

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 Papakaiainga 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.

Matakana Island is an elongated barrier island between Tauranga Harbour and the Pacific Ocean that lies between Mount Maunganui in the southeast and Bowentown in the northwest. Its predominant landuses are pastoral farming and horticulture, with production forestry on the sand barrier. The Island is of significant value to the Western Bay of Plenty District in a number of ways:

- (a) Its resident population of around 250 is principally tangata whenua with a rich cultural history and strong social fabric.
- (b) The Island community has a strong sense of connectedness and a modest way of life.
- (c) It is one of the richest archaeological landscapes in the western Bay of Plenty sub-region.
- (d) Matakana Island protects Tauranga Harbour, which is of national importance, from the Pacific Ocean.
- (e) The freshwater wetlands, dune lakes and frontal dune system on the Island are significant ecological features that provide the habitat for a diverse range of threatened and at risk species.
- (f) The pine forest landscape, as viewed from the Harbour, open coast and mainland is valued by both residents of the Island and the mainland, and visitors and as a production forest it will be subject to cyclical harvesting and associated visual changes.
- (g) The unbuilt nature of the Matakana Island forested sand barrier.

It is important that future development on Matakana Island complements these significant values and provides for the Island community's social, cultural and economic well-being. Council has adopted the Matakana Island Plan which addresses these significant issues in more detail to provide guidance for the future subdivision, use and development of the Island. This seeks to confine the built form on the forested sand barrier to be clustered instead of the traditional pepper potting based on subdivision lot size. In addition, the hapu of the Island have adopted the Hapu Management Plan which has to be taken into account by Council.



~~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.~~

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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*.

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

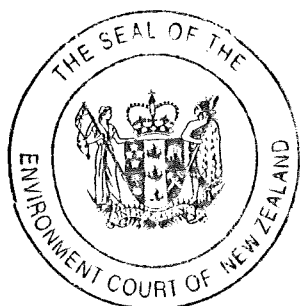
be anticipated and expected in the Rural Zone. These practices include spray drift, the use of agrichemicals, noise from frost fans, shading from shelterbelts, pumping of water for irrigation, bird scarers, general use of farm machinery both on and off farm, the harvesting of crops which may occur at 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 subdivision of large blocks into multiple 40ha lots and the pepper potting of dwellings on these lots.
- The potential for more intensive or large scale subdivision, use and *development* to adversely impact on archaeological, cultural, spiritual, ecological and landscape values, and
- The need and desire of tangata whenua to exercise rangatiratanga and kaitiakitanga and to actively protect cultural values over their ancestral land, and to live on and develop their own land.
- The threat of a multiplicity of natural hazards including coastal erosion, tsunami, liquefaction, inundation, and fire.

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.

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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.
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 The following attributes which contribute to the social, economic and cultural well-being of the Matakana Island community are maintained and supported:

- unique way of life,
- rich cultural values,
- sensitive natural environment, and
- a significant landscape.

11. 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*.

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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.



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| 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 | |
| <u>16.</u> | <u>In addition to policies relating to the rural land resource, subdivision, use and <i>development</i> of land on Matakana Island shall recognise and provide for the following matters:</u> | 4.11 35.6 |
| | (a) <u>Cultural, spiritual and archaeological values, including the need and desire of Maori to live on, and develop and otherwise maintain a strong relationship with their ancestral land.</u> | |
| | (b) <u>Maintenance and enhancement of natural coastal character, natural features, ecology and landscapes, indigenous vegetation and habitats of indigenous fauna, and historic heritage.</u> | |
| | (c) <u>The need to ensure that large-scale or more intensive subdivision, use and <i>development</i> proposals do not</u> | 3.6 4.11 35.6 |



compromise future options for the comprehensive planning, land use and *development* of the Island.

- (d) Legal access to the ocean beach, Panepane and sites of cultural significance for at least the local community and landowners.
- (e) Sustainability of existing social infrastructure and the cultural and social well-being of the Matakana Island community.
- (f) Sustainable economic development that contributes to the economic well-being of the Matakana Island community.
- (g) *Development* that is of a scale and nature that will complement the lifestyle (including self-sufficiency) of the Matakana Island community.
- (h) Provide for the establishment of additional dwellings and lots on the Matakana Island forested sand barrier in a clustered form only (through the use of "on site entitlements" and the transferring of entitlements) in return for avoiding or mitigating adverse effects at donor lots.
- (i) Manage subdivision, landuse and *development* on the Matakana Island forested sand barrier under the rural provisions of the Plan to avoid fragmentation of existing titles

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:

- (a) Fragmentation of rural land through subdivision unrelated to primary productive use.
- (b) The establishment of capital intensive rural or quasi urban land uses.

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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.

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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.
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 *dwelling*s should not be provided for except where these are essential for the management of the land for productive rural purposes.

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18.3 Activity Lists

18.3.1 Permitted Activities

- (a) *Farming.*
- (b) *Production forestry.*
- (c) *Conservation forestry.*
- (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)~~(g).
- (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.

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- (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)(k).
- (p) Community facilities or *buildings* up to a cumulative maximum floor area of 200m² 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 400m² 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*, excluding within a dwelling cluster on the Matakana Island forested sand barrier.

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)(i) Standards for *minor dwelling*s, excluding Matakana Island the Matakana Island forested sand barrier.
- (b) One *dwelling* on a title where no *dwelling* currently exists and where a *minor dwelling* exists which was constructed after 9 February 2009, excluding titles on the Matakana Island forested sand barrier.
- (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.

