

**Auckland City Operative District Plan
Hauraki Gulf Islands 1996**

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Part A: Amendment to Part 8 “Subdivision”.

Delete Part 8 “Subdivision” and replace with the following:

PART 8 – SUBDIVISION

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PART 8 - SUBDIVISION

8.0 INTRODUCTION

The significant ecological and landscape values of the coastal environment of the Hauraki Gulf Islands, recognised in various planning documents, require that subdivision controls avoid and mitigate possible future adverse effects that inappropriate subdivision may generate. The nature of the physical and natural environment creates major constraints on subdivision and in particular those aspects related to the preservation and conservation of the natural environment, visual character, amenity, heritage values and drainage capability. The Council recognises the potential for adverse effects that may arise from subdivision within and associated with the coastal environment. The Plan rules give particular emphasis to ensuring a proper assessment of such potential effects as part of the subdivision application evaluation process.

In the past the historical pattern of subdivision in the Hauraki Gulf Islands enabled small lot sizes that were appropriate to a village scale, rather than related to specific characteristics and the need to accommodate on-site effluent disposal systems. Historical subdivision patterns on the Islands (and on Waiheke, Rakino and Great Barrier in particular), are therefore not altogether consistent with objectives of securing appropriate resource management, or consistent with securing a goal of achieving sustainable land use development.

This Plan addresses subdivision issues by specifically addressing the inherent capabilities and capacities of the different types of land found in the Hauraki Gulf Islands.

The plan rules require that the subdivision of rural land should occur in relation to the physical nature of the land and to its capacity to absorb development impacts. Subdivision patterns are required to be related to the unique physical and environmental values present in the Hauraki Gulf Islands and the need to accommodate on-site effluent disposal systems.

This section of the Plan addresses these issues by addressing the inherent capabilities and capacities of the Hauraki Gulf Islands. The relationship between subdivision and possible land use activities is recognised in the Plan by establishing:

- a set of minimum area standards for lots;
- a set of assessment criteria including design, layout, utility and roading standards;
- the need and the opportunity to acquire appropriate areas for public open spaces through subdivision.

The opportunities for subdivision of land are limited by:

- The physical and natural environment including natural character and landscape values.
- Rules in the District Plan.

Requirements under the Resource Management Act 1991, the New Zealand Coastal Policy Statement 1994, the Auckland Regional Policy Statement, any proposed or operative Auckland Regional plan and the Hauraki Gulf Marine Park Act 2000.

Section 11 of the Resource Management Act provides that land cannot be subdivided unless a subdivision consent or rules in the Plan authorise it and a survey plan has been deposited.

The subdivision of land may not directly create potential adverse effects on the environment. However it does provide opportunities and expectations for future development which may have the potential to cause adverse effects.

8.1 CONTENT AND STRUCTURE

- (a) The Plan adopts controls to avoid and mitigate possible future adverse effects which inappropriate subdivision may generate. Part 8 of the Plan is organised as follows:

Parts 8.2 to 8.4 contain the resource management strategy and issues, objectives and policies.

Parts 8.5 to 8.12 contain the subdivision rules. These parts cover general rules applying to all subdivisions and specific rules for some of the Policy Areas and Land Units. Part 8.8 covers controls for Esplanade Reserves and Esplanade Strips. Part 8.10 outlines Engineering Requirements and makes reference to the Council's Hauraki Gulf Islands Development Code.

- (b) The Chapter refers to other sections of the District Plan that may need to be consulted. These include:

- Part 5 Strategic Management Areas (SMA)
- Part 6A Land Units
- Part 6B Standards for Permitted Activities
- Part 6C Standards for Discretionary Activities
- Part 6D Notification & Information Requirements
- Part 6E General Assessment Criteria - Discretionary Activities
- Part 6F Particular Assessment Criteria for Listed Discretionary Activities

Part 6G	Resource Consent Conditions
Part 7	Policy Areas (Includes Objectives, Policies and Rules)
Part 9	Financial Contributions
Part 10	Heritage
Part 11	Definitions
Part 12	Appendices

8.2 RESOURCE MANAGEMENT ISSUES

The issues applying to subdivision in the Hauraki Gulf include:

- (a) Recognition of:
 - the inherent constraints of the natural coastal environment, eg wetlands, bush, slope, natural hazards, amenity, drainage, access etc. and limiting subdivision accordingly.
 - the inherent landscape, amenity and heritage values and the need to facilitate their protection through subdivision rules.
- (b) To preserve the natural character of the coastal environment; wetlands, rivers and their margins and protect them from inappropriate subdivision.
- (c) The need to ensure that new subdivision in the coastal environment is located and designed to avoid interference with natural coastal processes (including erosion and sea level change).
- (d) Providing for the maintenance and enhancement of public access to and along the coastline and rivers in a manner that protects conservation values.
- (e) The need to secure reserves, protect significant environmental features and enhance access to and along the coastline.
- (f) The need to protect outstanding natural features and landscapes from inappropriate subdivision.
- (g) Providing for a range of subdivision options based on Strategic Management Areas, Policy Areas and Land Units policies and rules.
- (h) Understanding the interrelationship of effects resulting from a diverse range of land uses.
- (i) Maintaining and enhancing the village character of the residential areas of Waiheke and Great Barrier Islands.
- (j) Providing for tourism opportunities associated with the rural and coastal environment, while maintaining and enhancing character and amenity.

- (k) Providing for the relationship between tangata whenua and the environment, taking into account Maori culture and the Treaty of Waitangi.
- (l) Maintaining and enhancing water quality through adequate wastewater and effluent treatment and disposal, and stormwater disposal and dispersion.
- (m) Recognising the limitations of water supply when determining the extent and location of further subdivision.
- (n) Providing appropriate roading and lot access standards that reflect the character of the area.
- (o) Provision for pedestrian and cycle transport along public roads and linkages to other public places.
- (p) Avoiding or mitigating soil erosion and reducing sediment discharges into water systems.
- (q) Establishing financial contributions that reflect demands on public services, or where there are adverse effects created that require mitigation.
- (r) The need for subdivision design that facilitates access to public transport.
- (s) Ensuring that the location and design of utility services minimises any adverse effects on the ecological and visual amenity.
- (t) The protection of significant indigenous vegetation and significant habitats of indigenous fauna.

8.3 RESOURCE MANAGEMENT STRATEGY

An underlying principle of the District Plan resource management strategy is to recognise the need to preserve the natural coastal character, heritage and amenity values of the Hauraki Gulf Islands. This principle also includes the need to protect outstanding natural features and significant indigenous vegetation and significant habitats of indigenous fauna. A further underlying principle is the need to maintain and enhance public access to and along the coastline and rivers in a manner that protects conservation values. These principles are founded upon the intrinsic value placed on the Hauraki Gulf Islands by the City, region and nation. This value has been reinforced by the requirements of the Resource Management Act 1991 and the Hauraki Gulf Marine Park Act 2000.

In order to achieve the resource management strategy for subdivision, rules are contained within Part 8 that clearly identify minimum lot areas in relation to particular land units. These minimum areas are based on an evaluation of land use capacities, as well as consideration of visual character, heritage and amenity values. Other opportunities for subdivision are dependent upon giving effect to the need

to protect, conserve and enhance various identified aspects of the natural environment, such as wetlands, heritage features, ecosystems and habitats, water and soil conservation values and productive land use opportunities.

The Plan also includes a set of environmental assessment criteria related to subdivision layout and design in order to help ensure that development resulting from subdivision will meet the objectives and policies set out in 8.4

The Strategic Management Areas (SMAs) provide the policy direction for decision making in terms of resource management and the securing of sustainable development.

The major components of the strategy are detailed below.

(a) Preservation of the Natural Coastal Character and Protection of Outstanding Natural Features

The Hauraki Gulf Islands are recognised as having regional, national and international importance through the Hauraki Gulf Marine Park Act 2000, the New Zealand Coastal Policy Statement, the Auckland Conservation Management Strategy, the Auckland Regional Policy Statement and the proposed Auckland Regional Plan: *Coastal*. The subdivision rules reflect the need to preserve the natural character of the coastal environment of the Hauraki Gulf Islands and to provide protection from inappropriate subdivision, including the cumulative effects of subdivision.

The subdivision rules also reflect the need to avoid sprawling and sporadic subdivision in the coastal environment by providing for appropriate subdivision in areas where development has occurred and where the natural character has already been compromised.

Significant areas of the coastline of the Hauraki Gulf Island are identified as having either outstanding or regionally significant landscape values in the Auckland Regional Policy Statement and the Proposed Auckland Regional Plan: *Coastal*.

The Council will ensure that the outstanding landscape values of the Hauraki Gulf Islands are protected from inappropriate subdivision.

(b) Coastal Environment

As all of the land area of the Gulf Islands is considered coastal in nature the New Zealand Coastal Policy Statement needs to be considered in setting subdivision standards and assessing applications.

(c) Significant Ecological Features

The Council will ensure the protection of significant indigenous vegetation and significant habitats of indigenous fauna from inappropriate subdivision by including rules in the Plan that control the location, lot size and design and layout of subdivisions.

