



# Western Bay of Plenty District Council

## Section 32 Report for the Subdivision and Development Section of the District Plan

**November 2008**

Report prepared by:

Marc Fauvel, Ken Lawton (Policy and Planning Group) and Grant Bridgwater (Boffa Miskell)

**E**      [marc.fauvel@westernbay.govt.nz](mailto:marc.fauvel@westernbay.govt.nz)

**P**      07 579 6706

**W**      [www.westernbay.govt.nz](http://www.westernbay.govt.nz)

## Contents

Introduction .....	1
Context .....	1
Statutory Framework.....	2
Section 32 Resource Management Act.....	2
Resource Management Act Purpose .....	3
District Plan Objectives & Policies .....	3
Objectives .....	3
Policies .....	5

## **Introduction**

The Western Bay of Plenty District Council is undertaking a review of the Subdivision provisions of its Operative District Plan. The provisions of the subdivision section outline the information requirements that need to be submitted to Council for assessment purposes. The provisions also address the servicing requirements for new lots being created and require compliance with existing structure plans, where these exist, and the Subdivision and Development Code of Practice. The subdivision provisions also identify the need for persistent chemical residues in soils to be assessed at the time subdivision is proposed.

Council has recently prepared a Built Environment Strategy which seeks to guide and encourage public and private developers to follow a sustainable approach towards development. The Council has also reviewed its Subdivision and Development Code of Practice and introduced design guidelines to encourage more sustainable subdivision outcomes. The subdivision review has introduced a number of new objectives and policies which supports the shift towards sustainable subdivision and development.

Section 32 of the Resource Management Act requires Council to evaluate the extent to which each objective is the most appropriate way to achieve the purpose of the Resource Management Act and assess the effectiveness and efficiency including the benefits and costs of adopting any policy, rule or method in the District plan.

This assessment focuses on the new objectives and policies that are proposed. The rules and methods that are proposed to be used to achieve the objectives and policies are subject to a separate section 32 assessment which identifies their effectiveness and efficiency.

## **Context**

Since the adoption of the Operative District Plan a significant amount of planning for population growth has been undertaken by Council. A SmartGrowth Strategy has been prepared to provide a future direction for growth within the sub region. Council has also undertaken a number of plan changes putting in place structure plans to support the Smart Growth Strategy. Implementation of this Strategy has seen a significant investment by Council in core infrastructure such as wastewater, water supply and roading in urban areas to cater for and to avoid adverse environmental effects arising from the anticipated population growth.

Council has also prepared a high level “Built Environment Strategy” which establishes a new direction for future urban form in urban communities. At a town level the Built Environment Strategy acknowledges that each town is unique and has strengths on its own and aims to ensure that future development rules and guidelines promote these strengths and uniqueness. At a neighbourhood level the Strategy promotes safe, attractive and sustainable neighbourhoods as a priority. The Strategy focuses on things that both Council and the private sector can do to improve neighbourhoods.

Council has also prepared community plans for each town in the District which set a direction for how these communities wish to see their area develop. This direction, combined with the guidance

provided by the Built Environment Strategy should provide a solid basis for ensuring future subdivision and development is undertaken in a way that maintains and enhances the identities of each community.

A set of objectives and policies have been prepared which identify what will be achieved through the methods proposed to be used in the District Plan to manage future subdivision and development. This report provides an assessment of these objectives and policies on accordance with the statutory requirements of section 32 of the resource Management Act.

## **Statutory Framework**

### **Section 32 Resource Management Act**

*In achieving the purpose of the RMA, the Council must carry out an evaluation under Section 32 before notifying a Plan Variation and prepare a report, which is publicly available from the date of notification. This report addresses the relevant matters set out in section 32.*

*The relevant parts of section 32 RMA state:*

32. *Consideration of alternatives, benefits, and costs*
- (1) In achieving the purpose of the Act, before a proposed plan, proposed policy statement, change, or variation is publicly notified, a national policy statement or New Zealand coastal policy statement is notified under section 48, or a regulation is made, an evaluation must be carried out by –*
- (c) the local authority, for a policy statement or a plan (except for plan changes that have been requested and the request accepted under clause 25(2)(b) of Part 2 of Schedule 1); or....*
- (2) A further evaluation must also be made by –*
- (a) a local authority before making a decision under clause 10 or clause 29(4) of the Schedule 1; and.....*
- (3) An evaluation must examine –*
- (a) the extent to which each objective is the most appropriate way to achieve the purpose of this 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.*
- (4) For the purpose of this examination, 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.*

*(5) The person required to carry out an evaluation under subsection (1) must prepare a report summarising the evaluation and giving reasons for that evaluation.*

*(6) The report must be available for public inspection at the same time as the document to which the report relates is publicly notified or the regulation is made.*

In determining what objectives should apply for subdivision activity Council is required under section 32 of the RMA to examine the extent to which the objectives are the most appropriate way to achieve the purpose of the Act.