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- (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 2000m² 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 2000m² 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 2000m² of *net land area* per *dwelling* (including those provided for as a Permitted Activity).
- (h) On Rangiwaia Island up to a maximum of 10 *dwellings* on multiple owned *Maori land* subject to there being an average of at least 2000m² 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 800m² 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 excluding the Matakana Island forested sand barrier, (d) Transferable Rural Lots, (e) Transferable Amalgamation Lots, (f) Additional Dwelling Lots and (g) Separation Lots.
- (k) Protection Lot subdivision, excluding the Matakana Island, for up to two additional *lots* off a sealed road as specified in Rule 18.4.2(h)(ii)1.

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, excluding Matakana Island (see rule 18.3.4(r)).
- (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 2000m² 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.



- (d) Accommodation facilities and education facilities on Matakana Island that comply with 18.4.1(f).
- (e) Places of Assembly on Matakana Island that comply with 18.4.1(g).
- (f) Dwellings and associated subdivision in addition to 18.3.1(d) on the Matakana Island forested sand barrier subject to compliance with the activity performance standards contained in Rules 18.4.1(d) and 18.4.2(i).
- (g) Aquaculture on Matakana Island.
- (h) Works and network utilities as provided for in Section 10.

18.3.4 Discretionary Activities

- (a) *Intensive Farming Activities.*
- (b) *Kennels, catteries.*
- (c) *Accommodation facilities not complying with 18.4.1~~(d)~~ (e).* excluding Matakana Island 3.11
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- (d) *Education facilities for more than four persons (excluding staff).* excluding Matakana Island. 3.11
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- (e) *Places of assembly.* excluding Matakana Island. 3.11
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- (f) *Rural selling places.* 35.13
- (g) *Rural contractors depots* not meeting Rule 18.4.1 ~~(m)~~(p).
- (h) *Coolstores and packhouses less than 200m² 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, excluding the Matakana Island forested sand barrier.* 3.11
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- (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 2000m² of net land area per *dwelling* (including those provided for as a Permitted Activity).

- (e) ~~Minor dwellings on Matakana Island.~~
- (o) 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.
- (p) Protection Lot subdivision not complying with 18.4.2(h)(ii); excluding the Matakana Island forested sand barrier.
- (q) Rural Production Lot subdivision not meeting Rule 18.4.2(c)(ii) – (vi).
- (r) Any Permitted or Controlled Activity on Matakana Island that fails to comply with the activity performance standards listed in Rule 18.4.
- (s) Subdivision, dwellings and development associated with the clustering of dwellings on the Matakana Island forested sand barrier that fails to comply with the activity performance standards listed in 18.4, provided that in respect of rule 18.3.6 an overall density of one dwelling per 40ha is not exceeded.

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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)~~(i).
- (c) Additional *dwellings*.
- (d) New coolstores and packhouses greater than 200m² *gross floor area*.
- (e) Within the *National Grid Electricity Transmission Buffer*
- *Dwellings, minor dwellings, accommodation facilities, education facilities, hospitals, rest homes, and retirement villages.*
 - Principal *buildings* for *intensive farming activities* and commercial greenhouses.
 - *Buildings* for restricted discretionary or discretionary activities in 18.3.3 or 18.3.4.
 - *Buildings/structures* and *earthworks* not complying with the performance standards in 18.4.1(r).



- Subdivision not complying with the performance standards in 18.4.2(a)(iv).

(f) Accommodation facilities, education facilities or Places of Assembly on Matakana Island not complying with the performance standards in 18.4.1(f) or 18.4.1(g)

(g) Subdivision and development on the Matakana Island forested sand barrier that is not associated with the clustering of dwellings subject to performance standards in accordance with rule 18.4.2(b).

18.3.6 Prohibited Activities

(a) Residential development and subdivision that exceeds a density of one dwelling per 40ha on the Matakana Island forested sand barrier.

(b) Minor dwellings on the Matakana Island forested sand barrier.

18.4 Activity Performance Standards

18.4.1 General

The following performance standards shall be met by all Permitted and Controlled Activities and all Restricted Discretionary Activities on Matakana Island. They shall also 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 in accordance with Rule 12.4.1 (b) 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;

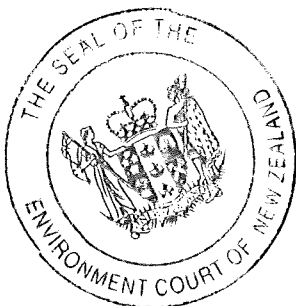
- Shall not be located any closer than 60m to any existing *dwelling*, *minor dwelling*, *accommodation facility* or *education facility* that is located on a title separate to that of the subject site and in different ownership;
- Shall not be located any closer than 35m to any existing 'other *structures*' 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.

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 a 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 Landscape Management Area (S9) – for controls on activities up to 300m landward of MHWS, see Section 6.4.

3.13
35.15



(d) Standards for clustering of dwellings or lots on the Matakana Island forested sand barrier

The purpose of this provision is to enable the clustering of dwellings on Matakana Island forested sand barrier through:

- The on-site clustering of dwellings using the dwelling entitlements of an existing lot. See (i) below.
- The transferring of additional dwelling entitlements from any lot on the forested sand barrier into a cluster. See (ii) below.

(i) Density: One dwelling per 40ha

(ii) Transferring of additional dwelling entitlements:
To achieve the clustering of dwellings, an entitlement may be transferred from an existing title (the donor lot) to the title on which the cluster is to be developed (the recipient lot) at a rate of one entitlement per 40ha of land within the "donor" lot.

An Encumbrance shall be registered against the title of the donor lot or balanced land to record the transfer of entitlements to:

- (a) ensure that the allotment cannot be used for further subdivision or additional dwellings in future.
- (b) record the balance number of lots or dwellings still to be transferred (if applicable).

