

**BEFORE THE ENVIRONMENT COURT
AT WELLINGTON**

ENV-W2017-

IN THE MATTER An appeal under the Resource Management Act 1991

BETWEEN: **CATHARINE MARY MACKENZIE** of Wellington, journalist
Appellant

AND: **TASMAN DISTRICT COUNCIL**
a Local Authority duly constituted under the provisions of
the Local Government Act 2002
Respondent

**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON
PROPOSED PLAN CHANGE 60**



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**To: The Registrar
Environment Court
Wellington**

1. I, Catharine Mary Mackenzie, appeal against part of a decision of Tasman District Council on Plan Change 60 to the Tasman Resource Management Plan.
2. The Appellant's agent made a submission on the Proposed Plan Change 60 on behalf of the Appellant and five other property owners of land in the Rural Residential Closed Zone in Awaroa Inlet ("the Area").
3. The Appellant is not a trade competitor for the purposes of Section 308D of the Resource Management Act 1991.
4. The Appellant's agent received notice of the decision on the 13th day of December 2016.
5. The Decision was made by Tasman District Council.
6. The part of the Decision the Appellant is appealing is:

- (a) That proposed Plan Change 60 that did not remove "Awaroa" from the locations referred to in **Rule 16.3.8.7 (Prohibited Subdivision (Rural Residential Closed Zone))** which reads:

16.3.8.7 Prohibited Subdivision (Rural Residential Closed Zone)
Except as provided for in rule 16.3.8.6:

(a) Subdivision in the Rural Residential Closed Zone in Whanganui Inlet, Rangihaeata, Gorge Creek (East Takaka), Tata Headland South, Tata Heights, Awaroa, Boundary Bay, Rocklands Road (south end), Toko Ngawa, Tophouse Road, Marlborough Crescent and Cropp Place (Richmond) and Motueka Quay is a prohibited activity for which no resource consent will be granted.

- (b) That proposed Plan Change 60 that did not remove "Awaroa" from the locations referred to in the section on Rural Residential Closed Zone in **Rule 16.3.20 Principle Reasons for Rule** which reads:

16.3.20 – Principal Reasons for RulesRural Residential Closed Zone

Further subdivision is prevented at Awaroa, Toko Ngawa, Tata Heights and Tata Headland, Boundary Bay and Frenchman's Bay and Whanganui Inlet because of proximity to the coast and special

landscape features. At Gorge Creek (East Takaka) and Rocklands Road (south end) the standard of road access and geological instability are the reasons....

- (c) The part of proposed Plan Change 60 that made changes to **Rule 16.3.8.4A (Restricted Discretionary Subdivision (Rural Residential Zone))** which reads:

16.3.8.4A Restricted Discretionary Subdivision (Rural Residential Zone)

Subdivision in the Rural Residential Zone that does not comply with condition (a) of rule 16.3.8.1 is a restricted discretionary activity. A resource consent is required. Consent may be refused or conditions imposed, only in respect of the following matter to which Council has restricted its discretion:

- (1) Any matter contained in 16.3.8.1.*
- (2) Any matter relating to natural hazard, including wildfire risk and coastal, flood, stormwater, geotechnical or earthquake hazards.*
- (3) Adverse effects of the proposed development on character and amenity values within the Rural Residential Zone.*
- (4) Any matter relating to the effect of the development on rural, landscape or coastal amenity values in the surrounding environment.*
- (5) The ability of the land to manage onsite wastewater.*

- (d) The part of proposed Plan Change 60 that made changes to **Rule 16.3.8.4B (Discretionary Subdivision (Rural Residential Zone – Cooperative Living))** which reads:

16.3.8.4B Discretionary Subdivision (Rural Residential Zone – Cooperative Living)

Subdivision in the Rural Residential Zone that does not comply with the conditions of rule 16.3.8.1 other than where it is only subject to rule 16.3.8.2, 16.3.8.3, 16.3.8.4 or 16.3.8.4A is a discretionary activity if it complies with the following conditions

- (a) The subdivision is for the purpose of co-operative living and a land use consent application under rule 17.8.2.8A has been submitted with the application for subdivision consent. A resource consent is required. Consent may be refused, or conditions imposed. In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act*

7. Reasons for appeal as to:

new Rules 16.3.8.4A and 16.3.8.4B are:

- (a) That they allow for more flexibility in subdivision and cooperative living type arrangements, but fail to enable conditions and consent that would facilitate use of the land in the Area for purposes and benefits which the Appellant submitted.

Rules 16.3.8.7 and 16.3.20 (together “the Prohibition Provisions”):

- (b) The Respondent was obliged to consider the Appellant’s submissions. The Respondent wrongly refused to consider the Appellant’s submissions by declaring the submissions were “out of scope”, however:
 - (i) The Appellant’s submissions were on subdivision and intensification in a the Area which is zoned “Rural Residential Closed”;
 - (ii) Plan Change 60 was intended to ensure greater protection of productive capacity in rural areas while offering greater choices for landowners. Subdivision and intensification were key matters of the plan change. The Area is rural;
 - (iii) The Appellant’s submission referred to the Area are being zoned “Residential Closed” instead of “Rural Residential Closed” as that was what it was labelled (mistakenly) in notification material for Plan Change 60;
- (c) The Prohibition Provisions prohibit property owners in the Area from subdividing;
- (d) That prohibition on subdivision leaves the Appellant and other persons with interests in land in the Area without:
 - (i) the ability to improve utilisation of their land for the benefit of their families and others who would value the opportunity to own land in the Area;

- (ii) incentives to improve walking access for the public;
- (e) The land in the Area could absorb more dwellings without compromising its character or amenity values or other proper purposes of the Tasman Resource Management Plan;
- (f) That prohibition on subdivision renders the land in the Area incapable of reasonable use within the meaning of section 85(6) of the Resource Management Act and places an unreasonable burden on the Appellant and other persons with interests in land in the Area;
- (g) That blanket prohibition on subdivision in the Area;
 - (i) Is ponderous and ill-considered;
 - (ii) is inconsistent with or contrary to the New Zealand Coastal Policy Statement, in particular Objective 6 and Policies 7, 13, 15, 19;
 - (iii) Does not achieve the purpose of the Resource Management Act in section 5 “to promote the sustainable management of natural and physical resources”;
 - (iv) Offends against Part 2 of the Resource Management Act, in particular section 7(b) – “all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to” ... “efficient use and development of natural and physical resources”;
 - (v) Offends against the direct assurance of property rights promised to all New Zealanders in Article 2 of the Treaty of Waitangi which the Council is obliged to respect and advance;
- (h) The Respondent was not sufficiently informed as required by the Resource Management Act when it made its decision on Plan Change 60, in particular because the Respondent’s section 32

evaluation for proposed Plan Change 60 did not satisfy statutory requirements as it:

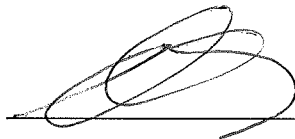
- (i) Failed to identify and evaluate other reasonably practicable options for achieving the objectives which should have included alternatives to the prohibition on subdivision in the Area;
 - (ii) Failed to apply proper cost benefit methodologies; and
 - (iii) Did not relate to the Provisions which are directly relevant to the objectives of proposed Plan Change 60;
- (i) The matters in the Appellant's submissions were excluded from the proposed Plan Change 60 despite the proposed new rules in Plan Change 60 addressing directly the interests purportedly protected by the blanket prohibition on subdivision and the reservation of powers to the Respondent to impose conditions for the purposes mentioned in the Prohibition Provisions;
- (j) The Appellant is seeking at least the flexibility that Plan Change 60 has given to other Rural Residential Zone areas on subdivision, including:
- (i) new rule **16.3.8.4A (Restricted Discretionary Subdivision (Rural Residential Zone))** which would allow Council to restrict subdivision if there are adverse effects of the proposed development on character and amenity values or potential natural hazards;
 - (ii) new rule **16.3.8.4B Discretionary Subdivision (Rural Residential Zone – Cooperative Living)** which would allow a subdivision to be for the purpose of co-operative living;
- (k) Plan Change 60 introduced new rule **17.8.2.6A (Discretionary Activities (Cooperative Living))**. This would allow the Appellant and other property owners in the Area to have more dwellings on their properties. That makes the Appellant's submission "in scope". Any

effect on the environment, including on the coast, could be very similar to a subdivision;

8. The Appellant seeks the following relief:

- (a) As to rule 16.3.8.4A – amend this rule if necessary to confirm it applies to the Area;
- (b) As to rule 16.3.8.4B – amend this rule if necessary to confirm it applies to the Area;
- (c) As to Rule 16.3.8.7 – amend this rule by removing “Awaroa” from the locations in part (a) of this provision;
- (d) As to Rule 16.3.20 – amend the “Rural Residential Closed Zone” section of this provision by removing “Awaroa” from the locations in this provision;
- (e) Directions to the Respondent to modify, delete or replace the Provisions to ensure the land in the Area is capable of reasonable use, or to remove the unreasonable burden of the prohibition on subdivision on the Appellant;
- (f) The costs of this Appeal;
- (g) Such other consequential amendments to the change as may be occasioned by the granting of the above relief;
- (h) Such further and other relief as the Court shall deem just.

Catharine Mary Mackenzie, by her authorised agent:



Date: 23 February 2017

The Address for Service of the Appellant is at the offices of Franks & Ogilvie, Commercial & Public Law Ltd, Level 5, Wakefield House, 90 The Terrace, Wellington.

Documents for service on the third defendant may also be -

(i) posted to the solicitor at PO Box 10388, Wellington; or

(ii) sent electronically to info@franksogilvie.co.nz provided a copy is also sent electronically to Stephen.franks@franksogilvie.co.nz

Attached are the following:

1. A copy of the Appellant's submission;
2. A copy of part of the Decision and other documentation;
3. A copy of Rules 16.3.8.4A, 16.3.8.4B, 16.3.8.7 and 16.3.20

The persons to be served with a copy of this Notice are:

1. The Registrar
Environment Court
PO Box 5027
Wellington 6145
(by email: EnvironmentCourt@justice.govt.nz and post)
2. The Chief Executive
Tasman District Council
Private Bag 4
Richmond 7020
(By email info@tasman.govt.nz and post)
3. Federated Farmers of NZ (Inc)
PO Box 5242
Dunedin 9048
(By post)
4. Hancock Forest Management (NZ) Ltd
c/o Tony Dwane
PO Box 1860
Whangarei
(By post)
5. Iona Jelf
c/o Shanti Smith
7 Falconer Road
Pohara
Takaka
(By post)

6. Billy Kerrisk
c/o Ray White
Level 1
11 Buxton Lane
Nelson
(By post)

7. Nelson Forests Ltd
Private Bay 5
Richmond
(By post)

8. Waimea Rural Fire Authority
c/o Ian Reade
PO Box 3578
Richmond

Note to appellant

You may appeal only if—

- you referred in your submission or further submission to the provision or matter that is the subject of your appeal; and
- in the case of a decision relating to a proposed policy statement or plan (as opposed to a variation or change), your appeal does not seek withdrawal of the proposed policy statement or plan as a whole.

Your right to appeal may be limited by the trade competition provisions in Part 11A of the Resource Management Act 1991.

The Environment Court, when hearing an appeal relating to a matter included in a document under section 55(2B), may consider only the question of law raised. You must lodge the original and 1 copy of this notice with the Environment Court within 30 working days of being served with notice of the decision to be appealed. The notice must be signed by you or on your behalf. You must pay the filing fee required by regulation 35 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003.

You must serve a copy of this notice on the local authority that made the decision and on the Minister of Conservation (if the appeal is on a regional coastal plan), within 30 working days of being served with a notice of the decision.

You must also serve a copy of this notice on every person who made a submission to which the appeal relates within 5 working days after the notice is lodged with the Environment Court.

Within 10 working days after lodging this notice, you must give written notice to the Registrar of the Environment Court of the name, address, and date of service for each person served with this notice.

However, you may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (*see form 38*).

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

**How to obtain copies of documents relating to appeal*

The copy of this notice served on you does not attach a copy of the appellant's submission and (or or) the decision (or part of the decision) appealed. These documents may be obtained, on request, from the appellant.

