

# Section Contents

<b>Rural.....</b>	<b>2</b>
18. Rural .....	2
Explanatory Statement .....	2
18.1 Significant Issues .....	4
18.2 Objectives and Policies .....	7
18.3 Activity Lists.....	10
18.4 Activity Performance Standards .....	14
18.5 Matters of Discretion .....	36

## **Matakana Island**

Aspects of this Section of the District Plan that relate specifically to Matakana Island remain subject to appeal by reason of the following appeals:

- Bay of Plenty Regional Council (ENV-2010-AKL-000096)
- Blakely Pacific Limited (ENV-2010-AKL-000076)
- TKC Holdings Limited and Matakana Investment Group Limited (ENV-2010-AKL-000072)

As such the provisions in this Section of the District Plan that relate to the above have been annotated to indicate existing appeals. This has been done by providing a line in the right hand margin beside the part of the District Plan that has been appealed. Beside these lines is a number which is the *Council* reference to the respective appeals as follows:

- Bay of Plenty Regional Council - 1
- Blakely Pacific Limited - 3
- TKC Holdings Limited and Matakana Investment Group Limited - 35

Accordingly, in regard to provisions relating specifically to Matakana Island, the 2002 Operative District Plan and the 30 January 2010 Decisions Version of the Proposed District Plan remain applicable. In all other cases the 2012 District Plan as operative applies to Matakana Island.

# Rural

## 18. Rural

### Explanatory Statement

The Western Bay of Plenty District is predominantly a rural area with a number of small towns spread throughout. Rural production is the primary economic driver and the *District* is reliant on the efficient use of the rural land resource to sustain this production.

The rural area is made up of a number of physically discrete landforms. To the north west lies the Kaimai Range which is characterised by steep elevated ridges and valleys, is mostly bush clad and is in large part a Forest Park. The foothills to these ranges are steeply sloping to rolling hill country dissected by rivers and streams. These foothills have many remnant bush areas and large parts are used for pastoral farming. The lowland around Tauranga Harbour contains both *versatile land* and *productive land* and has a number of other physical attributes which enables this land to be used for horticulture or more intensive farming. To the east of the *District* around Te Puke the land is characterised by large flat elevated plateaus with incised gullies and broken terrain. Land use varies from horticulture on the lower plateaus to pastoral farming. A coastal plain in the east comprised of fertile lowland peat and sandy silt soils extends from the edge of the plateau area to the coast and is largely flat land used for pastoral farming and slightly elevated rolling land with horticulture.

The rural area contains the majority of the *sub-region's* remaining indigenous flora and fauna. These areas of high ecological significance include harbours, wetlands, freshwater streams and rivers, areas of indigenous vegetation and protected areas. Protection and enhancement of these areas is desirable to maintain the *District's* biodiversity.

One of the key attributes of the *District* is that it encircles the City of Tauranga. Both Tauranga City and the *District* have experienced considerable growth since 1990 and this growth is forecast to continue. Over half of the people who have moved to the *District* have chosen to live in the rural area because of the rural lifestyle opportunities that it provides. Many of these people also work within Tauranga City. The opportunities for lifestyle living have been created by the subdivision of rural land under the previous subdivision rules. This has resulted in a wide distribution of lifestyle blocks throughout the *District*. Existing rural communities have often benefited from the increase in population resulting from lifestyle *development* which has added diversity and provided support for rural services and facilities.

In the last two decades the widespread subdivision of rural land for lifestyle and other purposes has resulted in significant fragmentation of the rural land resource.

The magnitude of demand for rural living which has resulted in the high degree of rural land fragmentation through subdivision was not anticipated and the point has now been reached where the cumulative effects of the large amount of intensified rural *development* has now become evident. Many owners of land have also carried out subdivision to secure future *development* rights.

Consequently a considerable number of vacant *lots* now exist which have the potential to be developed. Many of these *lots* are in areas that have deficient *infrastructure* and which are remote from employment areas and if developed will continue to add to the cumulative effects already being experienced.

Much rural land is in multiple Maori ownership. It is consistent with the principles of the Treaty of Waitangi and Part 2 of the *RMA* to recognise and provide for the establishment of Papakaianga and associated supporting facilities on Maori land so as to give a practical expression to the relationship of Maori and their culture and traditions with their ancestral lands, waahi tapu and other taonga.

Interest has been expressed for more intensified *development* of Matakana Island. The Island has a rich cultural history and like much of the Western Bay of Plenty, its landscape and natural environment are sensitive to misuse. For this reason, any consideration of intensive or large-scale *development* must be preceded by a 'Whole of Island Plan' that deals with issues in a holistic manner. *Development* that enhances the rural community of the Island within the context of general rural planning strategies for the *District*, including appropriate provision for Papakaianga housing, may be expected to continue to provide for the Island community's social, cultural and economic well being.

3.1  
4.6  
35.2

There has been significant growth in the horticultural sector, especially the kiwifruit industry, over the past 20 years. Large numbers of seasonal workers are needed to satisfy the local demand for labour especially during the picking and packing season. These workers need to be housed and there is increasing pressure for redundant rural *buildings* of a non-residential nature to be converted to provide *seasonal worker accommodation*. Many of these *buildings* are in somewhat isolated rural locations and require lengthy journeys to either the workplace or the social and retail services provided in towns. From a pastoral care perspective it is preferable that *seasonal worker accommodation* is located close to the place of employment and/or the service facilities of the towns. Locating accommodation close to post harvest facilities also reduces the number of traffic movements associated with workers travelling to these workplaces.

Careful management of the various demands on the rural land resource can allow the range of legitimate demands made on it to be accommodated in a balanced manner which minimises inter-activity conflict and which is consistent with *Council's* statutory resource management responsibilities.

## 18.1 Significant Issues

1. Rural primary production is important to the economic welfare of the *District* and the *District's* rural land resource is important for sustaining this production.

The important contribution of the primary production sector to the economy of the *District* is directly reflected in rural employment as well as in the significant number of supporting service industries. The *District's* reliance on primary production for its economic output means that maintenance of the productive capacity of the rural land resource is critical to the future wellbeing of the *District*.

2. The *District's* rural land resource (including *versatile land*) is finite and productive capacity has been diminishing as a result of fragmentation into smaller *lots* through subdivision and the establishment of additional dwellings for non rural production purposes. There has been increasing pressure for rural residential subdivision or 'lifestyle' use, particularly in close proximity to urban areas where much of the more *versatile land* and horticultural production is located. The challenge is to ensure that subdivision under the District Plan rules, in particular those stipulating minimum *lot* sizes, results in the productive potential of the most *versatile land* not being compromised.
3. The character and associated amenity of the rural environment are what makes the *District* a sought after place in which to live.

Elements which make up rural character include:

- A predominance of natural features over human made features;
- A high ratio of open space relative to the built environment;
- Significant areas in pasture, crops, horticulture, forestry and indigenous vegetation;
- A working rural production environment;
- Presence of farm animals;
- Noise, odours and other effects associated with the use of rural land for a wide range of primary productive purposes and quarries;
- Low population densities relative to urban areas;

- Existence of some narrow and/or unsealed roads;
- General lack of urban infrastructure.

Over half of the *District's* population lives in rural areas. The rural environment of the *District* is a popular place in which to live because of the lifestyle opportunities it provides and because of its reasonable proximity to urban employment areas. Demand for lifestyle *development* in rural areas will therefore be ongoing. Provision to help meet this demand by allowing some additional rural living opportunities is appropriate in selected areas which have the *infrastructure* capacity and where the *productive land* resource will not be eroded.