~~(i) Dwelling or Lot entitlements: one dwelling or lot for every 40ha of the combined total area of all existing lots on which the application is based.~~

(ii) Yards:

- within the cluster - Minimum of 10m
- along the outer boundary of the cluster - Minimum of 30m

(iii) Minimum number of dwellings or lots per cluster: 10

~~(iv) The layout of the cluster or multiple clusters shall not be of a linear nature.~~

(v) The reflectivity of all roofs of all buildings, excluding solar panels, shall be no greater than 25% and the reflectivity of all building walls shall be no greater than 35% (as per the British Standard BS5252 Reflectance Value).

(vi) Transferring of development rights:
To achieve the clustering of dwellings or lots, a dwelling or subdivision entitlement may be transferred



from one existing title (the donor lot) to another existing title (the recipient lot) at a rate of one entitlement per 40ha of land within the "donor" lot.

An Encumbrance shall be registered against the title of the donor lot or balanced land to record the transfer of entitlements to:

(a) ensure that the allotment cannot be used for further subdivision or additional dwellings in future.

(b) record the balance number of lots or dwellings still to be transferred (if necessary).

(vii) Development within the cluster shall be in accordance with a Design and Development Plan approved in conjunction with the granting of a resource consent under rule 18.3.3(f). The Design and Development Plan shall, as a minimum, address the matters included in rule 18.5.8.

(e) 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 60m² 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.

(f) Restricted Discretionary standards for accommodation facilities and for education facilities on Matakana Island.

- (i) Maximum combined total of 20 guests or students.
- (ii) No building shall exceed a total gross floor area of 200m².
- (iii) The distance between any two buildings shall be a minimum of 10m.
- (iv) The buildings shall be partially screened from each other. The screening shall be dominated by trees and vegetation above 2m in height to mitigate the



cumulative scale of the accommodation/education facilities.

(v) The buildings shall meet the reflectivity standards of rules 6.4.1.3(b)(ii) to (iv).

(vi) Information is to be provided in accordance with 4A.6.2.

(g) Standards for Place of Assembly on Matakana Island.

(i) Shall be limited to facilities for recreation activities and tourist facilities.

(h) Standards for home enterprises

(i) Shall be conducted in an area that does not exceed 500m² of which a maximum of 120m² 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 20m²;

(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*.

(i) 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 18m²; and
- (iv) Shall pay 50% of the financial contributions that applies to the subdivision of land.

(i) 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.

(k) 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.

(l) 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.

(m) 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;



(n)

Fencing

- Service provision to existing *Council* owned and other *network utilities*.

(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.

(o)

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.

(p)

Standards for Rural Contractor Depots

- (i) The *Rural Contractors Depot* is carried out by a maximum of five persons, a minimum of one who shall reside on site, plus a maximum of two additional persons for no more than a six month period during



the period from 1 July of each year to 30 June of the following year.

- (ii) Does not involve the sale of goods from the site, other than those that are sold as an integral component of the rural contracting service provided to the *farming* industry, whether produced by the Rural Contractor or not.
- (iii) Does not have access within 30 metres of a State Highway or Strategic Road.
- (iv) All vehicle crossings used as access by the *Rural Contractors Depot* shall meet all of the relevant standards and standard drawings in *Council's* Development Code 2009 and shall as a minimum meet standard drawing W437 Diagram B.
- (v) The *Rural Contractors Depot* shall not be located within 60 metres of any existing *Dwelling, Minor Dwelling, Education Facility or Accommodation Facility* that is located on a title separate to that of the subject site and in different ownership to that of the *Rural Contractors Depot* operator.

(g) Accessory Buildings

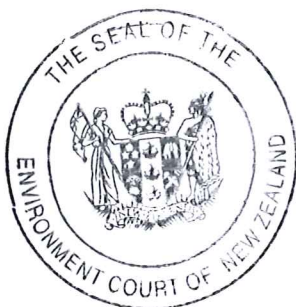
- (i) Maximum *gross floor area* of 200m² when within a *lot* of two hectares or less.
- (ii) No maximum *gross floor area* when on *lots* over two hectares.

Provided that:

- Any *accessory buildings* greater than 200m² in *gross floor area* on *lots* over two hectares shall have a *side yard* and *rear yard* of 30m.

Except that:

- An *accessory building* may be located within a *side yard* and / or *rear yard* up to 5m of a side and / or rear boundary where it is not located any closer than 35m to any existing *dwelling, minor dwelling, accommodation facility, education facility, approved building site – natural hazards*, and / or approved building site in accordance with Rule 12.4.1 (b), that is located on a title separate to that of the subject site.



- An *accessory building* may be located within a *side yard* and / or *rear yard* up to a side and / or rear boundary where the written approval of the owner of the immediately adjoining property to a specified lesser distance is obtained.
- As provided for in Rule 18.4.1(c)(iii)-(vi).

(r) National Grid Electricity Transmission Buffers

Note:

- Non-compliance with (i) to (iii) below shall require a resource consent for a Non-Complying Activity.
- For the purpose of the notification provisions of the *RMA*, Transpower shall be an affected person, and any application for consent need not be publicly notified. *Council* will have discretion over whether to publicly notify any application.
- All activities (whether listed below or not) located under or adjacent to transmission lines must comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances. Compliance with the District Plan rules does not ensure compliance with the Code.

(i) Activities around transmission structures (towers or poles)

Buildings/structures (including additions and alterations), *artificial crop protection structures* and horticultural crop support structures shall not be located within 12m of the outer edge of a transmission structure associated with a transmission line shown on the Planning Maps;

Except that:

- (a) *Artificial crop protection* and horticultural crop support structures can be located within 8m–12m of the outer edge of a single pole (not tower) provided it:
- is no more than 2.5m high; and
 - is removable or temporary, to allow a clear working space 12m from the pole when necessary for maintenance purposes; and
 - is located a sufficient distance from the pole to provide for unimpeded access for maintenance equipment, including a crane.



