

**OVERVIEW** (Updated: 2 July 2011)

The principle purpose of subdivision is to provide a framework for land ownership so that development and activities can take place. Because subdivision is the foundation for much of the development that occurs in the District, it frequently influences the future use of land. It is not the act of subdivision itself that causes adverse effects, rather the activities undertaken on the sites created. For example, the size and shape of sites often have a direct effect on the range of uses, which can be undertaken, on land. Such uses can, in turn, have effects on the environment and therefore raise issues of potential concern such as amenity values and natural hazards mitigation.

The Plan does not make assumptions about the activities which may be undertaken on land as a result of subdivision, nor does it seek to pre-determine activities which can take place following subdivision. However, it can be assumed that the resources within a newly created site are likely to be used, and it is this use that may have an impact on the environment and generate demands on reserves, network infrastructure and community infrastructure.

The adverse effects of activities are generally controlled by the provisions for each Zone. However, in dealing with subdivision it is appropriate to give consideration to the potential effects of those activities that may be undertaken on sites which are created.

For example, buildings, earthworks, and the formation of vehicle access associated with permitted activities, may have an impact on the amenity of an area. Therefore, it is appropriate at the time of subdivision to ensure that where sites may be used for activities that involve buildings, consideration is given to suitable building platforms and the means of achieving vehicle access.

The requirement to identify building platforms is most appropriately made at the subdivision stage. It is at this stage that consideration can be given to the location of building platforms in relation to vegetation, topography and impact on the landscape.

Some sites created by subdivision may be used for activities, which do not require the erection of buildings and/or are not suitable for buildings. This may include sites subdivided for the purpose of conservation or landscape protection among others. It may be appropriate that such sites are not unduly constrained by minimum site area rules. Subdivision in any site, all or part of which is contained within the Summit Road (Canterbury) Protection Act is controlled by this Act.

It is possible that some such sites are also suitable as lifestyle properties for residential purposes as long as the main purpose of conservation or landscape protection is achieved. For cases where that may not be so, provision is made to transfer the subdivision/development right to a more suitable location provided again that permanent protection of the feature is thereby achieved.

Accordingly, the rules are structured to allow a range of site sizes to provide opportunities for the sustainable management of land in the District. It is anticipated that not all sites will have a building constructed on them. Where it is intended to construct a building on a site, the siting of the building should be considered in terms of the objectives and policies for subdivision and the relevant Zone.

The subdivision of land to create sites on undeveloped land inevitably requires consideration of the need for reserves, network infrastructure, community infrastructure, telecommunications and electricity which may vary considerably, even in urban areas. The matter of servicing is often an important aspect of the subdivision process, particularly for new, undeveloped sites and needs careful consideration to ensure all effects and costs are taken into account.

The subdivision of land that is already developed, such as the dividing of a property with two houses on it into two separate sites, may not raise questions of servicing and access. Such subdivision includes the internal subdivision of buildings.

Under the Resource Management Act, all subdivisions to create allotments under 4 ha are required to have esplanade reserves of 20 metres in width created along the edges of any rivers and lakes or the coast which the allotment includes or adjoins, **except** as provided by any rule in a District Plan. For allotments of more than 4 ha, esplanade reserves or esplanade strips of 20 metres in width shall be created, if there is a rule to such effect in the Plan. Although subdivision is the primary method of creating esplanade reserves/strips, they may also be created as a condition of consent for a land use consent. A road which is unformed for much of its length encircles the coastline of the district and a substantial portion of the margins of Wairewa and Te Waihora. Esplanade reserves and strips cannot be required on the subdivision of sites which abut this road. This road provides public access to the sea around almost all of the Banks Peninsula District and is twenty metres in width with the exception of the following areas:

- Akaroa, Beach Road from opposite Rue Benoit through to Rue Brittan;
- Lyttelton, from te Awaparahi bay to, and including the navel point reclamation;
- Little Port Cooper;
- Between Akaroa Harbour and the heads.

For this reason the creation of esplanade reserves/strips will be required only for subdivision of land abutting the margins of Wairewa and Te Waihora. Esplanade reserves/strips **may** also be created as a condition of a land use consent. Esplanade reserves/strips **may** also be created adjacent to rivers. In addition, there are rules to provide for variations to the widths of esplanade reserves/strips, or for the complete waiver of the esplanade requirements and for the waiver of requirements to vest the beds of rivers and lakes.

A network of unformed legal roads exists within the District and in some locations this network offers opportunities for appropriate pedestrian access to the

coastline and other places having public amenity value. Consultation with landowners is an integral part of this process.

(Updated November 2010)

<b>ISSUE 1</b>	<b>Sites created by subdivision may be inappropriate for permitted and controlled activities in particular Zones and thus have the potential to indirectly result in adverse effects on the environment.</b>
<b>OBJECTIVE 1</b>	<b>To ensure that sites which are created by subdivision do not indirectly result in adverse effects on Outstanding Natural and Coastal Natural Character Landscapes and the visual amenity and natural values of the environment.</b>

## **POLICIES**

- 1A** Every new site created shall be able to accommodate a permitted, controlled or discretionary activity in terms of the rules of the relevant Zone.
- 1B** Sites created to contain existing buildings shall be able to accommodate those buildings in compliance with the rules of the Zone, or without increasing any existing non-compliance.
- 1C** Site layout should assist in achieving the long-term protection of outstanding natural features and landscapes, significant indigenous vegetation and significant habitats.
- 1D** The layout and size of sites should recognise existing landscape patterns, including topographical features such as ridgelines, valleys and watercourses.
- 1E** Where it is intended that sites are to accommodate a building, appropriate building platforms shall be determined at the time of subdivision.
- 1F** Where it is considered that an appropriate building platform is not available on a site, the Council may impose a consent notice which precludes the erection of a building on that site.
- 1G** All building platforms and driveways shall avoid areas of indigenous vegetation worthy of protection.
- 1H** All building platforms and driveways should take into account the topography of sites.
- 1I** Sites created in the Residential Conservation Zone should reflect the historic pattern of adjacent sites.