*Delete if these documents are attached to copies of the notice of appeal served on other persons.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Steve Markham

R14-3-16
Awaroa Inlet Group

From: Stephen Franks <Stephen.Franks@franksogilvie.co.nz>
Sent: Monday, 14 March 2016 3:26 p.m. 3990
To: Steve Markham
Subject: FW: Proposed Change 60: Rural Land Use and Subdivision Policy Review - Awaroa Inlet and Awaroa Bay - Rural Residential (Closed) Zone

Graham Freeth's address added. This version is otherwise unchanged from the version sent at 3.01 pm.

From: Stephen Franks
Sent: Monday, 14 March 2016 3:01 p.m.
To: 'steve.markham@tasman.govt.nz'
Cc: David Monopoli; Bronwyn.Monopoli@crowehorwath.co.nz; zac@athfieldarchitects.co.nz; clareathfield1@gmail.com; Jesse; allianceplumbing@xtra.co.nz; cmm (franks@paradise.net.nz); Sue & Ian Jones
Subject: Proposed Change 60: Rural Land Use and Subdivision Policy Review - Awaroa Inlet and Awaroa Bay - Rural Residential (Closed) Zone

A This submission relates to Proposed Change 60: Rural Land Use and Subdivision Policy Review. It is on behalf of the owners of the following lands at Awaroa Inlet known as:

45 Awaroa Inlet, owned by CM Mackenzie whose postal address is 61 Hawker St, Mt Victoria, Wellington

49 Awaroa Inlet, owned by Alison Bickley, 4 Te Iti St, Motueka, Geoff Harwood, Packards Rd, RD1, Takaka and Joan Charlett, PO Box 188 Takaka.

41 Awaroa Inlet, owned by I C Athfield Family Trust whose address is 105 Amritsar St, Khandallah, Wellington 6035.

17, 27, and 31 Awaroa Inlet, owned by New Zealand Settlement Company Ltd, whose address is C/- Bronwyn Monopoli, Crowe Horwath, 20 Oxford St, Richmond.

15 Awaroa Bay, owned by Ian and Susan Jones, whose postal address is 261 Vanguard Street, Nelson 7010, and Lot 1 DP 7077, owned by the Freeth family, represented by G Freeth, 56 Fifeshire Crescent, Nelson

For the purposes of this submission alone all the above parties may be served at the offices of Franks Ogilvie, and we will represent them until further notice, but it would be appreciated if communication to us on this could be copied to the email addresses to which this submission is copied. || ?

B Each property above is of just over 4 ha. They are all in the zone designated 'Residential Closed'.

C The submission is made with regard to section 79 of the Resource Management Act, and contests the Council's omission to propose alteration of that zoning, or the rules and restrictions defining and affecting the Residential Closed zone. The submitters believe that they do require alteration, involving consideration of the matters raised in this Review. The submitters note that some of the proposed changes go some way to acknowledge the widespread concern in Golden Bay that current restrictions on subdivision and occupancy are too inflexible, or too restrictive, and result in serious interference with proper development that could enhance the environment, including its social, cultural and amenity values.

D The submitters consider that the Council has wrongly failed to propose changes to ensure that the Plan will enable them to achieve the purposes of the Resource Management Act, including to:

- a) enhance the sustainable "use, development and protection of [their land] in a way which enables [them] and their communities to provide for their social, economic and cultural wellbeing..."
- b) improve the utilisation of the land and the surrounding areas, consistent with the preservation of the natural character of the coastal environment and outstanding natural features and landscapes, with protection of them from inappropriate subdivision, use and development;
- c) enable enhancement of public access to and along coastal marine areas;
- d) foster the ethic of stewardship of the land;
- e) ensure efficient use and development of the land;
- f) maintain and enhance amenity values;
- g) and to recognise the finite or scarcity value for human use of land of such character in the midst of a National Park under intense visitor pressure and interest.

E Further, the submitters believe that the Council failure to alter the Plan as it affects their land is a breach of the direct assurance of property rights promised to all New Zealanders in Article 2 of the Treaty, which the Council is obliged to apply and respect under the RMA and a range of statutory provisions.

F They point out that the Plan provisions effectively sterilise their land in terms of use changes beneficial for them, their families and other people who would value the opportunity to spend time in Awaroa's beauty. The Plan renders that land "incapable of reasonable use and places an unfair and unreasonable burden" on the owners (for the purposes of section 85 of the RMA) including as liable ratepayers. The submitters therefore challenge the provisions governing their land. They may seek Environment Court directions (or a report if necessary) in terms of that section 85 but would prefer to agree on suitable changes as part of this overdue review and plan change process.

G The submitters are advised that:

- a) the purposes and effects of the Residential Closed zone should have been reviewed as required by the NZ Coastal Policy Statement, to give effect to its provisions;
- b) a number of those provisions require consideration and weighing of impacts and benefits that is precluded by the current zoning and its rules;
- c) a blanket prohibition on low impact development and better use of the land is not consistent with the Statement. Crude prohibition is not "identifying" appropriate or inappropriate activity;
- d) the shift in emphasis to reduce the practical hostility of the RMA to subdivision signalled in clause 115 of the Resource Legislation Amendment Bill (now before a Parliamentary Select Committee) may make the crude prohibition in the current zoning more inappropriate.

The Statement's concerns about public access are likely to become more important given the attention attracted to Awaroa Beach by the success of the crowdfunding campaign. The current zoning and its rules leave the owners without incentives to improve walking access. Indeed in the absence of considered change the natural response to increased visitor pressure could be a more intrusive emphasis on the private nature of current land occupancy. Sensible changes would enable the Council to work with owners on mutually satisfactory changes to manage and respond to that access need. Changes in the Plan could be important to reducing the cost of withstanding possible challenges from the kind of objectors who tend to resist automatically any changes to any status quo

H The submitters object to the failure to propose suitable alterations of the rules affecting their land, or the zone into which it falls. They consider that the effective deprivation of opportunity to turn their land to its only and best use is contrary to the public interest. They hope that it will not be necessary, but advise that they may exercise their appeal rights to the Environment Court under Clause 14 of Schedule 1 of the RMA if the Council declines to consider and adopt appropriate Plan changes, despite appearing to have purported to rule them out of consideration.

I The submitters have been advised that the Residential Closed zone provisions constitute an unlawful blanket prohibition on subdivision and any practical changes of use for their properties. Such a blanket prohibition is evidence of an omission to consider the actual environmental circumstances and how they would be affected by careful intensification of the only use left to the submitters. They accordingly seek engagement with the Council on the most efficient way to remedy the problem. They have not seen anything to show that the Council has addressed the earlier submissions of some of them. They would like to consult on ways to correct what they believe has been a longstanding improper use of the planning power, without apparent regard to the considerations that must govern Council exercises of its authority.

J For the avoidance of doubt, for the purposes of Schedule 1, Clause 14(1)(c) and (d) the submitters address these issues as matters or provisions excluded from the plan, whether the situation is the result of a actual Council decision, or it is deemed so under section 79, whether or not it has been notified publicly as required by section 79.

J Following are reasons why the land should be under rules which permit subdivision, and more dense settlement of the land. They allow the owners to pursue the objectives of the RMA in paragraph D above. They are not necessarily in order of importance. Being listed here does not mean that all submitters necessarily see a particular reason as material. Some submitters may have additional reasons, or agree with reasons listed on the assumption that there will be further conditions in a rule change to respond to the reasons. But a majority of the submitters endorse each of the following:

- 1) Awaroa is unique. Therefore it is possible to develop a singular set of rules and conditions without concern that they must spread.
- 2) Awaroa could be used by the Council to pilot alternative ways to deal with the conflict between complete exclusion of development in the thousands of hectares of National Park, and the land that serves visitors. No good purpose is served by effectively adding the private land to the Park by way of prohibition on its only remaining economic and social best use. Instead the District should get the benefit of the flexibility available on land not subject to the limitations of Park status.
- 3) There is no other reasonable use of the land, it would not be good for the Park to reintroduce widespread grazing, for example;
- 4) The land is Rural, but not agriculturally productive. None of the reasons advanced for limiting dwellings in other Rural land is applicable
- 5) There is intense interest in being able to visit or experience living in an environment such as Awaroa, as shown by land values, and DoC visitor pressure – extra dwellings on the land can help satisfy that demand;
- 6) The land could absorb more dwellings without compromising its character or the amenity values for neighbours;
- 7) The subsoil is suitable for waste disposal without risk to the environment;
- 8) With current supplies, storage and rainwater collection there is ample water;
- 9) The topography and natural vegetative cover allows for a range of approaches to mitigating discordant visual impacts;
- 10) Rapidly improving PV and other off grid energy mechanisms will allow for low impact use, without a material increase in burning and other activities previously expected with more dense settlement;
- 11) Conditions of consent to additional dwellings and subdivision can focus on limiting intrusions on others, on preserving privacy and natural aspects, on natural screening and on avoiding conventional elements such as roading, curbing, uniform lots, bulk and location rules that would result in “suburban” layout, and other common features of usual subdivision;
- 12) Public access is needed between publicly owned land and the public beaches. Some of the submitters would like to help in that way, and others see it as desirable to design pathways because people will seek access in any event. Agreement on such matters would be a reasonable condition of subdivision and more dense settlement;
- 13) Some of the submitters would like to pursue schemes proposed by Sir Ian Athfield after Awaroa Lodge hosted Master Architect symposia, to offer comprehensive proposals. There could be international interest in the protocols and rules for such intensification of use;
- 14) Submitters pay high rates. That assumes a value for the land they are not permitted to turn to best use.
- 15) Submitters want to be able to allow their children to repeat their experience. For most it will not be feasible without allowing sharing, and enabling others to share the costs;
- 16) Some submitters have tried for years to achieve a family dream of using some of their space for each part of the next generation. They've faced a brick wall. The current generation is getting past maintaining the open vistas so appreciated by visitors
- 17) Much of the land is not usable by anyone because of gorse and other weeds. A few more dwellings per property would result in more weed control and more open space to contrast with the near continuous canopy of the National Park;
- 18) More dwellings and owners would increase the numbers available for control of rabbits, stoats and rats.
- 19) More owners and dwellings increase the Council rating base – a proper objective for the Council.
- 20) More owners around mean more eyes to help protect the land against visitor abuse (depositing rubbish, lighting fires, etc).

The submitters seek changes to achieve at least the flexibility that will apply to other rural residential areas. but reflecting the irrelevance of restrictions such as those designed to prevent loss of high value soils. They accept (and seek) conditions reflecting the unique character of the area. For example that is why they do not necessarily expect conventional subdivision into equal rectangular blocks. They want criteria to limit the visual impact of multiple dwellings. They want consideration of offsets that will protect open space and provide for community uses.

The owners of each block in this submission want to be heard in the hearings on Plan Change 60. Please communicate to each address and email address above, as well as to the writer.

3990

Regards

Stephen Franks
Principal | Franks Ogilvie

DDI 04 815 8033 | Mob 027 492 1983 | Main 04 815 8050 | Fax 04 815 8039
Level 5, Wakefield House, 90 The Terrace | PO Box 10388, Wellington | www.franksogilvie.co.nz
Commercial & Public Law Ltd trading as Franks Ogilvie

This email may contain confidential or legally privileged information. If it is not meant for you please immediately tell me and delete it. This firm is incorporated as Commercial and Public Law Limited.

KEY TO ANNOTATED CHANGES:

Text – operative

~~Text~~ and ~~Text~~ – proposed PC60 amendments as notified

~~Text~~ and ~~Text~~ – proposed PC60 amendments as per interim decisions

~~Text~~ and ~~Text~~ – proposed PC60 further amendments as per final decisions

16.3 SUBDIVISION

16.3.5 Rural 1 Zone

16.3.5.1 Controlled Subdivision (Rural 1 and Rural 1 Coastal Zones)

[16.3.7 Proposed]

Subdivision in the Rural 1 and Rural 1 Coastal zones is a controlled activity, if it complies with the following conditions:

C22 2/11
Op 1/15

Area

(a) ~~Except as provided by conditions (aa), (b), (c), (ca), or (cb), the minimum area of allotments created by the subdivision is 12 hectares (3.0 hectares in the Rural 1 Coastal Zone), except for provided that the subdivision is of a title that existed on or before 30 January 2016.~~

C22 2/11
Op 1/15

(aa) ~~Allotments to be used exclusively as a site for a network utility or public work (or a balance allotment arising from the creation of such allotments) have no minimum area requirement.~~

(b) The minimum area of allotments created by subdivision on Lot 7, DP16467 is 1.5 hectares and the land is subdivided in a way that results in no more than two allotments.

