

SECTION 32 REPORT

PLAN CHANGE 23, HAURAKI GULF ISLANDS

APPENDIX E: NO. 4 MINIMUM AREAS FOR LOTS

1. 8.6.2 Minimum Areas for Lots

- A. Any proposed lot must comply with the minimum area standards specified in Table 8.2 (Land Units) or Table 8.5 (Policy Areas) unless otherwise authorised under this Plan.
- B. As there is no minimum lot area provided for in Land Unit 16 all subdivision proposals are non-complying activities.
- D. For Land Units 17-19 and 23 refer to the rules in 8.5.2.4.2 d). This rule has been altered to acknowledge that some of the land contained in these land units is in private ownership. The proposed rule states that any subdivision shall comply with the objectives, policies and rules of the land unit and the discretionary activity assessment criteria in 8.5.2.6.
- E. There is a new provision for Land Units 21 (Te Whau Peninsula and Land Unit 22 (Western Landscape). A one-off subdivision may occur where the partent lot is over 2.5ha, and was held on a separate certificate of title at 30 July 2002. One residential lot, with a size of no more than 4000sqm may be subdivided off, provided that criteria related to clustering and other visually and ecologically based standards are met.
- F. Land Unit 24 (Pakatoa Island) has revised provisions as follows:
- Subdivision of existing tourist facility buildings into an approved configuration of lots.
 - A minimum of 500sqm per dwelling may be approved where buildings are clustered and the balance area of the island is owned in common within a formal managed farm park or similar structure.
 - Where a dispersed pattern of subdivison is proposed, minimum lot size will be 0.5ha, with a median area of 1.5ha.
- G. The provisions for Land Unit 25 (Wharf) do not specifiy minimum lot sizes. The following subdivision standards apply:
- Subdivison of existing buildings requires a restricted discretionary activity consent;
 - Subdivison of vacant land requires a discretionary activity consent;
 - Any other proposed subdivision will be a non-complying activity
- H. The following table sets out th minimum lot sizes for each land unit, where this can be stated. The table gives both the existing lot size and the proposed lot size.

The minimum lot sizes for land units 1-10 have been reduced, to the amount that in the existing provisions required a discretionary activity consent. The following table shows current and proposed minimum lot sizes.

EXISTING CONTROLS		PROPOSED CONTROLS	
Land Unit	Minimum Lot Size (in hectares unless stated)	Minimum Lot Size (in hectares unless stated)	Average Minimum Lot Size
1,2	25	12	15
3	3.5	2	2.5
4	15	8	10
5	15	8	10
6,7,8,9,10	25	12	15
11, 12	2000sqm	2000sqm	-
13, 14, 15	1500sqm – under 8.5.4.3 “Particular Rules” which contains four criteria	1500sqm	-
16		8.5.2.7 – non-complying activity	
17, 18, 19, 23	8.5.4.4 – subdivision shall be permitted where the lots created comply with an appropriate Conservation Management Plan	-	-
20	3.5	2	2.5
21	<ul style="list-style-type: none"> Median size of total number of proposed lots is not less than 3ha A maximum of 10% of proposed lots should be between 1.0ha and 1.5ha. Minimum lots size 1ha Maximum number of lots permitted in Land Unit shall be 35 Maximum of 55 lots at a ratio of 1 additional lot per 2ha of open space 	<ul style="list-style-type: none"> One-off subdivision per existing certificate of title where the resulting parent lot has an area of no less than 2.5ha Minimum lot size of 4000sqm 	nil
22	25ha, or Comprehensive Rural Development Plan <ul style="list-style-type: none"> lots at a ratio of one lot per 5ha of gross land areas Each lot area shall be greater than 1.5ha 	Same as above for Land Unit 21	
24	Subdivision of buildings existing at the date plan was made operative; Other subdivision is a discretionary activity	Land Unit 24 only – new rules – see 8.5.2.6.2.3	
25	Same as above	-unchanged	
Policy Areas 1-4	Lot sizes are set out in Table 7	Lot sizes set out in Table 8.5	

Other means:

No minimum lots areas or the Status Quo as above.

Reasons for and against adopting the proposed rule, the principal alternative means available or taking no action.

Proposed rule. Proposed Minimum Lot Sizes – See Table 8.2 Reasons For.