**EXPLANATION AND REASONS**

Although the act of subdivision does not create any direct adverse effects on the environment, the size and layout of sites and the location of boundaries and accessways can have an indirect effect because of the way in which future activities undertaken on land may be influenced by subdivision. Similarly, the size and layout of sites and the location of boundaries may result in adverse effects because of the way in which they relate to significant environmental features and landscape patterns.

To ensure that the act of subdivision does not lead to adverse effects on the environment, the size and layout of sites should take into account the natural and environmental features of the land, including vegetation and topography. The size and layout of sites should also take into account where buildings and driveways can be located without resulting in adverse effects and the historic pattern of sites and buildings in the Residential Conservation Zone.

In areas located within Outstanding Natural and Coastal Natural Character Landscapes, the subdivision rules have been designed to ensure that the natural character, openness and landscape values of these areas is maintained. The creation of a title carries an expectation that some form of land use activity or development can be undertaken on the land and the requirement for a consent notice is considered appropriate having regard to the non-complying status of buildings outside Existing Building Clusters in these landscapes.

<b>ISSUE 2</b>	<b>Inappropriate subdivision and development may lead to soil erosion and slope instability.</b>
<b>OBJECTIVE 2</b>	<b>To ensure that natural hazards, soil erosion and slope instability are not exacerbated by activities.</b>

**POLICIES**

- 2A** Any site created shall not increase risks from natural hazards, soil erosion and slope instability unless such adverse effects can be avoided, remedied or mitigated.
- 2B** All earthworks necessary for the creation of vehicle accessways should cause minimum disturbance to the landform of the site and adjoining sites.

**EXPLANATION AND REASONS**

Because subdivision can influence the impact activities have on the environment, it follows that subdivision on land affected by soil erosion, slope instability and natural hazards has the potential to exacerbate such problems.

Also, because the size and layout of sites can influence future activities on land, such as the creation of driveways and building platforms, the size and layout of sites should take into account the extent to which such activities may affect areas susceptible to soil erosion, slope instability and natural hazards.

<b>ISSUE 3</b>	<b>Conservation Reserves, or Heritage Items which are appropriate for the creation of a reserve may be compromised by inappropriate subdivision.</b>
<b>OBJECTIVE 3</b>	<b>To enable sites to be created for reserves or to contain Conservation Reserves, or Heritage Items.</b>

### **POLICY**

- 3A** The subdivision of land to contain any Conservation Reserves, Heritage Item or land for the purpose of reserves shall be a controlled activity.

### **EXPLANATION AND REASONS**

Inappropriate subdivision can compromise Conservation Reserves, Heritage Items or land which is appropriate for the creation of a reserve by isolating them from other similar areas or exposing them to potential adverse effects from future activities which could take place on new sites. The Plan enables land containing Conservation Reserves or Heritage Items to be created as a reserve.

<b>ISSUE 4</b>	<b>Subdivision may generate unsustainable demand on infrastructure and services provided by the Council, such as roads, water, and sewage facilities.</b>
<b>OBJECTIVE 4</b>	<b>To ensure that adequate provision is made for services, infrastructure and access to sites which are created.</b>

### **POLICIES**

- 4A** To ensure, upon subdivision that anticipated development is provided with a means of disposing of sewage in a manner which is consistent with maintaining public health; and avoids, remedies or mitigates adverse effects on the environment.
- 4B** To require that the adverse effects of stormwater disposal on coastal and freshwater ecosystems are avoided, remedied or mitigated.

- 4C** Adequate provision should be made for vehicle access to a formed road from each site. In the case of land being subdivided with frontage to a state highway, all access should be from an alternative road where such access is available.
- 4D** Adequate provision should be made to allow for the supply of energy and telecommunication services.
- 4E** Access via existing public walkways should be maintained and enhanced where appropriate.

**EXPLANATION AND REASONS**

Subdivision to create sites on undeveloped land inevitably requires consideration of the demand likely to be created for services such as road access, sewage disposal, water supply, electricity and other infrastructure. These requirements may vary considerably, even in urban areas. The matter of servicing is therefore an important aspect of the subdivision process, particularly for new, undeveloped sites and needs careful consideration to ensure all effects and costs are taken into account. Vehicle access is required to be to a road other than a state highway where alternative access to a legal road is available, in order to protect the through-road function and safety of the state highway.

<b>ISSUE 5</b>	<b>There is some land in the District which is already closely subdivided and which is inappropriate for certain activities because it is susceptible to erosion and soil instability, is inaccessible or is within Conservation Reserves or contains Heritage Items.</b>
<b>OBJECTIVE 5</b>	<b>To encourage consolidation of titles of small sites which are located in areas which are susceptible to erosion and soil instability, are inaccessible or are identified as a Conservation Reserve or Heritage Item.</b>

**POLICY**

- 5A** The Council will take into account the positive effects of the consolidation of titles of small sites on land which is susceptible to erosion and soil instability, is inaccessible or is identified as a Heritage Item when considering applications to subdivide land in the Rural Zone to less than 20 ha.