In determining what Policies, Rules and other methods may be appropriate to achieve the objectives section 32 requires that Council gives consideration to their effectiveness and efficiency.

## **Resource Management Act Purpose**

The purpose of the Resource Management Act is to promote the sustainable management of natural and physical resources. Sustainable management means managing the use development, and protection of natural and physical resources to enable people to provide for their social, economic, and cultural wellbeing.

The purpose of the Act is about people and communities providing for their well-being and at the same time avoiding, remedying or mitigating adverse effects. The Built Environment Strategy seeks to promote more sustainable built environments that integrate better with the natural environment. Through the subdivision provisions of the District Plan Council is able to controls future development to achieve the outcomes sought in the Built Environment Strategy and better meet the purpose of the Resource Management Act.

## **District Plan Objectives & Policies**

The focus of the objectives and policies of the subdivision provisions reflects the existing need for appropriate infrastructure and services to be provided for development. There is however a shift to encouraging alternative designs which goes beyond meeting minimum standards so that the design outcomes are more robust and make future communities more attractive places to live.

## **Objectives**

### Objective 1

*“Subdivision and development that provides for and reinforces the existing built form and local character of an area”.*

The Districts existing urban communities have a distinct character and identity that provides a sense of place. New development needs to recognise the existing built form, so as to integrate into the existing environment and strengthen the existing character.

This objective recognises the importance of identifying the distinctive character of an area and building on and improving what already exists. The objective promotes development which

provides for the social, economic and cultural well being of a community and is considered to be appropriate to achieve the purpose of the Resource Management Act.

### Objective 2

*“Subdivisions and developments are provided with the necessary infrastructure and services to ensure that the land is able to be used for its intended purpose”.*

Subdivision of land results in intensification of use. To avoid adverse effects on the environment from this more intensive use and to allow the land to be efficiently developed, improved services such as water, wastewater, stormwater and roading are required. If the appropriate level of services is not provided then the land resource is unable to be fully utilised and resource use is inefficient. The objective meets the purpose of the Act ensuring that natural and physical resources are effectively and efficiently used in a way or at a rate that provides for social and economic well being.

### Objective 3

*“Infrastructure and services have been designed and constructed to minimum engineering standards or alternative standards which result in improved environmental outcomes without significant additional cost to the community”.*

The nature of the design and construction of infrastructure and services for a subdivision or development can affect how the development integrates into the environment. If the infrastructure and services are poorly designed or do not have sufficient capacity to provide for the full future use of the activity, there will be adverse effects on the environment.

This objective provides for subdivision and development being designed to a minimum engineering standard to ensure the effects on the environment arising from any development is appropriately mitigated. It also allows a development to provide a different standard where these achieve better environmental outcomes and do not result in significant additional cost to the community. Allowing some flexibility in design is likely to encourage innovation resulting in developments that are better integrated into the existing environment.

The objective supports the key elements of sustainable management of natural and physical resources by ensuring that future subdivision and development of land is provided with appropriate services that avoid adverse effects on the environment.

### Objective 4

*“Sufficient infrastructure capacity is provided to ensure the efficient and equitable provision of services to all land in the catchment”.*

Subdivision and development is not done in isolation. Often there will be other land in the area that is able to be subdivided or developed. In order to ensure that development potential of other land is not reduced or lost, provision needs to be made to ensure sufficient capacity or linkages are provided at the appropriate time. This objective seeks to ensure that when a development is

undertaken that sufficient provision is made to ensure that other developable land in the catchment does not have that development potential constrained. The objective achieves the purpose of the Act by providing for the efficient use of natural and physical resources as it ensure that development proposals are appropriate for the site and protects future development potential of the catchment.