Where appropriate, the Council will secure the retention of significant ecological, geological and heritage features. This will be done through mechanisms such as subdivisions that provide legal protection for significant environmental features reserve contributions, esplanade reserves, bonds or caveats.

(d) Public Access to and along the Coastal Marine Area

The Council recognises the need to maintain and enhance public access to and along the coastal marine area.

(e) Inner Islands and Outer Islands

It is acknowledged that the environment of the Outer Islands and the Inner Islands are substantially different from each other in terms of demographics, geography, geology and ecology. These differences are reflected in the provisions for land units, policy areas and engineering requirements.

(f) Village Character

The Council recognises and provides for the existing village character in the Residential 11 and Residential 12 Land Units on Waiheke Island. The minimum 2000sqm lot size helps to maintain this low intensity character.

(g) Onsite Waste Treatment Disposal

The Plan recognises that the majority of lots rely on the treatment and disposal of sewage through septic tank and ground soakage. The Plan rules require that each new lot has the potential for adequate on-site sewage and wastewater treatment and disposal.

(h) Community Based Sewage Disposal Services

The Council encourages the installation of community systems where appropriate.

(i) Disposal of Stormwater

The Plan recognises that the majority of sites rely on natural runoff and ground soakage for the disposal of stormwater. The plan rules require that each new lot has the potential to adequately treat and dispose of stormwater.

(j) Diversity of Subdivision Opportunities

Inner Islands (Waiheke, Rakino etc.)

Subdivision opportunities are structured so that they are consistent with regional policy.

On Waiheke Island, the policy of containing urban development to the Western Strategic Management Area (SMA) between Matiatia in the west and Onetangi in the east will continue as a means of securing resource management strategies for the Island.

In the Western Waiheke SMA the subdivision strategy is to facilitate the maintenance and enhancement of the "village" structure in Land Units 11 and 12. This will help

to ensure the retention of the existing natural, built and social character.

In the Eastern Waiheke SMA subdivision is limited to opportunities based on rural land use capabilities and conservation opportunities.

Outer Islands (Great Barrier, Little Barrier etc)

The strategy is to achieve a pattern of subdivision based on preserving and enhancing the existing ecological and landscape values.

(k) Hazard Prone Land

Where land, or any structure on that land is likely to be subject to material damage by erosion, subsidence, slippage or inundation from any source, the Act provides that the Council shall not grant a subdivision consent unless the affects can be avoided, remedied or mitigated.

Any new subdivision in the coastal environment should be located and designed to avoid interference with natural coastal processes (including erosion and sea level changes) so the need for coastal hazard protection measures is avoided.

(l) Special Purpose Lots

Subdivision is provided for land uses that have particular lot size requirements, for example, utility services or the protection of waahi tapu.

8.4 OBJECTIVES AND POLICIES

8.4.1 NATURAL CHARACTER AND LANDSCAPE VALUES

To ensure that subdivision and development occur in a way which preserves natural character and protects any outstanding natural features and landscapes of the Hauraki Gulf Islands from inappropriate subdivision.

Policies

- (a) By recognising the significance of the Hauraki Gulf Islands coastal environment in the subdivision rules so that protection and enhancement is fostered.
- (b) By concentrating subdivision and development in areas where natural character has been compromised.
- (c) By avoiding subdivision and development in the coastal environment where the effect, including the cumulative effect, is sprawling and sporadic development in the coastal environment.

- (d) By avoiding subdivision and development in land units where the coastline has been identified as having outstanding landscape value where the resulting development cannot be visually accommodated within the landscape without adversely affecting the character, aesthetic value and integrity of the landscape unit as a whole.
- (e) By limiting subdivision so that the natural characteristics of significant ridgelines, headlands, dunes, wetlands and the landscape in the vicinity of the Whakanewha Regional Park are less likely to be detrimentally affected through inappropriate land use activities.
- (f) By providing incentives through subdivision rules to encourage the maintenance and enhancement of areas of ecological, geological and heritage significance.

8.4.2 PROTECTION OF AREAS OF HIGH ENVIRONMENTAL VALUE

To provide for and foster subdivision which leads to the protection of areas of high environmental value, of high landscape, heritage and amenity value, and for areas where natural hazards exist.

Policies

- (a) By including in the subdivision rules requirements which ensure subdivisions in the coastal environment do not lead to a proliferation of buildings that detract from the visual amenity values of the coastal environment.
- (b) By recognising the significance of the Hauraki Gulf Islands coastal environment in the subdivision rules so that protection and enhancement are fostered.
- (c) By establishing subdivision rules that provide for the creation of lots which protect the natural environment including bush, wetlands, headlands, heritage features, significant ridgelines, and hazard areas.
- (d) By limiting subdivision so that the natural characteristics of headlands, dunes and wetlands are less likely to be detrimentally affected through inappropriate subdivision and development.

8.4.3 PUBLIC ACCESS TO AND ALONG THE COASTLINE

To enhance access from public places to and along the coastline where this will not adversely affect the natural character of the coastal environment.

Policies

- (a) By consistently implementing Plan rules in accordance with the Resource Management Act 1991 to take esplanade reserves and esplanade strips at the time of subdivision.
- (b) By requiring pedestrian links to the coastline from public places as a general policy.
- (c) By maintaining and enhancing public access to the foreshore except where restrictions are necessary because of safety, security, damage to vegetation and wildlife or conflict with traditional Maori sites, or other exceptional circumstances.
- (d) By using various measures including esplanade areas to achieve public access to the coast, rivers and streams.
- (e) By providing for shoreline walkways and boardwalks where these do not conflict with environmental and cultural values or lead to the erosion of sensitive landforms.
- (f) On subdivision over 4 hectares adjoining the coastline the Council will seek to secure an esplanade reserve or access strip where it will, or may in the future, enhance public access along the coast, provide a link with other accessways and public spaces or where there is likely to be further subdivision in the future.

8.4.4 DIVERSE LAND USE OPPORTUNITIES

To provide for a range of subdivision options that enable a diversity of lifestyle and land use opportunities.

Policies

- (a) By including subdivision rules which ensure that rural character and amenity values are protected and enhanced in parallel with providing for appropriate land use activities.
- (b) By relating subdivision opportunities to land use capabilities and environmental capacities

8.4.5 PRESERVATION OF HIGH QUALITY LAND

To ensure that subdivision patterns preserve opportunities for productive use of higher quality land in the Gulf Islands.

Policies

- (a) By relating minimum areas for lots in particular land units to the physical and natural character and use potential of each land unit.
- (b) By including in the Plan, subdivision rules which provide for variations to the minimum areas for lots in different land units in order to achieve a flexible approach to subdivision that facilitates better land use capability.
- (c) By limiting the scale and location of buildings on higher quality land.

8.4.6 'VILLAGE' CHARACTER - INNER ISLANDS

To ensure that subdivision within Land Units 11 and 12 maintains and enhances the existing character of the area.

Policies

- (a) By taking into account existing character and amenity, including elements of built form, lot size and vegetation types and patterns.
- (b) By defining where necessary building areas and vehicle accessways on new lots to maintain amenity.

8.4.7 IWI

To facilitate Iwi input into the subdivision consent process in a manner which recognises and provides for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.

Policies

- (a) By ensuring that Iwi are properly consulted in accordance with statutory obligations.
- (b) By allowing Iwi to participate in a manner that is consistent with kaitiakitanga and tikanga Maori.

8.4.8 WATER QUALITY

To maintain and enhance the quality of ground water, streams, wetlands and coastal waters.

Policies

- (a) By avoiding or minimising the modification of any natural water systems.

- (b) By ensuring that all discharges of wastewater, sewage effluent and stormwater have been treated to the appropriate standard.
- (c) By restoring the natural ecology of waterways and their riparian margins where possible.

8.4.9 WATER QUANTITY

To ensure that provision is made for an adequate and reliable water supply.

Policy

By requiring minimum storage capacities where on-site tanks are to be used to supply potable water.

8.4.10 ACCESS ROADS AND TRACKS

To ensure that lots have boat access or a legally approved and practical vehicle access that is designed and located to avoid significant adverse effects on natural character and landscape values.

Policies

- (a) Access shall follow the natural landform wherever possible and minimise adverse ecological and visual effects.
- (b) The design and location of access shall mitigate any adverse effects on natural character and landscape values.
- (c) Lots that have legal foot access but limited or no legal vehicle access shall only be approved in circumstances where there is practical access such as from the coast. It is noted that such an access may be weather dependent.

8.4.11 NATURAL HAZARDS

To ensure the safety of people and property from natural hazards, and to minimise danger and damage should those hazards occur.

Policies

- (a) By avoiding subdivision in areas subject to coastal and other natural hazards unless environmentally sensitive steps are taken to avoid, remedy or mitigate any risks.
- (b) By ensuring that subdivision designs reflect that some natural features may migrate inland as a result of coastal processes.
- (c) To ensure that subdivision in the coastal environment avoids interference with natural coastal processes and the need for coastal hazard protection measures.

- (d) Where it is proposed to subdivide land that adjoins the coastline the subdivider shall undertake an assessment that addresses the following issues:

- coastal erosion
- identification of a building platform that is located and designed to avoid interference with natural coastal processes
- identification of the need for any coastal protection works

The assessment shall address the above issues both in terms of effects at the time of subdivision and within the foreseeable future.