**EXPLANATION AND REASONS**

Inappropriate subdivision has taken place in the past in areas which are susceptible to erosion and soil instability, are inaccessible or are now identified as a Heritage Item. Such subdivision has the potential to result in adverse effects because of certain activities which are permitted in the Zone. The consolidation of titles of closely subdivided land in inappropriate areas will avoid the potential for adverse effects and will be taken into account by the Council when considering applications to subdivide land in the Rural Zone to less than 20 ha.

<b>ISSUE 6</b>	<b>Subdivision and activities carried out adjacent to the sea or other water bodies may compromise conservation values or limit public access and use.</b>
<b>OBJECTIVE 6</b>	<b>To contribute to the protection of conservation values, public access and recreational use of rivers, lakes and the coastal environment by creating esplanade reserves and strips.</b>

**POLICIES**

- 6A** Esplanade reserves or strips should be created where they will contribute to the protection of conservation values adjacent to the sea, rivers and lakes.
- 6B** Esplanade reserves or strips should also be created where they will enable public access and appropriate recreational use along the sea, rivers and lakes.
- 6C** Esplanade reserves or strips should not be created within the Lyttelton Port Zone for reasons of public safety and for the reasons of security of cargo and port operations.

**EXPLANATION AND REASONS**

Under the Resource Management Act, conditions on which a subdivision consent can be granted may include the provision of an esplanade reserve or strip along the edge of rivers and lakes or the coastal environment. The purpose of esplanade reserves or strips is to maintain and enhance the conservation values and public access associated with the sea, rivers and lakes. The objective and policies intend to ensure that public access and recreational use of the coast, rivers and lakes is maintained and enhanced, provided they are compatible with conservation values.

<b>ISSUE 7</b>	<b>Subdivision may be able to assist in securing protection or preservation of significant indigenous vegetation or sites of natural, scientific or cultural significance.</b>
<b>OBJECTIVE 7</b>	<b>To encourage the protection or preservation of areas of significant indigenous vegetation, outstanding natural features or landscapes, or sites of natural, scientific or cultural significance.</b>

**POLICIES** (Updated November 2010)

- 7A** The Council is to consider the potential benefits arising out of subdivisions for a separate title for an area of significant indigenous vegetation, outstanding natural feature and landscapes, and coastal natural character landscapes, or sites of scientific or cultural significance the outcome of which is to permanently protect the site from further subdivision or development but which may also create the right to construct and occupy a dwelling either on the site or in another location.
- 7B** Where for any reason a dwelling is not sought or would not be appropriate on such a site, the Council through a resource consent process, is to consider creating a further site more suitable in environmental terms for the placement of a dwelling and transferring the development rights to construct and occupy a dwelling to that site, or alternatively, the granting of environmental merits.

**EXPLANATION AND REASONS**

The prospect of financial gain to landowners willing to protect areas of significant indigenous vegetation or other areas worthy of protection is an effective incentive.

**METHODS TO ACHIEVE OBJECTIVES AND POLICIES**

- Standards and terms for subdivision set out in the Plan.
- Education and advocacy – initiating meetings to discuss land management issues with landowners and organisations (such as Federated Farmers, the Fish and Game Council, surveyors, foresters, LINZ and DOC).
- Support of Landcare groups and other community based environmental initiatives and organisations.

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- Summit Road (Canterbury) Protection Act.
- Council will consider the signposting of unformed legal roads in the District where this is appropriate.
- Development of a comprehensive schedule, in conjunction with landowners, the Department of Conservation and interest groups, identifying priority areas for access and marginal protection in the District.

### **RULES** (Updated November 2010)

#### **1. Controlled Activities**

- a) The creation of utility allotments (unstaffed) shall be a controlled activity. The Council reserves control for the purpose of assessment of the necessity for and/or standard of access of such allotments, and the necessity for esplanade reserves and esplanade strips, and any other matters listed in 1.1 below.
- b) The following subdivisions are controlled activities where they meet the standards and terms for controlled activities set out in Rule 2 (below):
  - The creation of esplanade reserves and esplanade strips (except in the Lyttelton Port Zone).
  - Boundary adjustments, provided that:
    - ú the smallest of any new sites created meets the controlled activity minimum site area standard; or
    - ú any new site created is no smaller than the smallest of any of the existing sites subject of the boundary adjustment.
  - The subdivision of a building, provided that the building lawfully exists, complies with the Building Code, and either complies with the rules of the Plan or has obtained a resource consent for any non-compliance with the rules.
  - The subdivision of any existing site to create a new site or sites for the purpose of a reserve or wholly containing land identified in the Planning maps as a Conservation Reserves or Heritage Item, provided that:
    - ú the balance lot meets the minimum site area standard for the Zone; and
    - ú an instrument is registered on the title of the permitted site which protects the Conservation Reserves or Heritage Item in perpetuity.
  - The creation of a new site by subdivision from a parent title within any area shown on the Planning Maps as a Rural Amenity Landscape where:
    - ú the new site which will be contained in a separate certificate of title is no less than 1ha in area and is for the purpose of erecting a dwelling and;

- ú a balance area of the parent title which is legally defined and which in combination with the new site achieves a minimum area of 40ha and;
- ú both the new site and the balance area of the parent title are subject to covenants preventing the erection of any further dwellings on the total land area of the parent title in perpetuity.
- The creation of a new site not located in Low-Moderate or Moderate-High instability area natural hazards, Coastal Natural Character or Outstanding Natural Landscapes, with a minimum net site area as set out in the following table: (Updated November 2010)