- As 10 years has passed by since these areas were set, Land Units such as 21 and do not have any subdivision potential left. The new rules provide scope for more subdivision to occur within these zones. The rule allow for subdivision of a limited scale while placing strict criteria in order to maintain and enhance ecology and visual amenity.
- This rule offers certainty to landowners who that they are able to subdivide their land down to the stated amount.
- The application for a subdivision where the proposed lot areas comply with the provisions in the plan will require a restricted discretionary activity consent. Therefore there will not be a requirement for notification, unless conditions exists that warrant this. Therefore the time taken to process an application is likely to be reduced. There will be more certainty for the applicant as there will generally be no appeal rights from third parties.
- This also potentially lowers compliance costs, as the applicant is not required to submit a discretionary activity application for a reduction in the minimum lot. Such an application requires justification for the reduction that will often involve reports from environmental and land management specialists. This additional information is an expense that is not warranted. While information will still be required to establish the potential adverse effects resulting from a subdivision consent, it is likely to be less onerous.
- The environmental performance standards set out in the discretionary activity criteria (refer to 8.5.2.6) for subdivision are of a high standard. If administered correctly, these criteria will ensure that the subdivision is of a standard that will minimise any adverse environmental effects that may have resulted from lowering lots size minimums and not increasing the level of mitigation and remediation required. . For example:
 - Lot boundaries shall take account of topography;
 - Location of building platforms in relation to other lots;
 - Visual effects of the location of buildings;
 - Lot design will not lead to cumulative effects on environmental, community or visual amenity;
 - Relationship and orientation of lots;
 - Management and enhancement of natural water systems;
 - Stormwater disposal;
 - Retention of land for horticulture or agriculture;
 - Protection of vegetation and landscape
 - Preservation of areas of arechaeological, cultural or spiritual significance;
 - Earthworks controls;
 - Natural hazard controls
- The smaller lots are a more practical size for owners to manage. There is a stong market demand from potential lot owners who do not wish, nor have the skills to farm

land. These people want some space around them that has high visual and aural amenity.

- Large tracts of land are not in demand, as they are no longer used for pastoral farming as this is no longer economic on either Waiheke, Great Barrier, Rakino, except for a few exceptions where the land holding is particularly large, and the farm is run by very experienced farming families.
- Need for greater diversity in lot size pattern to take advantage of the natural landscape.
- No ongoing proof that it is essential to retain 25ha because it hasn't secured any greater environmental outcome than those subdivided as discretionary or noncomplying and has not provide an incentive to protect and enhance the natural environment.
- The existing minimum lot area is 25ha which is too small for most pastoral farming activities anyway.
- Many of the large lots are owned by absentee landowners, particularly on Great Barrier. This situation does not provide for permanent residents on Great Barrier, therefore affected the social environment. The creation of smaller lots offer more options for prospective residents.
- The minimum areas, together with the high standard of assessment criteria will ensure that subdivision will be ecologically sustainable and any visual affect will be minimised.
- The proposed minimum areas will help to improve the current situation where the lots available on the market are either very large or below four hectares in area. The range of lot sizes will become more varied. This will provide for more opportunities for lots to be bought for activities such as small scale horticulture.
- In absence to date of "new village" the proposed minimum lot controls recognise census results and growth trends and the diminishing stock in Land Units 11 and 12.
- More residents paying rates will enable more community facilities – halls, schools, rubbish collection, roading quality etc.

Reasons Against

- Will result in more uncertainty from the point of view of neighbouring landowners being unable to control the possibility of neighbouring sites being divided off and sold off, resulting in more people, buildings and infrastructure in the vicinity of their property.
- Discretionary activity criteria may not be well administered by the Council planning staff assessing resource consents resulting in subdivision consents being granted which have a detrimental effect on the environment.
- More buildings, driveways etc will be visible in the environment, no matter how unobstrusive these may be.
- There may be an increased need to remove vegetation and carry out earthworks.
- The reduction in lot sizes may lead to cumulative impacts within the SMA such that environmental, community and visual amenity values are detrimentally affected.

2. Proposed rule. Land Units 11, 12 – Minimum Size in Land Units 11 and 12 to remain at 2000sqm

The proposed plan change retains a minimum lot size of 2000sqm, with the provision to reduce to 1500sqm as a discretionary activity. The reasons for and against are listed below.