4. Rural *farming* practices, including horticulture, can have effects which may influence the well-being of people living in close proximity to and who may be unfamiliar with the operational requirements of primary production which have effects which are to be anticipated and expected in the Rural Zone. These practices include spray drift, the use of agrichemicals, noise from frost fans, shading from shelterbelts, pumping of water for irrigation, bird scarers, general use of farm machinery both on and off farm, the harvesting of crops which may occur at various times including at night, the weekend and public holidays. These practices have the potential to create noise, dust and odour either of a temporary or intermittent nature beyond the boundary or the property concerned. These are legitimate *farming* practises which may nevertheless experience *reverse sensitivity* effects. Because these practices are an accepted and integral part of primary production they should not be unreasonably constrained by other activities.
5. There are a large number of undeveloped rural properties existing throughout the *District*, some of which have the potential to help meet the demand of those seeking new rural *lots* for both primary production and lifestyle living.
6. The cumulative effect of the fragmented pattern of rural subdivision and the establishment of additional *dwelling*s for non rural production purposes has led to inefficient use of physical resources and a gradual loss of rural character and degradation in rural amenity values. The historical approach to subdivision within the rural area has been to provide for it throughout the *District* rather than to channel it into particular locations. The effect of this pepper-pot approach to rural subdivision was to spread adverse effects on rural amenity and *infrastructure* widely, such that they have been diluted. However, the cumulative effects of the large amount of rural subdivision that has occurred is now becoming evident.

7. *Quarrying* and other mineral extraction activities are important to the future growth of the *western Bay of Plenty sub-region*.

By their nature, hard rock and mineral deposits are found in fixed locations and consequently *quarrying* and/or mining of these resources is constrained by their location. Because of the potential effects generated by *quarrying* and mining activities such as noise, dust and traffic, *development* in close proximity to them and alongside access routes to these resources has the potential to create *reverse sensitivity* issues.

8. There is the potential for controls on the use and *development* of rural land to conflict with the special relationship of Maori with their ancestral land.

The legal tenure of land that has *Maori land* status under Te Ture Whenua Maori Act 1993 creates unique ownership issues and many barriers to its *development*. In addition, Maori have traditional values in respect of how *Maori land* should be developed which may not be consistent with *development* standards considered appropriate to apply to other rural land.

9. There is both a need and a desire for Maori to be able to choose to live on their ancestral lands and provide for their physical, social, cultural and economic needs.

10. Matakana Island is a sensitive environment that needs to be planned for carefully. While the resource management issues relevant to Matakana Island also apply to other rural land, those of particular importance in the Matakana context include:

- The potential for more intensive or large scale *development* to adversely impact on archaeological, cultural, spiritual, ecological and landscape values; and
- The need and desire of Maori to live on and develop their ancestral land.

3.2  
4.7  
35.3

11. The rural land resource can be sought to establish industrial or commercial activities because it is generally less expensive to obtain than land within Industrial and Commercial Zones.

Allowing these activities to establish within rural areas has the potential to detract from the rural character and amenity of the Zone as well as increase conflict with existing activities. It also has the potential to undermine the integrity of the Zones established for these uses in urban areas by reducing demand and resulting in inefficient use of resources.

12. *Seasonal worker accommodation* is an important component of the horticultural sector. For efficiency and social and economic reasons they should be located in association with the employment source.
13. The siting of *network utility* operations in rural areas is often constrained by the fixed location of the particular resource being utilised, thereby creating the potential for *reverse sensitivity* effects to occur in respect of other rural land users.

## 18.2 Objectives and Policies

### 18.2.1 Objectives

1. The rural land resource and *versatile land* capability is maintained to enable its use for rural production activities.
2. Primary productive activities should be able to operate in the Rural Zone without unreasonable constraints being imposed on them by other activities.
3. Appropriate provision for activities not directly based on primary production but which have a functional or other legitimate need for a rural location.
4. The efficient use and *development* of the rural land resource for primary production. | 3.3
5. Maintain the rural character and amenity values associated with the low density rural environment.
6. Protection and enhancement of ecological, landscape, cultural, heritage and other features located in the rural environment which are of value to the wider community.
7. The efficient and cost effective provision, management and further *development* of roading, water supplies and other *infrastructure* required to meet the needs of rural activities and communities.
8. The efficient use and *development* of regionally important mineral resources.
9. Fulfilment of the special relationship of Maori with their ancestral land including the particular culturally based housing needs and traditions associated with such land.
10. Preservation of the options for the future use of land identified in the Bay of Plenty Regional Policy Statement as being required for future urban *development*. | 3.4  
4.8

### 18.2.2 Policies

1. Subdivision, use and *development of versatile land* should occur in a way which retains its potential to be used for a range of productive rural purposes and which maximises the likelihood of it actually being used for such purposes.
2. Fragmentation of *versatile land* for purposes not directly related to maintaining or enhancing the primary productive potential of the rural land resource should be avoided or minimised.
3. Except where specifically tailored to accommodate other activities with a legitimate need for a rural location, new rural *lots* created through subdivision should be of a size and nature suitable for a range of primary productive uses.
4. Subdivision, use and *development* which has the potential to inhibit the efficient use and development of rural land for primary production or to inhibit the efficient use and *development* of existing mineral extraction sites (including vehicle access routes to such resources) should be avoided or minimised.
5. Subdivision, use and *development* of rural land for purposes other than primary production and which have the potential to inhibit the efficient and lawful operation of existing or designated network utility operations should be avoided or minimised.
6. The amalgamation of existing rural *lots* into larger land parcels should be encouraged.
7. Provide for the amalgamation of large rural *lots* for productive purposes through the provision of incentives.
8. Encourage the amalgamation of titles in areas with deficient infrastructure services and remote from employment areas through the provision of incentives.
9. Provision should be made for the limited subdivision of land (including the transfer of title rights to identified areas) in conjunction with the sustainable protection or restoration of ecological, cultural, heritage, landscape or other features of value to the wider community.
10. Activities with a functional or other legitimate need for a rural location should not be established in rural areas unless they are



able to be undertaken without constraining the lawful operation of productive rural land uses which are carried out in accordance with accepted management practices.

- |     |   |      |
|-----|---|------|
| 11. | The establishment in rural areas of industrial, commercial or other activities which do not have a functional or other legitimate need for a rural location should be avoided.  | 4.8  |
| 12. | Subdivision and <i>development</i> should not occur in rural areas which have inadequate roading or other infrastructural capacity to cater for such <i>development</i> .   |      |
| 13. | Rural-residential or rural lifestyle <i>development</i> should be channelled onto land with the following attributes:   |      |
|     | - Low versatility for primary production;   | 3.5  |
|     | - Able to be readily serviced;  | 3.9  |
|     | - In reasonable proximity to urban centres;   | 4.9  |
|     | - Able to be developed in a manner sympathetic to the character and amenity values of the surrounding rural area.   | 35.4 |
| 14. | Subdivision and <i>development</i> of rural land should not occur in a manner which inhibits the legitimate operation of existing mineral extraction sites or in areas known to contain untapped mineral resources of regional significance.                      |      |
| 15. | The use and <i>development</i> of ancestral <i>Maori land</i> should be provided for in a manner consistent with and in recognition of the special relationship of Maori to such land, including provision for multiple housing and associated support facilities |      |
| 16. | In addition to policies relating to the rural land resource, <i>development</i> of land on Matakana Island shall recognise and provide for the following matters:   | 4.11 |
|     | (a) Cultural, spiritual and archaeological values, including the need and desire of Maori to live on and develop their ancestral land.  | 35.6 |
|     | (b) Maintenance and enhancement of natural coastal character, natural features, ecology and landscapes, indigenous vegetation and habitats of indigenous fauna, and historic heritage.  |      |
|     | (c) The need to ensure that large-scale or more intensive <i>development</i> proposals do not compromise future   | 3.6  |
|     |   | 4.11 |
|     |   | 35.6 |

options for the comprehensive planning and *development* of the Island.