Zone	Minimum Net Site Area	Minimum Average Net Site Area
Rural – Rural Amenity Landscape	40 ha unless a site is located entirely above the 160m contour line in which case the minimum site area is 100ha	
Residential	400m <sup>2</sup>	
Residential Diamond Harbour Density Overlay Area	600m <sup>2</sup>	
Residential Conservation (Lyttelton)	250m <sup>2</sup>	
Residential Conservation (Akaroa)	400m <sup>2</sup>	
Boat Harbour	No minimum	
Town Centre	No minimum	
Papakaianga	800m <sup>2</sup>	
Small Settlements	1000m <sup>2</sup>	
Small Settlement Zone at Governors Bay	1000m <sup>2</sup>	1200m <sup>2</sup>
Small Settlement Zone (Takamatua CDA only)	1500m <sup>2</sup>	There is no minimum average lot net site area, however, a maximum number of lots to be created is 25 (excluding incidental lots as are required to be set aside for reserves, roads or for services catering for the entire subdivision such as telephone or water tanks)
Akaroa Hill Slopes	5000 m <sup>2</sup>	
Industrial	No minimum	

- Notwithstanding the above, minimum net site areas shall not apply to sites created to establish facilities for network utility operators.

#### 1.1 Matters Over Which Control may be Exercised (Updated: 2 July 2011)

In considering an application for a controlled activity the Council may exercise control over the following matters:

- **Access** – the location and construction of any vehicle accessways, access lots or access strips in relation to natural hazards,

topographical features such as ridgelines, valleys, watercourses, watersheds, and areas of indigenous vegetation.

- **Sewage** – the design and construction of any reticulated or on-site effluent disposal system, including the capacity, type of system, location and method of disposal.
- **Stormwater** – the design and construction of any stormwater disposal system, including the type of system, location and method of disposal.
- **Shape, size and orientation of sites** – the location of sites and boundaries in relation to natural hazards, existing buildings, topographical features such as ridgelines, valleys, watercourses, watersheds, and areas of indigenous vegetation.
- **Building platforms** – the location of building platforms identified on sites in relation to areas of indigenous vegetation, ridgelines, existing development and other features in the landscape. Where no building platform is indicated or where it is determined by the Council that there is no appropriate building platform available on a site then a consent notice may be issued which precludes the erection of a building on that site.
- **Walkways** – the location of walkways, including linkages between other areas, other walkways and public open spaces.
- **Landscaping** – the location of tree planting and landscaping.
- **Water** – the ability to provide a sufficient supply of potable water.
- **Archaeological sites** – the development and layout of the subdivision should seek to avoid the modification, damage or destruction of archaeological sites. If a site is permanently protected by an easement or similar mechanism, consideration of this shall be given by Council of this in assessing any financial contribution involving reserves applying to the subdivision.

## 1.2 Assessment of Applications

In assessing any application for a controlled activity the Council will have particular regard to the objectives and policies for Subdivision and any other relevant objectives and policies of the Plan.

## 2. Standards and Terms for Controlled Activities

These standards and terms apply only to controlled activities listed in Rule 1(b).

### 2.1 Density (Updated November 2010)

No subdivision shall be permitted which results in a density of dwellings on any site that exceeds the density of dwellings allowed by the conditions and standards for permitted and controlled activities in the relevant Zone.

With respect to subdivision within any area shown on the Planning Map as a Rural Amenity Landscape, any building platform for a dwelling must be located on that area of the site, either above or below the 160m contour line, which will comply with the site density standard.

**2.2 Access**

All sites shall have legal access which is able to accommodate a driveway to a formed road. Where land to be subdivided with frontage to a state highway has practical legal access to an alternative road there shall be no access to the state highway. In the event of multiple site subdivision where parking is provided as a common facility, that parking area shall have legal access to a formed road.

**2.3 Staging of Subdivision**

A subdivision may be completed in stages, provided that each stage meets all of the conditions of approval appropriate to that stage, and that the balance of the site remaining after the completion of each stage is a site which complies with the provisions of the Plan.

**2.4 Esplanade Reserves**

The subdivision of sites adjoining the coast or rivers and lakes shall comply with the esplanade requirements of the Plan.

**2.5 Financial Contributions (Updated: 2 July 2011)**

The creation of new sites by subdivision shall comply with the terms for financial contributions involving reserves in Chapter 32 of the Plan.

**2.6 Servicing**

A subdivision may only be undertaken in the Residential Zone if connections to a Council-approved stormwater disposal system, effluent disposal system and a potable water supply are provided to each new allotment. All work associated with connections to these systems must be carried out in accordance with the Banks Peninsula District Council's Code of Urban Subdivision.

**2.7 Takamatua and Robinsons Bay Comprehensive Development Area**

Within the Takamatua Comprehensive Development Area and Robinsons Bay Comprehensive Development Area any application for subdivision shall be consistent with the respective Comprehensive Development Plan in Appendix XVII. Any subdivision that is inconsistent with the respective Plan shall be a non-complying activity.

**2.8 New Roads**

All new roads shall be laid out, constructed and vested in accordance with the standards set out below and in Table 1.

- Residential street gradients shall not be steeper than 12.5% measured on the inside kerb alignment. The absolute maximum longitudinal gradient shall be 16.6% on short straight sections of carriageway only.
- Horizontal curves in 50km/hr zones may be circular, with a minimum centreline radius of 80m for all industrial streets and for urban collector

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streets. For local urban streets the inside kerb radius may be reduced progressively to a minimum of 15m as the traffic volume decreases.

- All new roads vested upon subdivision of land shall be given distinctive names, along similar themes as existing road names in the area, not already in use within the District of Banks Peninsula.

All names shall be approved by Council. Where any new road or road extension is formed or is to be vested in the Council or a named access is provided, the developer shall pay to the Council a financial contribution for the manufacture and erection of all necessary name plates. This financial contribution shall be made up of all direct costs incurred by Council plus a 10% administration fee. All name plates shall be as per Council's standard for the area.