8.4.12 LAND STABILITY AND SOIL CONSERVATION

Subdivisions shall be designed in a manner that reduces earthworks so far as practicable.

Policies

- (a) By encouraging low impact design in accordance with accepted practices.
- (b) Where soil disturbance is required, by implementing appropriate mitigation and remediation measures.

8.4.13 FINANCIAL CONTRIBUTIONS

To remedy or mitigate potential effects arising from greater demand on public infrastructure, services and amenities by requiring financial contributions.

Policies

By setting out in the Plan, rules that specify;

- the circumstances in which a financial contribution is required, and
- the assessment criteria and the means by which the extent of any financial contribution is determined.

8.4.14 UTILITY SERVICES

To ensure that utility services, including any private power generators, are installed in a manner that minimises any adverse environmental effects on the environment, including visual amenity and noise effects.

Policies

- (a) By requiring the undergrounding of electricity and telecommunication services, other than where this is impracticable or financially not sustainable.
- (b) By requiring that the provision of utility services be assessed as an integral part of any subdivision application.

8.4.15 FIRE SAFETY

To ensure that subdivision design minimises potential risk to people and property from fire hazards.

Policy

By encouraging subdivision design that addresses fire safety matters including the use of fire protection measures, the location of generators, storage of fuel and available emergency water supplies.

8.5 GENERAL RULES

8.5.1 INFORMATION REQUIREMENTS FOR SUBDIVISION APPLICATIONS

Information supplied with an application shall be in accordance with the requirements outlined in Part 6D of the Plan. The information must be sufficient to allow for comprehensive appraisal in terms of the requirements of the Act.

8.5.2 GENERAL REQUIREMENTS

- (a) The subdivision proposal shall be consistent with, and where appropriate give effect to the objectives and policies for the Strategic Management Area, Land Units, Policy Areas and the objectives and policies of this chapter.
- (b) Each lot (intended for residential use) must provide for an area where a dwelling can be erected and meet the permitted activity standards for bulk, location and access as set out in Part 6B for the relevant land unit.
- (c) The applicant shall demonstrate that each proposed lot has sufficient drainage capacity for the onsite disposal of waste water generated from a dwelling that complies with the permitted gross dwelling area in terms of 6B.1.2.5. Where a consent is also needed from the Auckland

Regional Council it must be obtained either prior to or in conjunction with an application under these rules.

- (d) Any subdivision proposal must not lead to any reduction in amenity or environmental values of the wider area through cumulative impacts such as reduced drainage capability (in relation to wastewater and sewage disposal) or reduced visual amenity values.
- (e) Each lot shall be free from flooding, inundation, slippage and other hazards (to the extent required by the Resource Management Act, the District Plan and any relevant Auckland Regional Council planning rules).
- (f) Each lot shall be provided with the required services and infrastructure (eg. stormwater, wastewater disposal, water supply, electricity, and telecommunications), to the standard required in the Hauraki Gulf Islands Development Code.

8.5.2.1 COLLECTIVE WASTEWATER TREATMENT & DISPOSAL FACILITIES

Any subdivision proposal involving the use of a collective wastewater facility must demonstrate that:

- (a) The facility will operate to the required standard for the life of any buildings.
- (b) All costs associated with the facility, including maintenance, monitoring and operation, rehabilitation and renewal, shall be shared between the users of the system in a legally sustainable manner. Consent notices may be imposed to secure these outcomes.
- (c) Proposals shall comply with the standards set out in Section 5 of the Hauraki Gulf Islands Development Code or the equivalent that meets the performance standards set out in the Code and in the District Plan.

8.5.2.2 ROADING AND INFRASTRUCTURE

The standards for roading and other infrastructure for any subdivision shall generally be as specified in Rule 8.10 of the Plan or as set out in the Hauraki Gulf Islands Development Code.

8.5.2.3 CROSS LEASE, COMPANY LEASE AND UNIT TITLE

All buildings subject to a cross lease, unit title or company lease application must:

- i) have existing use rights; or
- ii) comply with the provisions of the Plan; or
- iii) have valid resource consent.

8.5.2.4 STAGING

Where a subdivision (except for a cross lease or unit title) is to be carried out in stages, the applicant shall signify this to the Council when lodging the application. The applicant shall indicate the expected time period for the subdivision completion.

The Council will grant approvals under Sections 223 and 224 of the Act for each stage, when the conditions applying to each stage has been met. Also, the balance lot/s shall comply with the provisions of the Plan.

8.5.2.5 SURVEY PLANS

The Council will approve a survey plan under Section 223 and 224 of the Act when:

- (a) A subdivision consent has been obtained for the subdivision to which the survey plan relates.
- (b) The survey plan is in accordance with that consent and the conditions of consent have been fulfilled or compliance of them secured.
- (c) The appropriate council officer is satisfied that all reserve contributions and requirements for reserve formation have occurred in accordance with consent conditions.
- (d) In the case of applications for cross leases, company leases or unit titles (other than those being staged) the Council shall be satisfied that the buildings subject to the leases or titles, have been constructed in accordance with their building consent.

8.5.3 PERMITTED ACTIVITIES

The following subdivision proposals are permitted activities.

Amendments to existing cross leases, unit titles and company lease plans for the purpose of showing additions and alterations to lawfully established buildings, accessory buildings and areas for exclusive use by an owner or owners.

8.5.4 RESTRICTED CONTROLLED ACTIVITIES

- A. Pursuant to Section 94(D)(3) of the Act, the Council is not required to serve notice of any application nor does it require the written approval of affected persons for those activities identified as controlled activities in Table 8.1 of the Plan.
- B. The following subdivision proposals will require a controlled activity resource consent.

- (a) Cross leases, company leases and unit titles within Land Units 11 to 15 and 25 on sites where there is no further potential for development that would meet the permitted activity standards in the District Plan.

- (b) Additional stages to an approved subdivision consent, where the staging is in general accordance with the scope and terms of the original consent.

- C. With regard to controlled activities, the Council restricts its discretion under section 104(A)(b) to the following matters:

- i) Lot Design
- ii) Vehicle access to lots
- iii) Water supply
- iv) Stormwater treatment and disposal
- v) Sewage treatment and disposal
- vi) Utilities
- vii) Planting and landscaping
- viii) Earthworks and land disturbance
- ix) Natural hazards
- x) Ecological effects
- xi) Siting of buildings
- xii) Environmental Effects

- D. Assessment criteria for restricted controlled activities:

- (a) The proposed subdivision shall include information regarding any adverse effects will be either avoided, remedied or mitigated in terms of the above matters listed in C.
- (b) Where one or more buildings exist on the land being subdivided, the design of the subdivision should not create any non-compliance with the rules associated with these buildings. Similarly, the subdivision shall be designed so that any level of non-compliance that already exists is not increased.
- (c) No minimum frontage is required other than for giving effective, safe access onto a legal road that complies with the standards in the Plan and in the Hauraki Gulf Islands Development Code.
- (d) All subdivisions shall provide for wastewater treatment and disposal in accordance with the standards set out in Part 6B of the Plan, the Hauraki Gulf Islands Development Code, any Regional Plan and Technical Publication 58 (ARC) or its equivalent.
- (e) Where any existing or consented residential buildings are to be subdivided by cross-lease or unit title, there shall be an outdoor courtyard or private open space area complying with any specified land use activity

provisions for the relevant Land Unit and/or Policy Area.

- (f) Where any existing or consented non-residential buildings are to be subdivided, the Plan standards set out in Part 6B for parking and access shall be met.
- (g) The Council will only approve the survey plan under Section 223 of the Act, after the building is completely framed up to and including the roof level. Also, the Council shall be satisfied that the building complies with the Plan or any resource consent granted. The Council may require confirmation by a Registered Surveyor regarding the height and location of any building/s on the lot.
- (h) The Council shall be satisfied that satisfactory arrangements have been made for any shared servicing, buildings and areas.

8.5.5 RESTRICTED DISCRETIONARY ACTIVITIES

- A. Pursuant to Section 94(D) of the Act the Council is not required to serve notice of any application, nor is it required to notify an application or require the written approval of affected persons for those activities identified as restricted discretionary activities in Table 8.1 of the Plan.
- B. The following subdivision proposals will require a restricted discretionary activity resource consent:
 - (a) Boundary relocations where the lot sizes stay the same.
 - (b) In Land Unit 24 - Pakatoa Island, the subdivision of existing buildings.
 - (c) Creation of a right of way.
- C. With regard to restricted discretionary activities the Council reserves its control under section 104 (C)(a) to the following matters in addition to those set out in 8.6.1:
 - i) Lot Design
 - ii) Vehicle access to lots
 - iii) Water supply
 - iv) Stormwater treatment and disposal
 - v) Sewage treatment and disposal
 - vi) Utilities
 - vii) Planting and landscaping
 - viii) Earthworks and land disturbance
 - ix) Natural hazards
 - x) Ecological effects

xi) Siting of buildings

xii) Environmental effects

D. Assessment Criteria

- (a) The proposed subdivision shall include information as to how any adverse effects will be either avoided, remedied or mitigated in terms of the above matters listed in C.
- (b) Where one or more buildings exist on the land being subdivided, the design of the subdivision should not create any non-compliance with the rules associated with these buildings. Similarly, the subdivision shall be designed so that any level of non-compliance that already exists is not increased.
- (c) No minimum frontage is required other than for giving effective, safe access onto a legal road.
- (d) All subdivisions shall provide for wastewater treatment and disposal in accordance with the standards set out in Part 6B of the Plan, any Regional Plan and Technical Publication 58 (ARC) or its equivalent.
- (e) Where any existing or consented residential buildings are to be subdivided by cross-lease or unit title, there shall be an outdoor courtyard or private open space area complying with any specified land use activity provisions for the relevant Land Unit and/or Policy Area.
- (f) Where any existing or consented non-residential buildings are to be subdivided, the Plan standards set out in Part 6B for parking and access shall be met.
- (g) The Council will only approve the survey plan under Section 223 of the Act, after the building is completely framed up to and including the roof level. Also, the Council shall be satisfied that the building complies with the Plan or any resource consent granted. The Council may require confirmation by a Registered Surveyor regarding the height and location of any building/s on the lot.
- (h) The Council shall be satisfied that satisfactory arrangements have been made for any shared servicing, buildings and areas.