C22 2/11
Op 1/15

(c) The minimum area of allotments created by subdivision on Lot 1, DP 12203 in Golden Hills Road is 4 hectares, and the land is subdivided in a way that results in no more than seven allotments.

(ca) ~~The minimum area of allotments created by the subdivision is 3.0 hectares in the Rural 1 Coastal Zone.~~

C22 2/11
Op 1/15

(cb) ~~The subdivision is an amalgamation of titles resulting in a reduction of the total number of titles and there is no relevant minimum area of any title.~~

Frontage

(d) Every allotment that has a frontage has a minimum frontage width of 100 metres in the case of a front allotment, or 5 metres in the case of a single rear allotment, or 6.5 metres in the case of two or more rear allotments that have a combined frontage.

Building Location Area

(dd) ~~Every allotment on which any habitable building is intended to be located has a building location area shown which is set back 30 metres from internal boundaries, except where the boundary is to the Residential, Rural Residential or Rural 3 zone.~~

Heritage Site or Item Present

C10 10/07
Op 3/14

(e) The land being subdivided does not include:

(i) a heritage site or item referred to in Schedule 16.13A [Heritage Buildings and Structures]; or

C16 9/09
Op 8/12

(ii) a protected tree in the Richmond West Development Area referred to in Schedule 16.13B.

Existing Buildings and Trees

- (f) Where a new allotment contains an existing building, the boundaries of the allotment are drawn relative to the building so that the building complies as a permitted activity, with all applicable zone rules relating to building coverage, building setbacks, building height, daylight admission lines, outlook, privacy and outdoor living space; and with parking and access requirements under the applicable general rules.
- (g) Where a new allotment contains an existing shelter or spray belt, horticultural plantings or plantation forest, the boundaries of the allotment are drawn relative to these trees so that the shelter or spray belt, horticultural plantings or plantation forest complies as a permitted activity, with all applicable zone rules relating to height and setbacks from boundaries, roads, dwellings, schools and early childhood education facilities.

Allotments in relation to Existing DamsC17 2/10
Op 4/13

- (h) Where a new allotment contains an existing structure for damming water, the boundaries of the allotment are drawn relative to the spillway and fullest extent of impounded water so that the spillway and the fullest extent of impounded water are set back at least 10 metres from road boundaries and 5 metres from internal boundaries.

Transport

- (i) The subdivision complies with the transport conditions in Schedule 16.3B, except as provided for in condition 16.2.2.1(b) in relation to the annotated land shown on the planning maps at Ruby Bay or unless the subdivision is for a single allotment for a network utility.

Special Requirement

- (j) On Lot 1, DP 12203 in Golden Hills Road any subdivision provides that:
- (i) the two central water retention dams are contained within an allotment that also contains the existing dwelling and are not severed from that allotment; and
- (ii) the water storage capacity of the dams is not less than that existing on 1 July 2001.

ReservesC10 10/07
Op 3/14
C10 10/07
Op 3/14
C37 8/12

- (k) Subject to but not limited by rule 16.4.2.1, in the Richmond South and Richmond West development areas, land subject to a notation on the planning maps as indicative reserve is set aside and vested in the Council upon subdivision in general alignment with the indicative reserve areas shown on the maps and dimensions where specified, as follows:
- (i) 70 metre wide reserve along Borck Creek to Lower Queen Street and a 61 metre wide reserve from Lower Queen Street to the Open Space Zone adjoining Waimea inlet;
- (ii) 15 metre wide reserve along the northwest boundary of Lot 1 DP 17704, Lot 1 DP 20017 and Lot 1 DP 20497;
- (iii) 15 metre wide reserve along Poutama Drain;
- (iv) 15 metre wide reserve along Eastern Hills Drain adjoining State Highway 6 to Borck Creek;
- (v) 2.5 hectare recreation reserve adjoining State Highway 6;
- (vi) 10 metre wide reserve adjoining the Mixed Business and Rural 1 zones.
- (l) Subject to but not limited by rule 16.4.2.1, indicative reserve areas are to be vested in the Council as Local Purpose Reserve (walkway/recreation) and Local Purpose Reserve (drainage) and the part of the area vested as Local Purpose Reserve

C10 10/07
Op 3/14

(walkway/recreation) will form part of the financial contribution for reserves and community services in accordance with rule 16.5.2.4.

Building Platform Levels

- (m) In the Richmond West Development Area the building platform level is 4.6 metres above mean sea level and is constructed in a way which provides a gradual transition between the ground level and 4.6 metres to achieve a visually natural appearance.

A consent notice is to be registered on certificates of title for allotments pursuant to Section 221 of the Act for any allotment below the 4.6 metres contour above mean sea level.

Filling of Allotments

- (n) In the Richmond West Development Area, lower Seaton Valley Rural 1 Closed Zone at Mapua and Rural 1 Coastal Zone, allotments below the 4.6 metre contour above mean sea level are not filled, except to create a building platform area.

C10 10/07
Op 3/14C22 2/11
Op 1/15

Electricity Transmission Corridor

- (o) In the Richmond West Development Area, any land to be subdivided is located at least 12 metres from the centre of any electricity transmission line as shown on the planning maps.

C10 10/07
Op 3/14

Cultural Heritage Sites

- (p) An Authority from Heritage New Zealand Pouhere Taonga has been obtained under the Heritage New Zealand Pouhere Taonga Act 2014 to modify, damage or destroy a cultural heritage site; or, written evidence from Heritage New Zealand Pouhere Taonga has been obtained to show that such an Authority is not considered necessary.
- (q) Where the listed cultural heritage site is a wāhi tapu site, manawhenua iwi have given their written approval to the proposed activity as an affected party.

C16 9/09
Op 8/12

Notes:

- (1) An assessment may be required in accordance with requirement 19.2.2.41.
- (2) The modification, damage or destruction of any cultural heritage site that is an archaeological site under the Heritage New Zealand Pouhere Taonga Act 2014 must be authorised by an authority from Heritage New Zealand Pouhere Taonga.
- (3) If any cultural heritage site is exposed during site works then all site works must cease immediately. The areas must be immediately secured in a way that any artefacts or remains are untouched. Manawhenua Iwi, Heritage New Zealand Pouhere Taonga, Department of Conservation, and Tasman District Council must be notified, and the Police in the case of human remains, that an archaeological site has been exposed, so that appropriate action can be taken. This includes such persons being given reasonable time to record and recover archaeological features discovered before work may recommence on the site.

A resource consent is required. The Council has reserved control over the following matters. In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act.

- (1) Shape.
- (1A) Effects on productive potential, including the effects of fragmentation of productive land.
- (2) Access Low impact design principles and methods.

Proposed as at 1 November 2008

C4 8/05

(3) [(2A) Proposed]	The relationship of any new road with existing roads, adjoining land, and any future roading requirements.
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(4) Availability and provision of services, including road access, water supply, and wastewater and stormwater systems.

(4A)	Where any land is subject to any deferred urban zone, the adverse effects of the subdivision on future opportunities for efficient subdivision, use, and development of the land or of any other land in the area that is deferred, for the purposes of the relevant urban zone once it takes effect.	C51 1/15 D 11/15
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(4AA) Effects on the road network.

(5) Location of building platforms.

(6) Location and effects of earthworks necessary to achieve (2), (4) and (5).

(7) Potential effects on rural character, coastal natural character and amenity values.

(7A) The potential for adverse cross-boundary effects, including reverse sensitivityies.

(7B) Management of natural hazards, within and beyond the boundaries of the site, including wildfire risk, slope instability and flood hazard effects.

(8) On Lot 1, DP 12203 in Golden Hills Road, retention of existing trees, and future landscaping and planting.

(9)	Potential effects on heritage protection and protected trees. Provision for and protection of areas of significant ecological value, significant landscape value, significant indigenous vegetation, protected trees and cultural heritage.	C10 10/07 Op 3/14
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(10) The physical and legal protection of primary and secondary stormwater flow paths and indicative reserves.

(11) The extent and location of indicative reserves.

(12)	The appropriate setback of allotment boundaries from any dam, including the fullest extent of impounded water and associated spillway structures.	C17 2/10 Op 4/13
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(13) Financial contributions.

(14) All matters referred to in Section 220 of the Act.

(15) [(10) Proposed]	Except as required by condition (i), the degree of compliance with any current Tasman District Council Engineering Standards.	C4 8/05
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(16)	Effective stormwater management, including the use of Low Impact Design solutions.	C7 7/07 Op 10/10
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(17)	Where there is a listed cultural heritage site present on any part of the land being subdivided:	C16 9/09 Op 8/12
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(a) any matters raised in a report prepared in accordance with Information Requirement 19.2.2.41;

(b) any matters raised in the authority granted by Heritage New Zealand Pouhere Taonga under the Heritage New Zealand Pouhere Taonga Act 2014, that are

Restricted Discretionary Subdivision (Rural 1 Zone - Richmond West Development Area)

relevant to control of the design and construction of the proposed subdivision activity;

- (c) any matter necessary to ensure the appropriate management, protection or enhancement of a cultural heritage site;
- (d) any matter necessary to ensure kaitiakitanga over a wāhi tapu site or wāhi tapu area;
- (e) any matters relevant to ensuring the appropriate management of a previously unknown cultural heritage site that is discovered during any land disturbance activities associated with the subdivision during construction.

16.3.5.2 Restricted Discretionary Subdivision (Rural 1 Zone - Richmond West Development Area)

C10 10/07
Op 3/14

Subdivision in the Rural 1 Zone that does not comply with controlled condition (o) of rule 16.3.5.1 is a restricted discretionary activity.

A resource consent is required. Consent may be refused or conditions imposed, only in respect of the following matter to which Council has restricted its discretion:

- (1) In the Richmond West Development Area:
 - (a) the extent to which the design of the subdivision allows for earthworks, buildings and structures to comply with the safe distance requirements of the New Zealand Electrical Code of Practice for Safe Distances (NZECP 34:2001).
 - (b) the extent to which the design of the subdivision allows for activities to be set back from high voltage transmission lines to ensure adverse effects on the National Grid and public safety are appropriately avoided, remedied or mitigated.

16.3.5.3 Restricted Discretionary Subdivision (Rural 1 Zone – Listed Cultural Heritage Site)

C16 9/09
Op 8/12

Subdivision in the Rural 1 Zone that does not comply with conditions (p) or (q) of rule 16.3.5.1 is a restricted discretionary activity.

A resource consent is required. Consent may be refused or conditions imposed, only in respect of the following matters to which the Council has restricted its discretion:

- (1) Where there is a listed cultural heritage site present on any part of the land being subdivided:
 - (a) any matters raised in a report prepared in accordance with requirement 19.2.2.41;
 - (b) any matter necessary to ensure the appropriate management, protection or enhancement of a Cultural Heritage Site;
 - (c) any matter necessary to ensure kaitiakitanga over a wāhi tapu site or wāhi tapu area;
 - (d) any matters relevant to ensuring the appropriate management of a previously unknown cultural heritage site that is discovered during any land disturbance activities associated with the subdivision during construction;
 - (e) any matter relevant to the absence of an authority from Heritage New Zealand Pouhere Taonga under the Heritage New Zealand Pouhere Taonga Act 2014.

16.3.5.3A Restricted Discretionary Subdivision (Rural 1 Zone)

Subdivision in the Rural 1 Zone that does not comply with condition (a) of rule 16.3.5.1 is a restricted discretionary activity, if it meets the following conditions:

- (a) The subdivision can meet conditions (d) – (n) of rule 16.3.5.1; and
- (b) The average net area of all allotments that are created by the subdivision is 12 hectares or greater and no allotment that is created is less than 5,000 square metres; and
- (c) Except as provided for by condition (e) or (f), the subdivision is of a title that existed on or before ~~{date of notified Plan Change}~~ 31 January 2016, except where that title was created by way of subdivision decision not made under the Tasman Resource Management Plan.