### Objective 5

*“Comprehensive assessment of development proposals to ensure that the full effect of the proposal is able to be determined”.*

This objective seeks to ensure that development proposals are of a high standard and considers all relevant information to ensure that what is proposed for the site is appropriate and will not result in adverse effects on natural and physical resources. Provision of a high standard of information is necessary to allow these assessments to be done. This objective is considered the most appropriate to achieve the sustainable management of natural and physical resources as it ensures that the effects of development proposals have been carefully evaluated and the nature of environmental effects documented.

## **Policies**

The requirements for the section 32 analysis include:

S.32(3) *An evaluation must examine –*

*(b) whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objectives.*

S.32(4) *For the purpose of this examination, an evaluation must take into account –*

*(a) the benefits and costs of policies, rules, or other methods.*

An evaluation of the efficiency, effectiveness, benefits and costs of each policy is outlined below:

### Policy 1

*“All urban subdivision is to have regard to subdivision design guidelines contained in the development Code, Built Environment Strategy and urban design protocols and guidelines which provide urban design outcomes”.*

This policy supports the objective to provide for and reinforce existing built form and local character. The policy also recognises the importance of urban design standards contained in the development code, Built Environment Strategy and urban design protocols and encourages these design standards to be taken into account into account by new development. While there is no prescriptive requirement to implement good urban design standards, the policy identifies a number of documents which provide guidance to developers on what are good urban design practices and those matters that should be taken into account.

## Policy 2

*“The design of subdivision and development is in accordance with existing and proposed structure plans”.*

This policy ensures that future subdivision and development is consistent with any structure plan that has been prepared for the area. Structure plans identify the infrastructure and services that are necessary to provide for the development of an area and have been through a separate plan change to become operative. Ensuring subdivision and development is undertaken in accordance with the structure plan is essential to provide for the effective and efficient servicing of development within the structure plan area. This policy is effective at achieving the objective that subdivision and development is provided with the necessary infrastructure. The benefit of this policy is that it provides developers with a clear understanding of the services that are required to be provided. There may be some additional cost to developers who are required to provide a higher standard of infrastructure than they otherwise would have to if only servicing their own development.

## Policy 3

*“Require subdivision to be undertaken in accordance with any staging requirements to ensure the effective and efficient servicing of land within the catchment”.*

Provision of infrastructure and services for any development has to be done in a timely manner in order to provide for the effective and efficient servicing of development. If development is allowed to proceed ahead of time the provision of infrastructure and services become inefficient as the cost of providing the necessary infrastructure is unable to be recouped until much later. This policy is effective at achieving the objective that sufficient infrastructure capacity is provided to ensure effective and efficient provision of services within a catchment. The benefit of this policy is that it will mean that development cannot proceed ahead of time and will result in more efficient use of infrastructure and services that have already been provided. There may be some additional costs to individual land owners who are unable to proceed with their development until the provision of infrastructure and services have reached their property.

## Policy 4

*“Require subdivision and developments to provide infrastructure and services to meet the reasonably foreseeable needs of other land in the vicinity of the development”.*

Provision of infrastructure and services to new subdivision and development ensures that the effects of the development are appropriately managed as well as provides for the efficient utilisation of land. Provision of infrastructure and services is expensive and Council needs to ensure that where there is a foreseeable need for extra capacity to service adjoining land or land within the catchment, that this is provided at the time of the subdivision or development. To require provision of infrastructure to cater for other land within the catchment is considered to be an effective and efficient means to achieve the objective of providing sufficient infrastructure capacity for future development. The policy results in the overall cost of providing infrastructure being reduced by the efficiencies gained by sharing of services. Further it allows for the timely

development of other land within the catchment and means there is no unnecessary duplication of infrastructure and services. The main cost falls on the developer who is required to fund the extra capacity until they are able to be refunded from future development. There is potential for these costs to be held for some time if development is slow to proceed.

#### Policy 5

*“Subdivision and development complies with the minimum standards in the Code for the provision of infrastructure and services or to an alternative standard which is as effective and efficient in the long term and results in improved environmental outcomes”.*

The Code sets minimum standards for the provision of infrastructure and services. The Policy requires all subdivision and development to comply with the Codes minimum standards which incorporates well established engineering standards for the provision of services. Requiring compliance with the Code is an effective and efficient way of achieving the objective by providing a common standard that all development is required to comply with. There is a potential cost with this approach in that setting minimum standards results in development providing the minimum standard and does not encourage innovative approaches to the provision of services which may result in better environmental outcomes than that provided by the Code. To avoid this potential cost the policy accepts that alternative standards may be appropriate where there are improved environmental outcomes and the cost of the provision of these services is acceptable.