8.5.6 OTHER DISCRETIONARY ACTIVITIES

The following subdivision applications shall be assessed as discretionary activities and shall meet the criteria set out in 6E and the criteria set out in section 8.6 of the Plan.

8.5.6.1 SUBDIVISION THAT MEETS THE MINIMUM LOT SIZE

Subdivisions that meet the standards for minimum areas specified in Table 8.2.

8.5.6.2 SUBDIVISION THAT COMPLIES WITH TABLE 8.3

An application to reduce lot size shall meet the criteria set out in 8.6 and comply with the standards set out in Table 8.3.

8.5.6.3 LAND UNITS 11 AND 12

(a) Land Units 11 and 12

- i) Each lot must provide for an area where a dwelling can be erected as a permitted activity in terms of the Rules and standards in Part 6B for the land unit.

The application must demonstrate that each proposed lot has particular drainage characteristics, such that it can accommodate an on-site effluent disposal system based on discharge to the ground which conforms with the Council bylaws and Regional rules.

- ii) For the purposes of clause (i) above the application must demonstrate that the drainage capability of any proposed lot is such that a dwelling constructed to the permitted maximum gross dwelling area in terms of Rule 6B.1.1.1 can be serviced. Where a consent is also needed from the Auckland Regional Council it must be obtained either prior to or in conjunction with an application under these rules.
- iii) Any reduction in lot sizes must not lead to any reduction in amenity or environmental values of the area through cumulative impacts such as loss of either drainage capability or visual amenity values.

8.5.6.4 SPECIAL PURPOSE LOTS

(a) Notwithstanding any other standard or rule set out in Part 8, a lot may be approved by Council where it is appropriate for the following special purposes:

- i) A public utility or public work;
- ii) An access denial strip;
- iii) Access from or between public places;

- iv) Archaeological and Maori Heritage Sites;
- v) Reserves/other land protected in perpetuity;
- vi) Leases for longer than 20 years for complying or approved activities established pursuant to the Reserves Act 1977 or the Conservation Act 1987;
- vii) A utility or work of an approved network utility operator.

(b) No minimum lot area is required, however the extent of non-compliance with the lot size standard for the relevant land unit shall be no greater than is necessary for the particular purpose.

(c) Where a special purpose lot is no longer required or used for the purpose for which it was subdivided, the land shall be re-amalgamated with the land from which it was originally subdivided unless the site has a minimum area of 4000m² and is suitable for residential purposes. To ensure this, a condition to that end may be attached to any consent granted under this rule.

8.5.6.5 PROTECTION OF SIGNIFICANT ENVIRONMENTAL FEATURE(S)

A. Significant Environmental Feature

- (a) Within land units 1-10 and land unit 20 only, the Council may consent to the subdivision of land to create lots which will protect any significant environmental feature or features (or a combination of features) (see Part 11 - Definitions) from development and any potential adverse effects of land use activities.
- (b) The adequacy of the area of the significant environmental feature to be protected will be assessed on a case by case basis.
- (c) The gross area of each lot shall be inclusive of the area containing the significant environmental feature and the balance area. (see Table 8.4).

B. General Standards

- (a) Significant environmental features or areas may only be used under these rules where those areas have not already been legally protected as a condition of a resource consent.
- (b) There shall be sufficient land within each lot and outside of the significant environmental feature and/or any area to be legally protected to locate a dwelling, accessory buildings, outdoor servicing and living areas and vehicle accessways. These shall be located and designed to avoid any disturbance to the protected area or to land adjacent to Whakanewha Regional Park.

- (c) Natural topographical and ecological features shall generally determine the proposed lot boundaries, and any proposed pedestrian and vehicle accessways in order to avoid or minimise any adverse effects on soil stability, water quality and visual amenity.
- (d) The proposed subdivision shall meet the criteria set out in Rule 8.6.
- (e) Areas identified for protection shall be the subject of appropriate legal protection in perpetuity.

C. Cluster Subdivision

Where a lot may be created in accordance with the criteria in A above, residential lots may be created with a lot size of between 2000sqm and 3000sqm in the following circumstances.

- (a) The number of lots will be limited to the number that would be allowed for a standard subdivision under 8.5.6.5 and Table 8.4.
- (b) One additional lot shall be created that will comprise the balance of the land subject to the subdivision. Each residential lot created under this rule shall hold an equal undivided share in that lot.
- (c) Residential sites created under this rule shall be clustered in one or more groups and shall share vehicle accessways.
- (d) The clustering of the lots and future buildings shall minimise the effects of development on the ecology and the visual character of any site.
- (e) The clustered sites shall be designed so that the location of buildings will comply with the Development Controls and Performance Standards in the Plan.
- (f) Lot coverage shall not be greater than 200 square metres per lot.

D. Certification

For subdivision under 8.5.6.5 A the following shall apply:

Where the Council considers it is necessary an appropriately qualified, independent person shall certify that:

- (a) The existing indigenous vegetation is of a quality and maturity that is self-sustaining and worthy of preservation.
- (b) Any natural feature or area to be retired from active farming is able to be managed in a way that preserves and enhances its existing ecological, heritage and/or landscape value.
- (c) The feature of archaeological, historical or cultural significance is of such significance to the community as to warrant its preservation in the public interest.

Also, the area, site or structure will retain and enhance the feature in its landscape context.

- (d) A report or other measures that are deemed to be appropriate shall be prepared by the certifier and shall accompany the certification. The report shall detail the attributes of the area recommended for protection. This should include an on-going management programme that details any protection and enhancement.
- (e) A report will not be required where the area to be covenanted is scheduled in Appendix C of the Plan as a Site of Ecological Significance.
- (f) All costs associated with meeting this requirement shall be met by the applicant.

E. Legal Protection

For subdivision under 8.5.6.5 A the following shall apply:

- (a) Legal protection of the feature or area shall be secured through a consent notice or another suitable legal instrument that is registered on the title of the land concerned. Legal protection may also be achieved through a QE II National Trust Covenant, a covenant with Council, a conservation covenant under S77 of the Reserves Act or by vesting in a public authority as a public reserve.
- (b) All costs associated with meeting this requirement shall be met by the applicant.

8.5.6.6 SUBDIVISION FOR RURAL COMMERCIAL OR INDUSTRIAL LAND USE OR FOR COMMUNITY USE

Subdivisions may be approved in the following circumstances:

Where the subdivision will result in a separate lot that will accommodate the following:

- i) an existing or proposed rural industrial or rural commercial activity;
- ii) an existing or proposed community facility;
- iii) In the case of i) or ii) above, where the activity is not existing, the Council may require a bond to be posted pending the development and implementation of the resource consent.

8.6 ASSESSMENT CRITERIA

8.6.1 ASSESSMENT CRITERIA FOR DISCRETIONARY ACTIVITY APPLICATIONS

Conditions may be imposed with regard to any of the matters set out below.

Note: The provisions of the Hauraki Gulf Islands Development Code will apply in respect to fulfilling any of the requirements that are set out below.

These assessment criteria apply to both Restricted Discretionary (see 8.5.5 above) and Discretionary applications. Any other relevant assessment criteria applying to the particular Land Units or Policy Areas also shall apply.

General Assessment Criteria

(a) Reverse Sensitivity

The proposed subdivision should minimise any potential for negative inter-activity or cross-boundary conflicts.

(b) Land Suitable for Agriculture or Horticulture

Where a proposed lot contains land suitable for horticulture or agriculture or other productive uses the proposed lot sizes and lot design shall result in the retention of as much of this land surrounding the building platform as practical.

(c) Lot Design and Layout

- i) The location of proposed lot boundaries shall take account of the topography, ability to be fenced (or not fenced where visual dominance is a potential issue) and compliance with any yard requirements.
- ii) The relationship and size of the lots in terms of their solar advantage including the alignment and layout of the building platform.
- iii) The location of building platforms in relation to existing buildings and adjoining lots and their compliance with rules for permitted and controlled activities.
- iv) The likely location of buildings and access to them shall minimise potential visual impacts.
- v) The location of building platforms on lots adjoining the coastline shall avoid the need for coastal protection works.
- vi) The lot design will not lead to cumulative impacts within the SMA such that environmental,

community or visual amenity values are detrimentally affected.