**Table 1: Road Standards**

Road classification	Typical total equivalent car movements per day (ecm/d)	Minimum road reserve widths (metres)	Minimum carriageway widths (metres)	Foot-paths required
Local – Rural	<25	15	5	None
Local – Rural	25 to 200	15	6	None
Collector – Rural	>200	15	7	*
Local – Urban	<250	12	6	One
Local – Urban	>250	14	8	One
Collector – Urban	>750	16	9	One/two*

**Equivalent car movement** is defined as follows:

- 1 car to and from the property = 2 equivalent car movements.
- 1 truck to and from the property = 6 equivalent car movements.
- 1 truck and trailer to and from the property = 10 equivalent car movements.
- This measurement is based on an assumption that a single residential dwelling is deemed to generate a minimum of 8 equivalent car movements per day (ecm/d).
- Truck movements must occur at least 4 days per week to be classed as typical.
- \* Possibly required, and will be determined by Council on a case by case basis.

### 2.9 Accessways

All new accessways (individual driveways and right of ways) shall be laid out and constructed in accordance with the standards set out below and in Table 2.

- Access gradients shall not be steeper than 16.6% with an absolute maximum longitudinal gradient of 25% on short straight sections of sealed carriageway only. The first 10m of formed right of way off the carriageway shall have a maximum gradient of 10%.

- All accesses steeper than 10% or servicing 3 or more dwelling units must have turning areas available so vehicles do not have to back up or down accesses.
- All right of ways and individual driveways shall have a ‘cut off drain’ drained to an approved watercourse to prevent stormwater runoff crossing or entering the carriageway.
- Accesses shall only be named at the discretion of Council where there are insufficient legal road numbers available to allocate to the proposed allotments, or where the access serves 10 or more residential units. The name, name plate and costs shall be approved and charged as for new roads.

**Table 2: Minimum Requirements for Access**

Activity	Potential no. of units	Minimum legal width (metres)	Formed width (metres)	Sealed and drained
Residential	1 to 3	3.0	2.7	*
Residential	3 to 6	4.0**	3.5**	Yes
Residential	6 to 12	6.0**	5.0**	Yes
Service lane		6.0	4.0	Yes

\* Where the gradient exceeds 10% the access is to be sealed with a non-slip surfacing to enable access in wet or icy conditions and to prevent gravel and other detritus from being deposited onto the carriageway through vehicle movements.

\*\* At the discretion of Council these may be increased (or passing bays included) where the accessway is longer than 50m or contains a horizontal curve(s).

## 2.10 Port Influences Overlay Area (Updated April 2007)

- The subdivision of land or buildings shall not be within the Port Influences Overlay Area of the Residential zone or the Residential Conservation zone.
- The subdivision of buildings or land shall not be for the purpose of establishing a Port Noise Sensitive Activity within the Port Influences Overlay Area of the Town Centre, Industrial or Recreation Reserve Zones.

## 3. Discretionary Activities – Rural Zone (Updated November 2010)

### 3.1 The creation of a new site where:

- The site is partly or wholly located within a Coastal Natural Character or Outstanding Natural Landscape as shown on the Planning Maps; and
- There is a commitment that there shall be no dwellings established on that part of the new site located within the Coastal Natural Character or Outstanding Natural Landscapes which is further than 100m from an Existing Building Cluster. This commitment shall be implemented through a consent notice on the title.
- The new site created consists of a minimum area of 4ha.

### 3.2 The creation of a new site within any area shown on the Planning Map as a Rural Amenity Landscape where the minimum net site area does not

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comply with the minimum net site area in Rule 1b of this chapter but is at least 4ha.

- 3.3 The creation of a new site by subdivision from a parent title within any area shown on the Planning Maps as a Rural Amenity Landscape where:

- The new site, which will be contained in a separate certificate of title, is no less than 1ha in area and is for the purpose of erecting a dwelling; and
- A balance area of the parent title which is legally defined and which in combination with the new site achieves a minimum area of 4ha; and
- Both the new site and the balance area of the parent title are subject to covenants preventing the erection of any further dwellings on the total land area of the parent title in perpetuity.

- 3.4 Assessment of Applications (Updated: 2 July 2011)

In assessing any application for discretionary activities in the Rural Zone, the Council will have regard to the following matters:

- **Archaeological sites** – the development and layout of the subdivision should seek to avoid the modification, damage or destruction of archaeological sites. If a site is permanently protected by an easement or similar mechanism, consideration shall be given by Council of this in assessing any financial contribution involving reserves applying to the subdivision.
- **Access** – the location and construction of any vehicle accessways, access lots or access strips in relation to natural hazards, topographical features such as ridgelines, valleys, watercourses, watersheds, and areas of indigenous vegetation.
- **Sewage** – the design and construction of any reticulated or on-site effluent disposal system, including the capacity, type of system, and location and method of disposal.
- **Stormwater** – the design and construction of any stormwater disposal system, including the type of system and location and method of disposal.
- **Shape, size and orientation of sites** – the location of sites and boundaries in relation to natural hazards, existing buildings, topographical features such as ridgelines, valleys, watercourses, watersheds, and areas of significant indigenous vegetation, outstanding natural features or landscapes, or sites of natural, scientific or cultural significance.
- **Building platforms** – the location of building platforms identified on sites in relation to areas of significant indigenous vegetation, outstanding natural features or landscape, sites of natural, scientific or cultural significance, ridgelines, existing development and other features in the landscape.
- **Amalgamation of titles** – the positive effects of the consolidation of an equivalent or greater number of titles of sites less than 4 ha where such sites are located on land which is susceptible to erosion and soil

instability, is inaccessible or is identified as a Conservation Reserves or Heritage Item or is within a Outstanding Natural Feature and Landscape Protection Area, and where it can be demonstrated by the applicant that such amalgamation will take place.