#### Policy 6

*“Subdivision and development will provide trunk infrastructure including roading sufficient to service the surrounding catchments”.*

This policy is effective at achieving the objective to provide sufficient infrastructure capacity for all land within the catchment. Subdivision and development does not occur in isolation and provision of services to any new development needs to ensure that sufficient capacity is provided to cater for future growth within the catchment. The benefit of this policy is that it ensures that future growth potential is provided for resulting in efficient use of natural and physical resources. Individual developers may have additional costs from having to provide the additional capacity until they are able to recover these costs from Council.

#### Policy 7

*“Require all subdivision and development proposals submitted to Council to include a comprehensive assessment prepared in accordance with the information requirements of the Code”.*

This policy seeks to ensure that applications submitted to Council for subdivision and development proposals contain good quality information on the nature of the activity so that the servicing and infrastructural requirements are properly understood and how any effects on the environment are being addressed. The policy is effective at achieving the objective that future developments are comprehensively assessed. The policy utilises the development Code to specify the information required and the issues that need to be addressed in any application. The benefit of this policy is

that it requires developers to fully assess their development prior to lodging an application with Council. This will mean that the Code provides a single reference point for the information that is required to be submitted. There will be a cost for individual developers who are required to provide the information but this is considered to be outweighed by the improved level of information being provided for assessment.

## **Methods and Rules**

The revised objectives and policies arising from the proposed review call for a number of changes to the existing methods and in particular the rules to achieve these objectives and policies.

The existing plan has been reworked to better reflect the sequencing of subdivision and development application and to more logically present the information required at each stage of the process. Much of the text remains unaltered but has been repositioned for clarity.

Additionally this section has been updated to incorporate the subdivision requirements that apply to specific areas of the District and as a result of a number of plan changes that have recently become operative or have been notified and will become operative in the future. These include Plan Changes 25, 33, 68, 69 and 70.

In addition the subdivision and development section now includes the provisions for proposed esplanade reserves, esplanade strips and access strips that were previously in the financial contributions section.

Rules are an effective method and have a proven track record within the District for achieving the identified objectives. The benefit of retaining rules as methods is that the community is familiar with these methods and it therefore allows for continuity between the existing plan and the next generation of plan.

In order to better meet the Objectives and Policies outline above a number of rules have been assessed to determine their effectiveness along with their benefits and costs. The areas subject to review are:

- Matters of discretion
- Information Requirements – subdivision plan
- Information requirements - application report
- Certification of compliance
- Engineering design, physical works and supervision
- Site suitability
- Extension of services
- Transportation and property access
- Streetlighting
- Water supply
- Certification requirements

### **Matters of discretion**

A new rule has been added that states that for Council may require professional reporting and certification, at the applicants cost. generally in accordance with the provisions for site suitability. This is needed to retain Councils discretion over the provision of information. In the past many applications for smaller subdivisions and developments have not been accompanied with a sufficient level of information to make a robust assessment of the activity. This is principally because the applicant is not a professional qualified surveyor, planner, engineer or experienced developer. In such cases the applicant can be required to provide such information under the provisions of Section 92 but this may put the development on hold for a considerable time as inexperienced applicants may be required to have a number of section 92 requests until the full requirement for information has been satisfied. This is often

perceived as stalling by Council, when in fact it is the lack of experience by the applicant that causes the delay in processing the application. It is proposed that rather than relying on the provisions of section 92 in some cases where it is reasonable due to the scale, complexity, technical aspects or potential effects of the proposal are significant that Council has the ability to direct the applicant to use the services of a qualified professional in order to ensure that the application meets the minimum standards of information as required by Council.

### **Information Requirements - subdivision plan**

The existing District Plan rules remain unchanged but there have been additional requirements added. The purpose of these additions is to make the subdivision plan more comprehensive in nature and are reflective of the proposed changes to the information requirements for the application report.

These are as follows

- (c) where existing boundaries are to become redundant as a result of the proposal, they shall be shown on the plan as a faded, dotted or otherwise delineated but recognisable line.

Many professional applicants currently show redundant boundaries in this manner as a matter of best practice. It is helpful in being able to clarify in an easy manner which titles currently exist and how the proposal intends to change these. There will be minor costs incurred by applicants in implementing this requirement. It benefits processing of the application as no further assessment of existing titles should be required.

