph</b>	<b>Change Reference</b>	<b>Decision Date</b>	<b>Approved By</b>
21 September 2010	FP	Reference to Chapter 2.3.3	Plan Change 106 consequential changes, this provision no longer exist.	Record 10/96471	PW
14 September 2016	JM	70.8	Plan Change 124 becoming operative.	Operative date 28 September 2016 TRIM 16/106480	MM

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