OR

- (d) The subdivision can meet conditions (d) – (n) of rule 16.3.5.1; and
- (e) The subdivision is a boundary adjustment and no additional titles are created as a consequence of the subdivision, and no allotment that is created is less than 5,000 square metres.
- (f) The subdivision is of a title that was created by the amalgamation of two or more titles that are physically contiguous.

A resource consent is required. Consent may be refused or conditions imposed, only in respect of the following matters to which Council has restricted its discretion:

- (1) Any matter listed in rule 16.3.5.1.

16.3.5.4 Discretionary Subdivision (Rural 1 Zone – Ruby Bay Site)

Subdivision in the Rural 1 Zone that does not comply with the controlled conditions (b) of rule 16.3.5.1 C22 2/11
Op 1/15
(~~other than condition 16.3.5.1(b)~~) is a discretionary activity.

A resource consent is required. Consent may be refused, or conditions imposed. In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act.

16.3.5.4A Discretionary Subdivision (Rural 1 Zone – Cooperative Living)

Subdivision in the Rural 1 Zone that does not comply with condition (b) of rule 16.3.5.3A is a discretionary activity, if it complies with the following conditions:

- (a) The subdivision is of a title that existed on or before ~~{date of notified Plan Change}~~ 31 January 2016;
- (b) The subdivision is for the purpose of cooperative living and a land use consent application under rule 17.5.2.8A has been submitted with the application for subdivision consent.

A resource consent is required. Consent may be refused, or conditions imposed. In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act.

16.3.5.5 Discretionary Subdivision (Rural 1 Closed and Rural 1 Coastal Zones)

Subdivision by means of the relocation or adjustment of an allotment boundary in the Rural 1 Closed Zone (Lot 1, DP 12203 in Golden Hills Road or at Mapua) or Rural 1 Coastal Zone is a discretionary activity if: C22 2/11
Op 1/15

- (a) it does not create any additional allotments on which a dwelling can be built; and
- (b) following subdivision, existing buildings and dwellings meet the relevant permitted conditions for wastewater, water supply and boundary setbacks, and there is adequate provision for stormwater.

A resource consent is required. Consent may be refused, or conditions imposed. In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act.

16.3.5.5A Non-Complying Subdivision

Subdivision in the Rural 1 Zone that does not comply with condition (c) or condition (f) of rule 16.3.5.3A or condition (a) of rule 16.3.5.4A is a non-complying activity.

A resource consent is required. Consent may be refused or conditions imposed. In considering the applications and determining conditions, Council will have regard to the criteria set out in Schedule 16.3A as well as any other provisions of the Plan or Act.

16.3.5.6 Prohibited Subdivision (Rural 1 Closed and Rural 1 Coastal Zone)

Except as provided for in rule 16.3.5.5, subdivision of any allotment created under rule 16.3.5.1(a), (b) or (c) from former Lot 1 DP 12203 in Golden Hills Road, in the Rural 1 Closed Zone at Mapua or the Rural 1 Coastal Zone, is a prohibited activity for which no resource consent will be granted. C22 2/11
Op 1/15

16.3.6 Rural 2 Zone

16.3.6.1 Controlled Subdivision (Rural 2 Zone)

Subdivision in the Rural 2 Zone is a controlled activity, if it complies with the following conditions:

Area

- (a) Except as provided by conditions (aa), (b) or (ba), the minimum area of allotments created by the subdivision is 50 hectares, except provided that the subdivision is of a title that existed on or before 30 January 2016.
- (aa) Allotments to be used exclusively as a site for a network utility or public work (or a balance allotment arising from the creation of such allotments) which have no minimum area requirement.
- (b) There is no minimum allotment area for subdivision within the part of Section 63 SO11662 CT NL 11B/158 off Pupu Valley Road shown on the planning maps, and the land is subdivided in a way that results in no more than nine allotments together with a single allotment to be used exclusively for access and a single allotment to be used exclusively as a site for a network utility or public work.
- (ba) The subdivision is an amalgamation of titles resulting in a reduction on the total number of titles and there is no relevant minimum area of any title.

Existing Buildings and Trees

- (c) Where a new allotment contains an existing building, the boundaries of the allotment are drawn relative to the building so that the building complies as a permitted activity, with all applicable zone rules relating to building coverage, building setbacks, building height, daylight admission lines, outlook, privacy and outdoor living space; and with parking and access requirements under the applicable general rules.
- (d) Where a new allotment contains an existing shelter or spray belt, horticultural plantings or plantation forest, the boundaries of the allotment are drawn relative to these trees so that the shelter or spray belt, horticultural plantings or plantation forest complies as a permitted activity, with all applicable zone rules relating to height and setbacks from boundaries, roads, dwellings, schools and early childhood education facilities.

Building Location Area

- (dd) Every allotment on which any habitable building is intended to be located has a building location area shown which is set back 30 metres from internal boundaries, except where the boundary is to the Residential, Rural Residential or Rural 3 zone.

[Unchanged text omitted]

A resource consent is required. The Council has reserved control over the following matters:

- (1) Shape.
- (1A) Effects on productive potential, including the effects of fragmentation of productive land.
- (2) Access. Low impact design principles and methods.

Proposed as at 1 November 2008

- (3) The relationship of any new road with existing roads, adjoining land, and any future roading requirements.
- [(2A) Proposed]

C4 8/05

- (4) Availability and provision of services, including road access, water supply, and wastewater and stormwater systems.

Proposed as at 28 November 2015

- (4A) Where any land is subject to any deferred urban zone, the adverse effects of the subdivision on future opportunities for efficient subdivision, use, and development of the land or of any other land in the area that is deferred, for the purposes of the relevant urban zone once it takes effect.

C51 1/15
D 11/15

- (4AA) Effects on the road network.
- (5) Location of building platforms.
- (6) Location and effects of earthworks necessary to achieve (2), (4) and (5).
- (7) Potential effects on rural character, coastal natural character and amenity values.
- (7A) The potential for adverse cross-boundary effects, including reverse sensitivities.
- (7B) Management of natural hazards, within and beyond the boundaries of the site, including wildfire risk, slope instability and flood hazard effects.

(8)	Potential effects on heritage protection and protected trees. Provision for and protection of areas of significant ecological value, significant landscape value, significant indigenous vegetation, protected trees and cultural heritage.	C10 10/07 Op 3/14
(9)	The physical and legal protection of primary and secondary stormwater flow paths and indicative reserves.	
(10)	The extent and location of reserves.	
(11)	The appropriate setback of allotment boundaries from any dam, including the fullest extent of impounded water and associated spillway structures.	C17 2/10 Op 4/13
(12)	Financial contributions.	
(13)	All matters referred to in Section 220 of the Act.	
Proposed as at 1 November 2008		C4 8/05
(14)	Except as required by condition (f), the degree of compliance with any current Tasman District Council Engineering Standards.	
[(10) Proposed]		
(15)	Effective stormwater management, including the use of Low Impact Design solutions.	C7 7/07 Op 10/10
(16)	Where there is a listed cultural heritage site present on any part of the land being subdivided:	C16 9/09 Op 8/12
(a)	any matters raised in a report prepared in accordance with Information Requirement 19.2.2.41;	
(b)	any matters raised in the authority granted by Heritage New Zealand Pouhere Taonga under the Heritage New Zealand Pouhere Taonga Act 2014, that are relevant to control of the design and construction of the proposed subdivision activity;	
(c)	any matter necessary to ensure the appropriate management, protection or enhancement of a cultural heritage site;	
(d)	any matter necessary to ensure kaitiakitanga over a wāhi tapu site or wāhi tapu area;	
(e)	any matters relevant to ensuring the appropriate management of a previously unknown cultural heritage site that is discovered during any land disturbance activities associated with the subdivision during construction.	

In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act.

16.3.6.2 Restricted Discretionary Subdivision (Rural 2 Zone - Richmond West Development Area)

C10 10/07
Op 3/14

Subdivision in the Rural 2 Zone that does not comply with controlled condition (m) of rule 16.3.6.1 is a restricted discretionary activity.

A resource consent is required. Consent may be refused or conditions imposed, only in respect of the following matter to which Council has restricted its discretion:

- (1) In the Richmond West Development Area:
 - (a) the extent to which the design of the subdivision allows for earthworks, buildings and structures to comply with the safe distance requirements of the New Zealand Electrical Code of Practice for Safe Distances (NZECP 34:2001).
 - (b) the extent to which the design of the subdivision allows for activities to be set back from high voltage transmission lines to ensure adverse effects on the National Grid and public safety are appropriately avoided, remedied or mitigated.

16.3.6.3 Restricted Discretionary Subdivision (Rural 2 Zone - Listed Cultural Heritage Site)

C16 9/09
Op 8/12

Subdivision in the Rural 2 Zone that does not comply with condition (n) or (o) of rule 16.3.6.1 is a restricted discretionary activity.

A resource consent is required. Consent may be refused or conditions imposed, only in respect of the following matters to which the Council has restricted its discretion:

- (1) Where there is a listed cultural heritage site present on any part of the land being subdivided:
 - (a) any matters raised in a report prepared in accordance with requirement 19.2.2.41;
 - (b) any matter necessary to ensure the appropriate management, protection or enhancement of a cultural heritage site;
 - (c) any matter necessary to ensure kaitiakitanga over a wāhi tapu site or wāhi tapu area;
 - (d) any matters relevant to ensuring the appropriate management of a previously unknown cultural heritage site that is discovered during any land disturbance activities associated with the subdivision during construction;
 - (e) any matter relevant to the absence of an authority from Heritage New Zealand Pouhere Taonga under the Heritage New Zealand Pouhere Taonga Act 2014.

16.3.6.3A Restricted Discretionary Subdivision (Rural 2 Zone)

Subdivision in the Rural 2 Zone that does not comply with condition (a) of rule 16.3.6.1 is a Restricted Discretionary Activity, if it meets the following conditions:

- (a) The subdivision can meet conditions (c) – (l) of rule 16.3.6.1; and
- (b) The average net area of all allotments that are created by the subdivision is 50 hectares or greater and no allotment that is created is less than 5,000 square metres; and
- (c) Except as provided for by condition (e) or (f), the subdivision is of a title that existed on or before ~~date of notified Plan Change~~ 31 January 2016, except where that title was created by way of subdivision decision not made under the Tasman Resource Management Plan;

OR

- (d) The subdivision can meet conditions 16.3.6.1 (c) – (l); and
- (e) The subdivision is a boundary adjustment and no additional titles are created as a consequence of the subdivision and no allotment that is created is less than 5,000 square metres.
- (f) The subdivision is of a title that was created by the amalgamation of two or more titles that are physically contiguous.

A resource consent is required. Consent may be refused or conditions imposed, only in respect of the following matter to which Council has restricted its discretion:

- (1) Any matter listed in 16.3.6.1.

16.3.6.4 Discretionary Subdivision (Rural 2 Zone)

Except as provided for by rule 16.3.6.4A, a subdivision in the Rural 2 Zone that does not comply with the controlled conditions of rule 16.3.6.3A (other than condition (c)) is a discretionary activity.

A resource consent is required. Consent may be refused, or conditions imposed. In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act.

16.3.6.4A Discretionary Subdivision (Rural 2 Zone – Cooperative Living)

Subdivision in the Rural 2 Zone that does not comply with condition (b) of rule 16.3.6.3A is a discretionary activity, if it complies with the following conditions:

- (a) The subdivision is of a title that existed on or before [date of notified Plan Change];
- (b) The subdivision is for the purpose of cooperative living and a land use consent application under rule 17.6.2.8A has been submitted with the application for subdivision consent.

A resource consent is required. Consent may be refused, or conditions imposed. In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act.