This is for ease of assessment of the subdivision plan on application. Requiring this minor inclusion on the plan will reduce the time spent on assessing applications as no additional checking of existing titles will be required.

- (e) each proposed lot shall show a marked buildable area of not less than a 20m diameter circle. The whole of this area shall be certified in accordance with Rule 12.4.1. (Site Suitability)

This requirement puts the onus on developers to have made certain that prior to application each lot has a suitable building platform. It is already a requirement under the site suitability rules to ensure that every existing or proposed site has a building site. Showing the proposed building site on the subdivision plan makes on-site assessment by Council more efficient as the location of the building site is fixed on application. There should be no extra cost associated with showing the location of the building site on the application plan as it is simply a spatial verification that the area has been robustly assessed as being suitable.

In the past some applications have been delayed as there has been no certainty for Council that the proposed lots have the ability to have a complying house site. It is justifiable that if a lot is to be created for a house site by subdivision that any potential buyer is fully aware that the site has been certified as having a suitable building platform. To enforce this requirement the a provision has been added to the Site Suitability rules; 12.4.1(f) to ensure that any geotechnical reports that may be required must be lodged with Council prior to the issue of S224.

- (i) marked location of all existing and proposed vehicle entrance formations serving the land being subdivided.
- (j) a complying vehicle entrance point for each proposed lot shall be identified on the plan of subdivision including highlighting those that are 'fixed' in accordance with Rule 4A.3.1(c). Any existing non-complying entrance located in a Rural 1, 2, 3 or Future Urban Zone shall be subject to the provisions of Rule 4A.3.3.

There is currently no explicit requirement to show existing or proposed entrance ways. The inclusion of these requirements is to give more certainty in the assessment of the subdivision application that the provisions for safe access have been given full consideration. This is reinforced by the proposed inclusion of requirements 12.3.8 (h) and (i) in the application report as discussed below.

- (l) approval for the road names is required prior to RMA Section 224 approval. (Note: Proposed road names should be applied for as early as possible prior to a Section 224 application otherwise issue of the Section 224 certificate may be delayed.)

This is included to remind developers that they should apply for road name approval as road names are only approved by the Hearings Committee. It is therefore timely to have a decision on any proposed road names early in the process than have the Section 224 certificate delayed by having to wait for a hearing date.

- (m) the topography of the land shall be adequately shown including:
  - Contours;
  - Existing watercourses, creeks and streams;
  - Wetlands and swampy areas;
  - Existing culverts or bridges (where proposed privateways or roads pass over).

The requirement to show the contours is an existing provision. It is proposed to add the additional requirements to make the assessment of application more robust. In conjunction with the new proposed provisions for it is to also prevent the situation where on-site earthworks are undertaken often in advance of an application or in anticipation of gaining a consent. This provision enables an assessment to be made of the existing overland flow paths and natural drainage of the site prior to any earthworks being undertaken that would lead to modification of these and result in having adverse effects on neighbouring properties.

### **Information requirements – application report**

The existing District Plan rules remain unchanged but there have been additional requirements added. The purpose of these additions is to make the subdivision plan more comprehensive in nature and are reflective of the proposed changes to the information requirements for the application report.

- (c) description of all existing and proposed vehicle entrance formations serving the land being subdivided including:
- Standard of formation and ability to meet compliance
  - Available sight distances and ability to meet compliance

The information requirement is amended for a more robust description of the existing and proposed vehicle entranceways to enable a better assessment to be made on application of the standard of current formation and sightlines. This additional information provides Council with the necessary information to assess if given the existing formation there are issues surrounding safe access. This includes whether the formation is of an adequate standard as to not cause any adverse effect where the vehicle entrance joins a Council maintained road.

- (h) a concept stage safety audit in accordance with the Transfund manual is required for any proposed roads that intersect with an existing legal road maintained by Council.
- (i) a preliminary design that gives regard to the concept stage safety audit and that proves compliance for any proposed roads that intersect with an existing legal road maintained by Council is required

The addition of these provisions is to make it possible to assess on application whether the proposed road reserve boundaries, especially where they intersect with a Council maintained road, can accommodate a complying road design. The need to provide a concept stage safety audit will drive the actual design of the road which in turn affects the road boundary location. In some situations complying access to subdivisions may only be possible using land belonging to a third parties to enable the road reserve to be located. An initial concept safety audit will alert applicants as to the viability of the proposed access to meet minimum road safety standards. It further gives Council the ability to robustly assess whether the proposal should be accepted.