PROPOSED RULE	
Reasons For	Reasons Against
<ul style="list-style-type: none"> • Provide clear guidance as to what area of lot will maintain amenity, character, and provide adequate space for on-site effluent and stormwater disposal • Limit the clearance of bush for house and ancillary activities • Smaller lot sizes will enable additional population to be accommodated in the future without urban expansion into rural areas. • Retain valuable bush surroundings, through villages – less clearance, less risk of weed invasion and pests (cats kill birds, risk of escaping mustelids), • Will help to enhance stream ecology that would be compromised by intensive development • Lowers the risk of ground water pollution if there is a malfunction in a on-site sewage system • Self-limiting issue as there is only a certain number of properties zoned Land Unit 11 and Land unit 12. • There are already many sites within Land Unit 11 and 12 whose size is below 2000 (many at 800sqm. This means that there is already a wide variety of site sizes for people to choose from; • Though not exhaustively documented, there is enough evidence to indicate ground water pollution problems from sewage disposal in some parts of Land Unit 11 and 12. The Council waste water engineer has strongly recommended that the subdivision standard remain at 2000sqm to avoid any worsening of the groundwater situation. • In their comments on the proposed plan change the Auckland Regional Council has requested that the site size minimum remain at 2000 for reasons of water quality. 	<ul style="list-style-type: none"> • Does not recognise the technological advances made in on-site sewage treatment and disposal systems. • Does not recognise growing demand for smaller sites in Land Unit 11 and 12, and the general increase in population on Waiheke Island.

PRINCIPAL ALTERNATIVE MEANS	
Reasons For	Reasons Against.
<ul style="list-style-type: none"> • No minimum areas 	<ul style="list-style-type: none"> • Without specific minimum there is a risk that there will be an increase in the number of very small properties based solely on ability of effluent disposal system. This

	<p>ignore the following:</p> <ul style="list-style-type: none"> - retention of the open, village character and amenity is a priority to the Waiheke Community - there are issues with ground water quality that need to be sorted out before any intensification can be considered <ul style="list-style-type: none"> • tendency for smaller lots to be created as people choose to sell off part of property – usually covered in bush. • Without set minimum the integrity of the village character will be compromised and the objectives of the Plan will not occur
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ALLOW FOR REDUCED LOT SIZES BELOW 2000	
Reasons For	Reasons Against.
<ul style="list-style-type: none"> • Expectation of some in the community that they will have the opportunity to subdivide to an “Isthmus” level of site size. • There is a demand for smaller lots, therefore the Plan should reflect this. • There are sewage disposal systems in place that do not require as much site space as the older systems. • 	<ul style="list-style-type: none"> • The expectation of the Waiheke Community is to avoid “Isthmus” type character, and to maintain and enhance and open village like character. • While less space is required for some of the newer systems, there is still the need for space for stormwater soakage and runoff. Also existing issues with the groundwater in some areas require that intensification does not occur until more is known about this situation and any problems and be rectified.

3. Proposed rule. Land Units 21, 22 – One off Residential Lot (Rule 8.5.2.6.4)

Reasons For.

- This rule offers certainty to landowners that they are able to subdivide their land down to the stated amount.
- The application for a subdivision where the proposed lot areas comply with the provisions in the plan will require a restricted discretionary activity consent. Therefore there will not be a requirement for notification, unless conditions exist that warrant this. Therefore the cost and timing of the application is likely to be reduced.
- There will be more certainty for the applicant as there will generally be no appeal rights from third parties.
- This also lowers compliance costs, as the applicant is not required to submit a discretionary activity application for a reduction in the minimum lot. Such an application requires justification for the reduction that will often involve reports from environmental and land management specialists. This additional information is an expense that is not warranted. While information will still be required to establish the potential adverse effects resulting from a subdivision consent, it is likely to be less onerous.
- Under 8.5.2.6.4 b) Assessment Criteria, the following standards are required to ensure visual absorption into the landscape:
 - One lot per title

- Parent lot has a minimum area of 2.5ha and had a C.T. on 30 July 2002-06-26
- Building platforms and vehicle accessways shall be visually unobtrusive – supported by a landscape architects report;
- Access shall be taken from existing access wherever possible to reduce visual effects and minimise earthworks and vegetation removal;
- Landscaping will be required, and this will be bonded
- No existing covenanted areas of vegetation of vegetation regrowth will be affected by the proposal.
- The environmental performance standards set out in the discretionary activity criteria (refer to 8.5.2.6) also apply to this subdivision type.
- If administered correctly, these criteria will ensure that the subdivision is of a standard that will minimise any adverse environmental effects.
- The smaller lots will cater for the market where owners do not want much land.
- In absence to date of “new village” recognising census results and growth trends provide for another type of lifestyle block in Land Units 21 and 22.
- There is a diminishing stock of larger residential lots in LU 11 & 12 due to the confined nature of these land units.
- Rms growth trends – pressure for demands (see submissions)

4. Proposed rule. 8.5.2.4.4 Subdivision that Provides Legal Protection for the Conservation/Enhancement and/or Creation of Areas of Ecological or Cultural Significance

