

Western Bay of Plenty District Council

Change to the District Plan – First Review

Plan Change 29 Transferable Subdivision Agreements

Section 32 Report

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1.0 Introduction

1.1. General Introduction and Background

There is a need to clarify agreements that accompany subdivision applications involving 'Transferable Subdivision Entitlements' as there has been an inconsistent approach to the provision of the information required with subdivision applications to enable Council to determine the existence of the entitlement, and the donor property, along with the right of the purchaser to use the entitlement. It is considered that this can be clarified by the addition of a paragraph detailing information requirements within an application report under Rule 12.3.8 of the Operative District Plan.

2.0 Resource Management Act 1991

2.1. Section 32

Before a proposed plan change can be publically notified the Council is required under section 32 ("s.32") of the Act to carry out an evaluation of alternatives, costs and benefits of the proposed review. With regard to the Council's assessment of the proposed plan change s.32 requires the following:

- (3) An evaluation must examine-*
 - (a) the benefits to which each objective is the most appropriate way to achieve the purpose of the Act; and*
 - (b) whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objectives.*

- (a) For the purposes of [[the examinations referred to in subsections (3) and (3A)], an evaluation must take into account-*
 - (a) The benefits and costs of policies, rules or other methods; and*
 - (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.*

The benefits and costs are defined as including benefits and cost of any kind, whether monetary or not. This report must evaluate the extent to which the proposed plan change is the most appropriate way to achieve the purpose of the Act.

2.2. Section 74

In accordance with Section 74(2A) of the Act, Council must take into account any relevant planning document recognised by an iwi authority lodged with Council. None of the Iwi Management Plans that have been lodged with Council raise any issues which are of relevance to this Plan Change.

3.0 Consultation

Council engaged with the public to request input prior to the writing of this report, this was done by notices in our local newspapers and a specific information page on the Council website relating to the proposed changes.

Council also engaged with the surveying and planning community in the Western Bay of Plenty and Tauranga area via the "Surveyors Newsletter". No feedback was received.

4.0 Issue - Information requirements for Transferable Subdivision Entitlements.

4.1. Option 1 – Status Quo – No guidance in the Plan

Advantages	<ul style="list-style-type: none">▪ None
Disadvantages	<ul style="list-style-type: none">▪ Inconsistent information being provided, additional work by Regulatory Administration determining the rights.
Efficiency/Effectiveness	<ul style="list-style-type: none">▪ Ad hoc approach to information may result in the incorrect recording of rights.▪ Administration of the system is difficult due to the number of different approaches to provision of information;▪ Occasionally applicants will refuse to give information, without any requirement in the District Plan it is difficult for Council to enforce the provision of the information.

4.2. Option 2 – Amend Rule 12.3.8 to include a paragraph detailing the information requirements for subdivisions that involve the exchange of development rights.

Advantages	<ul style="list-style-type: none">▪ Consistent provision of information providing a more transparent and easily understood process for staff and applicants alike.
Disadvantages	<ul style="list-style-type: none">▪ None
Efficiency/Effectiveness	<ul style="list-style-type: none">▪ Will ensure that record keeping is more straightforward and easily understood.▪ Will provide certainty of the information to be provided for applicants and their agents.

4.3. Preferred Option

The preferred option is:

Option 2 – Amend Rule 12.3.8 to include a paragraph detailing the information requirements for subdivisions involving the use of Transferable Rural Lot Entitlements, Transferable Amalgamation Lot Entitlements and Transferable Protection Lots.

New Rule 12.3.8 (q)

For subdivisions using Transferable Subdivision Entitlements

For all:

A copy of the sale and purchase agreement for the Transferable Subdivision Entitlement(s), dated and signed by all parties; or

Confirmation from a lawyer of the purchase of the Transferable Subdivision Entitlement(s), details of dates of purchase, and full legal description (and physical address) of donor and recipient properties.

Specifically:

Protection Lots: The ecological report detailing the feature to be protected, confirmation of the area by a surveyor, and a summary of the *lots* generated from the area protected.

Rural Lot Entitlements: Evidence that the donor property qualifies to obtain the Rural Lot Entitlement(s); this should include details of the title and past *development* showing a clear right to the entitlement.

Amalgamation Lots: Details of the subdivision under which the *lot* was approved, and a written statement from the surveyor or agent that the title will be removed from the site, either by boundary adjustment or by variation to a subdivision consent that is live.