- **Water** – the ability to provide a sufficient supply of potable water.
- **Landscape** – the capacity of the landscape to absorb change having regard to existing geomorphological features and built development and landscape values of the area, including amenity values.
- **Environmental Merit**
  - any impacts on significant indigenous vegetation, outstanding natural features and landscape, coastal natural character landscapes, sites of natural, scientific or cultural significance, ecological corridors, and
    - ú whether there are any positive effects of the retention/protection of these areas on other areas closely related to the application site.
    - ú whether a sufficient area of land is to be provided around the area to ensure that any permitted, controlled, restricted discretionary, or discretionary activity which may take place adjacent to the area will not detract from the intrinsic qualities of the area.
    - ú whether the area is to be protected in perpetuity by an appropriate legal instrument such as a covenant or consent notice. Such an instrument would specify the means by which the area is to be protected from further subdivision or development.

#### 4. Discretionary Activities – Rural-Residential Zone (Updated November 2010)

##### 4.1 Samarang Bay and Allandale Rural Residential Zones.

Any subdivision in either the Samarang Bay or the Allandale Rural Residential Zones is a discretionary activity and shall be in general accordance with the layout (and, in the case of Samarang Bay, conditions) shown on the respective concept plans in Appendix XVI.

##### 4.2 Assessment of Applications (Updated: 2 July 2011)

In assessing any application in terms of Rule 4.2 in the Rural-Residential Zone the Council will have regard to, but shall not be limited by, the following matters:

- **Access** – the location and construction of any vehicle accessways, access lots or access strips in relation to natural hazards, topographical features such as ridgelines, valleys, watercourses, watersheds, and areas of indigenous vegetation.
- **Sewage** – the design and construction of any reticulated or on-site effluent disposal system, including the capacity, type of system, and location and method of disposal.

- **Stormwater** – the design and construction of any stormwater disposal system, including the type of system and location and method of disposal.
- **Shape, size and orientation of sites** – the location of sites and boundaries in relation to natural hazards, existing buildings, topographical features such as ridgelines, valleys, watercourses, watersheds, and areas of indigenous vegetation.
- **Building platforms** – the location of building platforms identified on sites in relation to areas of indigenous vegetation, ridgelines, existing development and other features in the landscape. Where no building platform is indicated or where it is determined by the Council that there is no appropriate building platform available on a site then a consent notice may be issued which precludes the erection of a building on that site.
- **Water** – the ability to provide a sufficient supply of potable water.
- **Archaeological sites** – the development and layout of the subdivision shall seek to avoid the modification, damage or destruction of archaeological sites. If a site is permanently protected by an easement or similar mechanism, consideration shall be given by Council of this in assessing any financial contribution involving reserves applying to the subdivision.
- The degree to which significant environmental features on the site are capable of protection in perpetuity by an appropriate legal instrument such as a consent notice or covenant. Such instrument should specify the means by which the feature or features are to be protected from the effects of any land use activity.
- The degree to which a sufficient area of land is provided around any significant environmental feature to ensure that any permitted or controlled activity which may take place adjacent to the feature will not detract from the intrinsic qualities of the feature.
- The degree to which natural topography, drainage and other features of the natural environment determine site boundaries where that is practicable.

#### 4.3 Particular Standards and Terms (Updated: 2 July 2011)

Any land on a site identified on the Planning maps as a Conservation Reserves, Outstanding Natural Features and Landscape Protection Area or Heritage Item shall be protected from development in perpetuity by a covenant, consent notice or similar legal instrument. The Council will take such protection into account when assessing any financial contribution involving reserves which applies to the subdivision.

#### 5. Discretionary Activities – Papakaianga Zone (Updated November 2010)

- 5.1 The creation of a new site with a minimum net site area of less than 800 m<sup>2</sup> not located in a Low-Moderate or Moderate-High instability area natural hazard.

**5.2 Assessment of Applications (Updated: 2 July 2011)**

The Council will consider all relevant objectives and policies for Subdivision when assessing applications for discretionary activities. In addition, the standards and terms for controlled activities will be used as a guide.

- **Archaeological sites** – the development and layout of the subdivision shall seek to avoid the modification, damage or destruction of archaeological sites. If a site is permanently protected by an easement or similar mechanism, consideration shall be given by Council of this in assessing any financial contribution involving reserves applying to the subdivision.

**5.3 Particular Standards and Terms (Updated: 2 July 2011)**

- The subdivider shall be tangata whenua of the ancestral land and should provide evidence to the Council of such status, endorsed by the relevant runanga and shall provide the written approval of the relevant runanga for the subdivision.
- The site shall be capable of containing a permitted dwelling.
- The creation of new sites by subdivision shall comply with the terms for financial contributions in Chapter 32 of the Plan.

In addition, the Council will consider all relevant objectives and policies of the Papakaianga Zone.

**6. Discretionary Activities – Residential Zone (Updated November 2010)****6.1 The creation of a new site with a minimum net site area of less than 400m<sup>2</sup>.****6.2 The creation of a new site located in the Low-Moderate or Moderate-High instability area.****6.3 Assessment of Applications (Updated: 2 July 2011)**

The Council will consider all relevant objectives and policies for Subdivision when assessing applications for discretionary activities. In addition, the standards and terms for controlled activities will be used as a guide.