These provisions will add costs to the application as it is an additional matter for the applicant to report it is however justified in ensuring that safe access can be provided and so reduce the likelihood of accidents.

### **Certificate of compliance**

An additional requirement to confirm the need to obtain the consent of Council or other parties as required. This provision was previously in 15.3.6.3 Miscellaneous Matters of control.

- (v) confirmation of the need to obtain the consent of Council or other parties to carry out works on or affecting public or other private land.

### **Engineering design, physical works and supervision**

This is an expansion of the previous 15.3.7.3 Engineering Document requirements.

The proposed additions are listed below

- (b) Engineering documents are to include:
  - (i) Proposed earthworks designs.
  - (ii) Programme of works

As explained above in the requirement to show additional existing watercourses, wetlands, culverts and bridges on the subdivision plan, the engineering documents are proposed to now also require both the proposed earthworks design and the programme of works.

This is to prevent earthworks, that have the potential to modify existing overland flow paths and other areas unsuitable for development, being undertaken in advance of application without an assessment of the effects of the modification on the site suitability and neighbouring properties.

The requirement for a programme of works is to give Council some certainty that a logical sequence of development is being proposed.

- (c) Fees, in accordance with Council's fees and charges, will be payable by the applicant prior to Council officers undertaking any reviews of the engineering design.

This provision is to make it clear to applicants that Council require that fees for the assessment of engineering designs are payable at the time that they are generated and not at the time of S224 certification.

- (d) Peer reviews of the designs may be requested by Council officers. These will be undertaken at the expense of the applicant.

The inclusion of this provision is to reflect the fact that with some applications there may be complex technical issues that may be of a such a nature that additional peer review or particular expert comment is needed to assure Council that the proposal is satisfactory in terms of meeting the minimum engineering standards.

- (e) Works shall not be undertaken without:
  - (i) Council's prior approval of the engineering design.
  - (ii) Proof that any necessary consents from other agencies have been obtained.
  - (iii) Proof that all necessary / required insurances are in place.

These provisions explicitly state Councils position that approval is needed before work is commenced, all consents from agencies such as the Regional Council have been granted and that all the necessary insurance is in place.

- (f) Supervision of the works subject to approved designs or as otherwise required by the consent conditions is to be undertaken by the applicants representatives and shall be at the levels as required by Council's Development Code (including for Council inspections) and / or specifically by the engineering approval.

The provision is to ensure that developers and their agents are aware of their responsibilities to monitor the work of their contractors. In the past there have been problems with developers relying too heavily on the assurances of contractors that the work undertaken has been to the prescribed standard. It is important that the work is robustly supervised and to aid this the Development Code now includes requirements for supervision and monitoring to be provided.

#### **12.3.10.2 Insurance**

- (a) In conjunction with an application for engineering document approval to construct vested assets, the applicant shall take out Public Liability Insurance to a minimum limit of indemnity of \$2,000,000 (two million dollars) and supply with the application:
- (b) A Certificate of Currency (signed by your insurance company not your broker).
- (c) Proof that the premiums have been paid up to date.
- (d) Proof that your professional representatives undertaking the design work have in place, Professional Indemnity Insurance.
- (e) The insurance cover is to extend from the issue of Council's engineering document approval (at which time works can proceed), until the end of Council sign off for the maintenance period.

The requirements for insurance have been included after consultation with Councils insurance company. Previously insurance has been required but was not monitored. These provisions see a more rigorous assessment of the validity of the insurance to limit the risk to Council and the community should there be any reason that a claim needs to be made.

#### **Site suitability**

This section has been amended to incorporate the requirements of Plan Change 69 for earthworks in the Omokoroa Stage 2 structure plan area where a soils suitability report is now a mandatory requirement.

#### **Extension of services**

In rural and rural residential zones the current provisions regarding the mandatory extension of Council utility services to a new subdivision provided no certainty developers. The provisions for water reticulation relied on the interpretation of if “the land being subdivided lies within or adjoins an area served by a Council water supply”. It is proposed that this is amended to give certainty to both Council and developers that utility services have to be extended where one or more of the utility services are within 100m from the nearest boundary point of the land or titles being subdivided.

### **Transportation and property access**

Inclusion of matters over which Council will retain control that links directly to the new proposed roading hierarchy.