- (b) *Artificial crop protection* and horticultural crop support structures can be closer than 8m from a pole or 12m from a tower where Transpower New Zealand Limited gives its written approval in accordance with clause 2.4.1 of NZECP34:2001.
- (c) Fences can be located within 5m–12m from the outer edge of a support structure provided they comply with NZECP34:2001.

(ii) Activities under conductors (wires)

- (a) Within the *National Grid Electricity Transmission Buffer* the following (including any additions or alterations) shall not be located:
 - *Dwellings,*
 - *Minor dwellings,*
 - *Accommodation facilities,*
 - *Education facilities,*
 - Milking shed buildings (excluding the surrounding platform and any stockyards).
- (b) Within the *National Grid Electricity Transmission Buffer* the following shall be no closer than 10m in a vertical direction from the conductor associated with a transmission line shown on the Planning Maps unless they otherwise comply with NZECP34 2001:
 - *Buildings/structures* associated with horticultural and *farming* activities,
 - *Artificial crop protection* and horticultural crop support structures

(iii) Earthworks and Quarrying

- (a) *Earthworks and Quarrying* Around Poles

Earthworks and quarrying shall not be:

- (i) deeper than 300mm within 2.2m of a transmission pole support structure or stay wire; or
- (ii) deeper than 750mm between 2.2m - 5m from a transmission pole support structure or stay wire.



Except that:

Vertical holes not exceeding 500mm diameter beyond 1.5m from the outer edge of a pole support structure or stay wire are exempt from (i) and (ii) above.

(b) *Earthworks and Quarrying* Around Towers

Earthworks and quarrying shall not be:

- (i) deeper than 300mm within 6m of the outer visible edge of a transmission tower support structure; or
- (ii) deeper than 3m between 6m - 12m from the outer visible edge of a transmission tower support structure.

(c) Earthworks and Quarrying within the *National Grid Electricity Transmission Buffer*

Earthworks and quarrying shall not:

- (i) create an unstable batter that will affect a transmission support structure; and/or
- (ii) result in a reduction in the ground to conductor clearance distances as required by NZECP34:2001.

Provided that:

- *Earthworks* undertaken by a Network Utility operator in accordance with NZECP34; or
- *Earthworks* undertaken as part of normal agricultural cultivation or the repair, sealing or resealing of a road (including farm track), footpath or driveway

are exempt from (a) and (b) above.

(s) Transportation, Access, Parking and Loading - See Section 4B.

(t) Noise and Vibration - See Section 4C.1.

(u) Storage and Disposal of Solid Waste - See Section 4C.2.

(v) Lighting and Welding - See Section 4C.3.

(w) Offensive Odours, Effluent Aerosols and Spray Drift - See Section 4C.4.



- (x) Screening** - See Section 4C.5.
- (y) Signs** - See Section 4D.
- (z) Natural Environment** - See Section 5.
- (aa) Landscape** - See Section 6.
- (ab) Historic Heritage** - See Section 7.
- (ac) Natural Hazards** - See Section 8.
- (ad) Hazardous Substances** - See Section 9.
- (ae) Financial Contributions** - See Section 11.

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*.

(iv) Conflict with *National Grid Electricity Transmission Buffer*

Lots that have a *National Grid Electricity Transmission Buffer* located on them shall have an identified house site and an additional separate building site (in terms of the requirements of 12.3.7(e)). Such sites shall not be located within the *National Grid Electricity Transmission Buffer*. Furthermore if such sites are located between this buffer and a distance of 37m



from the centreline of the Kaitemako Transmission Line or 16m from the centreline of the Te Matai Transmission Line, Transpower shall be considered an affected party to ensure compliance with NZECP34.

See also 12.3.8(p) Subdivision Information Requirements - Application Report.

- Non-compliance with the above shall require a resource consent for a Non-Complying Activity.
- For the purpose of the notification provisions of the *RMA*, Transpower shall be an affected person, and any application for consent need not be publicly notified. *Council* will have discretion over whether to publicly notify any application.
- All activities (whether listed above or not) located under or adjacent to transmission lines must comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances. Compliance with the District Plan rules does not ensure compliance with the Code.

(b) General farming lots

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

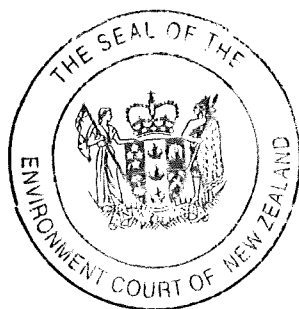
This rule shall not apply to titles created by way of a boundary adjustment for which a resource consent application was lodged after 7 February 2009 and which would not have qualified for subdivision under this rule prior to the boundary adjustment occurring.

(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/cm³
- Subsoil (below 15 cm) bulk density: less than or equal to 1.00 g/cm³
- 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



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Appeal
Note #4

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

- Rural Zone – maximum of 5 additional *lots*. The feature to be protected must be within the land being subdivided.
- Transferable credits are subject to clause (vi) of this rule.

35.16

In this context 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 features subject to clause (iv) of this rule. 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).

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

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.

2. Within the subject title, where the feature concerned exceeds the size criteria in (iv) 2. 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 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. 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. 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.

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;
- (viii) 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;
- (ix) 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;
- (x) 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 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.

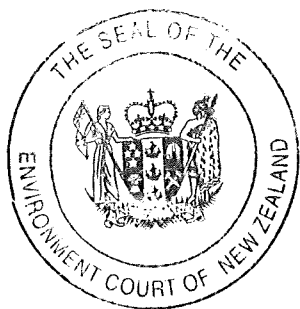
When a stream is wholly contained within one title this can be measured on each side.