17. Subdivision, use and *development* of rural land identified in the Bay of Plenty Regional Policy Statement as being required for future urban *development* in a manner which limits the options for the future use of such land for urban purposes should be avoided or minimised. Particular forms of *development* which should be avoided include:
- 35.7
- (a) Fragmentation of rural land through subdivision unrelated to primary productive use.
  - (b) The establishment of capital intensive rural or quasi urban land uses.

18. The release of land for urban *development* will be staged in a manner which ensures the continued availability of rural land for productive rural purposes and the retention of rural character until urban *development* occurs.
- 4.10  
35.5

19. Rural land will not be proposed to be rezoned for urban *development* until a comprehensive *structure plan* which provides a framework for such *development* in a manner consistent with the provisions of the Bay of Plenty Regional Policy Statement has been prepared and forms part of the proposed change to the District Plan.
- 35.8

20. *Seasonal worker accommodation* facilities should be located on sites which are in close proximity to the principal sources of employment, including:
- (a) On rural sites accommodating stand alone post harvest facilities.
  - (b) In existing townships.

21. [Additional dwellings should not be provided for except where these are essential for the management of the land for productive rural purposes.](#)

## 18.3 Activity Lists

### 18.3.1 Permitted Activities

- (a) Farming. 3.8  
35.10  
Appeal  
Note #15
- (b) Production forestry. 35.11  
Appeal  
Note #16
- (c) Conservation forestry. 6.1, 6.2,  
6.3, 6.4  
PC5  
Appeal  
Note #5

- (d) One *dwelling* per *lot*, with the exception of Smithstown (map reference D03) where individual titles do not qualify for the erection of *dwelling*s and *dwelling*s where *minor dwelling*s exist see 18.3.2(b).
- (e) *Buildings* (except *dwelling*s) *accessory* to the foregoing subject to 18.4.1 (n).
- (f) Home enterprises.
- (g) Stalls.
- (h) *Accommodation or education facilities* for a combined maximum of four persons (excluding staff).
- (i) Works and *network utilities* as provided for in Section 10.
- (j) Activities on reserves as provided for in the Reserves Act 1977;
- (k) Minerals prospecting.
- (l) *Existing urupa* and new urupa adjoining *existing urupa*.
- (m) Frost protection fans, subject to performance standards specified in 4C.1.3.6.
- (n) Audible bird scaring devices, subject to performance standards in 4C.1.3.5.
- (o) *Artificial crop protection* subject to performance standards specified in 18.4.1(h).
- (p) Community facilities or *buildings* up to a cumulative maximum floor area of 200m<sup>2</sup> when associated with a Controlled Activity of five *dwelling*s on multiple owned *Maori land* accessed from an unsealed road maintained by *Council*.
- (q) Community facilities or *buildings* up to a cumulative maximum floor area of 400m<sup>2</sup> when associated with a Controlled Activity of 10 *dwelling*s on multiple owned *Maori land* accessed from a sealed road maintained by *Council*.
- (r) Private burials as provided for under Clause 47 (1) of the Burial and Cremation Act 1964.
- (s) Rural Contractors Depots.

### 18.3.2 Controlled Activities

- (a) One *minor dwelling* in addition to 18.3.1(d) above subject to performance standard 18.4.1(f) Standards for *minor dwellings*, excluding Matakana Island.
- (b) One *dwelling* on a title where no *dwelling* currently exists and where a *minor dwelling* exists which was constructed after 9 February 2009.
- (c) Works and *network utilities* as provided for in Section 10.
- (d) Frost protection fans, subject to performance standards specified in 4C.1.3.7.
- (e) Up to a maximum of five *dwellings* on multiple owned *Maori land* accessed from an unsealed road maintained by *Council* subject to there being an average of at least 2000m<sup>2</sup> of *net land area* per *dwelling* (including those provided for as a Permitted Activity).
- (f) Up to a maximum of 10 *dwellings* on multiple owned *Maori land* accessed from a sealed road maintained by *Council* subject to there being an average of at least 2000m<sup>2</sup> of *net land area* per *dwelling* (including those provided for as a Permitted Activity).
- (g) On Matakana Island up to a maximum of 10 *dwellings* on multiple owned *Maori land* accessed from a road maintained by *Council* subject to there being an average of at least 2000m<sup>2</sup> of *net land area* per *dwelling* (including those provided for as a Permitted Activity).
- (h) On Rangiwaea Island up to a maximum of 10 *dwellings* on multiple owned *Maori land* subject to there being an average of at least 2000m<sup>2</sup> of *net land area* per *dwelling* (including those provided for as a Permitted Activity).
- (i) Community facilities or buildings up to a cumulative maximum floor area of 800m<sup>2</sup> when associated with a Restricted Discretionary Activity of 11 to 30 *dwellings* on multiple owned *Maori land* accessed from a sealed road maintained by *Council*.
- (j) Subdivision as provided for in Rules 18.4.2(b) General Farming Lots, (d) Transferable Rural Lots, (e) Transferable Amalgamation Lots, (f) Additional Dwelling Lots and (g) Separation Lots.
- (k) Protection Lot subdivision for up to two additional *lots* off a sealed road as specified in Rule 18.4.2(h)(ii)1.

3.11  
35.12

### 18.3.3 Restricted Discretionary Activities

- (a) Any Permitted or Controlled Activity that fails to comply with the activity performance standards listed in Rule 18.4.
- (b) Subdivision as provided for in 18.4.2(c) Rural Production Lots.
- (c) 11 to 30  *dwellings* on multiple owned  *Maori land* accessed from a sealed road maintained by  *Council* subject to there being an average of at least 2000m<sup>2</sup> of  *net land area* per  *dwelling* (including those provided for as a Permitted Activity).  *Council's* discretion is restricted to the matters set out in Rule 18.5.2.

### 18.3.4 Discretionary Activities

- (a) Intensive Farming Activities.
- (b) Kennels, catteries.
- (c)  *Accommodation facilities* not complying with 18.4.1(d) excluding Matakana Island. | 3.11  
| 4.12  
| 35.13
- (d)  *Education facilities* for more than four persons (excluding staff), excluding Matakana Island. | 3.11  
| 4.13  
| 35.13
- (e)  *Places of assembly*, excluding Matakana Island. | 3.11  
| 4.14
- (f) Rural selling places. | 35.13
- (g)  *Rural contractors depots* not meeting Rule 18.4.1 (m).
- (h) Coolstores and packhouses less than 200m<sup>2</sup>  *gross floor area*.
- (i) Animal saleyards.
- (j) Mineral exploration, mining and  *quarrying*.
- (k) Urupa (new sites).
- (l) Works and  *network utilities* as provided for in Section 10.
- (m) Subdivision specified in Rule 18.4.2(h) Protection Lot Subdivision, excluding Matakana Island. | 3.11  
| 4.15  
| 35.13  
|  *and,*  
| 5.6  
| PC12  
| Appeal  
| Note #6
- (n) Development of 31  *dwellings* or more on multiple owned  *Maori land* accessed from a sealed road maintained by  *Council* subject to there being an average of at least 2000m<sup>2</sup> of net land area per  *dwelling* (including those provided for as a Permitted Activity).
- (o)  *Minor dwellings* on Matakana Island. | 3.12

- (p) Expansion of existing coolstores and packhouses (consented as at 1 January 2010) associated with kiwifruit and avocado industry and not within a Post Harvest Zone.
- (q) Protection Lot subdivision not complying with 18.4.2(h)(ii);
- (r) Rural Production Lot subdivision not meeting Rule 18.4.2(c)(ii) – (vi).