16.3.6.5 Discretionary Subdivision (Rural 2 Closed Zone)

Subdivision by means of the relocation or adjustment of an allotment boundary in the Rural 2 Closed Zone (part of Section SO11662 CT NL 11B/158 shown on the planning maps, off Pupu Valley Road) is a discretionary activity if:

- (a) it does not create any additional allotments on which a dwelling can be built;
- (b) following subdivision, existing buildings and dwelling meet the relevant permitted conditions for wastewater, water supply and boundary setbacks, and there is adequate provision for stormwater.

A resource consent is required. Consent may be refused, or conditions imposed. In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act.

16.3.6.5A Non-Complying Subdivision

Subdivision in the Rural 2 Zone that does not comply with condition (c) or condition (f) of rule 16.3.6.3A or condition (a) of rule 16.3.6.4A is a non-complying activity.

A resource consent is required. Consent may be refused or conditions imposed. In considering the applications and determining conditions, Council will have regard to the criteria set out in Schedule 16.3A as well as any other provisions of the Plan or Act.

16.3.6.6 Prohibited Subdivision (Rural 2 Closed Zone)

- (a) Except as provided for in rule 16.3.6.5, subdivision of an allotment created under rule 16.3.6.1(b) from the former part of Section 63 SO11662 CT NL 11B/158 off Pupu Valley Road shown on the planning maps, is a prohibited activity for which no resource consent will be granted.
- (b) Subdivision of Lot 6 DP 13299 at Tophouse, as shown on the planning maps, is a prohibited activity for which no resource consent will be granted.

16.3.7 Rural 3 Zone

16.3.7.1 Controlled Subdivision (Rural 3 Zone)

Subdivision in the Rural 3 Zone is a controlled activity, if it complies with the following conditions:

[Unchanged text omitted]

Building Location

- (d) Every allotment on which any habitable building is intended to be located has a building location area shown which is set back 30 metres from internal boundaries where those boundaries are adjoining the Rural 1 or Rural 2 Zone.

[Unchanged text omitted]

A resource consent is required. The Council has reserved control over the following matters. In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act.

- (1) Shape.

- (2) Access.

Proposed as at 1 November 2008

- (3) The relationship of any new road with existing roads, adjoining land and any future roading requirements.

C4 8/05

- (4) The interim provision of water supply and wastewater services for the land to be subdivided pending the availability of Council-provided reticulated services.

- (5) Location of buildings.

- (6) Location and effects of earthworks necessary to achieve (2) to (5).

- (7) Potential effects on rural character and amenity values.

- (8) Effects on natural character and coastal values.

- (9) Provision for esplanade reserves and strips, and pedestrian, cycle and equestrian networks or ways.

- (9A) The appropriate setback of allotment boundaries from any dam, including the fullest extent of impounded water and associated spillway structures.

C17 2/10
Op 4/13

- (10) Potential effects on natural and cultural heritage protection.

- ~~(10A) Management of natural hazards, including wildfire risk, within and beyond the boundaries of the site, including wildfire risk and coastal, flood, stormwater, geotechnical or earthquake hazards.~~

- (11) Bonds, covenants, and financial contributions in addition to those specified in the standards for the Zones.

- (12) All matters referred to in Section 220 of the Act.

Proposed as at 1 November 2008

- (13) Except as required by condition (h), the degree of compliance with any current Tasman District Council Engineering Standards.
[(12) Proposed]

C4 8/05

- (14) Where there is a listed cultural heritage site present on any part of the land being subdivided:

C16 9/09
Op 8/12

- (a) any matters raised in a report prepared in accordance with Information Requirement 19.2.2.41;
- (b) any matters raised in the authority granted by Heritage New Zealand Pouhere Taonga under the Heritage New Zealand Pouhere Taonga Act 2014, that are relevant to control of the design and construction of the proposed subdivision activity;
- (c) any matter necessary to ensure the appropriate management, protection or enhancement of a cultural heritage site;
- (d) any matter necessary to ensure kaitiakitanga over a wāhi tapu site or wāhi tapu area;
- (e) any matters relevant to ensuring the appropriate management of a previously unknown cultural heritage site that is discovered during any land disturbance activities associated with the subdivision during construction.

[Unchanged text omitted]

16.3.8 Rural Residential and Closed Zones

16.3.8.1 Controlled Subdivision (Rural Residential Zone)

[16.3.10 Proposed]

Subdivision is a controlled activity, if it complies with the following conditions:

[Unchanged text omitted]

Building Location Area

- (bb) Every allotment on which any habitable building is intended to be located has a building location area shown which is set back 30 metres from internal boundaries where those boundaries are adjoining the Rural 1, Rural 2 or Rural 3 Zone.

[Unchanged text omitted]

A resource consent is required. The Council has reserved control over the following matters:

- (1) Shape.
- (2) Access.
- (3) The proximity, safety and ease of access between any site and the nearest collector, distributor or arterial road.
- (3A) Effects on the road network.
- (4) The provision, design and routes of cycleways, walkways and bridle-paths, including linkages between any site and local retail areas, schools, reserves, bus routes and arterial roads.

Proposed as at 1 November 2008

- (5) The relationship of any new road with existing roads, adjoining land and any future roading requirements.
[(2C)]

C4 8/05

[Proposed]		
(6)	Availability and provision of services, including adequacy of water for fire-fighting purposes.	
(7)	Location of building platforms.	
(8)	Location and effects of earthworks necessary to achieve matters (2), (3) and (4).	
(9)	Potential effects on rural character and amenity values.	
(10)	In the Richmond East Development Area, the potential effects on the landscape value of the hill slope backdrop to Richmond.	C20 8/10 Op 8/12
(11)	Potential effects on heritage protection.	
(11A)	<u>Management of natural hazards, including wildfire risk, within and beyond the boundaries of the site, including wildfire risk and coastal, flood, stormwater, geotechnical or earthquake hazards.</u>	
(11B)	<u>Potential for reverse sensitivity effects on plant and animal production activity in an adjoining Rural 1, 2 or 3 zone.</u>	
(11C)	<u>Potential for reverse sensitivity effects on an existing, lawfully established quarry which was a quarry on or before 30 January 2016.</u>	
(12)	Financial contributions, and for subdivision in the Mapua and Waimea Inlet Rural Residential zones, bonds, covenants and financial contributions in addition to those specified in the standards for the zones.	
(13)	All matters referred to in Section 220 of the Act.	
Proposed as at 1 November 2008		
(14)	Except as required by condition (f), the degree of compliance with any current Tasman District Council Engineering Standards.	C4 8/05
[[10] Proposed]		
(15)	Effective stormwater management, including the use of Low Impact Design solutions.	C7 7/07 Op 10/10
(16)	The appropriate setback of allotment boundaries from the top of the bank of any open drain or natural watercourse.	
(17)	Where there is a listed cultural heritage site present on any part of the land being subdivided:	C16 9/09 Op 8/12
(a)	any matters raised in a report prepared in accordance with Information Requirement 19.2.2.41;	
(b)	any matters raised in the authority granted by Heritage New Zealand Pouhere Taonga under the Heritage New Zealand Pouhere Taonga Act 2014, that are relevant to control of the design and construction of the proposed subdivision activity;	
(c)	any matter necessary to ensure the appropriate management, protection or enhancement of a Cultural Heritage Site;	
(d)	any matter necessary to ensure kaitiakitanga over a wāhi tapu site or wāhi tapu area;	
(e)	any matters relevant to ensuring the appropriate management of a previously unknown cultural heritage site that is discovered during any land disturbance activities associated with the subdivision during construction.	

- (18) In the Richmond East Development Area, where land which is the subject of a subdivision proposal contains a protected tree or the minimum root protection zone of a protected tree, any matter necessary to:
- (i) ensure the integrity of the protected tree and its associated amenity values; and
 - (ii) ensure that general construction activities are set back from the protected tree so that adverse effects on the protected tree are appropriately avoided, remedied or mitigated; and
 - (iii) give effect to any matter raised in a report of an appropriately competent person in arboriculture.

C20 8/10
Op 8/12

In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act.

16.3.8.2 Restricted Discretionary Subdivision (Rural Residential Zone – Listed Cultural Heritage Site)C16 9/09
Op 8/12

Subdivision in the Rural Residential Zone that does not comply with condition (k) of rule 16.3.8.1 is a restricted discretionary activity.

A resource consent is required. Consent may be refused or conditions imposed, only in respect of the following matters to which the Council has restricted its discretion:

- (1) Where there is a listed cultural heritage site present on any part of the land being subdivided:
- (a) any matters raised in a report prepared in accordance with requirement 19.2.2.41;
 - (b) any matter necessary to ensure the appropriate management, protection or enhancement of a cultural heritage site;
 - (c) any matter necessary to ensure kaitiakitanga over a wāhi tapu site or wāhi tapu area;
 - (d) any matters relevant to ensuring the appropriate management of a previously unknown cultural heritage site that is discovered during any land disturbance activities associated with the subdivision during construction;
 - (e) any matter relevant to the absence of an authority from Heritage New Zealand Pouhere Taonga under the Heritage New Zealand Pouhere Taonga Act 2014.

16.3.8.3 Restricted Discretionary Subdivision (Rural Residential Zone – Specified Location)C20 8/10
Op 8/12

Subdivision in the Richmond East Development Area in the Rural Residential Serviced Zone that does not comply with conditions (i) and (j) of rule 16.3.8.1 is a restricted discretionary activity.

A resource consent is required. Consent may be refused or conditions imposed, only in respect of the following matter to which Council has restricted its discretion:

- (1) In the Richmond East Development Area:
- (a) the extent to which the design and construction of the subdivision allows for earthworks, buildings and structures to comply with the safe distance requirements of the New Zealand Electrical Code of Practice for Safe Distances (NZECP 34:2001);

- (b) the extent to which the design and construction of the subdivision (including landscaping) allows for activities to be set back from high voltage transmission lines to ensure adverse effects on and from the National Grid and on public safety are appropriately avoided, remedied or mitigated;
- (c) where land, which is the subject of a subdivision proposal, contains a protected tree or the minimum root protection zone of a protected tree:
 - (i) the extent to which the design of the proposed subdivision beneficially or adversely affects the protected tree and its amenity values; and
 - (ii) the extent to which the subdivision proposal provides for activities, including general construction activities, to be set back from the protected tree to ensure that adverse effects on the protected tree are appropriately avoided, remedied or mitigated; and
 - (iii) the extent to which any matter raised in a report of an appropriately competent person in arboriculture is addressed.

Non-Notification

Applications for resource consent for an activity under this rule will be decided without public notification.

Note: The owner/operator of the transmission line is likely to be the only affected person to be determined in accordance with Section 95B of the Resource Management Act.

16.3.8.4 Restricted Discretionary Subdivision (Rural Residential Zone – Specified Locations)	[16.3.11AA Proposed]
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C19 5/10
Op 8/12

Subdivision in the Mapua and Waimea Inlet Rural Residential zones that does not comply with the conditions of rule 16.3.8.1 is a restricted discretionary activity.

A resource consent is required. Consent may be refused or conditions imposed, only in respect of the following matters to which the Council has restricted its discretion:

- (1) The relationship between the subdivision proposed and the subsequent development, including effects of location and scale of buildings and other structures.
- (2) Effects on the rural landscape, on amenity values and on coastal character and values.
- (3) Consistency with the 'Coastal Tasman Area Subdivision and Development Design Guide' for the area. C6 7/07
Op 10/10
- (4) The interim provision of water supply and wastewater services for the land to be subdivided pending the availability of Council-provided reticulated services.
- (5) Provision for and protection of areas of ecological value, landscape value, indigenous vegetation, trees and cultural heritage sites.
- (6) Management of natural hazards within and beyond the boundaries of the area.
- (7) The ability of the wider landscape to absorb the extent of the development proposed.
- (8) Effects of likely land contamination by pesticide residues on future activities on the land.
- (9) Actual and potential cumulative adverse effects.

Proposed as at 1 November 2008

(10) The degree of compliance with section 16.2 [Transport Rules], section 18.8 [Road Area Rules], and any current Tasman District Council Engineering Standards.
[(8A) Proposed]

C4 8/05

Proposed as at 1 November 2008

(11) The relationship of any new road with existing roads, adjoining land and any future roading requirements.
[(8B) Proposed]

C4 8/05

- (12) Bonds, covenants, and financial contributions in addition to those specified in standards, and all matters referred to in Section 220 of the Act.
- (13) Any other criterion in Schedule 16.3A relevant to the circumstances of the proposed subdivision.