- vii) The relationship and orientation of lots, particularly in respect of land in adjoining Land Units and Policy Areas, and the ability to create an attractive and interesting edge between developments in the various adjoining Land Units and Policy Areas.
- viii) Where one or more buildings exist on the land being subdivided, the design of the subdivision should not create any non-compliance with the rules associated with these buildings. Similarly, the subdivision shall be designed so that any level of non-compliance that already exists is not increased.
- ix) No minimum frontage is required other than for giving effective, safe access onto a legal road.
- x) The location and design of any proposed pedestrian and vehicle accessways on the proposed lot shall avoid or minimise any adverse effects on soil stability, water quality and visual amenity.
- xi) The layout of reserves and accessways should provide for adequate public access.

(d) Access to Lots

- i) The provision for safe, practical pedestrian and cycleways, (sealed or unsealed), the relationship of these to reserves (existing or proposed); access to the coast and other water bodies; and the opportunities for enhancing the rural walkways network.
- ii) The impact of roading and access on natural character and landscape values of the coastal environment.
- iii) The need for and extent of any financial contributions in respect to the provision of property access from public roads.
- iv) The safety and efficiency of the roading network and the proposed roading pattern.
- v) The effect of any new intersections or private access ways on traffic safety and efficiency, including adequate, unobstructed sight distances from intersections.
- vi) There shall be space for safe pedestrian and cycle movements along the road.
- vii) Any impact of roading and access on water bodies, ecosystems, drainage patterns and other amenities.

- viii) Provision shall be made for future roads to serve surrounding land or for road links that need to pass through the subdivision.
- ix) Where there is/are existing unformed legal road/s that are assessed as being unnecessary for future roading use, these shall be closed and consideration given to vesting them as reserve, transferring ownership to adjacent administering bodies of reserves or offering them for sale to adjacent landowners at market value. In the case of the latter the selection of buyer/s and the terms of sale shall be managed by the Property Group of Auckland City Council.

(e) Natural Water Systems

Any subdivision proposal shall include a plan that demonstrates how any natural water system on the site will be managed and/or enhanced.

(f) Water Supply

An adequate and reliable supply of potable water shall be available to each proposed lot to the standard specified in the Hauraki Gulf Islands Development Code.

(g) Stormwater Disposal

- i) There shall be adequate measures for collecting and disposing of stormwater from the roof of all existing or potential buildings and from impermeable areas. The design shall include measures that:
 - control any adverse effects of the proposed subdivision relating to drainage onto or from adjoining lots or proposed lots;
 - screen out water borne litter, siltation and contamination before the stormwater reaches the boundary of any lot or of any proposed lot.
- ii) The applicant may be required to obtain consents from the Auckland Regional Council.
- iii) The design shall be in accordance with the relevant Auckland Regional Council Technical Publications, e.g. Stormwater Treatment Devices, TP124 Low Impact Design Manual for the Auckland Region.

(h) Sewage Treatment and Disposal

- i) Whether the site has sufficient capacity for a wastewater disposal field (this may require an assessment of soil types, and as necessary, percolation tests).
- ii) Where more than one new site will be created, whether a community or individual wastewater treatment and disposal system is the most

appropriate, having regard to any existing problems within the vicinity of the site.

- iii) Whether the regional rules and associated standards and guidelines for on-site wastewater disposal are complied with. If not, resource consent may be required from the ARC. This may require processing at the same time as the subdivision consent.

(i) Utilities

Where practicable and financially sustainable:

- lots shall be connected to reticulated services, (such as telecommunications); and
- the cables shall be placed underground with minimal disturbance to the environment.

(j) Open Space and Recreation

The extent to which the provision of land and/or cash contributions provide for open space and recreation are consistent with the objectives and policies of the District Plan.

Note 1: Council may require a report from an appropriately qualified independent person to assess whether the standards of any open space or recreational facilities (eg walkways) are in accordance with the consent conditions.

Note 2: Council park staff shall be consulted regarding the suitability and practicality of any proposed public reserves or pedestrian linkages.

Note 3: All proposed reserves shall be vested and any easements shall be created before titles are issued.

(k) Protection of Vegetation And Landscape

- i) The size and shape of lots shall maximise the protection of indigenous vegetation and avoid directing development towards areas prone to erosion; and
- ii) The proposed subdivision shall maximise the use of areas that are already cleared for vehicle access and building sites. Areas where the natural ecology is still intact, or partly intact shall be conserved where this is practicable and reasonable in the context of the character of the site subject to any application.
- iii) The subdivision shall provide for ecological restoration and enhancement, where appropriate ecological enhancement may include enhancement of existing native vegetation replanting and weed and pest control.

(l) Preservation/Enhancement of Areas of Archaeological, Cultural or Spiritual Significance

The subdivision design and layout shall preserve and/or enhance areas of archaeological, cultural or spiritual significance.

(m) Earthworks and Land Disturbance

Earthworks are subject to the performance standards of Section 6B.1.3.6 (Standards for Permitted Activities: Earthworks) and 6C.1.3.6 (Standards for Discretionary Activities: Earthworks) and shall be carried out so that any regional requirements are met, in regard particularly to sedimentation and water quality.

(n) Riparian Areas

Where there are natural water systems on the property, the subdivision design shall address any necessary need for improving their water quality and appearance.

(o) Natural Hazards

- i) The proposed pattern and size of lots secures the sustainable management and protection of any hazard prone or sensitive areas through appropriate protective measures.
- ii) Conditions shall be imposed where necessary to avoid or mitigate potential damage or danger from natural hazards.
- iii) Where necessary, parts of a lot should be restricted from development in order to avoid potential adverse effects of natural hazards.
- iv) Any other matters the Council may consider relevant.

(p) Further Information Requirement

Where relevant the applicant shall submit report/s by qualified independent person/s in order to allow for an adequate assessment of the proposal against the relevant criteria listed above.

8.6.2 ASSESSMENT CRITERIA FOR CLUSTER SUBDIVISION

Where it is proposed to create residential lots under Rule 8.5.6.5 C, the following criteria shall be met;

- (a) All such proposed lots shall provide for buildings that will be visually unobtrusive, (both individually and cumulatively), in the landscape, as supported by a report from a landscape architect specifying any necessary conditions to achieve that outcome.
- (b) Any subdivision proposal shall include a written and plan description of the configuration of the new lot/s, the proposed building platform/s, access/right of way and

servicing arrangements. It shall also include appropriate guidelines as to the intended coverage and height of all future buildings and reference to the existing buildings (individually and cumulatively) and the character of the existing environment including landscape character.

- (c) There shall be provision for appropriate on-site wastewater disposal and water supply for each lot and the provision of common infrastructure servicing more than one property is preferred in order to minimise environmental effects and to maximise the use of appropriate technology.
- (d) Access to the new lots shall either be taken from any existing access or shall be provided as a common access wherever possible in order to reduce visual and environmental effects, and in all cases shall result in minimising earthworks and vegetation removal.
- (e) As far as practicable the proposed subdivision should minimise the impact on any existing (or potential) productive development activities on the parent lot (in the case of Land Units 3,5,6, particularly).
- (f) Any existing areas that were covenanted as a requirement of a previous consent condition/s shall not be affected by any proposal.
- (g) Any proposed residential lot shall be designed and located so that the effects of any buildings and land use activities can be absorbed by the existing landscape. Where necessary, appropriate vegetation plantings may be used to reduce potential visual effects. Such plantings must be subject to bonds and consent notices as a condition of consent.
- (h) Multiple residential lots created under these rules shall not result in linear form or repetitive patterns of buildings and infrastructure.
- (i) Any subdivision proposal shall identify the likely extent of earthworks and other alterations to the landform or landscape that may arise in relation to future buildings or land use activities so that the cumulative effects of any proposal can be assessed. Such work does not necessarily need to be a part of any proposed resource consent application to subdivide.

8.7 STANDARDS FOR SPECIFIC LAND UNITS AND POLICY AREAS

8.7.1 LAND UNITS 13, 14, 15

Application for a subdivision in Land Unit 13, 14 or 15 shall only be considered in the following circumstances:

- (a) Each lot must contain a suitable building platform that enables a complying building to be constructed as a permitted activity.
- (b) Each lot must have the capacity to provide for effective onsite treatment and disposal of wastewater and stormwater, or be able to be connected to a reticulated waste disposal system.
- (c) Vehicle access to each lot shall be designed to:
 - i) Avoid or mitigate traffic and associated noise impacts upon any surrounding residential uses; and
 - ii) Take advantage of any existing vehicle access where this is practicable.

8.7.2 LAND UNITS 17, 18, 19, 23

Application for a subdivision in Land Unit 17, 18, 19 or 23 shall only be considered in the following circumstances:

Where the land is public reserve:

- (a) Subdivision shall be in accordance with the provisions of any operative or proposed Conservation Management Strategy pursuant to the Conservation Act 1987; or
- (b) Any operative or proposed reserve management plan pursuant to the Reserves Act 1977.