### **18.3.5 Non-Complying Activities**

- (a) Subdivision not meeting the land area requirement of performance standard 18.4.2(c)(i).
- (b) *Minor dwellings* not complying with performance standards specified in 18.4.1(f).
- (c) Additional *dwellings*.
- (d) New coolstores and packhouses greater than 200m<sup>2</sup> *gross floor area*.

## **18.4 Activity Performance Standards**

### **18.4.1 General**

The following performance standards shall be met by all Permitted and Controlled Activities and shall be used as a guide for the assessment of all other activities. Any Permitted Activity that fails to comply with any of these standards will be a Restricted Discretionary Activity for the particular non-compliance.

Except where specified otherwise the following performance standards shall be met by all land use activities.

#### **(a) Height of buildings**

Maximum – 9.0m.

#### **(b) Daylighting**

No part of any *building* shall exceed a *height* equal to 2m above *ground level* at all boundaries and an angle of 45° into the site from that point. Except where the site has a boundary with a road in which case this rule shall not apply in respect to that boundary.

Provided that:

A *building* may encroach through the above daylighting plane where the written approval of the owner(s) of the immediately adjoining property to the specific encroachment is obtained.

**(c) Yards**

- (i) Dwellings, minor dwellings, accommodation facilities, education facilities

Minimum 30m.

Provided that:

A *front yard* may be reduced to not less than 10m in the following circumstance;

- (a) For any additions or alterations to *Dwellings, Minor Dwellings, Accommodation Facilities* or *Education Facilities* that were established with a reduced *yard*, provided that any addition or alteration does not increase the level of non-compliance with the minimum 30m *yard* and does not increase the existing *gross floor area* of that *building* by more than 20%.

**Note:**

For the purpose of this rule "existing gross floor area" shall mean the *gross floor area* of that *building* as approved by way of the most recent building consent for which an application was lodged prior to 19 November 2011.

A *side* or *rear yard* may be reduced to not less than 10m in one or more of the following circumstances;

- (b) For titles in existence prior to 30 January 2010 and which are of an area no greater than one hectare; or for titles that have been created by way of a subdivision consent for which an application has been lodged on or before 30 January 2010 and which are of an area no greater than one hectare; or
- (c) For titles that have obtained subdivision consent prior to 30 January 2010 or for which a subdivision application was lodged on or before 30 January 2010 and which have an approved building site with a reduced *yard* where this infringement was assessed at the time of subdivision (this applies only to the building site assessed through the subdivision and new locations will require land use consent); or

- (d) For any additions or alterations to *dwelling*, *minor dwelling*, *accommodation facilities* or *education facilities* that were established with a reduced *yard* (provided that any addition or alteration does not increase the level of non-compliance with the minimum 30m *yard*); or
- (e) Where any new *dwelling*, *minor dwelling*, *accommodation facility* or *education facility* (including any additions or alterations to these) can meet all of the following permitted activity performance standards;
- Shall not be located any closer than 60m to any existing *dwelling*, *minor dwelling*, *accommodation facility* or *education facility* that is located on a title separate to that of the subject site and in different ownership;
  - Shall not be located any closer than 35m to any existing 'other *structures*' that are located on a title separate to that of the subject site and in different ownership.;
  - Shall not be within 300m of any *intensive farming activity* that is located on a title separate to that of the subject site and in different ownership.

1.4  
PC1  
Appeal  
Note #7

Except that:

As provided for in (iii), (iv), (v) and (vi) below.

**Explanatory Note:**

(a) – (e) above are provided for subject to submission to Council of written statement from the applicant accepting any adverse environmental effect which may be created by the reduced yard.

(ii) All Other *Structures*;

Minimum 5.0m.

Provided that:

A *building* may be located within and up to a side or rear boundary where the written approval of the owner



of the immediately adjoining property to a specified lesser distance is obtained.

Except that:

As provided for in (iii), (iv), (v) and (vi) below.

- (iii) Where any yard adjoins:
- A Strategic Road or a designation for a Strategic Road, it shall be a minimum of 30m;
  - A railway corridor or designation for railway purposes, it shall be a minimum of 30m.

Provided that:

On Secondary Arterial Roads, and any railway corridor or designation for railway purposes, *lots* created by way of an application for subdivision consent approved prior to 1 January 2010 will be exempt.

- (iv) Open Coastal Hazard Protection Yard – for activities within 100m of MHWS adjoining the open coast for the purpose of Coastal Hazard Mitigation purposes, see Section 8.3.2.
- (v) Landward Edge Protection Yard – for controls on activities up to 40m landward of MHWS around the Maketu Estuary and Waihi Estuary, and 100m landward of MHWS adjoining the Open Coast, see Section 6.4.
- (vi) Tauranga Harbour (S8), Wairoa River (S7) Landscape Management Areas and Matakana Island (S9) – for controls on activities up to 300m landward of MHWS, see Section 6.4.

3.13  
35.15

**(d) Standards for accommodation facilities**

- (i) Have a maximum occupancy of four persons at any one time (excluding staff);
- (ii) The total area available for exclusive use for the occupiers be no greater than 60m<sup>2</sup> *gross floor area*;
- (iii) Must not contain a *kitchen* or otherwise be self contained;
- (iv) For Discretionary *Accommodation Facilities*, information is to be provided in accordance with 4A.6.2.

**(e) Standards for home enterprises**

- (i) Shall be conducted in an area that does not exceed 500m<sup>2</sup> of which a maximum of 120m<sup>2</sup> shall be available for a *building* floor area.  
Carparks shall be excluded from the maximum area calculation of the activity;
- (ii) Does not have access within 30m of a State Highway;
- (iii) Is carried out by a maximum of three persons;
- (iv) Any *retailing* shall occur within a floor area not exceeding 20m<sup>2</sup>;
- (v) Does not involve sales of products other than those produced on the site. This does not apply to the sale of any goods stored, distributed and manufactured off the site that are sold via the internet;
- (vi) Any advertising shall comply with the relevant provisions of Section 4D.3.1;
- (vii) Parking shall be provided in accordance with Rule 4B.4.7.

**Explanatory Note:**

The above activity performance standards shall apply cumulatively to all *home enterprises* per *lot*.

**(f) Standards for minor dwellings and dwellings where a minor dwelling was constructed after 9 February 2009 in accordance with 18.3.2(a) and (b)**

- (i) Shall be located within 20m of the principal *dwelling* or *minor dwelling* on the site; and
- (ii) Shall share vehicle access with the principal *dwelling* or *minor dwelling* on the site; and
- (iii) If an attached or detached garage or carport is to be built, it shall have a *gross floor area* not exceeding 18m<sup>2</sup>; and
- (iv) Shall pay 50% of the financial contributions that applies to the subdivision of land.

**(g) Standards for new Dwellings, addition of habitable space to existing Dwellings, and Accommodation Facilities within 200 metres of a Post Harvest Zone**

Any new *dwelling*, addition of a *habitable space* to an existing *dwelling* or *accommodation facility* to be erected within 200m of a Post Harvest Zone boundary shall:

- (i) Be designed and constructed so that the internal noise levels do not exceed LAeq(15 min) 30dB in bedrooms and LAeq(15 min) 40dB in other habitable rooms (the night time noise limits for the Post Harvest Zone);
- (ii) Written certification from an appropriately qualified persons, to *Council's* satisfaction that (i) above has been met, shall be submitted with the building consent application;
- (iii) Where the windows of the *dwelling*, additional *habitable space* to an existing *dwelling*, or *accommodation facility* are required to be closed to achieved compliance with the noise limits, alternative means of ventilation shall be provided in compliance with clause G4 of the New Zealand Building Code or any subsequent equivalent clause.