16.3.8.4A Restricted Discretionary Subdivision (Rural Residential Zone)

Subdivision in the Rural Residential Zone that does not comply with condition (a) of rule 16.3.8.1 is a restricted discretionary activity.

A resource consent is required. Consent may be refused or conditions imposed, only in respect of the following matter to which Council has restricted its discretion:

- (1) Any matter contained in 16.3.8.1.
- (2) Any matter relating to ~~geotechnical constraint, earthquake risk, stormwater inundation or flood risk of the site and zone location~~ natural hazard, including wildfire risk and coastal, flood, stormwater, geotechnical or earthquake hazards.
- (3) Adverse effects of the proposed development on character and amenity values within the Rural Residential Zone.
- (4) Any matter relating to the effect of the development on rural, landscape or coastal amenity values in the surrounding environment.
- (5) The ability of the land to manage onsite wastewater.

16.3.8.4B Discretionary Subdivision (Rural Residential Zone – Cooperative Living)

Subdivision in the Rural Residential Zone that does not comply with the conditions of rule 16.3.8.1 other than where it is only subject to rule 16.3.8.2, 16.3.8.3, 16.3.8.4 or 16.3.8.4A is a discretionary activity if it complies with the following conditions

- (a) The subdivision is for the purpose of co-operative living and a land use consent application under rule 17.8.2.8A has been submitted with the application for subdivision consent.

A resource consent is required. Consent may be refused, or conditions imposed. In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act.

16.3.8.5 Discretionary Subdivision (Rural Residential Zone)

C19 5/10
Op 8/12

Subdivision in the Rural Residential Zone that does not comply with the conditions of rule 16.3.8.1, other than where it is only subject to rule 16.3.8.2, 16.3.8.3, or 16.3.8.4, or prohibited by rule 16.3.8.7, is a discretionary activity.

A resource consent is required. Consent may be refused, or conditions imposed. In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act.

[Unchanged text omitted]

SCHEDULES**Schedule 16.3A: Assessment Criteria for Subdivision**

Refer to rules 16.3.3.3, 16.3.3.4, 16.3.3.5, 16.3.3.6, 16.3.4.4, 16.3.4.5, 16.3.5.1, 16.3.5.4, 16.3.5.5, 16.3.6.1, 16.3.6.4, 16.3.6.5, 16.3.7.1, 16.3.7.3, 16.3.7.4, 16.3.7.5, 16.3.8.1, 16.3.8.4, 16.3.8.5, 16.3.9.1, 16.4.2.1, 16.4.2.2.

When considering an application for a subdivision consent, the Council will have regard to the following criteria:

General

- (1) The productive value of the land in Rural 1, Rural 2 and Rural 3 zones, and the extent to which the proposed subdivision will adversely affect it and its potential availability.
- (2) The potential effects of the subdivision on the amenity values and natural and physical character of the area.
- (3) The extent to which the effects of natural hazards ~~including wildfire risk, within and beyond the boundaries of the site, including wildfire risk and coastal, flood, stormwater, geotechnical or earthquake hazards~~ will be avoided or mitigated.
- (4) The potential effects of the subdivision on the natural character of the coastal environment, wetlands, lakes and rivers.
- (4A) ~~The potential for reverse sensitivity effects on plant and animal production activity.~~
- (5) The adequacy of provision for public open space, esplanade reserves and esplanade strips.
- (6) The adequacy of design, capacity, standard and staging of existing or proposed public utilities servicing the subdivision, including any impact on utilities servicing the wider area and outlets to, or connections with, public systems, and the ability to accommodate future developments on adjoining land, and their ability to avoid, remedy or mitigate effects on a temporary or permanent basis.
- (7) The cumulative effects of the subdivision on the District's infrastructure and its efficient use and development, including the capacity and capabilities of the road network and utility services to meet demands arising from the subdivision.
- (8) For water supply, the extent of compliance with the "Drinking Water Standards for New Zealand 1995" or any subsequent replacement of this standard.
- (9) The relationship of the proposed allotments with the pattern of adjoining subdivision, land use activities and access arrangements, in terms of future potential cross-boundary effects.
- (10) Where wastewater disposal will occur within the net area of the allotment, the extent to which the site and soil assessment, design and construction of the system complies with the AS/NZS 1547:2000, taking into account the requirements of rules in Chapter 36 regulating the discharge of wastewater.
- (11) The adequate provision of potable water and water for fire fighting.
- (12) Whether the treatment and disposal of wastewater and stormwater from the proposed allotments is likely to adversely affect water quality, public health or environmental health, or safety, taking into account the provisions of Schedule 16.3C and the powers under Section 220(d) of the Act.

[Unchanged text omitted]

16.3.8.5 Discretionary Subdivision (Rural Residential Zone)

C19 5/10
Op 8/12

Subdivision in the Rural Residential Zone that does not comply with the conditions of rule 16.3.8.1, other than where it is only subject to rule 16.3.8.2, 16.3.8.3, or 16.3.8.4, or prohibited by rule 16.3.8.7, is a discretionary activity.

A resource consent is required. Consent may be refused, or conditions imposed. In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act.

16.3.8.6 Discretionary Subdivision (Rural Residential Closed Zone)

C19 5/10
Op 8/12

Subdivision by means of the relocation or adjustment of an allotment boundary in the Rural Residential Closed Zone is a discretionary activity if:

- (a) it does not create any additional allotments on which a dwelling can be built; and
- (b) following subdivision, existing buildings and dwellings meet the relevant permitted conditions for wastewater, water supply and boundary setbacks, and there is adequate provision for stormwater.

A resource consent is required. Consent may be refused or conditions imposed. In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act.

16.3.8.7 Prohibited Subdivision (Rural Residential Closed Zone)

C19 5/10
Op 8/12

Except as provided for in rule 16.3.8.6:

- (a) Subdivision in the Rural Residential Closed Zone in Whanganui Inlet, Rangihaeata, Gorge Creek (East Takaka), Tata Headland South, Tata Heights, Awaroa, Boundary Bay, Rocklands Road (south end), Toko Ngawa, Tophouse Road, Marlborough Crescent and Cropp Place (Richmond) and Motueka Quay is a prohibited activity for which no resource consent will be granted.
- (b) Subdivision to an allotment size below 5,000 square metres in the Tophouse Road Extension Rural Residential Zone is a prohibited activity for which no resource consent will be granted, except for a single allotment to be used exclusively as a site for network utilities and/or public works.

16.3.9 All Other Zones

16.3.9.1 Discretionary Subdivision (Other Zones)

Subdivision in any zone other than as provided in rules 16.3.3.1 to 16.3.8.5 is a discretionary activity.

A resource consent is required. Consent may be refused, or conditions imposed. In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act.

16.3.20 Principal Reasons for Rules**Subdivisions Affecting Heritage Items**

Subdivision is a process that results in physical works on a site that can be potentially damaging to heritage items and protected trees. It is also a time when arrangements can be negotiated between landowners and the Council for the protection of heritage items and protected trees.

C10 10/07
Op 3/14

The subdivision provisions for the Richmond East Development Area Rural Residential Zone introduce a new controlled condition to ensure that protected trees are not adversely affected by subdivision. The standard is based on the Australian Standard AS 4970 2009 'Protection of Trees on Development Sites' and Guidelines. It determines the minimum root protection zone required to safeguard the health and stability of a tree which should be protected from land development activities. The controlled condition is introduced to avoid a subdivision application for land on which a protected tree is located, defaulting to a higher level (restricted or discretionary) activity status. It is intended that these rules will be introduced for general application across the District.

C20 8/10
Op 8/12**Residential Subdivision**

The minimum net site area ensures a variety of section sizes and a proportion of sections larger than the minimum size prescribed, to provide for the different lifestyles and housing types required by the residents of the District and to provide some visual variety in the settlements. The requirement for larger allotment sizes adjoining industrial and rural zones ensures that these allotments are large enough to enable the location of dwellings with reasonable separation from activities in these adjoining zones.

The larger allotment size at St Arnaud is a means of protecting vegetation from removal and maintaining low-density character. Allotments crossed by the Alpine Fault are not subdivisible to reduce hazard risk to future landowners.

The wider allotments adjoining Rural and Industrial zones are to ensure that the wider setbacks required can be accommodated.

The purpose of the landscaped earth mound adjoining the Heavy Industrial Zone in Old Wharf Road, Motueka, is to maintain residential amenities.

The purpose of the Special Development Area at Mapua is to allow for a more compact and different style of residential development to be located within walking distance of the facilities provided in the town centre, rather than in more remote locations.

C22 2/11
Op 1/15**Mapua Development Area**

The Mapua Development Area is an expansion of the Mapua urban area intended to cater for residential and business growth to 2031 and beyond. It provides for residential and rural residential development on the hills behind Mapua. It includes an extensive network of streets, walkways and cycleways to connect with the facilities in Mapua, the Rural 3 community and the wider region.

C22 2/11
Op 1/15**Richmond South Development Area and Richmond West Development Area**

The Richmond South and Richmond West development areas are expansions to the Richmond urban area intended to cater for future residential and business growth to 2026. They provide a choice of living and business opportunities, including the opportunity to establish intensive compact residential developments, medium density residential developments similar to the existing Residential Zones, local retail nodes, and a range of mixed business and industrial activities (with the latter two in the Richmond West Development Area) in a high quality, high amenity environment.

C5 3/06
Op 10/10
C10 10/07
Op 3/14

The rules reflect the different opportunities and environments being created, including the level of amenity values, infrastructure services, and effects on or from other values and environments.

The indicative reserve network is a critical element for the Richmond South Development Area and the Richmond West Development Area. Borck Creek links both development areas and provides an important role in managing stormwater flows in the greater catchment area to reduce the adverse effects of flooding. It also provides an important alternative movement path for pedestrians and cyclists, a link between the two areas and to the coast, as well as supporting and enhancing existing ecological values.

C5 3/06
Op 10/10
C10 10/07
Op 3/14
C37 8/12

The indicative road network is also a critical element as it provides well connected and accessible living and business environments. The design of roads also has the potential to contribute to the level of amenity and character of each area. In the Richmond South Development Area and the Richmond West Development Area, the road hierarchy has been identified on the planning maps. The location and construction of indicative roads are subject to rules in chapters 16 and 18, including street tree-planting and landscaping in respect of Richmond West Development Area.

C5 3/06
Op 10/10
C10 10/07
Op 3/14

As subdivision takes place it is important that the bigger picture for both development areas in respect of the environmental outcomes envisaged is considered, the reserve and road networks are created and vested with the Council upon subdivision in accordance with the standards for development or higher standards, and the amenity values of the areas are enhanced.

C5 3/06 Op 10/10
C10 10/07 Op 3/14
C37 8/12

The purpose of condition 16.3.4.1(n) is to discourage the creation of rear allotments, ensuring that each allotment has frontage to a public road or reserve, and thus minimising the use of private rights of way. This facilitates the urban design principles of connectivity, permeability and re-use, where urban environments provide efficient, safe and functional accessibility for all users and also maintain flexibility for future redevelopment of sites and transport options. This rule closely aligns with condition 16.3.4.1(f) where through-connected roads are required and the length of a cul-de-sac is limited to achieve the same urban design outcomes expressed above. There may be some sites where, by virtue of their location, they are unable to comply with this standard. These sites will be assessed on a case-by-case basis as a discretionary consent, alongside any other Plan conditions for which consent is required.

C10 10/07
Op 3/14

Electricity Transmission Corridor

The Richmond West and Richmond East development areas are traversed by high voltage transmission lines which are important elements of the National Grid that need to be protected from adverse effects of development. As well, development needs to be protected from risks of the electricity transmission lines.

C20 8/10
Op 8/12

Richmond East Development Area

The Richmond East Development Area forms part of the Nelson South/Richmond East precinct which spans both Nelson City and Tasman District.