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*.

(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:

| Feature Type | Feature Size Requirement per <i>lot</i> |
|----------------------------|---|
| <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:

| Feature Type | Feature Size Requirement per <i>lot</i> |
|----------------------------|---|
| <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 such as a QEII Covenant, Heritage Covenant, or the vesting of land into crown or territorial authority ownership. The type of instrument and the level of protection provided by it must be to the satisfaction of the *Council* and where relevant is 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.

(i) Subdivision relating to ~~clustered residential development~~ clustering of dwellings or lots on the Matakana Island forested sand barrier and the transferring of subdivision entitlements.

The purpose of this provision is to enable the clustering of lots on Matakana Island forested sand barrier through:

- The on-site clustering of lots using the lot entitlements of an existing lot. See (i) below.
- The transferring of additional lot entitlements from any lot on the forested sand barrier into a cluster. See (ii) below.

(i) Lot entitlements: Density of one lot for every 40ha.

(ii) Transferring of additional lot entitlements:
To achieve the clustering of lots, an entitlement may be transferred from an existing title (the donor lot) to the title on which the cluster is to be developed (the recipient lot) at a rate of one entitlement per 40ha of land within the "donor" lot.

An Encumbrance shall be registered on against the titles of all of the land parcels involved (including any balance area) the donor lot or balance land to record the transfer of entitlements to:

- (a) ensure that the allotment cannot be used for further subdivision or additional dwellings in future.



- (b) record the balance number of lots or dwellings still to be transferred (if applicable).
- (iii) The maximum size of a lot accommodating a dwelling shall be 1ha.
- (iv) The cluster shall meet the activity performance standards included in 18.4.1(d)(iii) – (vii).
- ~~(i) Subdivision shall be in accordance with the related land use consent.~~
- ~~(ii) The maximum size of a lot accommodating a dwelling shall be 1ha.~~
- ~~(iii) An encumbrance shall be registered on the titles of all of the land parcels involved (including any balance area) to record the transfer of entitlements to:

 - ~~(a) ensure that the allotment cannot be used for further subdivision or additional dwellings in future.~~
 - ~~(b) record the balance number of lots or dwellings still to be transferred (if necessary).~~~~

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 following:

- (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(o) 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

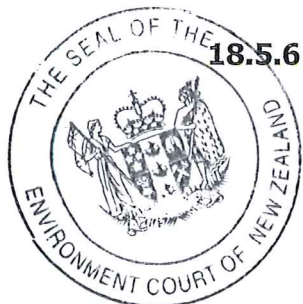
Council shall have regard to the following matters:

- (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(k) 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.



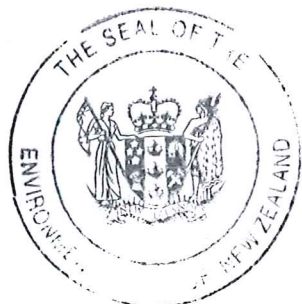
18.5.7 Assessment Criteria for buildings not meeting 18.4.1(g)

- (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.

18.5.8 Assessment Criteria for Restricted Discretionary Activities on Matakana Island, including the clustering of dwellings or lots on the forested sand barrier

Council shall restrict its discretion to the following:

- ~~(a) The matters referred to in Objective 10 and Policy 16.~~
- ~~(b) The location and design of the clusters of dwellings or lots on the forested sand barrier, including the extent of, and any adverse effects created by, development of a linear nature.~~
- ~~(c) The sustainability of water, wastewater, electricity, telecommunication and solid waste removal provisions.~~
- ~~(d) The provision of safe and legal access for landowners and the effect on the existing access rights of surrounding landowners.~~
- ~~(e) The impact of *development* (including *earthworks*) on the natural environment, landscape, cultural, historic heritage and archaeological values, including methods of management, protection and enhancement where appropriate.~~
- ~~(f) Avoidance or minimisation of the risk to life and damage to property from natural hazards.~~
- ~~(g) The social, and cultural and economic impact on the existing Island community.~~
- ~~(h) How existing areas of ecological value will be enhanced and maintained.~~
- ~~(i) How the introduction of pest plants and animals will be minimised and managed.~~
- ~~(j) The impact on the existing rural character and amenity values of Matakana Island as viewed from within the Island, the mainland~~



(particularly from Bowentown and Mauao), open coast and the Harbour.

- (k) How the *development* will co-exist with the *production forestry* operations.
- (l) The *provision of convenient access* for the existing Island community to the open coast, Panepane and sites of cultural significance.
- (m) Roading ownership, construction and on-going maintenance.
- (n) 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.
- (o) Traffic Generation
 - Impact on roading including traffic safety;
 - Access;
 - Effect on amenity.
- (p) Scale of the activity including number of people and how this affects the existing character and amenity values.

18.5.9 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~~ 18.5.1 – 18.5.8:

- (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.
- (j) In relation to activities within the *National Grid Electricity Transmission Buffers*:
 - the safety of the proposed activity (with reference to compliance with NZECP34 2001), and
 - the effects on the National Grid, including potential *reverse sensitivity* effects, and whether the operation and *maintenance* of the transmission lines is compromised.

For the purpose of the notification provisions of the *Resource Management Act*, Transpower shall be an affected person, and any application for consent need not be publicly notified. *Council* will have discretion over whether to notify any application.

18.5.10 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.