**(h) Standards for artificial crop protection**

- (i) Shall have green or black cloth when used vertically within 30m of the boundary of the property or within the Tauranga Harbour (S8), Wairoa River (S7) Landscape Management Areas and Matakana Island (S9);
- (ii) Shall be of any colour when used horizontally;
- (iii) Are exempt from *yard* and daylighting requirements.

Provided that:

Within 30m of property boundaries, other than any road boundary, a different colour cloth can be used where the written approval of the owner(s) of the immediately adjoining property is obtained.

Any proposal to situate any artificial crop protection with cloth other than green or black within 30m of a road boundary will require resource consent for a Discretionary Activity.

**Explanatory Note:**

Research indicates that white cloth can cause glare on adjoining neighbours creating a nuisance and/or hazard. These provisions only restrict the colour of cloth used vertically within 30m of property boundaries, including boundaries adjacent to roads.

**(i) Standards for Production Forestry and Conservation Forestry (excluding shelterbelts and protection lots planting)**

- (i) No trunk of any tree shall be located nearer than 10m to the boundary of an adjoining property;

Provided that:

Trees may be located closer to the boundary where the written approval of the owner of the immediately adjoining property is obtained.

**(j) Standards for the development of housing on multiple owned Maori land**

- (i) Control shall be limited to the assessment of financial contributions; and

- (ii) The provision of a papakainga site plan approved by *Council* that addresses:

- The provision of access that minimises access points from *Council* maintained roads;
- The location of houses;
- Internal roading access;
- Location of community facilities;
- Location of outdoor community areas;
- Service provision to existing *Council* owned and other *network utilities*.

**(k) Fencing**

- (i) Goats (Minimum)
1. Bulldozed line.
  2. 9 wires (kept tight at all times)
    - Minimum high tensile 2.5mm diameter galvanised steel.

- Bottom wire should be placed 80mm above *ground level* and, above that, wires placed at following intervals – 100, 100, 100, 110, 120, 135, 150 and 165mm. The top wire should be approximately 50mm below the top of the post.

3. No internal stays.

4. Posts to be at the following spaces:

- Less than 30° ground slope            5m
- 30° to less than 45°                    4m
- 45° or more                                3m

5. Battens to be at 1m intervals.

(ii) Deer (Minimum)

As specified in the Deer Farming Notice (No 5 2008) of the Wild Animal Control Act 1977.

**(l) Quarry Effects Management Area**

Dwellings, minor dwellings, accommodation facilities and education facilities (including any additions or alterations to these) shall not be located within a Quarry Effects Management Area.

**(m) Standards for Rural Contractor Depots**

- |       |   |            |
|-------|---|------------|
| (i)   | The <i>Rural Contractors Depot</i> operation is carried out by a maximum of five persons, a minimum of one who shall reside on site.  | 1.1<br>PC1 |
| (ii)  | Does not involve the sale of goods from the site, other than those that are produced on the site.   | 1.2<br>PC1 |
| (iii) | Does not have access within 30 metres of a State Highway or Strategic Road.   |            |
| (iv)  | The <i>Rural Contractors Depot</i> operation shall not be located within 60 metres of any existing <i>Dwelling, Minor Dwelling, Education Facility or Accommodation Facility</i> that is located on a title separate to that of the subject site and in different ownership to that of the <i>Rural Contractors Depot</i> operator. | 1.3<br>PC1 |

- (n) **Accessory Buildings**
  - (i) Maximum *gross floor area* of 200m<sup>2</sup> when within a *lot* of two hectares or less.
  - (ii) No maximum *gross floor area* when on *lots* over two hectares.
- (o) **Transportation, Access, Parking and Loading** - See Section 4B.
- (p) **Noise and Vibration** - See Section 4C.1.
- (q) **Storage and Disposal of Solid Waste** - See Section 4C.2.
- (r) **Lighting and Welding** - See Section 4C.3.
- (s) **Offensive Odours, Effluent Aerosols and Spray Drift** - See Section 4C.4.
- (t) **Screening** - See Section 4C.5.
- (u) **Signs** - See Section 4D.
- (v) **Natural Environment** - See Section 5.
- (w) **Landscape** - See Section 6.
- (x) **Historic Heritage** - See Section 7.
- (y) **Natural Hazards** - See Section 8.
- (z) **Hazardous Substances** - See Section 9.
- (aa) **Financial Contributions** - See Section 11.

4.2  
4.3  
4.4  
PC9  
Appeal  
Note #8

#### 18.4.2 Subdivision Activity Performance Standards (see Section 12)

- (a) **General**
  - (i) Shape factor

Each *lot* which will qualify for the erection of a *dwelling* as a Permitted Activity shall be capable of accommodating a 20m diameter circle exclusive of *yard* requirements, such area to contain a building site complying with 12.4.1 (b);
  - (ii) Conflict with intensive farming activities

Each *lot* shall be located no closer than 300m from an existing *intensive farming activity*.

- (iii) Conflict with *quarrying*

All identified house sites shall be located outside of a *Quarry Effects Management Area*.

**(b) General farming lots**

- (i) Minimum *lot* size (including any balance area or residual *lot*) - 40ha;
- (ii) Limitation.

This rule shall not apply to titles created by way of a boundary adjustment for which a resource consent application was lodged after 7 February 2009 and which would not have qualified for subdivision under this rule prior to the boundary adjustment occurring.

**(c) Rural production lots**

Existing rural *lots* may be subdivided to create one or more Rural Production Lots subject to the following standards and criteria relating to either productive land or land containing a *productive crop*:

Productive Land:

- (i) Shall contain a minimum of 6ha.
- (ii) Shall be located less than 200m above *MHWS*.
- (iii) Each Rural Production Lot shall be suitable for the successful growing of permanent horticulture crops in the prevailing climatic conditions.
- (iv) Shall have the following characteristics:
- Soil texture; silt loam, sandy loam, loam, loamy sand (in the topsoil 15cm)
  - Potential rooting depth: minimum one metre
  - Drainage Class: well-drained
  - Profile readily available water (0 – 100cm): moderate (greater or equal to 50mm)
  - Topsoil (top 15 cm) bulk density: less than or equal to 0.90 g/cm<sup>3</sup>
  - Subsoil (below 15 cm) bulk density: less than or equal to 1.00 g/cm<sup>3</sup>

- Topsoil (top 15cm) organic matter: minimum 5%
- No point exceeding 15 degree slope
- No more than 20% of the *productive land* shall be facing 45 degrees either side of South (south east to south west).

(v) Each application shall be accompanied by a report/s completed by a person/s qualified and experienced in local soils and horticulture production. The report as a minimum shall:

- Certify that the land concerned meets (i) to (iv) above;
- Provide comment on effects of drainage, climatic conditions, previous or current land use, any limitations and any cumulative effects;
- Recommendations for any remedial work.

Productive Crop:

(vi) The above provisions, (ii) to (iv) shall not be required to be met where each Rural Production Lot is a minimum of 6ha and no less than 70% of that area is planted in a *productive crop* which must be certified or other evidence provided.

General:

(vii) One balance *lot* complying with the relevant provisions of Section 12 (Subdivision) but which does not meet the requirements of clauses (i) and (vi) above may be created, provided that:

- the average area of all *lots* within the proposed subdivision shall be at least 6ha, and
- In the case of an application to subdivide land previously subdivided under this rule, the area of the original parent property shall be used for the purposes of calculating average *lot* size and only one non-complying balance *lot* may be created from the land within the original property.



- (viii) Where any new *lot* created under this rule will contain more than one existing *dwelling* (excluding *minor dwellings*), no such *dwelling* may be used as the basis for a subsequent subdivision under the Additional Dwelling Lot rule. A consent notice condition to this effect will be registered on the title of the *lot* concerned;
- (ix) Limitation – this rule shall not apply to titles created by way of a boundary adjustment for which a resource consent application was lodged after 30 January 2010 and which would not have qualified for subdivision under this rule prior to the boundary adjustment occurring.