C20 8/10
Op 8/12

The Plan change enables part expansion and part intensification of the Richmond urban area. It is intended to cater for the further residential growth of Richmond, together with Richmond South and Richmond West and intensification of central Richmond.

The Plan change proposes utilising the area efficiently for residential development, while retaining and providing a quality urban environment. Specific residential densities are proposed for specific areas within Richmond East, depending on their location and character. South east of Hill Street:

- (a) standard density residential development (minimum lot size of 600 square metres) is a means of retaining the character of the existing residential environment while enabling a measure of intensification;
- (b) low density residential development (minimum lot size of 900 square metres) is a means of enabling a measure of development on relatively shallow sloping land in the east of the Development Area adjoining the Rural Residential Serviced Zone.

The Rural Residential Serviced zoning is being retained for the Highfield Grove precinct where existing development is rural residential in character.

The landscape value of the hills behind Richmond East is being retained by limiting development to the lower hill slopes and providing for lower density rural residential development at the interface with the rural land.

The planning maps show a connected network of streets, walking and cycling routes that traverse and connect the area with the rest of Richmond and Nelson South, particularly the existing green space networks, the proposed Saxton Creek greenway in Richmond and Nelson, and the Saxton Field sports complex.

Motueka West Development Area

C43 4/13
Op 1/15

The Motueka West Development Area is designed to provide for the expansion of Motueka to 2056. Additional land provides opportunities to establish a mix of business and living environments between Pah Street and King Edward Street. Because the area is relatively close to the town centre there is an opportunity to establish compact density residential development as well as medium density residential development similar to the existing Residential Zone. Favourable consideration will be given to higher density residential proposals located within walking distance (400 metres) of the town centre. Employment opportunities will be provided in the adjacent business and industrial zones. Larger business sites are designed to provide for the storage and retailing of bulky or larger goods in a Mixed Business Zone.

Several new stormwater features will provide the framework for an integrated linear open space greenway network that will encourage walking and cycling.

The planning maps show a connected indicative road network and rules limit access to Queen Victoria Street.

Pedestrian or Cycle Linkages

The development of safe, convenient and attractive networks of pedestrian or cycle routes is a key component of the development of a more sustainable transport system.

At Mapua, Seaton Valley Stream links Mapua, Ruby Bay, Seaton Valley and the Waimea Inlet and has an important role in managing stormwater, providing opportunities for off-road cycling and walking along its margins and enhancing ecological values.

C22 2/11
Op 1/15

Central Business, Commercial and Tourist Services Zones

In Central Business, Commercial and Tourist Services zones, minimum site areas are set to ensure that sites are created which are usable for a range of likely activities and allow adequate space for landscaping and car parking.

In the Tourist Services Zone, Mapua, the coastline on Lot 1 DP 20295 is in part susceptible to erosion and accretion and in low-lying areas to inundation, so further subdivision is discouraged.

In the Tourist Services Zone, Salisbury Road, Richmond, a development plan is required to show how access to Salisbury Road will be limited (i.e. building sites and site accesses to be shown). Access to Salisbury Road is to be limited for traffic safety reasons. Any access onto Salisbury Road from Lot 3 DP 18824, other than any joint access with Lot 2 DP 18824, shall be considered as a restricted discretionary activity for the reasons above.

Industrial Zones

Larger sites are required in industrial zones to accommodate the larger buildings and parking, storage, and loading areas associated with industrial activities. An overall development plan will be required for subdivision in any of the Rural Industrial Zones to show that the proposal will meet the needs of rural industries.

Individual site access to Stafford Drive is limited between Seaton Valley Stream and Warren Place because of its proximity to the shared path leading to Mapua School.

C22 2/11
Op 1/15

Rural Zones

In order to maintain the productive values of land, controls are required on subdivision which allow for a range of soil-based production opportunities to be retained, despite shifts over time in the economic prospects for particular production activities. The Rural 1 Zone contains the small area of the District's land which has high productive value and which is suited to a wide range of uses, including both soil-based production and other uses such as residential. The rules protect this land's productive value for a range of soil-based productive uses. The soils in the Rural 1 Zone are suited to intensive production and the subdivision limits reflect this land's potential for such use. Rural 2 land is less versatile for the range of soil-based productive uses that Rural 1 land is suited for. The land in Rural 2 is more extensively farmed. While most agricultural farm properties are greater than 50 hectares, the subdivision limits for Rural 2 land allow for an optimal range of land uses.

In the Rural 3 Zone, the Plan provides a specific framework (including design guidance through the 'Coastal Tasman Area Subdivision and Development Design Guide') to enable more intensive subdivision and development in appropriate circumstances.

C6 7/07
Op 10/10

Applications for subdivision in the Rural 3 Zone which meet the conditions will be evaluated as restricted discretionary activities. Applicants are expected to demonstrate compliance with Plan policy and consistency with the 'Coastal Tasman Area Subdivision and Development Design Guide' through innovative design approaches.

The Rural 3 Zone is intended to be serviced with a restricted community water supply reticulation and programmed road upgrading, with requirements for long term onsite wastewater servicing, to avoid the cumulative adverse effects of residential development in this rural area. The Council's long term infrastructure services programme for the Rural 3 Zone is contained in the Tasman District Long Term Plan, prepared under the Local Government Act 2002.

The frontage requirements in rural zones ensure access and spaciousness in rural areas which contributes to its character and amenity values, as well as minimising loss of the land and soil resource, and contributing towards limiting cross-boundary effects such as dust, shading and spray drift, in gaining access to rear properties.

In the Wastewater Management Area that applies to the Rural 3 and adjacent Rural Residential zones, the provisions for considering on-site wastewater options at the time of subdivision enable a consistent and integrated approach to management of land use effects as well as management of effects of discharges.

The Council will particularly require developers to pay attention to site constraints for on-site treatment at the time subdivision plans are being considered. Long-term sustainable provision for on-site wastewater systems will need to be addressed at the time of subdivision. Where future land use or dwelling details are not known, the Council will adopt a default design of a 10-person household.

If the wastewater treatment system is intended to service more than one household, the Council will require discharge permits to be sought at the same time as consent for subdivision is sought. This is to ensure subdivision design and wastewater provision will be integrated into design and construction. It will also consider requiring discharge permits to be sought at the same time as subdivision consents where the wastewater treatment systems are to service single households and where adverse effects of single on-site systems are likely to be significant, or where the default design for a 10-person household is not adopted.

Rural Residential Zones

The minimum net site area ensures a variety of allotment sizes to cater for different lifestyle needs in different parts of the District.

Two Rural Residential Zone locations in proximity to the Rural 3 Zone are also intended to be serviced with water and wastewater reticulated services, for the same reason as in those zones. Until Council services are available, interim provision of services will be considered in applications for subdivision and residential development. In the Mapua Rural Residential Zone, development to greater densities than provided for on the basis of the subdivision controlled activity lot size is envisaged, subject to detailed

design consideration. In the Waimea Inlet Rural Residential Zone, there may be some limited additional subdivision subject to design guide evaluation.

Rural Residential Closed Zone

Further subdivision is prevented at Awaroa, Toko Ngawa, Tata Heights and Tata Headland, Boundary Bay and Frenchman's Bay and Whanganui Inlet because of proximity to the coast and special landscape features. At Gorge Creek (East Takaka) and Rocklands Road (south end) the standard of road access and geological instability are the reasons. At Rangihaeata significant factors are marginal land soakage, proximity of the aerodrome and coastal erosion. The retention of low-density residential character is important at Tophouse Road; for this reason, the Tophouse Road Extension Zone is shown on the planning maps as "Closed: Deferred". This provides through a combination of controlled and prohibited status for subdivision that the land may be subdivided until the subdivision process is fully completed at an allotment size of no less than 5,000 square metres. Once this level of subdivision has been reached, the closed status will have full effect, and the deferment shown on the planning maps will be removed by Council Resolution.

Some larger sites are provided in parts of Golden Bay where land slope is steep or land soakage is poor to moderate.

The reason for the Cropp Place Closed Zone is geological instability.

Residential Closed Zone

Further residential subdivision in the small enclave of residential allotments at Anchorage is inappropriate because of the proximity of Abel Tasman National Park and poor access.

Poles and Lines

Above ground telephone and power supplies have the potential to interrupt views and detract from the visual appearance of urban and rural residential areas. As rural residential development has higher building density than the general rural area, the impact of utility wires and poles is potentially greater.

Rural Closed Zone and Rural 1 Coastal Zone

C22 2/11 Op 1/15 |

In a small number of circumstances, following submissions on the Proposed Plan, references to the Environment Court resulted in the Council, nearby landowners and residents, and the referrers agreeing to small allotments for primarily rural residential purposes in areas within the Rural 1 and Rural 2 zones. Where part of the agreement has been that there should be no further subdivision of the land, such areas are shown as "closed" on the planning maps and changes to the rules have been made which prevent the creation of additional allotments, but provide for adjustments to existing boundaries subject to a consent process. The reasons for the closed status relate to protecting overall amenity values or the productive potential of the balance land area. In the area shown on the planning maps off Pupū Valley Road, there is no predetermined subdivision pattern, but a maximum number of lots is provided for. In this area, through a combination of controlled and prohibited status, subdivision may proceed until the number of lots specified as a controlled activity is reached. Once this level of subdivision has been reached, the closed status will have full effect.

At Mapua/Ruby Bay on the coastal flats between Mapua and Ruby Bay, the lot sizes are all below the minimum Rural 1 lot size so there is very limited provision for further subdivision as this might encourage additional dwellings in this low-lying area that is likely to be vulnerable to both seawater and freshwater inundation. Rural residential development is already well provided for on the hills to the west and in the Rural 3 Zone.

C22 2/11
Op 1/15 |

Cultural Heritage Sites

C16 9/09
Op 8/12 |

The rules seek to manage adverse effects on cultural heritage sites by requiring an authority from Heritage New Zealand Pouhere Taonga where any modification, damage or destruction of a site is proposed as part of a subdivision. Known cultural heritage sites are listed in Schedule 16.13C and

are shown on the planning maps. These are effective ways of enhancing the protection of the values of known sites and ensuring that any site discovered, for example, through land disturbance, is also managed through this approval process.

C16 9/09
Op 8/12

Filling of Allotments

C10 10/07
Op 3/14

The standard seeks to avoid inhibiting or altering the course of natural over-land stormwater flow paths and the risk of flooding other properties.

Land Subdivision in relation to Dams

C17 2/10
Op 4/13

There are large numbers of water storage dams in the District, especially throughout the Moutere gravel terrain. Many of these were built in compliance with rural standards for irrigation dams. While dams in this terrain have a low probability of failure, dam failures do occur and some existing dams may pose a risk to persons or land beyond the immediate property boundary. It is important that hazards are not created by allowing inappropriate development below these dams. In addition, as subdivision occurs, it is important that additional risks are avoided by establishing new property boundaries so that setbacks from the dam and associated structures can be complied with.

Council will take into account the location of allotment boundaries in relation to any existing dam and its associated spillway and impounded water, so that risks to property from dam failure are not increased as a result of land use changes.

Summary of Decisions Requested In Change 60 Submissions

Astill, Rosie

Remedy: Amend to provide for Golden Bay-specific provisions.

- C60.3989.6 16.3 - *Subdivision*

Remedy: Retain provisions that allow for alternative land tenure such as unit titles.

- C60.3989.7 C60 GEN - *Change 60*

Remedy: Amend Plan Change to simplify it so that it can be understood by the lay person.

Awaroa Inlet Group

C/o Stephen Franks PO Box 10388 The Terrace Wellington

- C60.3990.1 C60 GEN - *Change 60*

Remedy: [Out of scope]

3990

Batten, Garrick

P O Box 102 BRIGHTWATER

- C60.336.1 2.2 - *Defined Words*

Remedy: Amend the proposed definition of 'high productive value' feature (b) from "13 degrees" to "15 degrees".

336

- C60.336.2 2.2 - *Defined Words*

Remedy: Amend the proposed definition of 'high productive value' to include Class D soils in the category of soils of high productive value.

- C60.336.3 2.2 - *Defined Words*

Remedy: Delete the proposed change to the definition of 'productive value' and retain the operative definition.