Reasons for:

- Meets the purpose of the Resource Management Act - Sustainable management – managing the use, development and protection of natural and physical resources ... *while sustaining the potential of natural and physical resources ... and safeguarding the life-supporting capacity of air, water, soil and ecosystems...*
- Provides for a smaller lot subdivision where ecological, heritage or cultural benefits are accrued to the public, and to the ecology of the HGI through the legal protection of areas of ecological or cultural significance
- Provides for the conservation of areas of private property which are prone to natural hazards.
- Note: the minimum lots size of 4ha is the same as in the existing plan. The difference is that the 7.5ha is now an “average” not a “median”. This will allow for a greater range of lot sizes than the median.
- The proposed new section provides for a variety of subdivision types to suit the objectives and needs of the public.
- The provisions for this type of subdivision have been simplified and condensed into one part of the plan.
- The proposed rules clarify the difference between “Significant Environmental Feature” which is any feature of significance and “Site of Ecological Significance” which is contained in Appendix C of the Plan and lists particularly significant sites.

- This also clarifies the current confusion as to whether just the minimum area is a valid measure in a 2-lot subdivision. This rule clarified the situation and this is needed to prevent smaller lot subdivision occurring than that intended in the philosophy of the District Plan
- Favouring the clustering of house sites, driveways etc in order to continue with an essentially rural character.
- Reinforces viability of productive rural residential fabric and the social ethic of providing accommodation for a pool of workers, people in close proximity to each other and assists in achieving community.
- Strict criteria are set out for qualifying for this type of subdivision.
- Certification is required where the site is not scheduled as a Site of Ecological Significance.
- Legal protection is required so that the significant feature is protected in perpetuity.
- “Cluster” subdivision provides for a grouping of residential lots, while holding the balance of the site in undivided ownership that is attached to each house lot. This provides for another type of lifestyle lot in a rural context.
- Under 8.5.2.6.2 “Assessment Criteria for cluster Subdivision the following aspects of subdivision will be managed:
 - Visual effects, intrusion from buildings etc
 - Design, form location of buildings
 - Cumulative effect
 - Access to new lots shall take advantage of existing access
 - Existing or potential productive activities on the parent lot shall not be disrupted
 - Existing covenanted areas shall not be affected
 - Multiple lots shall not be linear or form repetitive patterns
 - Earthworks etc and their effects on the landform or landscape
 - If administered correctly, these criteria will ensure that the subdivision is of a standard that will minimise any adverse environmental effects.

Reasons Against

The rule is already too subjective and facilitates too many small-lot subdivisions of rural land. It is therefore necessary to give processing planners more guidance as to how to assess applications. Under the proposed rules it is necessary for the applicant to submit a certificate of value from a recognised expert so that the processing planners are not required to assess thresholds over which values become eligible for Significant Ecological Feature protection. It is noted that certification is not required where the site is already scheduled in Appendix C of the Plan as an area of Site of Ecological Significance.

PRINCIPAL ALTERNATIVE MEANS	
Reasons For	Reasons Against.
<ul style="list-style-type: none"> Stay with existing controls. 	<ul style="list-style-type: none"> There is confusion as to whether just the minimum area is a valid measure in a 2-lot subdivision. This rule clarified the situation and this is needed to prevent smaller lot subdivision occurring than that intended in the philosophy of the District Plan. This can only be corrected by a Plan Change.

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DO NOTHING OPTION	
Reasons For	Reasons Against.
<ul style="list-style-type: none"> The long term benefits of protection of natural, physical and cultural features with SEF covenants is a better outcome than minimum area subdivision with no covenants – so leave it as is and let developers make the choice 	<ul style="list-style-type: none"> All rural areas of HGI could end up subdivided in accordance with SEF provisions as the Gulf is generally an area of significant natural values. Can't leave it as is because developers pick and choose which features they call SEF rather than all SEF qualifying features being protected under SEF covenants. Need change to clarify the thresholds over which features can be considered SEF.

5. Other Minimum Lot Size rules

Subdivision for special purpose lots such as reserves, waahi tapu, cultural heritage sites and public utilities. These rules allow the creation of special lots without specified minimum lot areas in order to provide for unusual subdivision needs where there is unlikely to be any conflict with the intent of the District Plan.

Smaller lot subdivision within Policy Areas 1-4 in the Outer Islands. These special rules allow lots to be created which are less than those required if the minimum areas for the relevant land unit were met. These rules enable the creation of lots in size ranges which will strengthen the development opportunities around existing settlements on Great Barrier Island. (See Table 7).