**(d) Transferable rural lot entitlements**

**Explanatory Note:**

The purpose of this provision is to allow existing *lots* that meet age of title and size criteria to obtain a transferable rural lot entitlement for use in the Lifestyle Zone.

- (i) Qualifying existing *lot*

To qualify for a Transferable Rural Lot entitlement the existing *lot* must meet the following criteria:

1. Have a title that existed prior to 1 August 1992 or which has been created by way of a subdivision consent for which an application was lodged prior to that date; and
  2. Is at least 4ha in area;
- or
3. Has been created by way of a subdivision consent for which an application was lodged on or after 1 August 1992 but before 22 November 1997, and
  4. Is at least 8ha in area;

Provided that:

Other *lots* shall qualify under this rule where it can be demonstrated that the title was created following consent to a boundary adjustment and that prior to such adjustment a similar entitlement to subdivision of the previous *lot* (as determined by *Council*) would have complied with the foregoing limitation and all other requirements of this rule.

(ii) Number of entitlements

The maximum number of transferable entitlements able to be obtained from existing *lots* which qualify under this rule shall be as follows:

- *lots* less than 30ha – one entitlement;
- *lots* 30ha or more – two entitlements.

(iii) To be able to exercise the transferable entitlement the qualifying existing *lot* shall have registered against its title a Memorandum of Encumbrance which specifies that the transferable entitlement has been exercised and no further entitlement is obtainable.

**(e) Transferable amalgamation lots**

**Explanatory Note:**

The purpose of this provision is to encourage the aggregation of existing rural *lots* into larger land parcels in return for the granting of a transferable amalgamation lot entitlement for use in the Lifestyle Zone or to create a *lot* around an existing additional *dwelling* under the Additional Dwelling Lots Rule. In both cases, a copy of the new title for the amalgamated land will be required to be submitted to *Council* prior to the issue of an *RMA* section 224(c) certificate for the subdivision creating the new *lot*.

To qualify for a Transferable Amalgamation Lot the *lots* being amalgamated must:

1. Exist as at 7 February 2009 or have subdivision consent as at 7 February 2009.
2. Qualify for the erection of a *dwelling* in accordance with the performance standards of the District Plan.
3. The final amalgamated *lot* contains no more than one *dwelling*.
4. A Memorandum of Encumbrance will be required to be registered against the title of the amalgamated *lot* so as to prevent further re-subdivision.

**(f) Additional dwelling lots**

A Transferable Amalgamation Lot entitlement or an entitlement created under 18.4.2(h)(iii)3(b) may be used to create a *lot* around an existing additional *dwelling* subject to compliance with the following standards:

(i) Maximum *lot* size – 1ha, provided that as a Restricted Discretionary Activity the *lot* size may be increased on the basis that existing physical constraints such as the location of the *dwelling* (including vehicle access thereto) on the subject land and the nature of the subject land itself, render it impractical to comply with a maximum *lot* size of 1ha. In any such case, *Council's* discretion shall be restricted to:

- The extent to which for physical reasons it is impractical, unreasonable or otherwise undesirable to limit the size of the lot to 1ha;
- The extent to which the amount of versatile land (as described in the Rural Production Lots rule) within the lot has been or is able to be minimised.

A restricted discretionary application under this rule need not be publicly notified nor notice of it served on any other persons.

(ii) Qualifying additional *dwellings*

To qualify to be used as the basis for a subdivision under this rule the existing additional *dwelling* must have been lawfully established either by way of a specific resource consent for an additional *dwelling* or by virtue of having existing use rights under Section 10 of the *RMA* (excluding *minor dwellings* in both cases), provided that no existing additional *dwelling* on a *lot* created under the Rural Production Lots rule shall qualify for subdivision under this rule.

(iii) Other matters over which control may be exercised

- Financial contributions, limited to the difference between the current level of such contributions and any contributions previously paid;
- Any relevant matters in Section 12 – Subdivision;
- Any new or increased non-compliance with the rural *yards* rule.

(iv) New title for amalgamated land

Prior to the issue of an *RMA* Section 224(c) certificate for a subdivision creating an Additional Dwelling Lot under this rule, a copy of the new certificate of title for the land amalgamated pursuant to the Transferable Amalgamation Lots rule shall be submitted to *Council*.

**(g) Separation lots**

Separation lots may be created by subdividing an existing land title where each proposed lot is and will remain totally separated and inaccessible from other land within the subdivision by:

- (i) A permanent watercourse not less than 10m in width; or
- (ii) A State Highway or an existing legal public road currently maintained by *Council* or formed to the relevant standard specified in Table 2 of Rule 12.4.4.2; or
- (iii) An operational railway; or
- (iv) A severe or substantial natural landform feature such as a cliff, ravine or the like.

**(h) Protection lots**

In exchange for the protection of an *Identified Significant Feature* as defined in this District Plan or other existing features of value to the community additional *lots* over and above what other rural subdivision rules provide for may be created.

- (i) Application

Additional *lots* or Transferable Protection Lot credits may be created from a qualifying existing lot within the Rural Zone in conjunction with the legal protection in perpetuity of a significant natural or other existing feature of value to the community as follows:

- On-site protection lots within the Rural Zone – maximum of 5 additional *lots*. The feature to be protected must be within the land being subdivided.
- One or more Transferable Protection Lot credits to be used in conjunction with the subdivision of land within the Lifestyle Zone, subject to compliance with the requirements

35.16  
and;  
3.3  
PC12  
Appeal  
Note #9

for subdivision in that Zone (refer Section 17) are subject to clause (vi) of this rule.

In both the foregoing clauses, clause (vi) of this rule shall apply where the additional lots or credits are being created in conjunction with the protection of an ecological feature.

In this the context of this rule a “feature of value to the community” is deemed to be:

1. An *Identified Significant Feature* as specified in the District Plan (see Appendices 1, 2, and 3).
2. Other cultural heritage or ecological features subject to clause (iv) of this rule. In the case of ecological features, this may include previously degraded ecological sites that through enhancement or restoration can at the time of application be proven to meet the requirements of clause (iv). In the case of cultural heritage features, these are items of historic heritage (as defined in section 2 of the Act) which are of cultural significance to Maori, including wahi tapu.
3. Land for expansion of, or access to, reserves.

3.2  
PC12  
Appeal  
Note #10

**Explanatory Note:**

Enhancement means improving the existing qualities and values of an area that are ecological, cultural, and/or related to amenity. Restoration will have a corresponding meaning.

~~In the context terms of a protection lot,~~ Enhancement or restoration means improvement to a level which meets the qualifying criteria for ecological features set out in section 18.4.2(h)(iv)2.

- (ii) Qualifying standards for controlled onsite protection lot subdivision

Up to two additional lots may be created through an on-site Protection Lot subdivision within the Rural Zone, subject to each lot complying with the following;

1. Vehicle access shall be to an existing sealed road, excluding a State Highway;
2. Maximum lot size shall be 1ha.

~~1. To qualify for an onsite protection lot subdivision, the lot to be created shall meet the following criteria:~~

~~(i) Up to two additional lots on a sealed road;~~

~~(ii) Rural Zone be a maximum of 1ha;~~

~~(iii) Does not gain access directly to a State Highway.~~

~~2. The Transferable Protection Lot Credit may only be transferred into the Lifestyle Zone~~

(iii) Qualifying feature

1. This rule shall apply to features according to their respective lot boundaries as existed at 1 August 1992.

3. Within the subject title, where ~~the~~ an ecological feature ~~concerned~~ exceeds the size criteria in (iv) ~~2. 1. (b)~~ or (vi) below then the entire feature shall be protected under this rule.