- **Archaeological sites** – the development and layout of the subdivision should seek to avoid the modification, damage or destruction of archaeological sites. If a site is permanently protected by an easement or similar mechanism, consideration shall be given by Council of this in assessing any financial contribution involving reserves applying to the subdivision.
- **Access** – the location and construction of any vehicle accessways, access lots or access strips in relation to natural hazards, topographical features such as ridgelines, valleys, watercourses, watersheds, and areas of indigenous vegetation.

**6.4 Particular Standards and Terms (Updated: 2 July 2011)**

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- A subdivision consent shall be made in conjunction with a building consent for the same site.
- The “Conditions for Permitted Activities and Standards for Controlled Activities” set out in Rule 3 of the Residential Zone shall be met.
- The creation of new sites by subdivision shall comply with the terms for financial contributions in Chapter 32 of the Plan.
- The subdivision of land or buildings shall not be within the Port Influences Overlay Area of the Residential Zone. (Updated April 2007)

In addition, the Council will consider all relevant objectives and policies of the Residential Zone and the standards and terms for controlled activities.

### 7. Discretionary Activities - Residential Conservation Zone within Lyttelton (Updated November 2010)

7.1 The creation of a new site with a minimum net site area of less than 250 m<sup>2</sup> not located in a Low-Moderate or Moderate-High instability area.

#### 7.2 Assessment of Applications (Updated: 2 July 2011)

The Council will consider all relevant objectives and policies for Subdivision when assessing applications for discretionary activities. In addition, the standards and terms for controlled activities will be used as a guide.

- **Archaeological sites** – the development and layout of the subdivision should seek to avoid the modification, damage or destruction of archaeological sites. If a site is permanently protected by an easement or similar mechanism, consideration shall be given by Council of this in assessing any financial contribution involving reserves applying to the subdivision.

#### 7.3 Particular Standards and Terms: (Updated: 2 July 2011)

- A subdivision consent shall be made in conjunction with a building consent for the same site.
- The ‘General standards for restricted discretionary activities’ set out in Rule 5 of the Residential Conservation Zone shall be met.
- The creation of new sites by subdivision shall comply with the terms for financial contributions in Chapter 32 of the Plan.
- The subdivision of land or buildings shall not be within the Port Influences Overlay Area of the Residential Conservation Zone. (Updated April 2007)

In addition, the Council will consider all relevant objectives and policies of the Residential Conservation Zone.

### 8. Discretionary Activities – Residential Conservation Zone within Akaroa (Updated November 2010)

8.1 The creation of a new site with a minimum net site area of less than 400 m<sup>2</sup> not located in Low-Moderate or Moderate-High instability area.

**8.2 Assessment of Applications (Updated: 2 July 2011)**

The Council will consider all relevant objectives and policies for Subdivision when assessing applications for discretionary activities. In addition, the standards and terms for controlled activities will be used as a guide.

- **Archaeological sites** – the development and layout of the subdivision should seek to avoid the modification, damage or destruction of archaeological sites. If a site is permanently protected by an easement or similar mechanism, consideration shall be given by Council of this in assessing any financial contribution involving reserves applying to the subdivision.

**8.3 Particular Standards and Terms (Updated: 2 July 2011)**

- A subdivision consent shall made in conjunction with a building consent for the same site.
- The ‘General Standards for restricted discretionary activities’ set out in Rule 5 of the Residential Conservation Zone shall be met.
- The creation of new sites shall comply with the terms for financial contribution in Chapter 32 of the Plan.

In addition, the Council will consider all relevant objectives and policies of the Residential Conservation Zone.

**9. Non-Complying Activities (Updated November 2010)**

- 9.1 The creation of a new site in which is partly or wholly within an area shown as Outstanding Natural or Coastal Natural Character Landscapes on the Planning Maps and where there is no consent notice proposed in accordance with rule 3.1 of this chapter.
- 9.2 The creation of a new site in any area shown as Rural Amenity Landscape on the Planning Maps with a minimum net site area that is less than 4ha except where provided or by Chapter 31, Rule 1(b) 5<sup>th</sup> bulletpoint or rule 3.3.
- 9.3 Any activity which does not comply with the general rules or with the rules for controlled activities or discretionary activities is a non-complying activity.
- 9.4 The subdivision of a building or land within the Port Influences Overlay Area of the Residential or Residential Conservation Zones, or the subdivision of a building or land for a Port Noise Sensitive Activity Port within the Influences Overlay Area of the Town Centre, Industrial or Recreation Reserve Zones. (Updated April 2007)

**10. Reference to Other Standards (Updated November 2010)**

All subdivisions are required to conform to with the Banks Peninsula District Council's Code of Urban Subdivision or successive standards.

### **11. Esplanade Reserves and Strips (Updated November 2010)**

#### **11.1 Circumstances in which Esplanade Reserves or Esplanade Strips shall be created**

An esplanade reserve or esplanade strip shall be required for any subdivision along the margins of Wairewa and Te Waihora.