Inclusion of a new table that details minimum road widths. It is noted that these may need to be increased for the inclusion of cycleways or to satisfy safety requirements. These additional requirements are detailed in the Development Code.

Access to Strategic roads and District roads is cross referenced to the Transportation section (4B). The rationale for the roading hierarchy is subject to a separate S32 report.

New provisions are included for private ways. The 6 lot maximum is retained but with the potential in specific circumstances for this to be increased by an additional 2 lots where alternative vehicle access is not cost effective. This will allow for the efficient access to otherwise inaccessible land.

Privateways of convenience have caused problems in the past particularly in the rural environment. Privateways are not maintained by Council but are the collective responsibility of the landowners who have easements over the right of way. There are instances where a privateway is used to provide occasional access to an additional area of land. In some cases this occasional use right is been used on a regular basis creating the need for additional upgrading and more regular maintenance at the expense of the other landowners. It is therefore proposed that if the area of land being accessed contains a dwelling or structure supporting a commercial enterprise then that activity should be accessed by a separate principal access. Additionally the occasional access right should be reflected in the wording of the easement document. This simple addition is a cost effective method of reducing the number of disputes arising from over use of convenience rights.

There is a proposed addition to enable Council to have the ability to require access rights over all or part of a privateway where the privateway will provide direct access to a public reserve, waterway, or esplanade. This would only apply in cases where it was not practicable to form a dedicated access way to the public reserve, waterway, or esplanade due to topography or other constraints. The rule is not proposed to apply to existing right of ways. This is a cost effective and efficient method to provide future public access to recreational areas in particular the networks of proposed future esplanade reserves and strips. This is further discussed in the separate Section 32 report for Proposed Esplanade Reserves.

### **Streetlighting**

New provisions are now included that seek to limit the type of street lighting to those provided by a limited number of proven, reliable manufacturers. Council has in the past allowed a wide range of lighting but in some cases after being vested in Council some of the lighting provided by developers has been found to be of a lower standard than that of Councils requirements and have not proved to be as long lasting as the common streetlights used widely in the District. Often these lights have needed more frequent replacement and may be of a design that are more expensive to replace than those normally installed by Council. Additionally they may be of a design that is difficult to adequately source. It is therefore proposed that developers as a standard use streetlights from a limited number of manufacturers that Council are reasonably assured will be able to readily supply replacement poles and lanterns in the future. This still retains flexibility for developers given the number of designs available from the range of preferred manufacturers.

These rules formalise the street lighting policy that is currently in place. It is recognised that developers may wish to create a point of difference for a subdivision by using non-standard street lights with special design characteristics. Where these are vested in Council, Council wishes to retain the ability to enable their easy replacement in the event of failure or damage. It would be unreasonable for Council to have to have a physical stockpile of non-standard streetlights. To therefore ensure replacement is possible, at the least cost to the community, it is proposed that a reasonable levy is payable prior to the issue of the 224 certificate.

## **Water supply**

The provision for water supply in the Residential, Industrial and Commercial Zones have been amended to ensure the water supply is provided in accordance with the Public Health Act, and the Health (Drinking Water) Amendment Act 2007 and also the requirements of the New Zealand Fire Service Code of Practice.

## **Certification requirements**

### Information requirements

There is a new requirement for all road pavements to be certified by a chartered professional engineer. The benefit is to ensure the correct roading formation standards have been used and that Council can be assured as to the quality of the pavement. There will be a cost to developers to meet this requirement but the benefit to Council and the community is that new roads should be adequately formed and therefore require reduced maintenance.

The provisions for Section 224 certification have been expanded to more explicitly direct developers and their agents as to the monitoring and reporting requirements of the Development Code. The benefit of this is to give greater certainty to Council and the community that assets to be vested in Council have received an adequate level of supervision and monitoring throughout their construction.

Compliance with the proposed monitoring requirements will place additional costs on developers and their agents but will give both developers and Council greater assurance that assets are being correctly provided. It should reduce the number of occurrences when assets are found to be sub-standard and require substantial upgrading or replacement prior to being accepted for vesting in Council.

### Uncompleted works bonds

This directs developers to the relevant section of the Development Code.

**Maintenance (defects liability) period**

This is to inform developers as to the requirement for a cash bond to held by Council for the duration of the maintenance period for vested assets. This is already a requirement of the existing Development Code. This section is included for clarity. It is important that Council retains the ability to hold the bond to ensure that any defects in the vested assets can be rectified at potentially cost to the community.