18.5.11 Assessment Criteria for Rural Production Lots

(a) Restricted Discretionary Activities

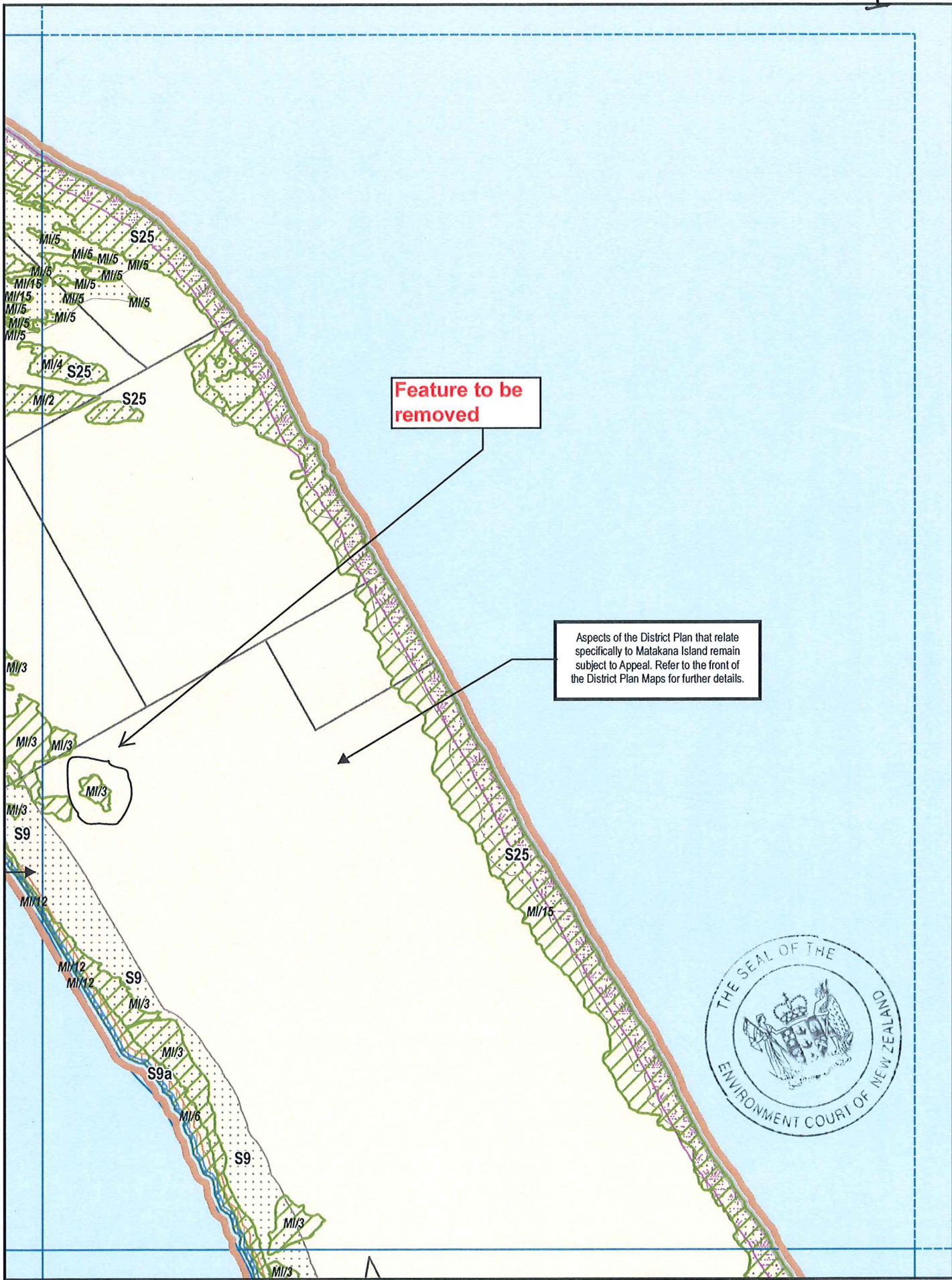
Council shall restrict its discretion to the following matters and shall use them as a guide for Discretionary Rural Production *Lot* subdivision:

- (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 3000m² 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.