8.7.3 LAND UNIT 21 TE WHAU PENINSULA

- A. The median size of the total number of lots proposed shall be not less than 3ha.
- B. A maximum of 10% of the total number of lots to be created shall be permitted to be between 1.0 and 1.5 ha in area.
- C. The minimum size for any lot shall be 1 (one) hectare.
- D. The maximum number of lots permitted in Land Unit 21 shall be 35, provided that this will be increased up to a maximum of 55 lots at a ratio of 1 additional lot per 2 ha of open space where such open space:
 - (a) Is vested in Council as a reserve providing access between any road and esplanade reserves; and/or
 - (b) Protects and preserves in perpetuity significant landscape features or areas of native bush or shrubland or sites of ecological significance or habitats by means of suitable protective instruments such as encumbrances, covenants or consent notices provided that:

- i) Such land is over and above that required for esplanade reserves, local purpose (access) reserves, roads and land set aside for public utilities;
- ii) Is appropriate for accessways for protection of the landscape features or areas of native bush or shrubland sites of ecological significance or habitats; and
- iii) An appropriate protective instrument is prepared by the City Solicitors at the expense of the applicant; and
- iv) The objectives and policies for the land unit and the strategic management area are given effect to.

8.7.4 LAND UNIT 22 WESTERN LANDSCAPE

Application for a subdivision in Land Unit 22 shall only be considered in the following circumstances:

A. Minimum Area

Where the minimum area of 25 ha in Table 8.2 is provided for,

or

B. Comprehensive Rural Development

Where a discretionary application for subdivision is sought in conjunction with a discretionary application for a Comprehensive Rural Development under Rule 6.22.4.3.B(c) and complies with the following standards:

- (a) The subdivision shall provide for lots at a ratio of one lot per 5 ha of gross land area of the site subject to a Comprehensive Rural Development application unless increased in terms of rule 8.7.4 C. and
- (b) No lot created shall have a minimum area of less than 1.5 hectare, other than those lots created for the purpose of reserves, or public accessways, and
- (c) Any such subdivision shall meet the assessment criteria set out in 8.6.1.

C. Bonus Density Provisions For Land Unit 22

Application may be made for a subdivision which provides for lots at a density greater than that specified in terms of Rule 8.7.4.B(a) up to a maximum density of 1 lot per 3.5 ha of gross land area of the site. For each additional lot which increases the lot ratio below that provided for in Rule 8.7.4.B(a) an additional 2 hectares of public open space, reserve, protected area or protected significant natural feature shall be provided. Any application shall be considered in terms of the following criteria:

- i) Whether the proposed subdivision is likely to minimise the impact of buildings in the rural landscape. In that regard discretely located clusters rather than a widely dispersed pattern of buildings is considered more likely to meet this criteria, and
- ii) Whether or not the subdivision is likely to lead to buildings being located in a manner which will detract from the character of the coastal landscape or coastal environment, and
- iii) Whether the proposed subdivision facilitates the protection of soils of high actual or potential productivity or whether it is likely to lead to cumulative impacts, permanently or significantly affecting such high actual or potential productivity, and
- iv) The extent of protection proposed as part of the subdivision application and the nature and extent of the protective legal instruments, and
- v) Whether the proposal is consistent with the objectives and policies of the Western Waiheke SMA resource management strategy.

8.7.5 LAND UNIT 24 - PAKATOA ISLAND

A Comprehensive Subdivision Proposal for Pakatoa Island may be approved subject to meeting the criteria below in addition to those set out in Part 6E of the Plan.

- (a) The existing tourist facility may be subdivided into one title.
- (b) A minimum area of 500m² per dwelling may be approved where buildings are clustered and have an equal undivided share in the balance area of the island within a formal managed farm park or similar structure and/or incorporating recreational/ visitor accommodation activities to maximum density of 50 dwellings or visitor accommodation units.
- (c) A minimum lot size area of 0.5ha and median lot size area of 1.5ha may be approved where a dispersed pattern of buildings is proposed.

8.7.6 LAND UNIT 25 - WHARF

In Land Unit 25

- (a) The subdivision of buildings existing at the date of the Plan becoming Operative;
or
- (b) The subdivision of land;

will be a discretionary activity and will be assessed accordingly.

Any other subdivision is a non-complying activity and will be assessed accordingly.

8.7.7 LAND UNIT 26 - ROTOROA ISLAND

The subdivision of Rotoroa Island is not provided for as the Land Unit was specifically created to provide for the treatment and rehabilitation of people suffering from addiction problems. Therefore any subdivision will be assessed as a non-complying activity.

8.7.8 POLICY AREAS - INNER ISLANDS

Refer to the rules for Land Units 12, 13, 14 and 17.

8.7.9 POLICY AREAS 1-4 GREAT BARRIER ISLAND (TRYPHENA, MEDLANDS, CLARIS, PORT FITZROY)

The Council may consent to a residential subdivision where:

- (a) The assessment criteria set out in Part 8.6.1 and Part 6E of this Plan are met.
- (b) The proposal meets the requirements set out in Part 8 for Land Unit 12, including the lot sizes in Table 8.2 or

The relevant standards for lot sizes in Policy Areas set out in Table 8.5 are met.

- (c) For subdivisions seeking to reduce the minimum lot areas for Policy Areas as set out in Table 8.5 the following criteria shall be met:
 - i) The creation of the lots will strengthen the development opportunities within and around existing settlements.
 - ii) Covenants or similar measures are to be used to facilitate revegetation and protect the significant environmental, historic or archaeological feature; and
 - iii) The proposed lot pattern shall reflect natural landforms and emphasis on the retention of bush areas and / or open space areas and / or in the case of Claris, preserve noise buffers; and
 - iv) Roading and access impacts, vegetation removal and earthworks shall be minimised; and

- v) The overall visual amenity of the area shall be maintained or enhanced; and
- vi) Any financial contribution shall maximise the opportunities to maintain and enhance the environmental, social, cultural and amenity values of the area.

8.7.10 NON-COMPLYING ACTIVITIES

The subdivisions set out below are deemed to be a non-complying activity.

- i) Any proposed subdivision in Land Unit 16 (Quarrying).
- ii) Any proposal that is not included in the Plan as a controlled, or discretionary activity.

8.8 ESPLANADE RESERVES

8.8.1 REQUIREMENT FOR AN ESPLANADE RESERVE OR ESPLANADE STRIP

Explanation

The Resource Management Act requires that esplanade reserves and esplanade strips shall be set aside along the coastal margin and the edges of rivers and streams.

Esplanade reserves are subdivided and vested in the Council's ownership, whereas esplanade strips are created by instruments on the title of the land and remain in private ownership.

The Act requires that an esplanade reserve or an esplanade strip is to be provided where an allotment of less than 4 hectares is formed, when land is subdivided.

An esplanade reserve or esplanade strip will generally be 20 metres wide along the mark of mean high water springs, or any river whose bed has an average width of 3m or more, or any lake whose bed has an area of 8 hectares (ha) or more.

The nature of the coastline and rivers of the Hauraki Gulf Islands is such that it is desirable that the provisions of the Act are used to the fullest extent. However, it is recognised that there may be circumstances where an increase, reduction or waiver of the esplanade area requirements could be justified.

The Act provides for rules to be included in a District Plan for the width of an esplanade reserve or esplanade strip to be increased or decreased or waived under certain circumstances (Section 77 of the Act).

The Council may require a width greater than 20 metres to be vested as an esplanade reserve or esplanade strip, where there are significant conservation or recreational benefits, or to mitigate natural hazards, or to improve public access. When a reserve or strip greater than 20 metres is required the Council will compensate for the extra land in accordance with Section 237E of the Act.

Where an allotment of 4 hectares or more is to be formed through subdivision, an esplanade reserve or strip will be required where the land concerned is demonstrably significant for the protection of conservation values, recreational use, public access, or for the mitigation of natural hazards, and its width will be determined accordingly. In such a case, the Council may compensate for the reserve or strip in accordance with Section 237F of the Act.

The decision on the most appropriate method of achieving the Plan's objectives, and policies, either by setting aside esplanade reserves or by creating esplanade strips upon subdivision will depend on the circumstances and the purpose for which the land is required.

Esplanade strips are appropriate to protect areas with the following characteristics:

- land instability,
- moderate or low conservation values,
- where public access should be restricted,
- can be left in private ownership without detriment to the natural coastal environment and watercourses.

The Council will make use of the provisions of Section 237B of the Act as it sees fit to enable access to be obtained to present and future esplanade reserves and esplanade strips.

8.8.2 RULES

A. Where any subdivision is proposed of land abutting the mark of mean high water springs of the sea or the bank of any watercourse; an esplanade reserve not less than 20m in width shall be set aside, except that:

- (a) The esplanade reserve requirement may be met by the creation of an esplanade strip (see S.232 Resource Management Act).
- (b) Where a lot of 4 hectares or more is to be created, an esplanade reserve or esplanade strip shall be provided only when the land concerned is demonstrably important for the protection of conservation values, recreation or public access or for the mitigation of natural hazards.
- (c) An application can be made to vary or waive the rules requiring provision for esplanade reserves or esplanade strips by way of an application for a

discretionary activity that shall be submitted together with any subdivision application.