Further Submissions :	<u>Oppose</u>	FC60.2864.7	Horticulture New Zealand
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- C60.336.4 7.1 - *Cumulative Effects of Land Fragmentation on Productive Opportunities*

Remedy: Amend the proposed text in 7.1.30 and 7.1.20.1 to delete the word "highest" and use consistent terminology to refer to land of high productive value.

- C60.336.5 7.1.30 - *Principal Reasons and Explanation*

Remedy: Include Class C in the description of land of 'high' quality in paragraph 1.

Further Submissions :	<u>Support</u>	FC60.4032.20	Jelf, Iona
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- C60.336.6 7.1.2.1 - *Avoiding the Loss of Productive Value*

Remedy: Amend proposed objective to insert the word "currently" to read as follows:
"Except where rural land is currently deferred for urban use ..."

Further Submissions :	<u>Oppose</u>	FC60.4032.7	Jelf, Iona
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Bensemam, Alan

1675 Motueka Valley Highway R D 1 Motueka

- C60.3991.1 C60 GEN - *Change 60*

Remedy: Retain provisions that protect productive land in the rural zones.

3991

- C60.3991.2 17.6.3.1 - *Permitted Activities (Building Construction, Alteration or Use)*

Remedy: Amend 17.6.3.1(n) that requires dwellings to be set back from internal boundaries in the Rural 2 Zone, reverting to existing provision that requires only a 5m setback.

Further Submissions :	<u>Oppose</u>	FC60.2864.47	Horticulture New Zealand
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- C60.3991.3 17.6.2.8A - *Restricted Discretionary Activities (Co-operative Living)*

Remedy: Amend 17.6.2.8A cooperative living to tighten up the requirements around "legal arrangement" of a cooperative living group.

- C60.3991.4 Chapter 17 - *Zone Rules*

Remedy: Amend cooperative living rule so that a cooperative living activity is a Non-Complying Activity.

Bensemam, Roy

470 Sherry River Road R D 2 Wakefield

- C60.3992.1 C60 GEN - *Change 60*

Remedy: Retain provisions that protect productive land in the rural zones.

3992

- C60.3992.2 Chapter 17 - *Zone Rules*

Remedy: Amend 17.5 and 17.6 Rural 1 and Rural 2 rules that allow a house to be built on any title as a

602

Change 60: Rural Subdivision

Decisions and Reasons

Final Decision 602.1

C60.35.2	Randall, C W A	Allow In Part
C60.806.37	NZ Transport Agency	Allow
<i>Allow</i>	FC60.806.14	
C60.1089.7	Nelson Forests Ltd	Allow
C60.1089.12	Nelson Forests Ltd	Allow In Part
C60.1089.13	Nelson Forests Ltd	Disallow
C60.1089.19	Nelson Forests Ltd	Disallow
C60.1089.20	Nelson Forests Ltd	Disallow
C60.1188.1	Drummond, Wendy	Disallow
C60.1227.4	Davis Ogilvie & Partners Ltd	Disallow
C60.1403.5	Muter, Frans	Disallow
C60.1430.1	Royal Forest & Bird Protection Society (Nelson/Tasman)	Allow
C60.1521.11	Federated Farmers of NZ (Inc.)	Allow In Part
<i>Disallow</i>	FC60.806.31	
C60.1521.19	Federated Farmers of NZ (Inc.)	Disallow
C60.1521.21	Federated Farmers of NZ (Inc.)	Disallow
<i>Allow</i>	FC60.806.32 FC60.2864.31	
C60.1521.22	Federated Farmers of NZ (Inc.)	Disallow
C60.1521.23	Federated Farmers of NZ (Inc.)	Allow In Part
C60.1521.24	Federated Farmers of NZ (Inc.)	Allow In Part
<i>Disallow</i>	FC60.806.33	
C60.1521.25	Federated Farmers of NZ (Inc.)	Disallow
C60.2852.2	Riley, Trevor H	Allow
C60.2852.3	Riley, Trevor H	Disallow
<i>Allow</i>	FC60.4032.3	
C60.2864.45	Horticulture New Zealand	Allow
C60.3015.1	Hoddys Orchard Ltd	Allow In Part
C60.3592.5	Golden Bay Community Board	Disallow
C60.3957.1	Adnams, Vicki	Disallow
C60.3987.2	Angelo, Joseph	Disallow
C60.3987.7	Angelo, Joseph	Disallow
C60.3989.3	Astill, Rosie	Allow In Part
C60.3989.6	Astill, Rosie	Allow
C60.4001.6	Butts, Joan E	Allow
C60.4001.7	Butts, Joan E	Disallow
C60.4003.1	Carson, Colin	Allow In Part
C60.4004.2	Cartwright, James E	Allow In Part
C60.4007.1	Crummer, Ani	Disallow
C60.4008.2	Drummond, Stuart	Disallow
C60.4012.1	Ford, Lillemor M	Disallow
C60.4012.3	Ford, Lillemor M	Disallow
C60.4013.6	Forest, Sage Joy	Disallow
C60.4013.9	Forest, Sage Joy	Allow In Part
C60.4013.10	Forest, Sage Joy	Disallow
C60.4014.1	Gall, Natasha	Disallow
C60.4016.3	Golden Bay Surveyors	Allow In Part
C60.4016.4	Golden Bay Surveyors	Allow
C60.4020.1	Hall, Pip	Disallow
C60.4020.2	Hall, Pip	Disallow
C60.4020.3	Hall, Pip	Allow In Part

602

Change 60: Rural Subdivision

Decisions and Reasons

C60.4021.2	Halliwell, Cathleen	Allow In Part
C60.4021.4	Halliwell, Cathleen	Disallow
C60.4022.1	Halliwell, Marlene	Allow In Part
C60.4023.8	Hancock Forest Management (NZ) Ltd	Allow
C60.4023.12	Hancock Forest Management (NZ) Ltd	Disallow
C60.4023.13	Hancock Forest Management (NZ) Ltd	Disallow
C60.4023.17	Hancock Forest Management (NZ) Ltd	Disallow
<i>Disallow</i>	FC60.2864.32 FC60.4032.26	
C60.4023.18	Hancock Forest Management (NZ) Ltd	Disallow
C60.4023.19	Hancock Forest Management (NZ) Ltd	Disallow
C60.4024.2	Hannah, Lynda	Disallow
C60.4025.2	Harwood, Geoffrey	Allow In Part
C60.4030.1	Irvine, Donald & May	Disallow
<i>Allow</i>	FC60.2864.2	
C60.4032.2	Jelf, Iona	Allow
C60.4032.3	Jelf, Iona	Allow
C60.4032.12	Jelf, Iona	Allow
C60.4032.13	Jelf, Iona	Disallow
C60.4032.14	Jelf, Iona	Allow
C60.4034.21	Kebbell, John	Disallow
C60.4035.8	Kelsall, Julia	Allow
C60.4036.4	Kerrisk, Billy	Allow
C60.4036.10	Kerrisk, Billy	Allow
C60.4036.11	Kerrisk, Billy	Disallow
C60.4036.14	Kerrisk, Billy	Allow
C60.4040.1	Lang, Christian	Disallow
C60.4040.2	Lang, Christian	Disallow
C60.4044.1	Lochner, Richard	Allow
C60.4049.1	Manson, Mark & Laura	Allow
<i>Allow</i>	FC60.4032.19	
C60.4067.11	Rowse, Chris & Schneider, Silvia	Allow
<i>Disallow</i>	FC60.4032.4	
C60.4071.1	Schwarz, Ursus	Disallow
C60.4071.6	Schwarz, Ursus	Disallow
C60.4071.9	Schwarz, Ursus	Allow
<i>Disallow</i>	FC60.4032.6	
C60.4072.8	Scurr, Lorna	Allow In Part
<i>Disallow</i>	FC60.4032.5	
C60.4077.4	Stephenson, Andrew	Disallow
C60.4077.5	Stephenson, Andrew	Disallow
C60.4078.4	Stephenson, Petra	Disallow
C60.4078.5	Stephenson, Petra	Disallow
C60.4079.1	Strang, Dot	Disallow
C60.4084.5	Turner, Reginald E J	Allow
C60.4085.1	Staig & Smith and Alandale & Vailima Orchards	Disallow
C60.4086.2	Wallis, William G	Allow In Part
<i>Allow in Part</i>	FC60.4076.3	
C60.4091.2	Wells, Ned	Disallow
<i>Disallow</i>	FC60.4076.1	

Plan Amendments

Topic : 7.2.40

602

Change 60: Rural Subdivision**Decisions and Reasons**

Add to the end of performance monitoring indicators 7.2.40.1 and 7.2.40.2 the words:
"including allotments created through amalgamation or the use of the subdivision averaging provisions".

Topic : 16.3

1. Amend condition (c) of 16.3.5.3A and 16.3.6.3A and where it appears elsewhere throughout the Plan to read:
"Except as provided for by condition (e) or (f), the subdivision is of a title that existed on or before 31 January 2016, except where that title was created by way of subdivision decision not made under the Tasman Resource Management Plan."
2. Amend rules 16.3.5.3A and 16.3.6.3A to add a new condition:
"(f) The subdivision is of a title that was created by the amalgamation of two or more titles that are physically contiguous."
3. Delete conditions 16.3.5.1(cb) and 16.3.6.1(ba).
4. Amend rules 16.3.5.5A and 16.3.6.5A by inserting "or condition (f)" after "condition (c)" in the first sentence.'
5. Insert condition (dd) to 16.3.5.1 and 16.3.6.1 as follows:
"Building Location Area
(dd) Every allotment on which any habitable building is intended to be located has a building location area shown which is set back 30 metres from internal boundaries except where the boundary is to the Residential, Rural Residential or Rural 3 zone."

Topic : 16.3.5.1

Amend matter (7A) to replace "reverse sensitivities" with "reverse sensitivity".

Topic : 16.3.6.1

Amend matter (7A) to replace "reverse sensitivities" with "reverse sensitivity".

Other Action

That Council make a commitment to a review of the rural land zones, including the pattern of zoning, allotment size thresholds and values underpinning the rural land resource.

Reasons

1. Council has maintained a policy framework that prioritises Rural 1 Zone land values above rural-residential activity. It maintains that the Rural Residential Zone and parts of the Rural 3 Zone are the most appropriate locations for small rural land-holdings.
2. Staff recognise that in certain locations the pattern of Rural 1 and Rural 2 zoning may not be appropriate. Actual development character and amenity attributes are more aligned with residential-type activity, and have very limited plant and animal production potential.
3. Flexibility has been provided for in the subdivisions framework in the form of the proposed average allotment size rule, which does enable smaller lots to be created, provided that an average minimum can be achieved overall.
4. There is opportunity in the Rural 2 Zone for Council to consider individual cases at its discretion.
5. The Plan Change does not propose resubdivision as a Prohibited Activity. A Non-complying status does allow for applications to be presented to Council for consideration on a case-by-case basis.
6. Staff accept that a subdivision that does not result in additional titles ought to be considered as a Restricted Discretionary Activity even if the parent title was created since 31 January 2016.
7. An initial amalgamation will result in a larger allotment and reduced number of titles. For this reason, staff accept that Discretionary Activity status is more appropriate than Non-Complying.
8. The circumstances where the Non-Complying status applies, being the re-subdivision of a title created since 31 January 2016 (excluding boundary adjustments and those created through an amalgamation, see above) and the subdivision of a Rural 1 Zone title below the threshold minimum, are significant in terms of its framework of policies and objectives.

602

Change 60: Rural Subdivision

Decisions and Reasons

9. Boundary adjustments can facilitate improvements to landholdings in support of plant and animal production without further fragmentation of the rural land resource.
10. Council consider that the minimum allotment sizes of 12 hectares in the Rural 1 Zone and 50 hectares in the Rural 2 Zone can achieve the objectives and policies of the Tasman Resource Management Plan.
11. The amendments improve consistency of terminology in regards to reverse sensitivity and cross boundary effects.
12. In situations where a new title is created without subdivision approval through the Resource Management Act, it is appropriate to consider the new subdivision as a "first generation" one, exempt from the date restriction.