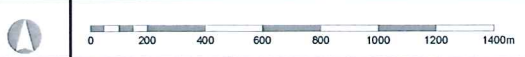




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C05 Rural Series

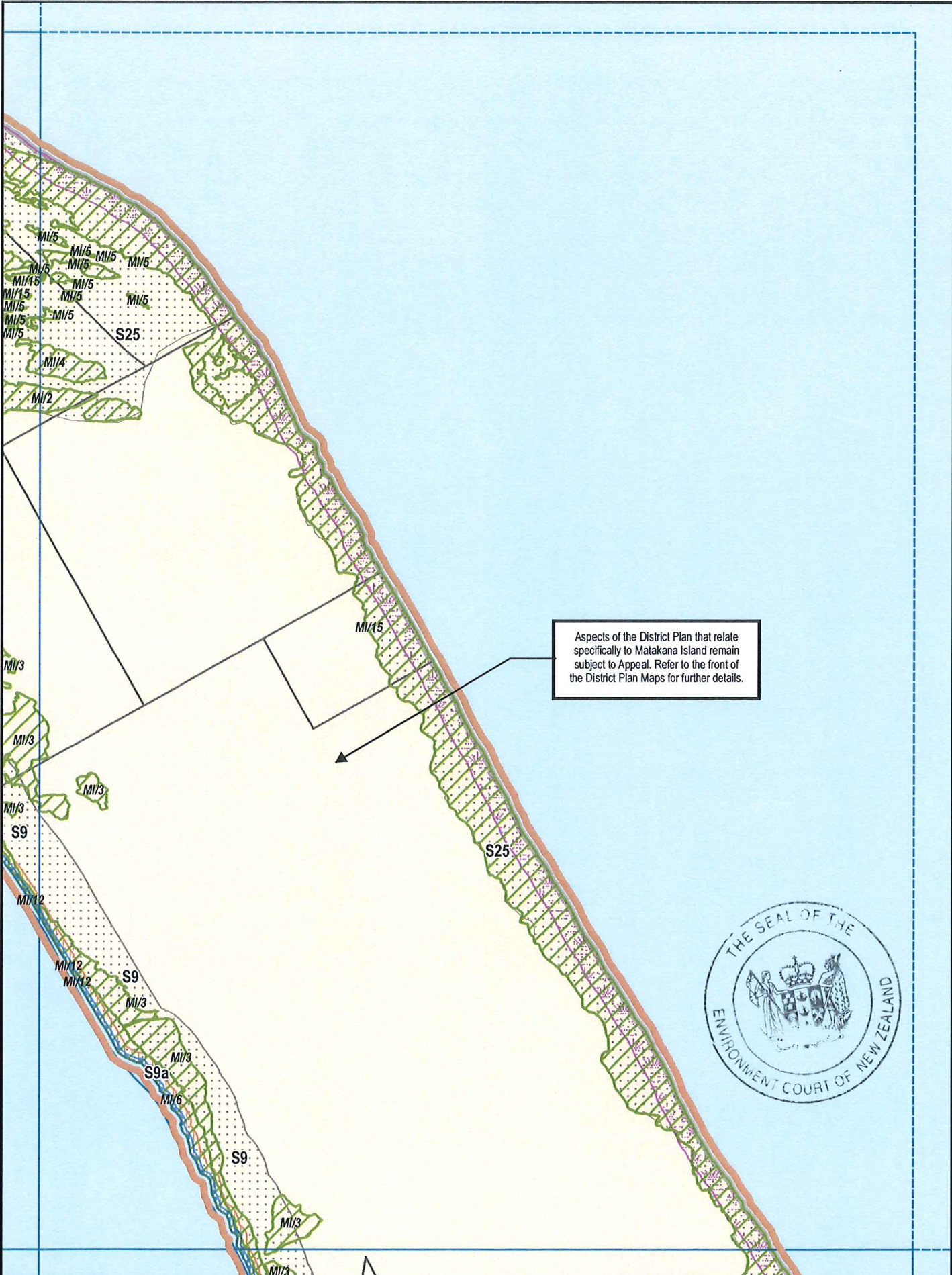


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| D04 | D05 | D06 |

Western Bay of Plenty District Council

Revision Date: 7 March 2014



Aspects of the District Plan that relate specifically to Matakana Island remain subject to Appeal. Refer to the front of the District Plan Maps for further details.



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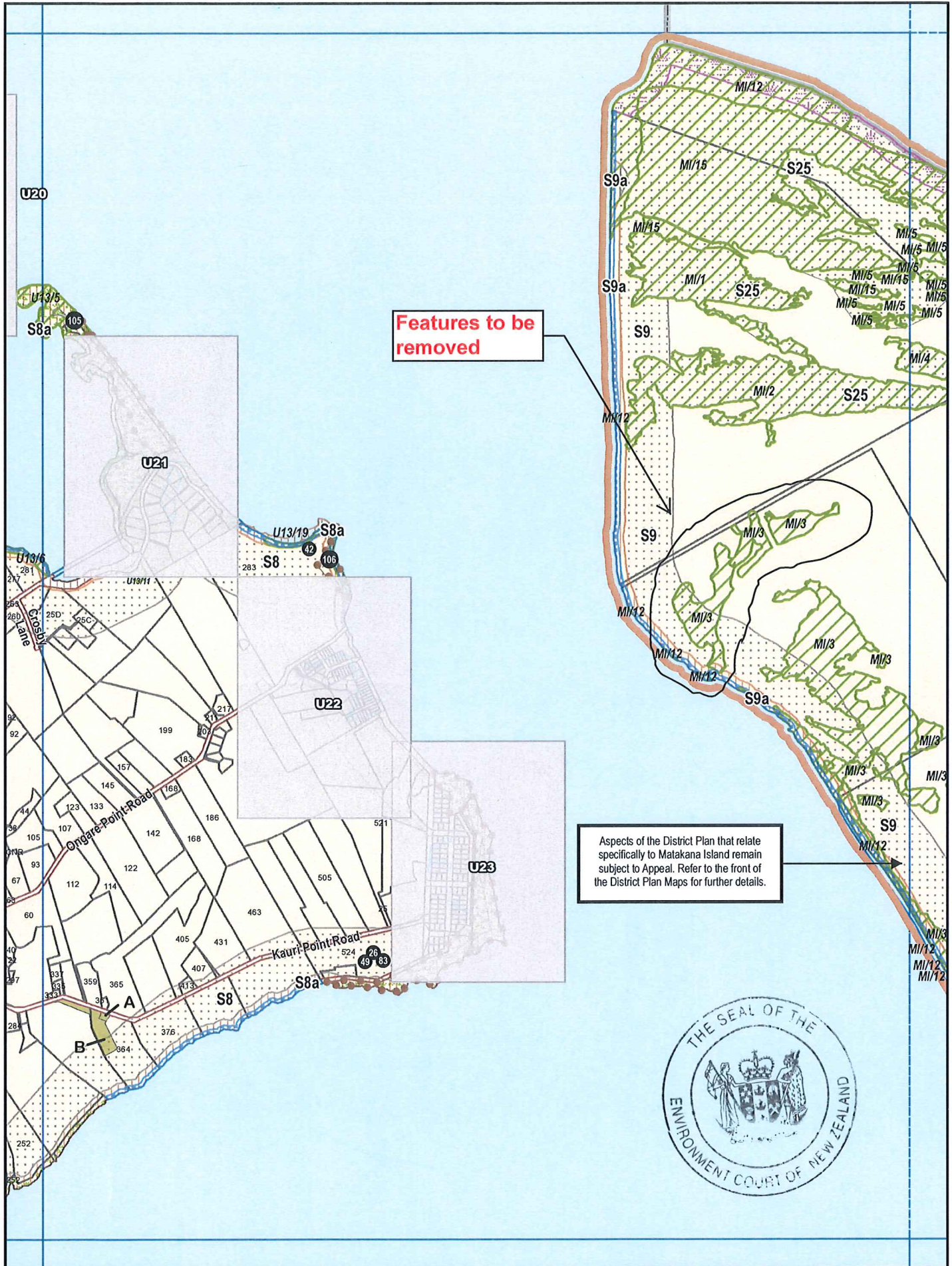