3. Where the feature being protected is capable of realising more than one protection lot, credits will be given for additional lots. These credits are able to be used in the Lifestyle Zone only.

(a) For credits created on or after 30 January 2010, the credits will expire five years from the date of issue of the consent or five years after the date that the Minden Lifestyle Zone Structure Plan becomes operative, whichever is the later

(b) For credits created prior to 30 January 2010 the following applies:

(i) The credit will expire ten years from the date of the Minden Lifestyle Zone

3.1  
PC12  
Appeal  
Note #11

Structure Plan being made operative (16 June 2012).

- (ii) Thirty percent of the total credits (calculated per donor lot) may be used in conjunction with Rule 18.4.2(f).

(iv) Certification

1. Ecological Features

~~(a) 1.~~ In the case of those *Identified Significant Ecological Features* referred to in Appendix 1 of the District Plan or of other ecological features, certification from an appropriately qualified independent person that the feature in question meets the criteria in ~~2. 1 (b)~~ below shall be submitted with the application for subdivision consent.

~~(i) In the case of Viewshafts referred to in Appendix 2 and Identified Significant Historic Heritage Features referred to in Appendix 3 certification from an appropriately qualified independent person that the feature in question still exists in terms of the description as provided in the respective Appendix shall be submitted with the application for subdivision consent.~~

~~(ii) In the case of features of community benefit, certification from an appropriately qualified independent person that the feature in question meets the criteria in 3. below shall be submitted with the application for subdivision consent.~~

~~(iii)~~

Such certification shall be accompanied by a report prepared by the certifier detailing the attributes of the feature recommended for preservation and include a management plan specifying

any protective or enhancement measures deemed necessary.

**(b) ~~2~~ Criteria for ecological features**

The feature must be assessed in the context of the relevant ecological district, bioclimatic zone and landform type. Each feature is required to rank highly on three or more of the following criteria:

- (i) Representativeness - the extent to which an area is characteristic or representative of natural diversity;
- (ii) Diversity and pattern - the diversity of species and community types;
- (iii) Shape - larger areas with a compact shape are more likely to be ecologically viable;
- (iv) Ecological viability and sustainability - the likelihood of an area remaining ecologically viable and the management input necessary for long term sustainability;
- (v) Naturalness - degree of modification as compared with likely original unmodified character.
- (vi) Rarity and special features - presence of rare community types, species or other rare features;
- (vii) Fragility and threat - threat processes or agents (actual or potential) that are likely to destroy or substantially modify the feature, and the vulnerability of the feature to damage;
- (viii) Ecological context – the extent to which an area is buffered from modifying influences, or provides a key buffer for other ecological areas, or the connectivity role that site



provides for the wider landscape;

- (ix) Long term viability – the extent to which the features of the area will maintain themselves in the long term.

**Explanatory Note:**

*Riparian areas* only need to meet criteria (v) and (ix) above to quality.

The following table shows minimum feature size dependant on whether the feature is listed in the District Plan as significant or whether it can be identified as an 'other feature' subject to 18.4.2(h), (i) and (iv).

Features smaller than the minimums below ~~can~~ shall be considered as Non-Complying Activities:

Habitat Type	Minimum Size for significant ecological features	Minimum size for 'other features'
<i>Tall Forest</i>	3ha	5ha
<i>Regenerating Forest</i>	4ha	8ha
<i>Secondary Shrub Land</i>	5ha	10ha
<i>Riparian margins (above MHWS)</i>	500m in length and 20m wide	
<i>Wetlands (above MHWS)</i>	0.5ha surrounded by a 10m indigenous buffer	

**Explanatory Note:**

*Riparian areas* are measured from 20m landward of the stream edge on one side. When a stream is wholly contained within one title this can be measured on each side.

~~3. Criteria for features of community benefit~~

- ~~(i) The feature must provide for expansion of an existing reserve, or access (not otherwise shown in the District Plan) to an existing or proposed reserve or esplanade reserve. The acceptance of such applications is at Council's sole discretion.~~

- ~~(ii) The minimum size and multiple lot entitlement is the same as for the following ecological features:~~

~~Access equates to  
Riparian Margins  
Expansion of reserves  
equates to Wetlands.~~

## 2. Viewshafts

(a) In the case of Viewshafts referred to in Appendix 2 certification from an appropriately qualified independent person that the feature in question still exists in terms of the description as provided in Appendix 3 shall be submitted with the application for subdivision consent.

## 3. Cultural Heritage Features

(a) In the case of Identified Significant Historic Heritage Features referred to in Appendix 3 certification from an appropriately qualified independent person that the feature in question still exists in terms of the description as provided in Appendix 3 shall be submitted with the application for subdivision consent.

(b) With respect to cultural heritage features not listed in Appendix 3, the feature in question shall be certified by an appropriately qualified and experienced independent person as being of such cultural or archaeological significance to the wider community as to warrant preservation in perpetuity. Such certification shall be accompanied by a report prepared by the certifier detailing the attributes of the feature recommended for preservation and shall include:

- (i) Endorsement from an authorised representative of the recognised tangata whenua for the area in question;
- (ii) A management plan specifying any protective or enhancement measures deemed necessary.

## 4. Land for expansion of, or access to, reserves

(a) In the case of land for expansion of, or access to, reserves, certification from

an appropriately qualified independent person that the feature in question meets the criteria below shall be submitted with the application for subdivision consent.

(i) The land must provide for expansion of an existing reserve, or access (not otherwise shown in the District Plan) to an existing or proposed reserve or esplanade reserve. The acceptance of such applications is at Council's sole discretion.

(ii) The minimum size and multiple lot entitlement is the same as for the following ecological features:

- Access equates to Riparian Margins
- Expansion of reserves equates to Wetlands.

(v) Buffering on Wetlands

(i) *Wetlands* less than 2ha require a minimum of 10m indigenous buffer (larger areas may be required where topography dictates). This buffer must be established prior to being eligible for a protection *lot*;

(ii) *Wetlands* greater than or equal to 2ha require a buffer area of a suitable width prescribed by the certifying ecologist and must be established prior to obtaining Section 224 consent.

(vi) Number of lots

One *lot* for every separate feature type as set out in clauses (i) and (iv) of this rule. Multiple *lots* will be allowed based on feature type, whether the feature is listed as significant or as an 'other feature', and the feature size. The following tables show the feature sizes required in hectares and the total number of corresponding multiple protection *lots* that can be obtained.

**Multiple Lots Features listed as significant in the District Plan:**

<b>Feature Type</b>	<b>Feature Size Requirement per lot</b>
<i>Tall Forest</i>	6ha
<i>Regenerating Forest</i>	8ha
<i>Secondary Shrubland</i>	10ha
<i>Riparian Margins</i>	1km
<i>Wetlands</i>	1ha

**Multiple Lots for Features not listed as significant in the District Plan:**

<b>Feature Type</b>	<b>Feature Size Requirement per lot</b>
<i>Tall Forest</i>	10ha
<i>Regenerating Forest</i>	16ha
<i>Secondary Shrubland</i>	20ha
<i>Riparian Margins</i>	1km
<i>Wetlands</i>	1ha

(vii) Legal protection

Legal protection of the feature shall be achieved by way of a condition imposed on the subdivision consent requiring a Consent Notice, Memorandum of Encumbrance or similar legal instrument to the satisfaction of the *Council* to be registered on the title of the land containing the feature to be protected. All costs associated with compliance with this requirement shall be met by the applicant;

(viii) Exclusions

This rule shall not apply to any land that has been designated in the District Plan (for any purpose), or is classified under the Reserves Act 1997, or is subject to the Conservation Act 1987.