- B. All applications for the subdivision of land abutting the mark of mean high water springs of the sea or watercourse shall indicate the location and extent of the esplanade reserve.
- C. Any building located within an area to be vested as esplanade reserve may be required to be vested in Council or removed at the owners expense prior to vesting.
- D. On the stopping of any road, adjacent to the MHWS mark, under the Local Government Act 1974, such stopped road will become a local purpose (esplanade) reserve; provided, however, that the Council may resolve to reduce the width of such a reserve to not less than 20 metres at any one point.
- E. Land vested as an esplanade reserve or set aside as an esplanade strip may be considered in any assessment of building coverage.
- F. The relevant yard provisions of the Plan will continue to apply whether or not the esplanade reserve width requirements have been waived or reduced, unless those yards have been reduced in accordance with a discretionary activity application pursuant to the requirement of the Plan.

8.8.3 NOTIFICATION

Any application under Rule 8.8 2 A (c) to waive or reduce an esplanade reserve requirement, or to vary or cancel an esplanade strip, will be publicly notified.

8.8.4 ASSESSMENT CRITERIA FOR REDUCTION IN WIDTH OR WAIVER OR CANCELLATION OR VARIATION OF AN ESPLANADE AREA

- A. In considering any application seeking a reduction in the width or waiver of an esplanade reserve or esplanade strip or a variation or cancellation of an esplanade reserve or strip the Council shall consider the following criteria:
 - (a) The extent to which the proposed reduction in the width or waiver of the esplanade reserve or esplanade strip meets the objectives and policies of the Plan in respect of the conservation and enhancement of the coastal environment and, in particular:
 - i) the maintenance or enhancement of the natural functioning of the adjacent sea or watercourse;

- ii) the maintenance or enhancement of water quality;
 - iii) the maintenance or enhancement of terrestrial or aquatic habitats;
 - iv) the mitigation of any actual or potential natural hazard;
 - v) the protection of natural values associated with the water body, including protection of flora and fauna, wildlife habitats and landscape amenity values.
- (b) Whether the major ecological characteristics of the land that contribute to the maintenance or enhancement of the natural functioning of the adjacent sea or watercourse, the water quality and the terrestrial and aquatic habitats are present in the proposed reserve or strip.
 - (c) The extent to which any areas of actual or potential natural hazards are included in the esplanade reserve or esplanade strip in order to mitigate against natural hazards.
 - (d) The extent to which public access to and along the sea or river or waterway is enabled or diminished.
 - (e) The extent to which public safety or security is compromised.
 - (f) The extent to which the recreational use of the esplanade reserve or esplanade strip and adjacent water area is enabled or diminished.
 - (g) Whether the proposed reserve or strip is compatible with physical characteristics of the land.
 - (h) The extent to which the natural character and visual quality of the coastline or riverbank will be preserved within the proposed reserve or strip.
 - (i) Whether the use of conservation covenants or other suitable alternative means would achieve the objectives and policies of the Plan.
 - (j) Whether there are any natural values of significance to the tangata whenua.
 - (k) Whether there are any significant archaeological or historical sites.
 - (l) Whether any existing permanent building should be excluded from the esplanade reserve or esplanade strip or removed prior to vesting of the esplanade reserve or setting aside as an esplanade strip.
 - (m) Whether the application is for a minor boundary adjustment that will not create further building sites.
 - (n) Whether other exceptional circumstances exist such that it would not be appropriate to require an esplanade reserve or esplanade strip.

- B. Any boundary of a reserve or strip reduced in accordance with these criteria will not necessarily be a set distance from the coast or watercourse but may be varied to include features of importance for achieving the purposes of esplanade reserves or esplanade strips.
- C. Notwithstanding the above criteria, the Council will need to be satisfied that in granting any reduction or waiver that the purposes of the esplanade reserve or esplanade strip specified in Section 229 of the Act are not significantly diminished.
- D. Notwithstanding the above criteria, the Council may in granting a waiver of an esplanade reserve require an esplanade strip to be provided.
- E. Generally where the proposed subdivision will create a minor special purpose lot which will not be located within the coastal protection yard, then the Council will waive the esplanade area requirement.

8.8.5 ASSESSMENT CRITERIA AS TO WHEN AN ESPLANADE AREA IS REQUIRED FOR ALLOTMENTS OF 4 HECTARES OR MORE

The Council will consider requiring an esplanade reserve or esplanade strip for allotments of 4 hectares or more when:

- (a) The esplanade reserve or esplanade strip has demonstrable significance for the protection of conservation values, in particular:
 - i) the maintenance or enhancement of the natural functioning of the adjacent sea or river or waterway;
 - ii) the maintenance or enhancement of water quality;
 - iii) the maintenance or enhancement of terrestrial or aquatic habitats;
 - iv) the mitigation of any actual or potential natural hazards;
 - v) the protection of natural value associated with the water body, including protection of flora and fauna, wildlife habitats and landscape amenity values.
- (b) Recreational use of the esplanade reserve or esplanade strip and adjacent water area is enabled or enhanced.
- (c) Public access to and along the sea or watercourse is enabled or enhanced.
- (d) There are significant archaeological or historical sites.

- (e) There are natural values of significance to the tangata whenua.

The provisions of Section 237F of the Act outline matters of compensation.

8.8.6 ASSESSMENT CRITERIA AS TO WHEN ESPLANADE AREA WIDTH MAY BE INCREASED

- A. The Council will consider requiring an additional width above 20m when:
 - (a) There is a demand for recreational use of the land over and above what can be achieved with a 20m wide reserve or strip.
 - (b) Access to an existing or possible future reserve or strip can be enhanced.
 - (c) There are outstanding conservation values that deem recognition by way of an esplanade reserve or esplanade strip.
 - (d) The land is located within a known natural hazard area.
- B. When a reserve or strip greater than 20m is required the Council may purchase the extra land in accordance with Section 237 of the Act.

8.9 FINANCIAL CONTRIBUTIONS

- (a) Financial contributions can be levied on subdivision consents under section 108(10) of the Act. A financial contribution may be included as a condition of the Council granting subdivision consent. The maximum amount that can be levied, as well as the purpose for the contribution, must be specified in the District Plan.
- (b) The specific provisions in this Plan relating to financial contributions are aimed at contributing to the cost of providing for public infrastructure. On the Gulf Islands, this mainly relates to roading, the provision of public reserves and public recreation facilities.
- (c) The reasoning behind the law on financial contributions is that subdivisions create additional lots that in turn will probably lead to more people living in the area. Therefore there is likely to be a greater demand for the quality and quantity of public facilities and infrastructure.
- (d) For further detail regarding Financial Contributions, see Part 9 of the Plan.

8.10 ENGINEERING REQUIREMENTS

8.10.1 HAURAKI GULF ISLANDS DEVELOPMENT CODE

Works which meet the requirements of the "Hauraki Gulf Islands Development Code" (the Code) shall be deemed to meet the performance criteria in this section.

The various sections of the Code recognise that different approaches may be suitable depending upon the location of the proposed subdivision.

Use of the Code is not mandatory, and applicants are able to pursue different methodologies to meet these performance criteria.

8.10.2 ROADING DESIGN STANDARDS

A. General Standards

All roads and where appropriate accesses to lots shall be formed in accordance with the standards outlined in the Code.

The subdivision application must show that each lot has either:

- (a) Practical, legal, safe, all weather access from a formed public road, that is suitable for both normal road going vehicles and construction traffic; or
- (b) The Council may approve of legal foot access to a lot only where it is considered that legal vehicular access to a lot is:
 - i) unnecessary;
 - ii) because of topographical features, it is impracticable;
 - iii) where the lot abuts the sea and the Council is satisfied that there is reasonable access from the sea.

Lots created under 8.10.2 A b) shall have this noted on their titles.

B. Widths

- (a) Where the access will serve a maximum of 3 dwellings, the access width shall be a minimum of 4m. The formed carriageway shall be a minimum width of 3 metres.

- (b) Where the access will serve 4 or more dwellings, the access width shall be a minimum of 6m. The formed carriageway shall be a minimum width of 5m. Adequate passing bays shall be formed.

- (c) Where it serves or will ultimately serve a commercial allotment the access width shall be at least 9m wide, with a 4.5m wide formed carriageway. This is for single direction only.

C. Gradients

- (a) Where the gradient is steeper than 1 in 8, but less than 1 in 4, the access shall be surfaced with chipseal, or an approved alternative.
- (b) Where the gradient is 1 in 4 or steeper, the access shall be surfaced with cement concrete.

D. Information Requirements

The application shall include a plan showing all relevant local accesses (both public and private), including:

- (a) Public roads (whether formed or unformed) and private roads which border, serve or run through the site.
- (b) Current access arrangements (formal and informal).
- (c) Other land which is, or could be served as above.
- (d) Other land where its access could be affected by the subdivision.

8.10.3 VEHICLE CROSSINGS

Each allotment shall have a practical, legal, safe all weather formed vehicle crossing from the edge of the formed road carriageway to the start of the private access.

- (a) On-site Parking - a minimum of one on-site vehicle parking space is required for each lot.
- (b) Where the proposed lot has its primary vehicle access from a Principal road, adequate on-site vehicle manoeuvring shall be provided. This should allow for the vehicle to exit the lot in a forward position.
- (c) Each non-residential allotment shall have adequate provisions for:
 - i) On-site carparking as required in Parts 6B and 6C of the Plan.
 - ii) Manoeuvring so that reverse entry to the road is not required.