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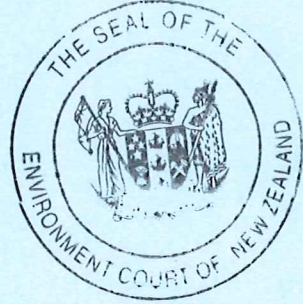


Revision Date: 26 March 2015



Features to be removed

Aspects of the District Plan that relate specifically to Matakana Island remain subject to Appeal. Refer to the front of the District Plan Maps for further details.

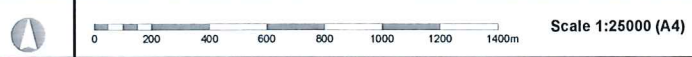


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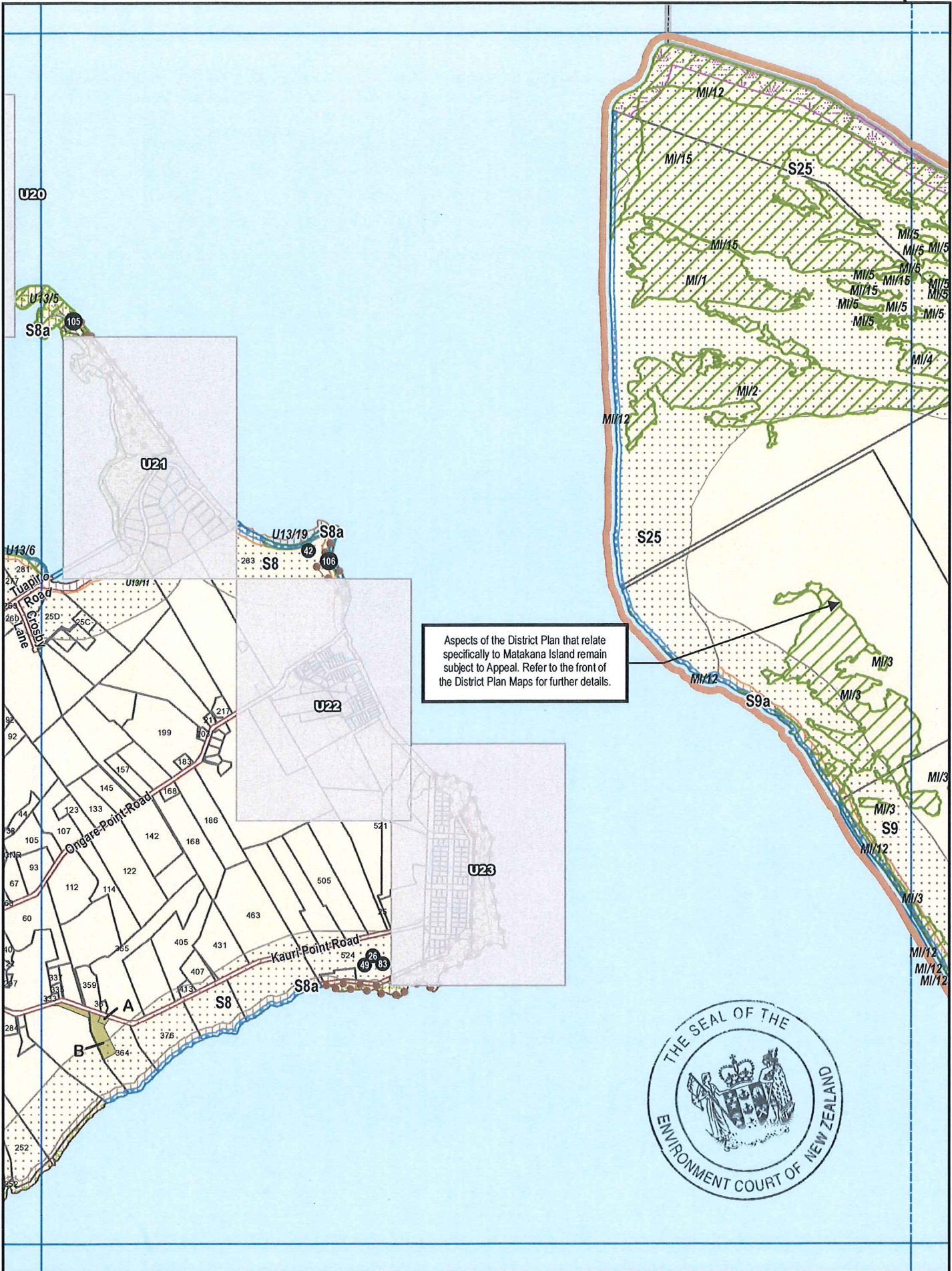
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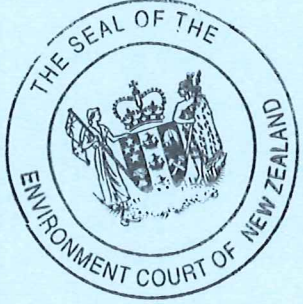


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C04 Rural Series



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| C03 | C04 | C05 |
| D03 | D04 | D05 |



Revision Date: 26 March 2015