## **18.5 Matters of Discretion**

### **18.5.1 Restricted Discretionary Activities - General**

With respect to a Restricted Discretionary Activity or any Permitted or Controlled Activity which fails to comply with any activity performance standard listed in 18.4, *Council's* discretion is restricted to the actual or potential adverse effects arising from the particular non-compliance, having regard to the extent and nature of the non-compliance.

## 18.5.2 Restricted Discretionary Assessment Criteria – Development of 11–30 Houses on Multiple Owned Maori Land

With respect to the *development* of between 11- 30 houses on multiple owned *Maori land Council's* discretion is restricted to the

- (a) Assessment of financial contributions; and
- (b) The provision of a *structure plan* approved by *Council* that addresses:
  - (i) Provision of house sites;
  - (ii) Structures other than dwellings;
  - (iii) Description of the character, scale and intensity of activities proposed to use any papakainga community facility *building or buildings*;
  - (iv) Location of areas to be allocated to any non-residential activity or group of activities;
  - (v) Areas of the site proposed to be devoted to rural productive activities;
  - (vi) Location of any waste water, water supply, roading, stormwater services and associated equipment, reticulation and facilities;
  - (vii) The provision of compliant vehicle and pedestrian accessways from the site to *Council* maintained roads;
  - (viii) Provision of internal vehicle access, parking and walkways, including the surface material and whether this will be loose or sealed, and *construction* standards;
  - (ix) Landscaping by either land form shaping, planting or artificial screening;
  - (x) The extent and effect of *earthworks*;
  - (xi) Areas of any native plantings or bush on the site;
  - (xii) Location of any property boundaries (including internal) in instances where the site is proposed to comprise more than one title and boundaries of any licenses to occupy or lease or other forms of establishing areas of exclusive occupation to particular individuals or groups.

### **18.5.3 Assessment Criteria for Activities Failing to Meet Rule 18.4.1(c) Minimum Yard Requirements**

*Council* shall have regard to the following matters in addition to relevant matters stated in 18.4.

- (a) Due to size, shape, topographical or geotechnical constraints, it is not practicable to meet the *yard* requirements.
- (b) The location of archaeological sites or other Identified Significant Heritage or Ecological Features makes it not practicable to meet the *yard* requirements.
- (c) The potential for conflict with existing and foreseeable activities in the area.
- (d) Compliance with the *yard* requirements will result in a significant constraint on maximising the productive use of the site.
- (e) Compliance with the *yard* requirements will result in an adverse visual effect on the low density rural character of the area by forcing the *dwelling* into a visually prominent position such as a ridgeline.
- (f) Separation distances from other *dwellings* and any resultant loss of privacy of adjoining *dwellings*.
- (g) In regard to the *front yard* whether the road is sealed or unsealed.

- (h) In regard to the *front yard* adjoining Old Coach Road (between the entrance to Cameron’s Quarry and State Highway 2) whether any potential for conflict between activities and the use of the road for heavy vehicles can be avoided through the design and *construction of buildings* to restrict noise levels within any habitable room to a reasonable level.

**18.5.4 Assessment Criteria for Activities Failing to Meet Rule 18.4.1(I) Quarry Effects Management Area**

In relation to activities within the *Quarry Effects Management Area*, the location and design of the activity in relation to the effects of the quarry operation and the measures taken to ensure that these effects on the occupants are adequately avoided, remedied and mitigated.

**18.5.5 Assessment Criteria for Discretionary Activities failing to meet Rule 18.4.2(a)(ii) Intensive Farming Separation Distance**

*Council* shall have regard to the following matters:

- (a) Assessment of the potential for odour, fly and noise effects.
- (b) The location of *lots* and house sites in relation to the *intensive farming activity*.
- (c) The extent of avoidance and mitigation measures.

**18.5.6 Assessment Criteria for Discretionary Activities failing to meet Rule 18.4.1(h) Artificial Crop Protection**

*Council* shall have regard to the following matters:

Assessment of the potential glare on neighbouring properties from the colour of the cloth.

**18.5.7 Assessment Criteria for buildings not meeting 18.4.1(n)**

- (a) The extent to which the proposed *building* can be screened from neighbouring properties.
- (b) The extent to which the activity has the potential to adversely affect the visual amenity provided by the rural environment.
- (c) The intended use of the proposed *building* is appropriate for the Rural Zone.

4.1  
PC9

### 18.5.8 Discretionary and Non-Complying Activity Criteria – General

The assessment and management of effects shall include the following matters in addition to relevant matters stated in 18.4:

- (a) Relevant objectives and policies of the District Plan.
- (b) The extent of the loss of land with high production potential.;
- (c) Potential for conflict with existing and foreseeable activities in the area.

In justifying any location where potential for conflict and other adverse effects arise, consideration should be made of possible alternative locations and the need to be in the specific area chosen.

- (d) Traffic Generation
  - Impact on roading including traffic safety;
  - Access;
  - Effect on amenity.
- (e) Scale of the activity including number of people carrying out the activity, the hours of operation and how this affects the existing rural character and amenity values.
- (f) Proposed *signs*.
- (g) The extent to which the activity has the potential to adversely affect the visual amenity provided by the rural environment and the ability to avoid or mitigate such impact by screening or other appropriate measures.
- (h) The background sound level of the surrounding environment and whether the best practicable option of reducing noise emissions has been utilised by rural activities which exceed the relevant noise limits in these District Plan rules. In addition how the character of the noise differs from that which is being experienced in the surrounding environment.
- (i) In relation to activities within the *Quarry Effects Management Area*, the location and design of the activity in relation to the effects of the quarry operation and the measures taken to ensure occupants are adequately protected from those effects.



### **18.5.9 Discretionary Activities Criteria for the Development 31 Houses or More on Multiple owned Maori Land**

- (a) All *developments* on multiple owned *Maori land* that result in a cumulative total of 31 houses or more shall be designed in general accordance with a *Council* approved *structure plan* and *Council* has full discretion to assess the *development* application and decide whether the *development* proposal is in general accordance with the *structure plan*.
- (b) Developments failing to comply with the *structure plan* shall be a Non-Complying Activity.

### **18.5.10 Assessment Criteria for Rural Production Lots**

- (a) Restricted Discretionary Activities

*Council* shall restrict its discretion to the following matters and shall use them as a guide for Discretionary Rural Production *Lot* subdivision:

- (i) The design and layout of the subdivision shall be in a manner which ensures that the minimum 6ha within each Rural Production Lot shall be in a configuration which allows all of the land to be capable of being used for permanent horticultural production in accordance with good industry practice.  
It is recognised that a Rural Production Lot may include an identified house site and *accessory buildings*, loading bays, crop plantings, shelterbelts, access ways and headlands;
- (ii) That the subdivision does not compromise the use and viability of the land for horticultural production;
- (iii) For subdivision of an existing horticultural *lot*, *Council* must be satisfied that each Rural Production Lot contains a *productive crop*;
- (iv) Where the subdivision relies on a *productive crop* and the canopy/cropping area is less than 70% of the minimum required productive land area *Council* needs to be satisfied that any remaining land is productive land.

- (v) The amount of *earthworks* required to enable the land to be of a suitable topography for horticultural practises, where the *earthworks* will exceed 3000m<sup>2</sup> and/or involve cuts and fill exceeding 0.5 metres in height then *Council* must be satisfied that the land will be capable of containing a viable permanent horticultural crop on completion of the *earthworks*.
- (vi) Any effects on natural flow paths, streams, watercourses or vegetation which may occur as a result of the re-contouring.
- (vii) Notification – an application under this rule need not be publically notified nor notice of it served on any persons.