#### **11.2 Circumstances in which Esplanade Reserves or Esplanade Strips may be created**

- An esplanade reserve or esplanade strip may be required in regard to any land along the Mean High Water Spring Tide Mark of the sea or along the bank of any river which is the subject of an application for a resource consent under this Plan if one or more of the following criteria are met:
  - ú Special ecological or natural values would be protected or enhanced; or
  - ú An existing or proposed reserve would be enhanced; or
  - ú Appropriate access to an existing or potential future reserve or heritage feature or significant environmental feature would be provided or enhanced; or
  - ú Public recreational use of or access to the coast or river in a manner compatible with its conservation values would be provided or enhanced; or
  - ú Water quality or aquatic habitat value would be enhanced; or
  - ú The land is within a natural hazard area or where there is an identified risk from one or more natural hazards (such as coastal erosion); or
  - ú The formation of an esplanade reserve would complete or promote the marginal protection of a river or lake.
- Such a requirement would be made as a condition of consent.
- The creation of an esplanade reserve or esplanade strip as a condition of a land use consent, by way of a financial contribution, shall be in accordance with Chapter 32 of this Plan. (Updated: 2 July 2011)

#### **11.3 Circumstances in which Esplanade Reserves or Esplanade Strips shall not be required**

- Esplanade reserves shall not be required on any site, which abuts the coastline between the seaward extremities of Rue Brittain and Rue Jolie at Akaroa.
- An esplanade reserve shall not be required unless the reserve is adjacent to any road or any part of a road along the Mean High Water Spring Tide Mark of the sea, or along the bank of a river, or the margin

of a lake is stopped, pursuant to section 345(3) of the Local Government Act 1974.

- An esplanade reserve shall not be required where public access restrictions are considered necessary to protect the stability or performance of flood control and other essential structures.
- An esplanade reserve shall not be required where public access restrictions are considered necessary to protect public safety.
- An esplanade reserve shall not be required where restrictions are considered necessary to avoid conflicts with activities of land-owners or occupiers.

#### 11.4 Width of Esplanade Reserves and Esplanade Strips and circumstances in which the width may be varied

- The width of an esplanade reserve or esplanade strip shall be 20 metres unless varied under Rule 12.4.
- The width of an esplanade reserve or esplanade strip required under Rules 12.1 and 12.2 (above) may be varied in the following circumstances:
  - ú Special ecological or natural values warrant a wider or narrower esplanade strip or esplanade reserve; or
  - ú Topography, or the siting of any building or other feature, renders the 20 metre width inadequate or excessive in meeting the purposes for esplanade reserves or esplanade strips set out in section 229 of the Resource Management Act, in terms of the protection of conservation values, public access, natural hazard mitigation or public recreation; or
  - ú Access to an existing or potential future reserve or feature of public significance would be enhanced by the greater width; or
  - ú Suitable access to an existing or potential future reserve or feature of public significance can be provided by an esplanade strip of lesser width.
  - ú The protection of waahi tapu, mahinga kai and other taonga requires an esplanade reserve or esplanade strip of greater or lesser width than 20 metres; or
  - ú The protection or enhancement of water quality requires an esplanade reserve or esplanade strip of greater or lesser than 20 metres; or
  - ú The land is within a natural hazard area or where there is an identified risk from one or more natural hazards (such as coastal erosion); or
  - ú The costs of the provision and maintenance of a 20 metre wide esplanade reserve or esplanade strip are more than the potential public benefits of the purposes of esplanade reserves or strips; or
  - ú Where the creation of a 20 metre wide esplanade reserve or esplanade strip would create economic hardship or risks to public safety or the security of property; or
  - ú Where no additional sites are being created by the subdivision.

- ú Where a site is being subdivided for the sole purpose of creating a utility allotment (unstaffed)
- Unless the application is for a non-complying activity, an application for a subdivision or land use consent which includes a proposal to reduce the width of, or waive an esplanade reserve or esplanade strip, shall be a discretionary activity.

#### 11.5 Waiver of Requirement for an Esplanade Reserve or Esplanade Strip

- The Council retains the discretion under section 230 of the Resource Management Act to waive a requirement for an esplanade reserve or esplanade strip if it is satisfied that there is:
  - ú adequate alternative public access; or
  - ú adequate means of protecting water quality and conservation values; or
  - ú adequate provision for public recreational use of the area of coast, river or lake in question.
  - ú where a site is being subdivided for the sole purpose of creating a utility allotment (unstaffed).

#### 11.6 Circumstances in which an Access Strip may be Appropriate

- The creation of an access strip may be appropriate where land being subdivided can provide enhanced public access (consistent with the relevant objectives and policies of the Plan) from a road or reserve to:
  - ú Wairewa and/or Te Waihora; or
  - ú A Conservation Reserves listed in Appendix XI; or
  - ú A Heritage Feature listed in Appendix XII; or
  - ú The road which encircles a large part of the coastline and Wairewa and Te Waihora; or
  - ú Any existing or proposed esplanade reserve or esplanade strip, pursuant to Section 237B of the Resource Management Act.

#### 11.7 Vesting of Land within the Beds of Rivers and Lakes

Pursuant to section 237A(2) of the Resource Management Act, the Council reserves the discretion to waive the requirement to vest the bed of a river or lake in the Council where the Council is satisfied that the natural values, public access or public recreational values relating to that river or lake will not be adversely affected by the waiver or where there are exceptional circumstances, including whether the land on either side of a river is held under one title.

### **ANTICIPATED ENVIRONMENTAL RESULTS**

The following environmental results are anticipated from the implementation of the objectives and policies relating to Chapter 31, Subdivision:

- The maintenance of the open landscape qualities of the rural parts of the District.

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- Protection of identified areas of significant indigenous vegetation and habitats at the time of subdivision.
- Patterns and density of development which maintain amenity values within the settlements of the District.
- Provision of appropriate access to lakes, rivers and the coast at the time of subdivision.

### **REFERENCE TO OTHER PROVISIONS**

Attention is drawn to the provisions of any relevant zone rules for land use activities that may be associated with subdivisions. Should an activity not meet any one or more of those rules, then application for consent will also need to be made in respect to those rules. Those rules which may be applicable include:

- 14 Cultural Heritage
- 15 Trees
- 16 Conservation Reserves Zone
- 22 Papakaianga
- 32 Financial Contributions
- 35 Access Parking and Loading
- 38 Natural Hazards