8.10.4 WASTEWATER TREATMENT AND DISPOSAL

The subdivision application shall show that a wastewater system can be constructed that meets the following standards:

- (a) Any leachate, effluent or other wastewater flow is disposed of within the boundaries of the subdivision as a whole. That is, unless the applicant has obtained discharge consent that allows for a variation to this standard.
- (b) The wastewater system is capable of meeting (a) above regardless of seasonal variations and loading.
- (c) There is a maintenance system in place that ensures that the wastewater system will comply with (a) and (b) above for as long as it is required.
- (d) An appropriate area for wastewater disposal is available and is reserved for this purpose.

8.11 UTILITIES

Access easements in favour of the service owner shall be provided for lines, including electric lines, telecommunication lines and other lines, where such lines are or may be located within any private property and serve other properties or sites.

- (a) The provision of utility services to any lot shall be of an appropriate design for the potential uses and the particular characteristics of the area.
- (b) Subject to the provisions of (a), utility services shall be underground. In predominantly rural areas (i.e. where the average density of housing does not exceed one dwelling per 3.5 hectares), utilities may be reticulated, provided such reticulation is restricted to main roads, is not situated on significant ridgelines, and is appropriately mitigated by landscape factors such as landform or vegetation.
- (c) In all cases, the method of provision of utility shall be considered as a integral part of any subdivision application and shall be determined accordingly. Utilities not meeting this standard shall be discretionary activities. Applications for such activities shall be assessed in accordance with Part 6E of the Plan and the relevant parts of the Act.

8.12 MISCELLANEOUS RULES

8.12.1 LOTS THAT ARE DIVIDED BY ROADS OR SPLIT BETWEEN POLICY AREAS OR LAND UNITS

- (a) Where any proposed lot includes more than one land unit the subdivision rules which apply to that lot shall be those for the land unit which comprises the greatest part of the proposed lot.
- (b) Where part of any lot falls into a Policy Area, the part of the lot that is not located in the Policy Area may be subdivided out as one lot. This applies even if the lot does not comply with the minimum area for the relevant land unit. This rule is subject to all other relevant rules being met.
- (c) Where part of a lot is cut off from the balance of the lot by the formation of a public road, the Council may approve a subdivision to enable that severed part of the lot to be subdivided. This may occur even if the lot does not comply with the minimum area rules for the relevant land unit. This is subject to all other relevant rules being met.

8.12.2 WHERE MORE THAN ONE APPLICATION IS LODGED

Where consent is sought for subdivision as well as for a land use consent the Council will consider the applications together unless it is clearly not necessary to do so in terms of achieving integrated resource management outcomes. The Council will also pursue an integrated approach to applications where consents from other agencies, such as the Auckland Regional Council, are required.

8.12.3 NOTIFICATION

The matter of whether a resource consent application will be notified will be determined in accordance with the provisions of Sections 93, 94, 95 of the Act except where any particular rules specifically provide for non-notification pursuant to Section 94 (1.A) of the Act.

A. Controlled Activities and Restricted Discretionary Activities

Any application for a restricted controlled activity or a restricted discretionary activity shall not be notified and the

written approval of affected persons will not be required. However if the Council considers special circumstances exist it may require the application to be notified.

B. Discretionary Activities and Non-complying Activities

Any application for resource consent under the Subdivision Rules for discretionary activities and non-complying activities may require notification. The Council will consider the circumstances under section 94 of the Act, in terms of the potential adverse effects of the proposed subdivision on neighbouring properties, other properties in the subject street or road, and on the wider community.

8.12.4 REVIEW OF CONSENT CONDITIONS

The Council may impose a condition of consent on any subdivision providing for review of the conditions of consent for the purposes laid down in Section 128(a)(i) and (iii) of the Act. The Council may, in accordance with the circumstances and procedures outlined in Sections 128 and 129 of the Act, review the conditions of a resource consent at any time up until the survey plan has been deposited with the District Land Registrar or Registrar of Deeds in accordance with Part X of the Act.

8.12.5 CHANGE OF CONDITIONS

Any application for a change or cancellation of conditions of consent made pursuant to Section 127(1) of the Act may be made to Council in writing prior to deposit of the relevant survey plan. Any objection to the Council's decision on such an application under Section 127 must be made in accordance with Section 357 of the Act within 15 working days of the decision.

8.12.6 UNFORMED LEGAL ROADS

Where a proposed subdivision is within an area that contains an unformed legal road, consideration shall be made to whether the road is required or whether it should be stopped.

8.12.7 REGIONAL COUNCIL REQUIREMENTS

Attention is drawn to the need to obtain relevant consents from the Auckland Regional Council relating to matters such as water supply, stormwater and sewage disposal, earthworks, vegetation clearance and structures below mean high water spring tide mark or in the beds of streams.

8.12.8 LEGAL AND PHYSICAL ACCESS

Section 106(c) of the Resource Management Act shall apply to all subdivisions. This section requires that sufficient provision has been made for legal and physical access to each allotment to be created by the subdivision.

The Council may approve of access on foot only where it is considered that vehicular access to a lot is unnecessary, or because of topographical features, is impracticable or where the lot abuts the sea and the council is satisfied that there is reasonable access from the sea. (See 8.10.2)

8.12.9 DISPOSAL OF FILL FROM ROADS AND ROAD BANKS

The direct dumping of fill into water systems is not permitted except where unavoidable due to natural disasters. Road works and associated activities are subject to the provisions and rules of the District Plan specified in Parts 6B and 6C.

TABLE 8.1 SUBDIVISION IN ALL LAND UNITS AND POLICY AREAS - ACTIVITY STATUS

[illegible]

ACTIVITIES	LAND UNITS														
	1,2	3	4	5	6,7,8, 9,10	11,12	13,14, 15	16	17,18, 19,23	20	21	22	24	25	26
Reduction in lot size that complies with Table 8.3	D	D	D	D	D	D				D					
Special Purpose Lots	D	D	D	D	D	D	D	D	D	D	D	D	D	D	
Protection of Significant Environmental Feature	D	D	D	D	D					D					
Subdivision for Rural Commercial or Industrial Land Use or for Community Use	D	D	D	D	D					D					
Where the subdivision proposes to create separate lots for existing buildings													RD	RD	

P Permitted**C** Controlled**D** Discretionary**RC** Restricted Controlled**RD** Restricted Discretionary

Where there is no notation the activity is a noncomplying activity.

TABLE 8.2 MINIMUM AREAS FOR LOTS (IN HECTARES EXCEPT WHERE INDICATED OTHERWISE)

Land Units	1,2	3	4	5	6,7,8, 9,10	11,12	13,14, 15	16	17,18,19, 23	20	21	22	24	25	26
Minimum Lot Area	25	3.5	15	15	25	2000m ²	1500m ²	Non-complying	Special rules apply See 8.7.2	3.5	Special rules apply See 8.7.3	Special rules apply See 8.7.4	Special rules apply See 8.7.5	Special rules apply See 8.7.6	Non-complying See 8.7.7

TABLE 8.3 VARIATION TO MINIMUM LOT AREAS (IN HECTARES)

Land Units	1,2	3	4	5	6,7,8, 9,10	11,12	13,14,15	16	17,18,19, 23	20	21	22	24,25	26
Minimum Area	12	2	8	8	12	Special rules apply See 8.5.6.3	Non-complying	Non-complying	Non-complying	2	Non-complying	Non-complying	Non-complying	Non-complying
Average Area	15	2.5	10	10	15					2.5				

TABLE 8.4 PROTECTION OF SIGNIFICANT ENVIRONMENTAL FEATURES (IN HECTARES)

Land Units	1,2	3	4	5	6,7,8, 9,10	11,12	13,14,15	16	17,18, 19,23	20	21	22	24,25,26
Minimum Lot Area	4	1.5	4	4	4	NC	NC	NC	NC	1.5	NC	NC	NC
Average Lot Area	7.5	2.0	7.5	5.0	7.5	-	-	-	-	2.0	-	-	-

TABLE 8.5 POLICY AREAS - GREAT BARRIER ISLAND (SEE 8.7.9)

Policy Areas	1,4	2	2 (Residential)	3
Name	Tryphena and Port Fitzroy	Medlands South Medlands area	Medlands Residential Amenity Area	Claris Areas C and D only
Minimum Area	5000m ²	5000m ²	3000m ²	750m ²
Average Area	7000m ²	7000m ²	4000m ²	1000m ²
Reduced Minimum Area	3000m ²	3000m ²	2000m ²	500m ²

Part B: Amendment to Part 11 “Definitions”.

Amend the definition of “Significant Environmental Feature” as follows:

means the whole of any discrete natural feature or landscape which makes a significant contribution to the quality of the local natural environment and amenity and includes any water system, habitat for indigenous species, association of indigenous vegetation, archaeological feature or area of significance as identified by iwi, or any geological feature, landform (including any significant ridgeline identified on the planning maps), ecological corridor or visually significant area or group of areas and includes any site of ~~eEcological sSignificance identified~~ listed in Appendix C in the District Plan.